

LEGISLATURE OF NEBRASKA  
ONE HUNDRED THIRD LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 203**

Introduced by Scheer, 19; Brasch, 16; Kolowski, 31; Smith, 14.  
Read first time January 15, 2013

Committee:

A BILL

1 FOR AN ACT relating to the Environmental Protection Act; to amend  
2 section 81-1502, Reissue Revised Statutes of Nebraska; to  
3 define and redefine terms relating to solid waste; and to  
4 repeal the original section.  
5 Be it enacted by the people of the State of Nebraska,

1                   Section 1. Section 81-1502, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   81-1502 For purposes of the Environmental Protection Act,  
4 unless the context otherwise requires:

5                   (1) Air contaminant or air contamination shall mean the  
6 presence in the outdoor atmosphere of any dust, fume, mist, smoke,  
7 vapor, gas, other gaseous fluid, or particulate substance differing  
8 in composition from or exceeding in concentration the natural  
9 components of the atmosphere;

10                  (2) Air pollution shall mean the presence in the outdoor  
11 atmosphere of one or more air contaminants or combinations thereof in  
12 such quantities and of such duration as are or may tend to be  
13 injurious to human, plant, or animal life, property, or the conduct  
14 of business;

15                  (3) Chairperson shall mean the chairperson of the  
16 Environmental Quality Council and council shall mean the  
17 Environmental Quality Council;

18                  (4) Complaint shall mean any charge, however informal, to  
19 or by the council, that any person or agency, private or public, is  
20 polluting the air, land, or water or is violating the Environmental  
21 Protection Act or any rule or regulation of the department in respect  
22 thereof;

23                  (5) Control and controlling shall include prohibition and  
24 prohibiting as related to air, land, or water pollution;

25                  (6) Department shall mean the Department of Environmental

1 Quality, which department is hereby created;

2 (7) Director shall mean the Director of Environmental  
3 Quality, which position is hereby established;

4 (8) Disposal system shall mean a system for disposing of  
5 wastes, including hazardous wastes, either by surface or underground  
6 methods, and includes sewerage systems and treatment works, disposal  
7 wells and fields, and other systems;

8 (9) Emissions shall mean releases or discharges into the  
9 outdoor atmosphere of any air contaminant or combination thereof;

10 (10) Person shall mean any: Individual; partnership;  
11 limited liability company; association; public or private  
12 corporation; trustee; receiver; assignee; agent; municipality or  
13 other governmental subdivision; public agency; other legal entity; or  
14 any officer or governing or managing body of any public or private  
15 corporation, municipality, governmental subdivision, public agency,  
16 or other legal entity;

17 (11) Rule or regulation shall mean any rule or regulation  
18 of the department;

19 (12) Sewerage system shall mean pipelines, conduits,  
20 pumping stations, force mains, and all other constructions, devices,  
21 appurtenances, and facilities used for collecting or conducting  
22 wastes to an ultimate point for treatment or disposal;

23 (13) Treatment works shall mean any plant or other works  
24 used for the purpose of treating, stabilizing, or holding wastes;

25 (14) Wastes shall mean sewage, industrial waste, and all

1 other liquid, gaseous, solid, radioactive, or other substances which  
2 may pollute or tend to pollute any air, land, or waters of the state;

3 (15) Refuse shall mean putrescible and nonputrescible  
4 solid wastes, except body wastes, and includes garbage, rubbish,  
5 ashes, incinerator ash, incinerator residue, street cleanings, and  
6 solid market and industrial wastes;

7 (16) Garbage shall mean rejected food wastes, including  
8 waste accumulation of animal, fruit, or vegetable matter used or  
9 intended for food or that attend the preparation, use, cooking,  
10 dealing in, or storing of meat, fish, fowl, fruit, or vegetables, and  
11 dead animals rejected by rendering plants;

12 (17) Rubbish shall mean nonputrescible solid wastes,  
13 excluding ashes, consisting of both combustible and noncombustible  
14 wastes, such as paper, cardboard, tin cans, yard clippings, wood,  
15 glass, bedding, crockery, or litter of any kind that will be a  
16 detriment to the public health and safety;

17 (18) Junk shall mean old scrap, copper, brass, iron,  
18 steel, rope, rags, batteries, paper, trash, rubber debris, waste,  
19 dismantled or wrecked automobiles, or parts thereof, and other old or  
20 scrap ferrous or nonferrous material;

21 (19) Land pollution shall mean the presence upon or  
22 within the land resources of the state of one or more contaminants or  
23 combinations of contaminants, including, but not limited to, refuse,  
24 garbage, rubbish, or junk, in such quantities and of such quality as  
25 will or are likely to (a) create a nuisance, (b) be harmful,

1 detrimental, or injurious to public health, safety, or welfare, (c)  
2 be injurious to plant and animal life and property, or (d) be  
3 detrimental to the economic and social development, the scenic  
4 beauty, or the enjoyment of the natural attractions of the state;

5 (20) Water pollution shall mean the manmade or man-  
6 induced alteration of the chemical, physical, biological, or  
7 radiological integrity of water;

8 (21) Waters of the state shall mean all waters within the  
9 jurisdiction of this state, including all streams, lakes, ponds,  
10 impounding reservoirs, marshes, wetlands, watercourses, waterways,  
11 wells, springs, irrigation systems, drainage systems, and all other  
12 bodies or accumulations of water, surface or underground, natural or  
13 artificial, public or private, situated wholly or partly within or  
14 bordering upon the state;

15 (22) Point source shall mean any discernible confined and  
16 discrete conveyance, including, but not limited to, any pipe, ditch,  
17 channel, tunnel, conduit, well, discrete fissure, container, rolling  
18 stock, or vessel or other floating craft from which pollutants are or  
19 may be discharged;

20 (23) Effluent limitation shall mean any restriction,  
21 including a schedule of compliance, established by the council on  
22 quantities, rates, and concentrations of chemical, physical,  
23 biological, and other constituents which are discharged from point  
24 sources into waters of the state;

25 (24) Schedule of compliance shall mean a schedule of

1 remedial measures including an enforceable sequence of actions or  
2 operations leading to compliance with an effluent limitation, other  
3 limitation, prohibition, or standard;

4 (25) Hazardous waste shall mean a solid waste, or  
5 combination of solid wastes, which because of its quantity,  
6 concentration, or physical, chemical, or infectious characteristics  
7 may (a) cause or significantly contribute to an increase in mortality  
8 or an increase in serious irreversible, or incapacitating reversible,  
9 illness or (b) pose a substantial present or potential hazard to  
10 human or animal health or the environment when improperly treated,  
11 stored, transported, disposed of, or otherwise managed;

12 (26) Solid waste shall mean any garbage, refuse, or  
13 sludge from a waste treatment plant, water supply treatment plant, or  
14 air pollution control facility and other discarded material,  
15 including solid, liquid, semisolid, or contained gaseous material  
16 resulting from industrial, commercial, and mining operations and from  
17 community activities, but solid waste shall not include products,  
18 solid or dissolved materials in irrigation return flows or industrial  
19 discharges which are point sources subject to permits under section  
20 402 of the Clean Water Act, as amended, 33 U.S.C. 1251 et seq., or  
21 source, special nuclear, or byproduct material as defined by the  
22 Atomic Energy Act of 1954, as amended, 68 Stat. 923;

23 (27) Storage, when used in connection with hazardous  
24 waste, shall mean the containment of hazardous waste, either on a  
25 temporary basis or for a period of years, in such manner as not to

1 constitute disposal of such hazardous waste;

2 (28) Manifest shall mean the form used for identifying  
3 the quantity, composition, origin, routing, and destination of  
4 hazardous waste during its transportation from the point of  
5 generation to the point of disposal, treatment, or storage;

6 (29) Processing shall mean to treat, detoxify,  
7 neutralize, incinerate, biodegrade, or otherwise process a hazardous  
8 waste to remove such waste's harmful properties or characteristics  
9 for disposal in accordance with regulations established by the  
10 council;

11 (30) Well shall mean a bored, drilled, or driven shaft or  
12 a dug hole, the depth of which is greater than the largest surface  
13 dimension of such shaft or hole;

14 (31) Injection well shall mean a well into which fluids  
15 are injected;

16 (32) Fluid shall mean a material or substance which flows  
17 or moves whether in a semisolid, liquid, sludge, gas, or other form  
18 or state;

19 (33) Mineral production well shall mean a well drilled to  
20 promote extraction of mineral resources or energy, including, but not  
21 limited to, a well designed for (a) mining of sulfur by the Frasch  
22 process, (b) solution mining of sodium chloride, potash, phosphate,  
23 copper, uranium, or any other mineral which can be mined by this  
24 process, (c) in situ combustion of coal, tar sands, oil shale, or any  
25 other fossil fuel, or (d) recovery of geothermal energy for the

1 production of electric power. Mineral production well shall not  
2 include any well designed for conventional oil or gas production, for  
3 use of fluids to promote enhanced recovery of oil or natural gas, or  
4 for injection of hydrocarbons for storage purposes;

5 (34) Mineral exploration hole shall mean a hole bored,  
6 drilled, driven, or dug in the act of exploring for a mineral other  
7 than oil and gas;

8 (35) Solution mining shall mean the use of an injection  
9 well and fluids to promote the extraction of mineral resources;

10 (36) Uranium shall mean tri-uranium oct-oxide;

11 (37) Solid waste management facility shall mean a  
12 facility as defined in section 13-2010; ~~and~~

13 (38) Livestock waste control facility shall have the same  
14 meaning as in section 54-2417; ~~and~~ -

15 (39) Products shall mean any materials which are an  
16 intended output or result of a fabrication, manufacturing, or  
17 production process, and are sold and distributed in the stream of  
18 commerce for consumption, use, or further processing into another  
19 desired commodity. A product must be managed as an item of value in a  
20 controlled manner and not as a discarded material.

21 Sec. 2. Original section 81-1502, Reissue Revised  
22 Statutes of Nebraska, is repealed.