

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Environmental Protection Act is amended by
5 changing Sections 3.160, 22.51, and 22.51a as follows:

6 (415 ILCS 5/3.160) (was 415 ILCS 5/3.78 and 3.78a)

7 Sec. 3.160. Construction or demolition debris.

8 (a) "General construction or demolition debris" means
9 non-hazardous, uncontaminated materials resulting from the
10 construction, remodeling, repair, and demolition of utilities,
11 structures, and roads, limited to the following: bricks,
12 concrete, and other masonry materials; soil; rock; wood,
13 including non-hazardous painted, treated, and coated wood and
14 wood products; wall coverings; plaster; drywall; plumbing
15 fixtures; non-asbestos insulation; roofing shingles and other
16 roof coverings; reclaimed or other asphalt pavement; glass;
17 plastics that are not sealed in a manner that conceals waste;
18 electrical wiring and components containing no hazardous
19 substances; and corrugated cardboard, piping or metals
20 incidental to any of those materials.

21 General construction or demolition debris does not include
22 uncontaminated soil generated during construction, remodeling,
23 repair, and demolition of utilities, structures, and roads

1 provided the uncontaminated soil is not commingled with any
2 general construction or demolition debris or other waste.

3 To the extent allowed by federal law, uncontaminated
4 concrete with protruding rebar shall be considered clean
5 construction or demolition debris and shall not be considered
6 "waste" if it is separated or processed and returned to the
7 economic mainstream in the form of raw materials or products
8 within 4 years of its generation, if it is not speculatively
9 accumulated and, if used as a fill material, it is used in
10 accordance with item (i) in subsection (b) of this Section.

11 (b) "Clean construction or demolition debris" means
12 uncontaminated broken concrete without protruding metal bars,
13 bricks, rock, stone, reclaimed or other asphalt pavement, or
14 soil generated from construction or demolition activities.

15 Clean construction or demolition debris does not include
16 uncontaminated soil generated during construction, remodeling,
17 repair, and demolition of utilities, structures, and roads
18 provided the uncontaminated soil is not commingled with any
19 clean construction or demolition debris or other waste.

20 To the extent allowed by federal law, clean construction or
21 demolition debris shall not be considered "waste" if it is (i)
22 used as fill material outside of a setback zone if the fill is
23 placed no higher than the highest point of elevation existing
24 prior to the filling immediately adjacent to the fill area, and
25 if covered by sufficient uncontaminated soil to support
26 vegetation within 30 days of the completion of filling or if

1 covered by a road or structure, and, if used as fill material
2 in a current or former quarry, mine, or other excavation, is
3 used in accordance with the requirements of Section 22.51 of
4 this Act and the rules adopted thereunder or (ii) separated or
5 processed and returned to the economic mainstream in the form
6 of raw materials or products, if it is not speculatively
7 accumulated and, if used as a fill material, it is used in
8 accordance with item (i), or (iii) solely broken concrete
9 without protruding metal bars used for erosion control, or (iv)
10 generated from the construction or demolition of a building,
11 road, or other structure and used to construct, on the site
12 where the construction or demolition has taken place, a manmade
13 functional structure not to exceed 20 feet above the highest
14 point of elevation of the property immediately adjacent to the
15 new manmade functional structure as that elevation existed
16 prior to the creation of that new structure, provided that the
17 structure shall be covered with sufficient soil materials to
18 sustain vegetation or by a road or structure, and further
19 provided that no such structure shall be constructed within a
20 home rule municipality with a population over 500,000 without
21 the consent of the municipality.

22 For purposes of this subsection (b), reclaimed or other
23 asphalt pavement shall not be considered speculatively
24 accumulated if: (i) it is not commingled with any other clean
25 construction or demolition debris or any waste; (ii) it is
26 returned to the economic mainstream in the form of raw

1 materials or products within 4 years after its generation;
2 (iii) at least 25% of the total amount present at a site during
3 a calendar year is transported off of the site during the next
4 calendar year; and (iv) if used as a fill material, it is used
5 in accordance with item (i) of the second paragraph of this
6 subsection (b).

7 (c) For purposes of this Section, the term "uncontaminated
8 soil" means soil that does not contain contaminants in
9 concentrations that pose a threat to human health and safety
10 and the environment.

11 (1) No later than one year after the effective date of
12 this amendatory Act of the 96th General Assembly, the
13 Agency shall propose, and, no later than one year after
14 receipt of the Agency's proposal, the Board shall adopt,
15 rules specifying the maximum concentrations of
16 contaminants that may be present in uncontaminated soil for
17 purposes of this Section. For carcinogens, the maximum
18 concentrations shall not allow exposure to the chemical's
19 most stringent Tier 1 exposure route value ~~exceed an excess~~
20 ~~upper bound lifetime risk of 1 in 1,000,000; provided that~~
21 ~~the Board may consider allowing benzo(a)pyrene up to the~~
22 ~~applicable background concentration set forth in Table H of~~
23 ~~Appendix A of 35 Ill. Adm. Code 742~~ in soil used as fill
24 material in a current or former quarry, mine, or other
25 excavation in accordance with Section 22.51 or 22.51a of
26 this Act and rules adopted under those Sections. A

1 chemical's most stringent Tier 1 exposure value shall be
2 determined as follows: (1) if a chemical's most stringent
3 Tier 1 exposure route is less than the chemical's
4 acceptable detection limit (ADL) listed in 35 Ill. Adm.
5 Code 742, Appendix B, as amended, then the ADL shall serve
6 as the most stringent Tier 1 exposure route value and (2)
7 if a chemical's most stringent Tier 1 exposure route value
8 is less than the chemical's lowest background
9 concentration listed in 35 Ill. Adm. Code 742, Appendix A,
10 Table G or H, as amended, then the chemical's lowest
11 background concentration listed in Table G or H shall serve
12 as the most stringent Tier 1 exposure route value. For
13 purposes of this Section, the lowest background
14 concentration listed in Table H shall be used, regardless
15 of whether it is the background concentration listed for
16 Chicago, a Metropolitan Area, or a Non-Metropolitan Area.
17 The most stringent Tier 1 exposure route values shall be
18 determined solely from the values listed in 35 Ill. Adm.
19 Code 742, Appendix A and Appendix B. Other provisions of
20 the Board's rules, such as those pertaining to the use of
21 engineered barriers or institutional controls, cannot be
22 used to exclude or otherwise alter exposure routes or
23 exposure route values for purposes of determining the most
24 stringent Tier 1 exposure route., so long as the applicable
25 background concentration is based upon the location of the
26 quarry, mine, or other excavation.

1 (2) To the extent allowed under federal law and
2 regulations, uncontaminated soil shall not be considered a
3 waste.

4 (Source: P.A. 95-121, eff. 8-13-07; 96-235, eff. 8-11-09;
5 96-1416, eff. 7-30-10.)

6 (415 ILCS 5/22.51)

7 Sec. 22.51. Clean Construction or Demolition Debris Fill
8 Operations.

9 (a) No person shall conduct any clean construction or
10 demolition debris fill operation in violation of this Act or
11 any regulations or standards adopted by the Board.

12 (b) (1) (A) Beginning August 18, 2005 but prior to July 1,
13 2008, no person shall use clean construction or demolition
14 debris as fill material in a current or former quarry, mine, or
15 other excavation, unless they have applied for an interim
16 authorization from the Agency for the clean construction or
17 demolition debris fill operation.

18 (B) The Agency shall approve an interim authorization upon
19 its receipt of a written application for the interim
20 authorization that is signed by the site owner and the site
21 operator, or their duly authorized agent, and that contains the
22 following information: (i) the location of the site where the
23 clean construction or demolition debris fill operation is
24 taking place, (ii) the name and address of the site owner,
25 (iii) the name and address of the site operator, and (iv) the

1 types and amounts of clean construction or demolition debris
2 being used as fill material at the site.

3 (C) The Agency may deny an interim authorization if the
4 site owner or the site operator, or their duly authorized
5 agent, fails to provide to the Agency the information listed in
6 subsection (b) (1) (B) of this Section. Any denial of an interim
7 authorization shall be subject to appeal to the Board in
8 accordance with the procedures of Section 40 of this Act.

9 (D) No person shall use clean construction or demolition
10 debris as fill material in a current or former quarry, mine, or
11 other excavation for which the Agency has denied interim
12 authorization under subsection (b) (1) (C) of this Section. The
13 Board may stay the prohibition of this subsection (D) during
14 the pendency of an appeal of the Agency's denial of the interim
15 authorization brought under subsection (b) (1) (C) of this
16 Section.

17 (2) Beginning September 1, 2006, owners and operators of
18 clean construction or demolition debris fill operations shall,
19 in accordance with a schedule prescribed by the Agency, submit
20 to the Agency applications for the permits required under this
21 Section. The Agency shall notify owners and operators in
22 writing of the due date for their permit application. The due
23 date shall be no less than 90 days after the date of the
24 Agency's written notification. Owners and operators who do not
25 receive a written notification from the Agency by October 1,
26 2007, shall submit a permit application to the Agency by

1 January 1, 2008. The interim authorization of owners and
2 operators who fail to submit a permit application to the Agency
3 by the permit application's due date shall terminate on (i) the
4 due date established by the Agency if the owner or operator
5 received a written notification from the Agency prior to
6 October 1, 2007, or (ii) or January 1, 2008, if the owner or
7 operator did not receive a written notification from the Agency
8 by October 1, 2007.

9 (3) On and after July 1, 2008, no person shall use clean
10 construction or demolition debris as fill material in a current
11 or former quarry, mine, or other excavation (i) without a
12 permit granted by the Agency for the clean construction or
13 demolition debris fill operation or in violation of any
14 conditions imposed by such permit, including periodic reports
15 and full access to adequate records and the inspection of
16 facilities, as may be necessary to assure compliance with this
17 Act and with Board regulations and standards adopted under this
18 Act or (ii) in violation of any regulations or standards
19 adopted by the Board under this Act.

20 (4) This subsection (b) does not apply to:

21 (A) the use of clean construction or demolition debris
22 as fill material in a current or former quarry, mine, or
23 other excavation located on the site where the clean
24 construction or demolition debris was generated;

25 (B) the use of clean construction or demolition debris
26 as fill material in an excavation other than a current or

1 former quarry or mine if this use complies with Illinois
2 Department of Transportation specifications; or

3 (C) current or former quarries, mines, and other
4 excavations that do not use clean construction or
5 demolition debris as fill material.

6 (c) In accordance with Title VII of this Act, the Board may
7 adopt regulations to promote the purposes of this Section. The
8 Agency shall consult with the mining and construction
9 industries during the development of any regulations to promote
10 the purposes of this Section.

11 (1) No later than December 15, 2005, the Agency shall
12 propose to the Board, and no later than September 1, 2006,
13 the Board shall adopt, regulations for the use of clean
14 construction or demolition debris as fill material in
15 current and former quarries, mines, and other excavations.
16 Such regulations shall include, but shall not be limited
17 to, standards for clean construction or demolition debris
18 fill operations and the submission and review of permits
19 required under this Section.

20 (2) Until the Board adopts rules under subsection
21 (c)(1) of this Section, all persons using clean
22 construction or demolition debris as fill material in a
23 current or former quarry, mine, or other excavation shall:

24 (A) Assure that only clean construction or
25 demolition debris is being used as fill material by
26 screening each truckload of material received using a

1 device approved by the Agency that detects volatile
2 organic compounds. Such devices may include, but are
3 not limited to, photo ionization detectors. All
4 screening devices shall be operated and maintained in
5 accordance with manufacturer's specifications.
6 Unacceptable fill material shall be rejected from the
7 site; and

8 (B) Retain for a minimum of 3 years the following
9 information:

10 (i) The name of the hauler, the name of the
11 generator, and place of origin of the debris or
12 soil;

13 (ii) The approximate weight or volume of the
14 debris or soil; and

15 (iii) The date the debris or soil was received.

16 (d) This Section applies only to clean construction or
17 demolition debris that is not considered "waste" as provided in
18 Section 3.160 of this Act.

19 (e) For purposes of this Section:

20 (1) The term "operator" means a person responsible for
21 the operation and maintenance of a clean construction or
22 demolition debris fill operation.

23 (2) The term "owner" means a person who has any direct
24 or indirect interest in a clean construction or demolition
25 debris fill operation or in land on which a person operates
26 and maintains a clean construction or demolition debris

1 fill operation. A "direct or indirect interest" does not
2 include the ownership of publicly traded stock. The "owner"
3 is the "operator" if there is no other person who is
4 operating and maintaining a clean construction or
5 demolition debris fill operation.

6 (3) The term "clean construction or demolition debris
7 fill operation" means a current or former quarry, mine, or
8 other excavation where clean construction or demolition
9 debris is used as fill material.

10 (3.5) The term "other excavation" does not include
11 holes, trenches, or similar earth removal created as part
12 of normal construction, removal, or maintenance of a
13 structure, utility, or transportation infrastructure.

14 (4) The term "uncontaminated soil" shall have the same
15 meaning as uncontaminated soil under Section 3.160 of this
16 Act.

17 (f)(1) No later than one year after the effective date of
18 this amendatory Act of the 96th General Assembly, the Agency
19 shall propose to the Board, and, no later than one year after
20 the Board's receipt of the Agency's proposal, the Board shall
21 adopt, rules for the use of clean construction or demolition
22 debris and uncontaminated soil as fill material at clean
23 construction or demolition debris fill operations. The rules
24 must include standards and procedures necessary to protect
25 groundwater, which may include, but shall not be limited to,
26 the following: requirements regarding testing and

1 certification of soil used as fill material, surface water
2 runoff, liners or other protective barriers, monitoring
3 (including, but not limited to, groundwater monitoring),
4 corrective action, recordkeeping, reporting, closure and
5 post-closure care, financial assurance, post-closure land use
6 controls, location standards, and the modification of existing
7 permits to conform to the requirements of this Act and Board
8 rules. The rules may also include limits on the use of
9 recyclable concrete and asphalt as fill material at clean
10 construction or demolition debris fill operations, taking into
11 account factors such as technical feasibility, economic
12 reasonableness, and the availability of markets for such
13 materials.

14 (2) Until the effective date of the Board rules adopted
15 under subdivision (f)(1) of this Section, and in addition to
16 any other requirements, owners and operators of clean
17 construction or demolition debris fill operations must do all
18 of the following in subdivisions (f)(2)(A) through (f)(2)(D) of
19 this Section for all clean construction or demolition debris
20 and uncontaminated soil accepted for use as fill material. The
21 requirements in subdivisions (f)(2)(A) through (f)(2)(D) of
22 this Section shall not limit any rules adopted by the Board.

23 (A) Document the following information for each load of
24 clean construction or demolition debris or uncontaminated
25 soil received: (i) the name of the hauler, the address of
26 the site of origin, and the owner and the operator of the

1 site of origin of the clean construction or demolition
2 debris or uncontaminated soil, (ii) the weight or volume of
3 the clean construction or demolition debris or
4 uncontaminated soil, and (iii) the date the clean
5 construction or demolition debris or uncontaminated soil
6 was received.

7 (B) For all soil, obtain either (i) a certification
8 from the owner or operator of the site from which the soil
9 was removed that the site has never been used for
10 commercial or industrial purposes and is presumed to be
11 uncontaminated soil or (ii) a certification from a licensed
12 Professional Engineer that the soil is uncontaminated
13 soil. Certifications required under this subdivision
14 (f) (2) (B) must be on forms and in a format prescribed by
15 the Agency.

16 (C) Confirm that the clean construction or demolition
17 debris or uncontaminated soil was not removed from a site
18 as part of a cleanup or removal of contaminants, including,
19 but not limited to, activities conducted under the
20 Comprehensive Environmental Response, Compensation, and
21 Liability Act of 1980, as amended; as part of a Closure or
22 Corrective Action under the Resource Conservation and
23 Recovery Act, as amended; or under an Agency remediation
24 program, such as the Leaking Underground Storage Tank
25 Program or Site Remediation Program, but excluding sites
26 subject to Section 58.16 of this Act where there is no

1 presence or likely presence of a release or a substantial
2 threat of a release of a regulated substance at, on, or
3 from the real property.

4 (D) Document all activities required under subdivision
5 (f)(2) of this Section. Documentation of any chemical
6 analysis must include, but is not limited to, (i) a copy of
7 the lab analysis, (ii) accreditation status of the
8 laboratory performing the analysis, and (iii)
9 certification by an authorized agent of the laboratory that
10 the analysis has been performed in accordance with the
11 Agency's rules for the accreditation of environmental
12 laboratories and the scope of accreditation.

13 (3) Owners and operators of clean construction or
14 demolition debris fill operations must maintain all
15 documentation required under subdivision (f)(2) of this
16 Section for a minimum of 3 years following the receipt of each
17 load of clean construction or demolition debris or
18 uncontaminated soil, except that documentation relating to an
19 appeal, litigation, or other disputed claim must be maintained
20 until at least 3 years after the date of the final disposition
21 of the appeal, litigation, or other disputed claim. Copies of
22 the documentation must be made available to the Agency and to
23 units of local government for inspection and copying during
24 normal business hours. The Agency may prescribe forms and
25 formats for the documentation required under subdivision
26 (f)(2) of this Section.

1 Chemical analysis conducted under subdivision (f)(2) of
2 this Section must be conducted in accordance with the
3 requirements of 35 Ill. Adm. Code 742, as amended, and "Test
4 Methods for Evaluating Solid Waste, Physical/Chemical
5 Methods", USEPA Publication No. SW-846, as amended.

6 (g)(1) No person shall use soil other than uncontaminated
7 soil as fill material at a clean construction or demolition
8 debris fill operation.

9 (2) No person shall use construction or demolition debris
10 other than clean construction or demolition debris as fill
11 material at a clean construction or demolition debris fill
12 operation.

13 (3) This Section shall not apply to the use of
14 uncontaminated soil or clean construction or demolition debris
15 as fill material in an excavation other than a current or
16 former quarry or mine if the use complies with Illinois
17 Department of Transportation specifications.

18 (h) For certification purposes of this Section and the
19 rules adopted by the Board, soil removed from public highway
20 right-of-way shall not be presumed to be removed from a site
21 used for commercial or industrial purposes. Whether public
22 highway right-of-way as a removal site has been used for
23 commercial or industrial purposes shall be determined based on
24 uses of the property prior to acquisition as right-of-way or
25 the uses of the adjoining property affecting the site. Until
26 such time as the Board adopts a new definition in the rules for

1 industrial or commercial purposes, owners and operators of
2 clean construction or demolition debris fill operations
3 accepting soil shall accept the certification by the highway
4 authority having jurisdiction of the right-of-way that the soil
5 removed from the project site has been determined to be
6 uncontaminated soil in accordance with the environmental
7 assessment policies, procedures, and specifications of the
8 highway authority.

9 (Source: P.A. 96-1416, eff. 7-30-10.)

10 (415 ILCS 5/22.51a)

11 Sec. 22.51a. Uncontaminated Soil Fill Operations.

12 (a) For purposes of this Section:

13 (0.5) The term "other excavation" does not include
14 holes, trenches, or similar earth removal created as part
15 of normal construction, removal, or maintenance of a
16 structure, utility, or transportation infrastructure.

17 (1) The term "uncontaminated soil" shall have the same
18 meaning as uncontaminated soil under Section 3.160 of this
19 Act.

20 (2) The term "uncontaminated soil fill operation"
21 means a current or former quarry, mine, or other excavation
22 where uncontaminated soil is used as fill material, but
23 does not include a clean construction or demolition debris
24 fill operation.

25 (b) No person shall use soil other than uncontaminated soil

1 as fill material at an uncontaminated soil fill operation.

2 (c) Owners and operators of uncontaminated soil fill
3 operations must register the fill operations with the Agency.
4 Uncontaminated soil fill operations that received
5 uncontaminated soil prior to the effective date of this
6 amendatory Act of the 96th General Assembly must be registered
7 with the Agency no later than March 31, 2011. Uncontaminated
8 soil fill operations that first receive uncontaminated soil on
9 or after the effective date of this amendatory Act of the 96th
10 General Assembly must be registered with the Agency prior to
11 the receipt of any uncontaminated soil. Registrations must be
12 submitted on forms and in a format prescribed by the Agency.

13 (d) (1) No later than one year after the effective date of
14 this amendatory Act of the 96th General Assembly, the Agency
15 shall propose to the Board, and, no later than one year after
16 the Board's receipt of the Agency's proposal, the Board shall
17 adopt, rules for the use of uncontaminated soil as fill
18 material at uncontaminated soil fill operations. The rules must
19 include standards and procedures necessary to protect
20 groundwater, which shall include, but shall not be limited to,
21 testing and certification of soil used as fill material and
22 requirements for recordkeeping.

23 (2) Until the effective date of the Board rules adopted
24 under subdivision (d) (1) of this Section, owners and operators
25 of uncontaminated soil fill operations must do all of the
26 following in subdivisions (d) (2) (A) through (d) (2) (F) of this

1 Section for all uncontaminated soil accepted for use as fill
2 material. The requirements in subdivisions (d)(2)(A) through
3 (d)(2)(F) of this Section shall not limit any rules adopted by
4 the Board.

5 (A) Document the following information for each load of
6 uncontaminated soil received: (i) the name of the hauler,
7 the address of the site of origin, and the owner and the
8 operator of the site of origin of the uncontaminated soil,
9 (ii) the weight or volume of the uncontaminated soil, and
10 (iii) the date the uncontaminated soil was received.

11 (B) Obtain either (i) a certification from the owner or
12 operator of the site from which the soil was removed that
13 the site has never been used for commercial or industrial
14 purposes and is presumed to be uncontaminated soil or (ii)
15 a certification from a licensed Professional Engineer that
16 the soil is uncontaminated soil. Certifications required
17 under this subdivision (d)(2)(B) must be on forms and in a
18 format prescribed by the Agency.

19 (C) Confirm that the uncontaminated soil was not
20 removed from a site as part of a cleanup or removal of
21 contaminants, including, but not limited to, activities
22 conducted under the Comprehensive Environmental Response,
23 Compensation, and Liability Act of 1980, as amended; as
24 part of a Closure or Corrective Action under the Resource
25 Conservation and Recovery Act, as amended; or under an
26 Agency remediation program, such as the Leaking

1 Underground Storage Tank Program or Site Remediation
2 Program, but excluding sites subject to Section 58.16 of
3 this Act where there is no presence or likely presence of a
4 release or a substantial threat of a release of a regulated
5 substance at, on, or from the real property.

6 (D) Visually inspect each load to confirm that only
7 uncontaminated soil is being accepted for use as fill
8 material.

9 (E) Screen each load of uncontaminated soil using a
10 device that is approved by the Agency and detects volatile
11 organic compounds. Such a device may include, but is not
12 limited to, a photo ionization detector or a flame
13 ionization detector. All screening devices shall be
14 operated and maintained in accordance with the
15 manufacturer's specifications. Unacceptable soil must be
16 rejected from the fill operation.

17 (F) Document all activities required under subdivision
18 (d)(2) of this Section. Documentation of any chemical
19 analysis must include, but is not limited to, (i) a copy of
20 the lab analysis, (ii) accreditation status of the
21 laboratory performing the analysis, and (iii)
22 certification by an authorized agent of the laboratory that
23 the analysis has been performed in accordance with the
24 Agency's rules for the accreditation of environmental
25 laboratories and the scope of accreditation.

26 (3) Owners and operators of uncontaminated soil fill

1 operations must maintain all documentation required under
2 subdivision (d)(2) of this Section for a minimum of 3 years
3 following the receipt of each load of uncontaminated soil,
4 except that documentation relating to an appeal, litigation, or
5 other disputed claim must be maintained until at least 3 years
6 after the date of the final disposition of the appeal,
7 litigation, or other disputed claim. Copies of the
8 documentation must be made available to the Agency and to units
9 of local government for inspection and copying during normal
10 business hours. The Agency may prescribe forms and formats for
11 the documentation required under subdivision (d)(2) of this
12 Section.

13 Chemical analysis conducted under subdivision (d)(2) of
14 this Section must be conducted in accordance with the
15 requirements of 35 Ill. Adm. Code 742, as amended, and "Test
16 Methods for Evaluating Solid Waste, Physical/Chemical
17 Methods", USEPA Publication No. SW-846, as amended.

18 (e) This Section does not apply to:

19 (1) the use of uncontaminated soil as fill material in
20 a current or former quarry, mine, or other excavation
21 located on the site where the uncontaminated soil was
22 generated;

23 (2) the use of uncontaminated soil as fill material in
24 an excavation other than a current or former quarry or mine
25 if the use complies with Illinois Department of
26 Transportation specifications; or

1 (3) current or former quarries, mines, or other
2 excavations that do not use uncontaminated soil as fill
3 material.

4 (f) For certification purposes of this Section and the
5 rules adopted by the Board, soil removed from public highway
6 right-of-way shall not be presumed to be removed from a site
7 used for commercial or industrial purposes. Whether public
8 highway right-of-way as a removal site has been used for
9 commercial or industrial purposes shall be determined based on
10 uses of the property prior to acquisition as right-of-way, use
11 of the property by the highway authority, or the uses of the
12 adjoining property affecting the site. Until such time as the
13 Board adopts a new definition in the rules for industrial or
14 commercial purposes, owners and operators of uncontaminated
15 soil fill operations shall accept the certification by the
16 highway authority having jurisdiction of the right-of-way that
17 the soil removed from the project site has been determined to
18 be uncontaminated soil in accordance with the environmental
19 assessment policies, procedures, and specifications of the
20 highway authority.

21 (Source: P.A. 96-1416, eff. 7-30-10.)

22 Section 99. Effective date. This Act takes effect upon
23 becoming law.