



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB0565

Introduced 2/23/2021, by Sen. Laura Ellman

SYNOPSIS AS INTRODUCED:

415 ILCS 5/22.51
415 ILCS 5/22.51a

Amends the Environmental Protection Act. Provides that within 180 days after the effective date of the amendatory Act, the Pollution Control Board shall adopt amendments to the rules adopted under specified provisions to require groundwater monitoring at all clean construction or demolition debris fill operations and all uncontaminated soil fill operations. Provides that the groundwater monitoring requirements adopted under specified provisions shall be designed to detect and prevent any exceedance of the Board's Class I groundwater quality standards and meet specified requirements. Provides that groundwater monitoring shall be required for all clean construction or demolition debris fill operations and all uncontaminated soil fill operations unless, before the effective date of the amendatory Act, the owner or operator has completed post-closure maintenance and, for clean construction or demolition debris fill operations, received specified notice from the Environmental Protection Agency, or, for uncontaminated soil fill operations, submitted specified information to the Agency. Effective immediately.

LRB102 10974 CPF 16306 b

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 22.51 and 22.51a as follows:

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
22 the following information: (i) the location of the site where
23 the clean construction or demolition debris fill operation is

1 taking place, (ii) the name and address of the site owner,
2 (iii) the name and address of the site operator, and (iv) the
3 types and amounts of clean construction or demolition debris
4 being used as fill material at the site.

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

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

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

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

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

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

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

1 (B) the use of clean construction or demolition debris
2 as fill material in an excavation other than a current or
3 former quarry or mine if this use complies with Illinois
4 Department of Transportation specifications; or

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

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

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

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

26 (A) Assure that only clean construction or

1 demolition debris is being used as fill material by
2 screening each truckload of material received using a
3 device approved by the Agency that detects volatile
4 organic compounds. Such devices may include, but are
5 not limited to, photo ionization detectors. All
6 screening devices shall be operated and maintained in
7 accordance with manufacturer's specifications.
8 Unacceptable fill material shall be rejected from the
9 site; and

10 (B) Retain for a minimum of 3 years the following
11 information:

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

15 (ii) The approximate weight or volume of the
16 debris or soil; and

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

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

22 (e) For purposes of this Section:

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

26 (2) The term "owner" means a person who has any direct

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

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

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

16 (f) (1) No later than July 30, 2011 ~~one year after~~ (the
17 effective date of P.A. 96-1416) ~~this amendatory Act of the~~
18 ~~96th General Assembly~~, the Agency shall propose to the Board,
19 and, no later than one year after the Board's receipt of the
20 Agency's proposal, the Board shall adopt, rules for the use of
21 clean construction or demolition debris and uncontaminated
22 soil as fill material at clean construction or demolition
23 debris fill operations. The rules must include standards and
24 procedures necessary to protect groundwater, which may
25 include, but shall not be limited to, the following:
26 requirements regarding testing and certification of soil used

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

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

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

1 operator of the site of origin of the clean construction
2 or demolition debris or uncontaminated soil, (ii) the
3 weight or volume of the clean construction or demolition
4 debris or uncontaminated soil, and (iii) the date the
5 clean construction or demolition debris or uncontaminated
6 soil 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
12 licensed Professional Engineer or licensed Professional
13 Geologist that the soil is uncontaminated soil.
14 Certifications required under this subdivision (f) (2) (B)
15 must be on forms and in a format prescribed by 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,
19 including, but not limited to, activities conducted under
20 the Comprehensive Environmental Response, Compensation,
21 and Liability Act of 1980, as amended; as part of a Closure
22 or 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
10 that the analysis has been performed in accordance with
11 the 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 (4) Within 180 days after the effective date of this
7 amendatory Act of the 102nd General Assembly, the Board shall
8 adopt amendments to the rules adopted under subdivision (f)(1)
9 of this Section to require groundwater monitoring at all clean
10 construction or demolition debris fill operations. The
11 groundwater monitoring requirements adopted under this
12 subdivision shall be designed to detect and prevent any
13 exceedance of the Board's Class I groundwater quality
14 standards. The groundwater monitoring requirements adopted
15 under this subdivision shall include, but shall not be limited
16 to, the following: groundwater monitoring frequency; a
17 methodology specifying the minimum required number of
18 groundwater monitoring wells and well locations that must be
19 reviewed and approved by the Agency; installation of the
20 groundwater monitoring system within one year after the Board
21 adopts these rules; monitoring duration, which shall include
22 post-closure monitoring for at least 5 years after the Agency
23 issues to the owner or operator a certification of closure;
24 remedial action procedures to address any exceedance of the
25 Class I groundwater standards; and financial assurance for
26 corrective action, closure, and post-closure. Groundwater

1 monitoring shall be required for all clean construction or
2 demolition debris fill operations unless, before the effective
3 date of this amendatory Act of the 102nd General Assembly, the
4 owner or operator has completed post-closure maintenance and
5 received written notification from the Agency that the permit
6 is terminated.

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

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

14 (Source: P.A. 96-1416, eff. 7-30-10; 97-137, eff. 7-14-11.)

15 (415 ILCS 5/22.51a)

16 Sec. 22.51a. Uncontaminated Soil Fill Operations.

17 (a) For purposes of this Section:

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

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

1 (b) No person shall use soil other than uncontaminated
2 soil as fill material at an uncontaminated soil fill
3 operation.

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

15 (d) (1) No later than July 30, 2011 ~~one year after~~ (the
16 effective date of P.A. 96-1416) ~~this amendatory Act of the~~
17 ~~96th General Assembly~~, the Agency shall propose to the Board,
18 and, no later than one year after the Board's receipt of the
19 Agency's proposal, the Board shall adopt, rules for the use of
20 uncontaminated soil as fill material at uncontaminated soil
21 fill operations. The rules must include standards and
22 procedures necessary to protect groundwater, which shall
23 include, but shall not be limited to, testing and
24 certification of soil used as fill material and requirements
25 for recordkeeping.

26 (2) Until the effective date of the Board rules adopted

1 under subdivision (d) (1) of this Section, owners and operators
2 of uncontaminated soil fill operations must do all of the
3 following in subdivisions (d) (2) (A) through (d) (2) (F) of this
4 Section for all uncontaminated soil accepted for use as fill
5 material. The requirements in subdivisions (d) (2) (A) through
6 (d) (2) (F) of this Section shall not limit any rules adopted by
7 the Board.

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

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

24 (C) Confirm that the uncontaminated soil was not
25 removed from a site as part of a cleanup or removal of
26 contaminants, including, but not limited to, activities

1 conducted under the Comprehensive Environmental Response,
2 Compensation, and Liability Act of 1980, as amended; as
3 part of a Closure or Corrective Action under the Resource
4 Conservation and Recovery Act, as amended; or under an
5 Agency remediation program, such as the Leaking
6 Underground Storage Tank Program or Site Remediation
7 Program, but excluding sites subject to Section 58.16 of
8 this Act where there is no presence or likely presence of a
9 release or a substantial threat of a release of a
10 regulated substance at, on, or from the real property.

11 (D) Visually inspect each load to confirm that only
12 uncontaminated soil is being accepted for use as fill
13 material.

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

22 (F) Document all activities required under subdivision
23 (d)(2) of this Section. Documentation of any chemical
24 analysis must include, but is not limited to, (i) a copy of
25 the lab analysis, (ii) accreditation status of the
26 laboratory performing the analysis, and (iii)

1 certification by an authorized agent of the laboratory
2 that the analysis has been performed in accordance with
3 the Agency's rules for the accreditation of environmental
4 laboratories and the scope of accreditation.

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

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

23 (4) Within 180 days after the effective date of this
24 amendatory Act of the 102nd General Assembly, the Board shall
25 adopt amendments to the rules adopted under subdivision (d)(1)
26 of this Section to require groundwater monitoring at all

1 uncontaminated soil fill operations. The groundwater
2 monitoring requirements adopted under this subdivision shall
3 be designed to detect and prevent any exceedance of the
4 Board's Class I groundwater quality standards. The groundwater
5 monitoring requirements adopted under this subdivision shall
6 include, but shall not be limited to, the following:
7 groundwater monitoring frequency; a methodology specifying the
8 minimum required number of groundwater monitoring wells and
9 well locations that must be reviewed and approved by the
10 Agency; installation of the groundwater monitoring system
11 within one year after the Board adopts these rules; monitoring
12 duration, which shall include post-closure monitoring for at
13 least 5 years after the Agency receives the owner's or
14 operator's certification of closure; remedial action
15 procedures to address any exceedance of the Class I
16 groundwater standards; and financial assurance for corrective
17 action, closure, and post-closure. Groundwater monitoring
18 shall be required for all uncontaminated soil fill operations
19 unless, before the effective date of this amendatory Act of
20 the 102nd General Assembly, the owner or operator has
21 submitted to the Agency: (A) a certification by a licensed
22 Professional Engineer or licensed Professional Geologist that
23 post-closure maintenance has been completed; and (B) an
24 affidavit demonstrating that post-closure maintenance is no
25 longer necessary.

26 (Source: P.A. 96-1416, eff. 7-30-10; 97-137, eff. 7-14-11.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.