



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB2285

Introduced 2/20/2009, by Sen. Don Harmon

SYNOPSIS AS INTRODUCED:

415 ILCS 5/22.51a new

Amends the Environmental Protection Act. Provides that urban soil and urban clean construction or demolition debris taken to a clean construction or demolition debris fill operation is not waste. Defines "urban soil" as soil that is excavated and removed from sites within the boundaries of a municipality with a population in excess of 1 million and that has not been the subject of a release of contaminants but may nonetheless contain contaminants due to certain causes. Defines "urban clean construction or demolition debris" as specified paving materials that are excavated from a construction or demolition site within the corporate boundaries of a municipality having a population in excess of 1,000,000. Requires the owner of a site from which urban soil only is removed, prior to authorizing the transfer of that soil, to perform or cause to be performed (i) a Phase I Environmental Audit or an historical or regulatory database search, such as that set forth in the Standard Practice for Limited Environmental Due Diligence: Transaction Screen Process (ASTM E 1528-06), (ii) a Phase II Environmental Audit (under some circumstances), and (iii) testing of representative samples of the soil using specific methods. Requires the owner to certify certain information to the clean construction or demolition debris fill operator. Requires fill operations that accept urban soil to develop and implement a Receipt Control and Screening Plan that ensures the receipt of certification documents. Authorizes the Agency to propose to the Board, and the Board to adopt certain rules. Effective immediately.

LRB096 11216 JDS 21617 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 adding Section 22.51a as follows:

6 (415 ILCS 5/22.51a new)

7 Sec. 22.51a. Urban Soil and Urban Clean Construction or
8 Demolition Debris; Clean Construction or Demolition Debris
9 Fill Operations.

10 (a) This Section applies to urban soil and urban clean
11 construction or demolition debris utilized as fill at a clean
12 construction or demolition debris fill operation.
13 Notwithstanding any other provisions of the Act, urban soil and
14 urban clean construction or demolition debris may be used as
15 fill at a clean construction or demolition debris fill
16 operation as provided in this Section. Urban soil used
17 consistently with this Section is not a waste and such use is
18 not a violation of the Act. This Section shall not restrict the
19 reuse of soil, clean construction or demolition debris, or
20 other material as otherwise allowed by law.

21 (b) For purposes of this Section, the following definitions
22 apply:

23 "Clean construction or demolition debris fill operation"

1 means a former quarry, mine, or other excavation permitted by
2 Section 22.51. "Other excavation" does not include holes,
3 trenches, or similar earth removal created as part of normal
4 construction, removal, or maintenance of a structure, utility,
5 or transportation infrastructure.

6 "Owner" means the owner of the site from which the urban
7 soil or urban clean construction or demolition debris was
8 removed.

9 "Urban clean construction or demolition debris" means (i)
10 broken concrete without protruding metal bars, bricks, rock,
11 stone, reclaimed or other asphalt pavement or (ii) urban soil
12 that has been excavated from a construction or demolition site
13 within the corporate boundaries of a municipality having a
14 population in excess of 1,000,000.

15 "Urban soil" means soil (i) that is excavated from a
16 construction or demolition site within the corporate
17 boundaries of a municipality having a population in excess of
18 1,000,000 and (ii) that has not been the subject of a release
19 of regulated substances, but may nonetheless contain
20 background levels of regulated substances due to natural or
21 anthropogenic causes, including but not limited to urban dust,
22 vehicle emissions, and the Great Chicago Fire of 1871.

23 (c) Prior to authorizing the transfer of urban soil to a
24 clean construction or demolition debris fill operation, the
25 owner shall:

26 (1) perform, or cause to be performed, a Phase I

1 Environmental Audit at the site in accordance with Section
2 22.2 of the Act or an historical or regulatory database
3 search, such as that set forth in the Standard Practice for
4 Limited Environmental Due Diligence: Transaction Screen
5 Process (ASTM E 1528-06);

6 (2) perform, or cause to be performed, a Phase II
7 environmental audit, conducted in accordance with Section
8 22.2 of this Act, if the initial environmental site
9 assessment, conducted under item (1) of subsection (c) of
10 this Section disclosed the presence or likely presence of a
11 release or a substantial threat of a release of a regulated
12 substance at, on, to, or from the real property;

13 (3) perform, or cause to be performed, testing of
14 representative samples of the soil in accordance with the
15 requirements of the Tiered Approach to Corrective Action
16 Objective (TACO) Program (35 Ill. Adm. Code 742) and "Test
17 Methods for Evaluating Soil Waste Physical/Chemical
18 Methods" USEPA Publication No. SW-846, as amended, using
19 Method 1312, the Synthetic Precipitation Leaching
20 Procedure (SPLP). Urban fill soil shall be tested for
21 Polynuclear Aromatics and Metals listed in 35 Ill. Adm.
22 Code 732, Table A, and for any other constituents of
23 concern identified in the site investigation.

24 (d) The owner shall provide a certification to the clean
25 construction or demolition debris fill operator which shall
26 document the following:

1 (1) the name, address and contact information for the
2 owner or his authorized representative;

3 (2) the specific location of the site and portions of
4 the site from which the soil was removed;

5 (3) a certification, signed by a licensed professional
6 engineer or other environmental professional, certifying
7 that:

8 (i) the urban soil does not exceed the Tiered
9 Approach to Corrective Action Objective (TACO) Class I
10 Groundwater Concentrations found in Table F, 35 Ill.
11 Adm. Code 742, Appendix B, as amended; and

12 (ii) the urban soil or urban clean construction or
13 demolition debris was not removed from any portions of
14 a site impacted by a release of a regulated substance
15 and that the urban soil or urban clean construction was
16 not removed as a part of the cleanup or removal of
17 contaminants on the basis of activities conducted
18 under the Comprehensive Environmental Response,
19 Compensation, and Liability Act of 1980, as amended;
20 RCRA Closure or Corrective Action; the Leaking
21 Underground Storage Tank Program; or the Dry Cleaning
22 Program.

23 (e) Copies of the certification required in subsection (d)
24 of this Section and documentation that the soil meets the
25 definition of "urban soil" shall be maintained by the owner of
26 the excavated soil site for a period of 3 years, or as

1 otherwise required by Board rule, and shall be available for
2 inspection by the Agency.

3 (f) Any testing under this Section shall be conducted in
4 accordance with the requirements of the Tiered Approach to
5 Corrective Action Objective (TACO) Program (35 Ill. Adm. Code
6 742) and "Test Methods for Evaluating Soil Waste
7 Physical/Chemical Methods" USEPA Publication No. SW-846, as
8 amended, using Method 1312, the Synthetic Precipitation
9 Leaching Procedure (SPLP). Urban fill soil shall be tested for
10 Polynuclear Aromatics and Metals listed in 35 Ill. Adm. Code
11 732, Table A.

12 (g) In addition to the requirements of Section 22.51 and
13 regulations adopted under its authority, clean construction or
14 demolition fill operations that accept urban soil and urban
15 clean construction or demolition debris must also develop and
16 implement a Receipt Control and Screening Plan that ensures the
17 receipt of certification documents provided by the owner of the
18 site as required in subsection (d) of this Section.

19 (h) The Agency may propose to the Board, and the Board may
20 adopt, rules to further implement this Section, including
21 additional procedures, standards, and permit requirements
22 applicable to owners and operators of clean construction or
23 demolition debris fill operations who accept urban fill soil.
24 Those additional permit requirements may include, but are not
25 limited to, land use restrictions, performance bonds, closure
26 and post-closure requirements, and analytical sampling

1 requirements applicable to the fill site.

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