

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 exceed an excess
19 upper-bound lifetime risk of 1 in 1,000,000; provided that
20 if the most stringent remediation objective or applicable
21 background concentration for a contaminant set forth in 35
22 Ill. Adm. Code 742 is greater than the concentration that
23 would allow exposure at an excess upper-bound lifetime risk
24 of 1 in 1,000,000, the Board may consider allowing that
25 contaminant in concentrations up to its most stringent
26 remediation objective or applicable background

1 ~~concentration set forth in benzo(a)pyrene up to the~~
2 ~~applicable background concentration set forth in Table H of~~
3 ~~Appendix A of 35 Ill. Adm. Code 742 in soil used as fill~~
4 material in a current or former quarry, mine, or other
5 excavation in accordance with Section 22.51 or 22.51a of
6 this Act and rules adopted under those Sections. Any
7 background concentration set forth in 35 Ill. Adm. Code 742
8 that is adopted as a maximum concentration must be, ~~so long~~
9 ~~as the applicable background concentration is~~ based upon
10 the location of the quarry, mine, or other excavation where
11 the soil is used as fill material.

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

15 (Source: P.A. 95-121, eff. 8-13-07; 96-235, eff. 8-11-09;
16 96-1416, eff. 7-30-10.)

17 (415 ILCS 5/22.51)

18 Sec. 22.51. Clean Construction or Demolition Debris Fill
19 Operations.

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

23 (b) (1) (A) Beginning August 18, 2005 but prior to July 1,
24 2008, no person shall use clean construction or demolition
25 debris as fill material in a current or former quarry, mine, or

1 other excavation, unless they have applied for an interim
2 authorization from the Agency for the clean construction or
3 demolition debris fill operation.

4 (B) The Agency shall approve an interim authorization upon
5 its receipt of a written application for the interim
6 authorization that is signed by the site owner and the site
7 operator, or their duly authorized agent, and that contains the
8 following information: (i) the location of the site where the
9 clean construction or demolition debris fill operation is
10 taking place, (ii) the name and address of the site owner,
11 (iii) the name and address of the site operator, and (iv) the
12 types and amounts of clean construction or demolition debris
13 being used as fill material at the site.

14 (C) The Agency may deny an interim authorization if the
15 site owner or the site operator, or their duly authorized
16 agent, fails to provide to the Agency the information listed in
17 subsection (b) (1) (B) of this Section. Any denial of an interim
18 authorization shall be subject to appeal to the Board in
19 accordance with the procedures of Section 40 of this Act.

20 (D) No person shall use clean construction or demolition
21 debris as fill material in a current or former quarry, mine, or
22 other excavation for which the Agency has denied interim
23 authorization under subsection (b) (1) (C) of this Section. The
24 Board may stay the prohibition of this subsection (D) during
25 the pendency of an appeal of the Agency's denial of the interim
26 authorization brought under subsection (b) (1) (C) of this

1 Section.

2 (2) Beginning September 1, 2006, owners and operators of
3 clean construction or demolition debris fill operations shall,
4 in accordance with a schedule prescribed by the Agency, submit
5 to the Agency applications for the permits required under this
6 Section. The Agency shall notify owners and operators in
7 writing of the due date for their permit application. The due
8 date shall be no less than 90 days after the date of the
9 Agency's written notification. Owners and operators who do not
10 receive a written notification from the Agency by October 1,
11 2007, shall submit a permit application to the Agency by
12 January 1, 2008. The interim authorization of owners and
13 operators who fail to submit a permit application to the Agency
14 by the permit application's due date shall terminate on (i) the
15 due date established by the Agency if the owner or operator
16 received a written notification from the Agency prior to
17 October 1, 2007, or (ii) or January 1, 2008, if the owner or
18 operator did not receive a written notification from the Agency
19 by October 1, 2007.

20 (3) On and after July 1, 2008, no person shall use clean
21 construction or demolition debris as fill material in a current
22 or former quarry, mine, or other excavation (i) without a
23 permit granted by the Agency for the clean construction or
24 demolition debris fill operation or in violation of any
25 conditions imposed by such permit, including periodic reports
26 and full access to adequate records and the inspection of

1 facilities, as may be necessary to assure compliance with this
2 Act and with Board regulations and standards adopted under this
3 Act or (ii) in violation of any regulations or standards
4 adopted by the Board under this Act.

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

6 (A) the use of clean construction or demolition debris
7 as fill material in a current or former quarry, mine, or
8 other excavation located on the site where the clean
9 construction or demolition debris was generated;

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

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

17 (c) In accordance with Title VII of this Act, the Board may
18 adopt regulations to promote the purposes of this Section. The
19 Agency shall consult with the mining and construction
20 industries during the development of any regulations to promote
21 the purposes of this Section.

22 (1) No later than December 15, 2005, the Agency shall
23 propose to the Board, and no later than September 1, 2006,
24 the Board shall adopt, regulations for the use of clean
25 construction or demolition debris as fill material in
26 current and former quarries, mines, and other excavations.

1 Such regulations shall include, but shall not be limited
2 to, standards for clean construction or demolition debris
3 fill operations and the submission and review of permits
4 required under this Section.

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

9 (A) Assure that only clean construction or
10 demolition debris is being used as fill material by
11 screening each truckload of material received using a
12 device approved by the Agency that detects volatile
13 organic compounds. Such devices may include, but are
14 not limited to, photo ionization detectors. All
15 screening devices shall be operated and maintained in
16 accordance with manufacturer's specifications.
17 Unacceptable fill material shall be rejected from the
18 site; and

19 (B) Retain for a minimum of 3 years the following
20 information:

21 (i) The name of the hauler, the name of the
22 generator, and place of origin of the debris or
23 soil;

24 (ii) The approximate weight or volume of the
25 debris or soil; and

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

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

4 (e) For purposes of this Section:

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

8 (2) The term "owner" means a person who has any direct
9 or indirect interest in a clean construction or demolition
10 debris fill operation or in land on which a person operates
11 and maintains a clean construction or demolition debris
12 fill operation. A "direct or indirect interest" does not
13 include the ownership of publicly traded stock. The "owner"
14 is the "operator" if there is no other person who is
15 operating and maintaining a clean construction or
16 demolition debris fill operation.

17 (3) The term "clean construction or demolition debris
18 fill operation" means a current or former quarry, mine, or
19 other excavation where clean construction or demolition
20 debris is used as fill material.

21 (4) The term "uncontaminated soil" shall have the same
22 meaning as uncontaminated soil under Section 3.160 of this
23 Act.

24 (f) (1) No later than one year after the effective date of
25 this amendatory Act of the 96th General Assembly, the Agency
26 shall propose to the Board, and, no later than one year after

1 the Board's receipt of the Agency's proposal, the Board shall
2 adopt, rules for the use of clean construction or demolition
3 debris and uncontaminated soil as fill material at clean
4 construction or demolition debris fill operations. The rules
5 must include standards and procedures necessary to protect
6 groundwater, which may include, but shall not be limited to,
7 the following: requirements regarding testing and
8 certification of soil used as fill material, surface water
9 runoff, liners or other protective barriers, monitoring
10 (including, but not limited to, groundwater monitoring),
11 corrective action, recordkeeping, reporting, closure and
12 post-closure care, financial assurance, post-closure land use
13 controls, location standards, and the modification of existing
14 permits to conform to the requirements of this Act and Board
15 rules. The rules may also include limits on the use of
16 recyclable concrete and asphalt as fill material at clean
17 construction or demolition debris fill operations, taking into
18 account factors such as technical feasibility, economic
19 reasonableness, and the availability of markets for such
20 materials.

21 (2) Until the effective date of the Board rules adopted
22 under subdivision (f)(1) of this Section, and in addition to
23 any other requirements, owners and operators of clean
24 construction or demolition debris fill operations must do all
25 of the following in subdivisions (f)(2)(A) through (f)(2)(D) of
26 this Section for all clean construction or demolition debris

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

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

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

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

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

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

20 (3) Owners and operators of clean construction or
21 demolition debris fill operations must maintain all
22 documentation required under subdivision (f)(2) of this
23 Section for a minimum of 3 years following the receipt of each
24 load of clean construction or demolition debris or
25 uncontaminated soil, except that documentation relating to an
26 appeal, litigation, or other disputed claim must be maintained

1 until at least 3 years after the date of the final disposition
2 of the appeal, litigation, or other disputed claim. Copies of
3 the documentation must be made available to the Agency and to
4 units of local government for inspection and copying during
5 normal business hours. The Agency may prescribe forms and
6 formats for the documentation required under subdivision
7 (f) (2) of this Section.

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

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

16 (2) No person shall use construction or demolition debris
17 other than clean construction or demolition debris as fill
18 material at a clean construction or demolition debris fill
19 operation.

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

21 (415 ILCS 5/22.51a)

22 Sec. 22.51a. Uncontaminated Soil Fill Operations.

23 (a) For purposes of this Section:

24 (1) The term "uncontaminated soil" shall have the same
25 meaning as uncontaminated soil under Section 3.160 of this

1 Act.

2 (2) The term "uncontaminated soil fill operation"
3 means a current or former quarry, mine, or other excavation
4 where uncontaminated soil is used as fill material, but
5 does not include a clean construction or demolition debris
6 fill operation.

7 (b) No person shall use soil other than uncontaminated soil
8 as fill material at an uncontaminated soil fill operation.

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

20 (d) (1) No later than one year after the effective date of
21 this amendatory Act of the 96th General Assembly, the Agency
22 shall propose to the Board, and, no later than one year after
23 the Board's receipt of the Agency's proposal, the Board shall
24 adopt, rules for the use of uncontaminated soil as fill
25 material at uncontaminated soil fill operations. The rules must
26 include standards and procedures necessary to protect

1 groundwater, which shall include, but shall not be limited to,
2 testing and certification of soil used as fill material and
3 requirements for recordkeeping.

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

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

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

1 (C) Confirm that the uncontaminated soil was not
2 removed from a site as part of a cleanup or removal of
3 contaminants, including, but not limited to, activities
4 conducted under the Comprehensive Environmental Response,
5 Compensation, and Liability Act of 1980, as amended; as
6 part of a Closure or Corrective Action under the Resource
7 Conservation and Recovery Act, as amended; or under an
8 Agency remediation program, such as the Leaking
9 Underground Storage Tank Program or Site Remediation
10 Program, but excluding sites subject to Section 58.16 of
11 this Act where there is no presence or likely presence of a
12 release or a substantial threat of a release of a regulated
13 substance at, on, or from the real property.

14 (D) Visually inspect each load to confirm that only
15 uncontaminated soil is being accepted for use as fill
16 material.

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

25 (F) Document all activities required under subdivision
26 (d)(2) of this Section. Documentation of any chemical

1 analysis must include, but is not limited to, (i) a copy of
2 the lab analysis, (ii) accreditation status of the
3 laboratory performing the analysis, and (iii)
4 certification by an authorized agent of the laboratory that
5 the analysis has been performed in accordance with the
6 Agency's rules for the accreditation of environmental
7 laboratories and the scope of accreditation.

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

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

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

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