



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB2880

by Rep. Daniel V. Beiser

SYNOPSIS AS INTRODUCED:

415 ILCS 5/22.51

Amends the Environmental Protection Act. Provides that no later than 6 months after the effective date, the Environmental Protection Agency shall propose to the Board, and, no later than one year after the Board's receipt of the Agency's proposal, the Board shall adopt rules allowing for the subdivision of areas within a permitted clean construction or demolition debris site for specified purposes. Contains provisions concerning requirements for the rules. Provides that until the effective date of the rules adopted following the Agency's proposal, the Agency may grant permit modifications for closure of a subdivided area within a permitted clean construction and demolition debris fill operation upon application by the clean construction and demolition debris fill operator as long as any permit modification so granted by the Agency is protective of human health and the environment. Provides that the Agency shall consult with members of the mining, construction, and real estate development industry during the development of any rules to promote the purpose of specified provisions.

LRB100 11190 MJP 21491 b

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 changing Section 22.51 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 the
22 following information: (i) the location of the site where the
23 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 in
8 subsection (b) (1) (B) of this Section. Any denial of an interim
9 authorization shall be subject to appeal to the Board in
10 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 Agency
5 by the permit application's due date shall terminate on (i) the
6 due date established by the Agency if the owner or operator
7 received a written notification from the Agency prior to
8 October 1, 2007, or (ii) or January 1, 2008, if the owner or
9 operator did not receive a written notification from the Agency
10 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 current
13 or former quarry, mine, or other excavation (i) without a
14 permit granted by the Agency for the clean construction or
15 demolition debris fill operation or in violation of any
16 conditions imposed by such permit, including periodic reports
17 and full access to adequate records and the inspection of
18 facilities, as may be necessary to assure compliance with this
19 Act and with Board regulations and standards adopted under this
20 Act or (ii) in violation of any regulations or standards
21 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 promote
12 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 received.

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

21 (e) For purposes of this Section:

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

25 (2) The term "owner" means a person who has any direct
26 or indirect interest in a clean construction or demolition

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

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

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

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

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

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

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

1 the clean construction or demolition debris or
2 uncontaminated soil, and (iii) the date the clean
3 construction or demolition debris or uncontaminated soil
4 was received.

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

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

1 from the real property.

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

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

25 Chemical analysis conducted under subdivision (f)(2) of
26 this Section must be conducted in accordance with the

1 requirements of 35 Ill. Adm. Code 742, as amended, and "Test
2 Methods for Evaluating Solid Waste, Physical/Chemical
3 Methods", USEPA Publication No. SW-846, as amended.

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

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

11 (h) No later than 6 months after the effective date of this
12 amendatory Act of the 100th General Assembly, the Agency shall
13 propose to the Board, and, no later than one year after the
14 Board's receipt of the Agency's proposal, the Board shall adopt
15 rules allowing for the subdivision of areas within a permitted
16 clean construction or demolition debris site for purposes of
17 allowing closure of subdivided areas of the site prior to
18 closure of the entire area permitted for clean construction or
19 demolition debris disposal. The rules must include standards
20 and criteria required for site subdivision and subdivided area
21 closure, which may include, but not be limited to, the format
22 of and information necessary to include in an application for a
23 subdivided area closure; the quantity and quality of required
24 final cover material for each subdivided area; erosion control;
25 record keeping; inspection; an owner's certified statement of
26 closure activities and compliance; the maximum allowable time

1 limit for Agency response to an application; and modifications
2 of existing and continuing permits to conform to the
3 requirements of this Act and the Board's rules.

4 (i) Until the effective date of the Board rules adopted
5 under subsection (h), the Agency may grant permit modifications
6 for closure of a subdivided area within a permitted clean
7 construction and demolition debris fill operation upon
8 application by the clean construction and demolition debris
9 fill operator as long as any permit modification so granted by
10 the Agency under this subsection is protective of human health
11 and the environment. The Agency shall consult with members of
12 the mining, construction, and real estate development industry
13 during the development of any rules to promote the purposes of
14 this subsection.

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