



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB3728

Introduced 2/10/2012, by Sen. Don Harmon

SYNOPSIS AS INTRODUCED:

415 ILCS 5/22.51

Amends the Environmental Protection Act. Makes the prohibition on the use of clean construction or demolition debris as fill material in a current or former quarry, mine, or other excavation without the authorization of the Environmental Protection Agency inapplicable to a site that is located in a county with a population of not less than 600,000 nor more than 700,000 on April 1, 2010, was permitted by the Agency as a clean construction or demolition debris fill operation before July 1, 2008, and is the subject of a consent decree. Specifies that the use of clean construction or demolition debris as fill material at such a site may continue under a permit issued before July 1, 2008 and in accordance with the law as it existed on July 1, 2008. Requires permit renewals for such sites to be made in accordance with the law as it existed on July 1, 2008. Effective immediately.

LRB097 14057 JDS 58699 b

1 AN ACT concerning the environment.

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; or

8 (D) the use of clean construction or demolition debris
9 as fill material in a current or former quarry, mine, or
10 other excavation that is located in a county with a
11 population of not less than 600,000 nor more than 700,000
12 on April 1, 2010, was permitted by the Agency as a clean
13 construction or demolition debris fill operation before
14 July 1, 2008, and is the subject of a consent decree in
15 place before August 18, 2005 incorporating a reclamation
16 plan. Until reclamation activities are complete, the uses
17 authorized by this subdivision (b)(4)(D) may continue
18 under the permit issued before July 1, 2008 and in
19 compliance with the laws and regulations in place on July
20 1, 2008. Any required permit renewals for these uses at
21 these locations must be completed in accordance with the
22 laws and regulations in place on July 1, 2008.

23 (c) In accordance with Title VII of this Act, the Board may
24 adopt regulations to promote the purposes of this Section. The
25 Agency shall consult with the mining and construction
26 industries during the development of any regulations to promote

1 the purposes of this Section.

2 (1) No later than December 15, 2005, the Agency shall
3 propose to the Board, and no later than September 1, 2006,
4 the Board shall adopt, regulations for the use of clean
5 construction or demolition debris as fill material in
6 current and former quarries, mines, and other excavations.
7 Such regulations shall include, but shall not be limited
8 to, standards for clean construction or demolition debris
9 fill operations and the submission and review of permits
10 required under this Section.

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

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

25 (B) Retain for a minimum of 3 years the following
26 information:

1 (i) The name of the hauler, the name of the
2 generator, and place of origin of the debris or
3 soil;

4 (ii) The approximate weight or volume of the
5 debris or soil; and

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

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

10 (e) For purposes of this Section:

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

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

23 (3) The term "clean construction or demolition debris
24 fill operation" means a current or former quarry, mine, or
25 other excavation where clean construction or demolition
26 debris is used as fill material.

1 (4) The term "uncontaminated soil" shall have the same
2 meaning as uncontaminated soil under Section 3.160 of this
3 Act.

4 (f) (1) No later than one year after the effective date of
5 this amendatory Act of the 96th General Assembly, the Agency
6 shall propose to the Board, and, no later than one year after
7 the Board's receipt of the Agency's proposal, the Board shall
8 adopt, rules for the use of clean construction or demolition
9 debris and uncontaminated soil as fill material at clean
10 construction or demolition debris fill operations. The rules
11 must include standards and procedures necessary to protect
12 groundwater, which may include, but shall not be limited to,
13 the following: requirements regarding testing and
14 certification of soil used as fill material, surface water
15 runoff, liners or other protective barriers, monitoring
16 (including, but not limited to, groundwater monitoring),
17 corrective action, recordkeeping, reporting, closure and
18 post-closure care, financial assurance, post-closure land use
19 controls, location standards, and the modification of existing
20 permits to conform to the requirements of this Act and Board
21 rules. The rules may also include limits on the use of
22 recyclable concrete and asphalt as fill material at clean
23 construction or demolition debris fill operations, taking into
24 account factors such as technical feasibility, economic
25 reasonableness, and the availability of markets for such
26 materials.

1 (2) Until the effective date of the Board rules adopted
2 under subdivision (f)(1) of this Section, and in addition to
3 any other requirements, owners and operators of clean
4 construction or demolition debris fill operations must do all
5 of the following in subdivisions (f)(2)(A) through (f)(2)(D) of
6 this Section for all clean construction or demolition debris
7 and uncontaminated soil accepted for use as fill material. The
8 requirements in subdivisions (f)(2)(A) through (f)(2)(D) of
9 this Section shall not limit any rules adopted by the Board.

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

20 (B) For all soil, obtain either (i) a certification
21 from the owner or operator of the site from which the soil
22 was removed that the site has never been used for
23 commercial or industrial purposes and is presumed to be
24 uncontaminated soil or (ii) a certification from a licensed
25 Professional Engineer or licensed Professional Geologist
26 that the soil is uncontaminated soil. Certifications

1 required under this subdivision (f) (2) (B) must be on forms
2 and in a format prescribed by the Agency.

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

17 (D) Document all activities required under subdivision
18 (f) (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 clean construction or

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

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

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

22 (2) No person shall use construction or demolition debris
23 other than clean construction or demolition debris as fill
24 material at a clean construction or demolition debris fill
25 operation.

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.