

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 21.1 and 22.51 as follows:

6 (415 ILCS 5/21.1) (from Ch. 111 1/2, par. 1021.1)

7 Sec. 21.1. (a) Except as provided in subsection (a.5), no
8 person other than the State of Illinois, its agencies and
9 institutions, or a unit of local government shall own or
10 operate a MSWLF unit or other waste disposal operation on or
11 after March 1, 1985, which requires a permit under subsection
12 (d) of Section 21 of this Act, unless such person has posted
13 with the Agency a performance bond or other security for the
14 purpose of insuring closure of the site and post-closure care
15 in accordance with this Act and regulations adopted thereunder.

16 (a.5) On and after the effective date established by the
17 United States Environmental Protection Agency for MSWLF units
18 to provide financial assurance under Subtitle D of the Resource
19 Conservation and Recovery Act, no person, other than the State
20 of Illinois, its agencies and institutions, shall own or
21 operate a MSWLF unit that requires a permit under subsection
22 (d) of Section 21 of this Act, unless that person has posted
23 with the Agency a performance bond or other security for the

1 purposes of:

2 (1) insuring closure of the site and post-closure care
3 in accordance with this Act and its rules; and

4 (2) insuring completion of a corrective action remedy
5 when required by Board rules adopted under Section 22.40 of
6 this Act or when required by Section 22.41 of this Act.

7 The performance bond or other security requirement set
8 forth in this Section may be fulfilled by closure or
9 post-closure insurance, or both, issued by an insurer licensed
10 to transact the business of insurance by the Department of
11 Insurance or at a minimum the insurer must be licensed to
12 transact the business of insurance or approved to provide
13 insurance as an excess or surplus lines insurer by the
14 insurance department in one or more states.

15 (b) On or before January 1, 1985, the Board shall adopt
16 regulations to promote the purposes of this Section. Without
17 limiting the generality of this authority, such regulations
18 may, among other things, prescribe the type and amount of the
19 performance bonds or other securities required under
20 subsections (a) and (a.5) of this Section, and the conditions
21 under which the State is entitled to collect monies from such
22 performance bonds or other securities. The bond amount shall be
23 directly related to the design and volume of the site. The cost
24 estimate for the post-closure care of a MSWLF unit shall be
25 calculated using a 30 year post-closure care period or such
26 other period as may be approved by the Agency under Board or

1 federal rules. On and after the effective date established by
2 the United States Environmental Protection Agency for MSWLF
3 units to provide financial assurance under Subtitle D of the
4 Resource Conservation and Recovery Act, closure, post-closure
5 care, and corrective action cost estimates for MSWLF units
6 shall be in current dollars.

7 (c) There is hereby created within the State Treasury a
8 special fund to be known as the "Landfill Closure and
9 Post-Closure Fund". Any monies forfeited to the State of
10 Illinois from any performance bond or other security required
11 under this Section or under subdivision (f) (4) of Section 22.51
12 shall be placed in the "Landfill Closure and Post-Closure Fund"
13 and shall, upon approval by the Governor and the Director, be
14 used by and under the direction of the Agency for the purposes
15 for which such performance bond or other security was issued.
16 The Landfill Closure and Post-Closure Fund is not subject to
17 the provisions of subsection (c) of Section 5 of the State
18 Finance Act.

19 (d) The Agency is authorized to enter into such contracts
20 and agreements as it may deem necessary to carry out the
21 purposes of this Section. Neither the State, nor the Director,
22 nor any State employee shall be liable for any damages or
23 injuries arising out of or resulting from any action taken
24 under this Section.

25 (e) The Agency shall have the authority to approve or
26 disapprove any performance bond or other security posted

1 pursuant to subsection (a) or (a.5) of this Section. Any person
2 whose performance bond or other security is disapproved by the
3 Agency may contest the disapproval as a permit denial appeal
4 pursuant to Section 40 of this Act.

5 (f) The Agency may establish such procedures as it may deem
6 necessary for the purpose of implementing and executing its
7 responsibilities under this Section.

8 (g) Nothing in this Section shall bar a cause of action by
9 the State for any other penalty or relief provided by this Act
10 or any other law.

11 (Source: P.A. 97-887, eff. 8-2-12.)

12 (415 ILCS 5/22.51)

13 Sec. 22.51. Clean Construction or Demolition Debris Fill
14 Operations.

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

18 (b) (1) (A) Beginning August 18, 2005 but prior to July 1,
19 2008, no person shall use clean construction or demolition
20 debris as fill material in a current or former quarry, mine, or
21 other excavation, unless they have applied for an interim
22 authorization from the Agency for the clean construction or
23 demolition debris fill operation.

24 (B) The Agency shall approve an interim authorization upon
25 its receipt of a written application for the interim

1 authorization that is signed by the site owner and the site
2 operator, or their duly authorized agent, and that contains the
3 following information: (i) the location of the site where the
4 clean construction or demolition debris fill operation is
5 taking place, (ii) the name and address of the site owner,
6 (iii) the name and address of the site operator, and (iv) the
7 types and amounts of clean construction or demolition debris
8 being used as fill material at the site.

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

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

23 (2) Beginning September 1, 2006, owners and operators of
24 clean construction or demolition debris fill operations shall,
25 in accordance with a schedule prescribed by the Agency, submit
26 to the Agency applications for the permits required under this

1 Section. The Agency shall notify owners and operators in
2 writing of the due date for their permit application. The due
3 date shall be no less than 90 days after the date of the
4 Agency's written notification. Owners and operators who do not
5 receive a written notification from the Agency by October 1,
6 2007, shall submit a permit application to the Agency by
7 January 1, 2008. The interim authorization of owners and
8 operators who fail to submit a permit application to the Agency
9 by the permit application's due date shall terminate on (i) the
10 due date established by the Agency if the owner or operator
11 received a written notification from the Agency prior to
12 October 1, 2007, or (ii) or January 1, 2008, if the owner or
13 operator did not receive a written notification from the Agency
14 by October 1, 2007.

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

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

1 (A) the use of clean construction or demolition debris
2 as fill material in a current or former quarry, mine, or
3 other excavation located on the site where the clean
4 construction or demolition debris was generated;

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

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

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

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

26 (2) Until the Board adopts rules under subsection

1 (c)(1) of this Section, all persons using clean
2 construction or demolition debris as fill material in a
3 current or former quarry, mine, or other excavation shall:

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

14 (B) Retain for a minimum of 3 years the following
15 information:

16 (i) The name of the hauler, the name of the
17 generator, and place of origin of the debris or
18 soil;

19 (ii) The approximate weight or volume of the
20 debris or soil; and

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

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

25 (e) For purposes of this Section:

26 (1) The term "operator" means a person responsible for

1 the operation and maintenance of a clean construction or
2 demolition debris fill operation.

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

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

16 (4) The term "uncontaminated soil" shall have the same
17 meaning as uncontaminated soil under Section 3.160 of this
18 Act.

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

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

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

25 (A) Document the following information for each load of
26 clean construction or demolition debris or uncontaminated

1 soil received: (i) the name of the hauler, the address of
2 the site of origin, and the owner and the operator of the
3 site of origin of the clean construction or demolition
4 debris or uncontaminated soil, (ii) the weight or volume of
5 the clean construction or demolition debris or
6 uncontaminated soil, and (iii) the date the clean
7 construction or demolition debris or uncontaminated soil
8 was received.

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

18 (C) Confirm that the clean construction or demolition
19 debris or uncontaminated soil was not removed from a site
20 as part of a cleanup or removal of contaminants, including,
21 but not limited to, activities conducted under the
22 Comprehensive Environmental Response, Compensation, and
23 Liability Act of 1980, as amended; as part of a Closure or
24 Corrective Action under the Resource Conservation and
25 Recovery Act, as amended; or under an Agency remediation
26 program, such as the Leaking Underground Storage Tank

1 Program or Site Remediation Program, but excluding sites
2 subject to Section 58.16 of this Act where there is no
3 presence or likely presence of a release or a substantial
4 threat of a release of a regulated substance at, on, or
5 from the real property.

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

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

1 formats for the documentation required under subdivision
2 (f) (2) of this Section.

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

8 (4) No later than one year after the effective date of this
9 amendatory Act of the 100th General Assembly, the Agency shall
10 propose to the Board, and, no later than one year after receipt
11 of the Agency's proposal, the Board shall adopt rules that
12 allow owners and operators of clean construction or demolition
13 debris fill operations who are transferring a portion of a fill
14 operation site to another person to be released from permitting
15 requirements with respect to the transferred portion of the
16 fill operation site, if all of the following have been
17 satisfied:

18 (A) The owner or operator files with the Agency:

19 (i) an application to modify the fill operation
20 permit to recognize a change in ownership of the
21 transferred property prior to completion of closure
22 and post-closure maintenance;

23 (ii) a document identifying the portion of the site
24 being transferred; and

25 (iii) a copy of plans describing how the portion of
26 the site being transferred will be developed.

1 (B) The portion of the site being transferred is filled
2 to within at least 3 feet of the final fill elevation that
3 would otherwise be required under the closure and
4 post-closure maintenance requirements in the permit.

5 (C) The owner or operator posts with the Agency a
6 performance bond for the purposes of closure and
7 post-closure maintenance of the portion of the site being
8 transferred. The bond amount shall be directly related to
9 the estimate of the costs for the Agency to remediate the
10 transferred portion of the site to a condition consistent
11 with the closure and post-closure maintenance requirements
12 applicable to the site.

13 The rules adopted pursuant to this subdivision (f) (4) shall
14 include the conditions under which the State is entitled to
15 collect monies from the performance bond. Those conditions may
16 include, but are not limited to, the failure of the transferee
17 to timely commence development or complete development of the
18 portion of the site being transferred.

19 Any moneys forfeited to the State of Illinois from any
20 performance bond required under this subdivision (f) (4) shall
21 be placed in the Landfill Closure and Post-Closure Fund
22 established under Section 21.1 of this Act and shall, upon
23 approval by the Governor and the Director of the Agency, be
24 used by and under the direction of the Agency for the purposes
25 for which the performance bond was issued.

26 The Agency is authorized to enter into such contracts and

1 agreements as it may deem necessary to carry out the purposes
2 of this Section. Neither the State, nor the Director of the
3 Agency, nor any State employee shall be liable for any damages
4 or injuries arising out of or resulting from any action taken
5 under this Section.

6 The Agency shall have the authority to approve or
7 disapprove any performance bond posted pursuant to this
8 subdivision (f)(4). Any person whose performance bond is
9 disapproved by the Agency may contest the disapproval in the
10 same manner as a permit denial appeal pursuant to Section 40 of
11 this Act.

12 The Agency may establish such procedures as the Agency may
13 deem necessary for the purpose of implementing and executing
14 the Agency's responsibilities under this subdivision (f)(4).
15 Until the effective date of rules adopted pursuant to this
16 subdivision (f)(4), the Agency may, consistent with the terms
17 of this subdivision (f)(4), allow owners and operators of clean
18 construction or demolition debris fill operations who are
19 transferring all or a portion of a fill operation site to
20 another person to be released from permitting requirements with
21 respect to the transferred portions of the fill operation site.

22 Nothing in this subdivision (f)(4) shall bar a cause of
23 action by the State for any other penalty or relief provided by
24 this Act or any other law.

25 (g) (1) No person shall use soil other than uncontaminated
26 soil as fill material at a clean construction or demolition

1 debris fill operation.

2 (2) No person shall use construction or demolition debris
3 other than clean construction or demolition debris as fill
4 material at a clean construction or demolition debris fill
5 operation.

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

7 Section 99. Effective date. This Act takes effect upon
8 becoming law.