



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB2975

Introduced 2/4/2020, by Sen. Laura Ellman

SYNOPSIS AS INTRODUCED:

415 ILCS 5/22.51
415 ILCS 5/22.51a

Amends the Environmental Protection Act. Provides that within 180 days after the effective date of the amendatory Act, the Pollution Control Board shall adopt amendments to the rules adopted under specified provisions to require groundwater monitoring at all clean construction or demolition debris fill operations and all uncontaminated soil fill operations. Provides that the groundwater monitoring requirements adopted under specified provisions shall be designed to detect and prevent any exceedance of the Board's Class I groundwater quality standards and meet specified requirements. Provides that groundwater monitoring shall be required for all clean construction or demolition debris fill operations and all uncontaminated soil fill operations unless, before the effective date of the amendatory Act, the owner or operator has completed post-closure maintenance and, for clean construction or demolition debris fill operations, received specified notice from the Environmental Protection Agency, or, for uncontaminated soil fill operations, submitted specified information to the Agency. Effective immediately.

LRB101 19026 CPF 68486 b

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 22.51 and 22.51a 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 July 30, 2011 ~~one year after~~ (the
16 effective date of P.A. 96-1416) ~~this amendatory Act of the 96th~~
17 ~~General Assembly~~, the Agency shall propose to the Board, and,
18 no later than one year after the Board's receipt of the
19 Agency's proposal, the Board shall adopt, rules for the use of
20 clean construction or demolition debris and uncontaminated
21 soil as fill material at clean construction or demolition
22 debris fill operations. The rules must include standards and
23 procedures necessary to protect groundwater, which may
24 include, but shall not be limited to, the following:
25 requirements regarding testing and certification of soil used
26 as fill material, surface water runoff, liners or other

1 protective barriers, monitoring (including, but not limited
2 to, groundwater monitoring), corrective action, recordkeeping,
3 reporting, closure and post-closure care, financial assurance,
4 post-closure land use controls, location standards, and the
5 modification of existing permits to conform to the requirements
6 of this Act and Board rules. The rules may also include limits
7 on the use of recyclable concrete and asphalt as fill material
8 at clean construction or demolition debris fill operations,
9 taking into account factors such as technical feasibility,
10 economic reasonableness, and the availability of markets for
11 such 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 (4) Within 180 days after the effective date of this
5 amendatory Act of the 101st General Assembly, the Board shall
6 adopt amendments to the rules adopted under subdivision (f)(1)
7 of this Section to require groundwater monitoring at all clean
8 construction or demolition debris fill operations. The
9 groundwater monitoring requirements adopted under this
10 subdivision shall be designed to detect and prevent any
11 exceedance of the Board's Class I groundwater quality
12 standards. The groundwater monitoring requirements adopted
13 under this subdivision shall include, but shall not be limited
14 to, the following: groundwater monitoring frequency; a
15 methodology specifying the minimum required number of
16 groundwater monitoring wells and well locations that must be
17 reviewed and approved by the Agency; installation of the
18 groundwater monitoring system within one year after the Board
19 adopts these rules; monitoring duration, which shall include
20 post-closure monitoring for at least 5 years after the Agency
21 issues to the owner or operator a certification of closure;
22 remedial action procedures to address any exceedance of the
23 Class I groundwater standards; and financial assurance for
24 corrective action, closure, and post-closure. Groundwater
25 monitoring shall be required for all clean construction or
26 demolition debris fill operations unless, before the effective

1 date of this amendatory Act of the 101st General Assembly, the
2 owner or operator has completed post-closure maintenance and
3 received written notification from the Agency that the permit
4 is terminated.

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

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

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

13 (415 ILCS 5/22.51a)

14 Sec. 22.51a. Uncontaminated Soil Fill Operations.

15 (a) For purposes of this Section:

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

19 (2) The term "uncontaminated soil fill operation"
20 means a current or former quarry, mine, or other excavation
21 where uncontaminated soil is used as fill material, but
22 does not include a clean construction or demolition debris
23 fill operation.

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

1 (c) Owners and operators of uncontaminated soil fill
2 operations must register the fill operations with the Agency.
3 Uncontaminated soil fill operations that received
4 uncontaminated soil prior to the effective date of this
5 amendatory Act of the 96th General Assembly must be registered
6 with the Agency no later than March 31, 2011. Uncontaminated
7 soil fill operations that first receive uncontaminated soil on
8 or after the effective date of this amendatory Act of the 96th
9 General Assembly must be registered with the Agency prior to
10 the receipt of any uncontaminated soil. Registrations must be
11 submitted on forms and in a format prescribed by the Agency.

12 (d) (1) No later than July 30, 2011 ~~one year after~~ (the
13 effective date of P.A. 96-1416) ~~this amendatory Act of the 96th~~
14 ~~General Assembly~~, the Agency shall propose to the Board, and,
15 no later than one year after the Board's receipt of the
16 Agency's proposal, the Board shall adopt, rules for the use of
17 uncontaminated soil as fill material at uncontaminated soil
18 fill operations. The rules must include standards and
19 procedures necessary to protect groundwater, which shall
20 include, but shall not be limited to, testing and certification
21 of soil used as fill material and requirements for
22 recordkeeping.

23 (2) Until the effective date of the Board rules adopted
24 under subdivision (d) (1) of this Section, owners and operators
25 of uncontaminated soil fill operations must do all of the
26 following in subdivisions (d) (2) (A) through (d) (2) (F) of this

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

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

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

20 (C) Confirm that the uncontaminated soil was not
21 removed from a site as part of a cleanup or removal of
22 contaminants, including, but not limited to, activities
23 conducted under the Comprehensive Environmental Response,
24 Compensation, and Liability Act of 1980, as amended; as
25 part of a Closure or Corrective Action under the Resource
26 Conservation and Recovery Act, as amended; or under an

1 Agency remediation program, such as the Leaking
2 Underground Storage Tank Program or Site Remediation
3 Program, but excluding sites subject to Section 58.16 of
4 this Act where there is no presence or likely presence of a
5 release or a substantial threat of a release of a regulated
6 substance at, on, or from the real property.

7 (D) Visually inspect each load to confirm that only
8 uncontaminated soil is being accepted for use as fill
9 material.

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

18 (F) Document all activities required under subdivision
19 (d)(2) of this Section. Documentation of any chemical
20 analysis must include, but is not limited to, (i) a copy of
21 the lab analysis, (ii) accreditation status of the
22 laboratory performing the analysis, and (iii)
23 certification by an authorized agent of the laboratory that
24 the analysis has been performed in accordance with the
25 Agency's rules for the accreditation of environmental
26 laboratories and the scope of accreditation.

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

14 Chemical analysis conducted under subdivision (d)(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 (4) Within 180 days after the effective date of this
20 amendatory Act of the 101st General Assembly, the Board shall
21 adopt amendments to the rules adopted under subdivision (d)(1)
22 of this Section to require groundwater monitoring at all
23 uncontaminated soil fill operations. The groundwater
24 monitoring requirements adopted under this subdivision shall
25 be designed to detect and prevent any exceedance of the Board's
26 Class I groundwater quality standards. The groundwater

1 monitoring requirements adopted under this subdivision shall
2 include, but shall not be limited to, the following:
3 groundwater monitoring frequency; a methodology specifying the
4 minimum required number of groundwater monitoring wells and
5 well locations that must be reviewed and approved by the
6 Agency; installation of the groundwater monitoring system
7 within one year after the Board adopts these rules; monitoring
8 duration, which shall include post-closure monitoring for at
9 least 5 years after the Agency receives the owner's or
10 operator's certification of closure; remedial action
11 procedures to address any exceedance of the Class I groundwater
12 standards; and financial assurance for corrective action,
13 closure, and post-closure. Groundwater monitoring shall be
14 required for all uncontaminated soil fill operations unless,
15 before the effective date of this amendatory Act of the 101st
16 General Assembly, the owner or operator has submitted to the
17 Agency: (A) a certification by a licensed Professional Engineer
18 or licensed Professional Geologist that post-closure
19 maintenance has been completed; and (B) an affidavit
20 demonstrating that post-closure maintenance is no longer
21 necessary.

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

23 Section 99. Effective date. This Act takes effect upon
24 becoming law.