

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

FILED SENATE  
Mar 21, 2019  
S.B. 328  
PRINCIPAL CLERK

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SENATE BILL DRS45151-MH-94

Short Title: Increase Rqmts. for Small Structural Fills. (Public)

Sponsors: Senator Sawyer (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO SUBJECT ALL PROJECTS USING COAL COMBUSTION PRODUCTS AS  
3 STRUCTURAL FILL TO THE SAME REQUIREMENTS FOR PERMITTING, DESIGN  
4 AND CONSTRUCTION, CLOSURE, AND POST-CLOSURE.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. Subpart 3 of Part 2I of Article 9 of Chapter 130A of the General  
7 Statutes reads as rewritten:

8 "Subpart 3. Use of Coal Combustion Products in Structural Fill.

9 "§ 130A-309.218. Applicability.

10 The provisions of this Subpart shall apply to the siting, design, construction, operation, and  
11 closure of projects that utilize coal combustion products for structural fill.

12 "§ 130A-309.219. Permit requirements for projects using coal combustion products for  
13 structural fill.

14 (a) Permit Requirements. –

15 (1) ~~Projects using coal combustion products as structural fill involving the~~  
16 ~~placement of less than 8,000 tons of coal combustion products per acre or less~~  
17 ~~than 80,000 tons of coal combustion products in total per project, which~~  
18 ~~proceed in compliance with the requirements of this section and rules adopted~~  
19 ~~thereunder, are deemed permitted. Any person proposing such a project shall~~  
20 ~~submit an application for a permit to the Department upon such form as the~~  
21 ~~Department may prescribe, including, at a minimum, the information set forth~~  
22 ~~in subdivision (1) of subsection (b) of this section.~~

23 (2) No person shall commence or operate a project using coal combustion  
24 residuals as structural fill ~~involving the placement of 8,000 or more tons of~~  
25 ~~coal combustion products per acre or 80,000 or more tons of coal combustion~~  
26 ~~products in total per project without first receiving an individual permit from~~  
27 ~~the Department. Any person proposing such a project shall submit an~~  
28 ~~application for a permit to the Department upon such form as the Department~~  
29 ~~may prescribe, including, at a minimum, the information set forth in~~  
30 ~~subdivisions (1) and (2) of subsection (b) (b1) of this section.~~

31 (b) ~~Information to Be Provided to the Department. – At least 60 days before initiation of~~  
32 ~~a proposed project using coal combustion products as structural fill, the person proposing the~~  
33 ~~project shall submit all of the following information to the Department on a form as prescribed~~  
34 ~~by the Department:~~



- 1 (1) For projects involving placement of less than 8,000 tons of coal combustion  
2 products per acre or less than 80,000 tons of coal combustion products in total  
3 per project, the person shall provide, at a minimum, the following information:  
4 a. The description of the nature, purpose, and location of the project.  
5 b. The estimated start and completion dates for the project.  
6 c. An estimate of the volume of coal combustion products to be used in  
7 the project.  
8 d. A Toxicity Characteristic Leaching Procedure analysis from a  
9 representative sample of each different coal combustion product's  
10 source to be used in the project for, at a minimum, all of the following  
11 constituents: arsenic, barium, cadmium, lead, chromium, mercury,  
12 selenium, and silver.  
13 e. A signed and dated statement by the owner of the land on which the  
14 structural fill is to be placed, acknowledging and consenting to the use  
15 of coal combustion products as structural fill on the property and  
16 agreeing to record the fill in accordance with the requirements of G.S.  
17 130A-309.219 [130A-309.223].  
18 f. The name, address, and contact information for the generator of the  
19 coal combustion products.  
20 g. Physical location of the project at which the coal combustion products  
21 were generated.

- 22 (2) For projects involving placement of 8,000 or more tons of coal combustion  
23 products per acre or 80,000 or more tons of coal combustion products in total  
24 per project, the person shall provide all information required pursuant to  
25 subdivision (1) of this subsection and shall provide construction plans for the  
26 project, including a stability analysis as the Department may require. If  
27 required by the Department, a stability analysis shall be prepared, signed, and  
28 sealed by a professional engineer in accordance with sound engineering  
29 practices. A construction plan shall, at a minimum, include a groundwater  
30 monitoring system and an encapsulation liner system in compliance with the  
31 requirements of G.S. 130A-309.220.

32 (b1) Information to Be Provided to the Department. – At least 60 days before initiation of  
33 a proposed project using coal combustion products as structural fill, the person proposing the  
34 project shall submit all of the following information to the Department on a form as prescribed  
35 by the Department:

- 36 (1) The description of the nature, purpose, and location of the project.  
37 (2) The estimated start and completion dates for the project.  
38 (3) An estimate of the volume of coal combustion products to be used in the  
39 project.  
40 (4) A Toxicity Characteristic Leaching Procedure analysis from a representative  
41 sample of each different coal combustion product's source to be used in the  
42 project for, at a minimum, all of the following constituents: arsenic, barium,  
43 cadmium, lead, chromium, mercury, selenium, and silver.  
44 (5) A signed and dated statement by the owner of the land on which the structural  
45 fill is to be placed, acknowledging and consenting to the use of coal  
46 combustion products as structural fill on the property and agreeing to record  
47 the fill in accordance with the requirements of G.S. 130A-309.223.  
48 (6) The name, address, and contact information for the generator of the coal  
49 combustion products.  
50 (7) Physical location of the project at which the coal combustion products were  
51 generated.

1           (8)     Construction plans for the project, including a stability analysis as the  
2           Department may require. If required by the Department, a stability analysis  
3           shall be prepared, signed, and sealed by a professional engineer in accordance  
4           with sound engineering practices. A construction plan shall, at a minimum,  
5           include a groundwater monitoring system and an encapsulation liner system  
6           in compliance with the requirements of G.S. 130A-309.220.

7     "§ 130A-309.220. **Design, construction, and siting requirements for projects using coal**  
8     **combustion products for structural fill.**

9     (a)     Design, Construction, and Operation of Structural Fill Sites. –

10           (1)     A structural fill site must be designed, constructed, operated, closed, and  
11           maintained in such a manner as to minimize the potential for harmful release  
12           of constituents of coal combustion residuals to the environment or create a  
13           nuisance to the public.

14           (2)     Coal combustion products shall be collected and transported in a manner that  
15           will prevent nuisances and hazards to public health and safety. Coal  
16           combustion products shall be moisture conditioned, as necessary, and  
17           transported in covered trucks to prevent dusting.

18           (3)     Coal combustion products shall be placed uniformly and shall be compacted  
19           to standards, including in situ density, compaction effort, and relative density,  
20           specified by a registered professional engineer for a specific end-use purpose.

21           (4)     Equipment shall be provided that is capable of placing and compacting the  
22           coal combustion products and handling the earthwork required during the  
23           periods that coal combustion products are received at the fill project.

24           (5)     The coal combustion product structural fill project shall be effectively  
25           maintained and operated as a nondischarge system to prevent discharge to  
26           surface water resulting from the project.

27           (6)     The coal combustion product structural fill project shall be effectively  
28           maintained and operated to ensure no violations of groundwater standards  
29           adopted by the Environmental Management Commission pursuant to Article  
30           21 of Chapter 143 of the General Statutes due to the project.

31           (7)     Surface waters resulting from precipitation shall be diverted away from the  
32           active coal combustion product placement area during filling and construction  
33           activity.

34           (8)     Site development shall comply with the North Carolina Sedimentation  
35           Pollution Control Act of 1973, as amended.

36           (9)     The structural fill project shall be operated with sufficient dust control  
37           measures to minimize airborne emissions and to prevent dust from creating a  
38           nuisance or safety hazard and shall not violate applicable air quality  
39           regulations.

40           (10)    Coal combustion products utilized on an exterior slope of a structural fill shall  
41           not be placed with a slope greater than 3.0 horizontal to 1.0 vertical.

42           (11)    Compliance with this subsection shall not insulate any of the owners or  
43           operators of a structural fill project from claims for damages to surface waters,  
44           groundwater, or air resulting from the operation of the structural fill project.  
45           If the project fails to comply with the requirements of this section, the  
46           constructor, generator, owner, or operator shall notify the Department and  
47           shall take any immediate corrective action as may be required by the  
48           Department.

49     (b)     Liners, Leachate Collection System, Cap, and Groundwater Monitoring System  
50     Required for ~~Large Structural Fills.~~ – ~~For projects~~ Projects involving placement of 8,000 or more  
51     ~~tons of coal combustion products per acre or 80,000 or more tons of~~ of coal combustion products

1 ~~in total per project as structural fill~~ shall have an encapsulation liner system. The encapsulation  
2 liner system shall be constructed on and around the structural fill and shall be designed to  
3 efficiently contain, collect, and remove leachate generated by the coal combustion products, as  
4 well as separate the coal combustion products from any exposure to surrounding environs. At a  
5 minimum, the components of the liner system shall consist of the following:

- 6 (1) A base liner, which shall consist of one of the following designs:
- 7 a. A composite liner utilizing a compacted clay liner. This composite  
8 liner is one liner that consists of two components: a geomembrane liner  
9 installed above and in direct and uniform contact with a compacted  
10 clay liner with a minimum thickness of 24 inches (0.61 m) and a  
11 permeability of no more than  $1.0 \times 10^{-7}$  centimeters per  
12 second.
- 13 b. A composite liner utilizing a geosynthetic clay liner. This composite  
14 liner is one liner that consists of three components: a geomembrane  
15 liner installed above and in uniform contact with a geosynthetic clay  
16 liner overlying a compacted clay liner with a minimum thickness of  
17 18 inches (0.46 m) and a permeability of no more than  $1.0 \times 10^{-5}$   
18 centimeters per second.
- 19 (2) A leachate collection system, which is constructed directly above the base  
20 liner and shall be designed to effectively collect and remove leachate from the  
21 project.
- 22 (3) A cap system that is designed to minimize infiltration and erosion as follows:
- 23 a. The cap system shall be designed and constructed to (i) have a  
24 permeability less than or equal to the permeability of any base liner  
25 system or the in situ subsoils underlying the structural fill, or the  
26 permeability specified for the final cover in the effective permit, or a  
27 permeability no greater than  $1 \times 10^{-5}$  centimeters per second,  
28 whichever is less; (ii) minimize infiltration through the closed  
29 structural fill by the use of a low-permeability barrier that contains a  
30 minimum 18 inches of earthen material; and (iii) minimize erosion of  
31 the cap system and protect the low-permeability barrier from root  
32 penetration by use of an erosion layer that contains a minimum of six  
33 inches of earthen material that is capable of sustaining native plant  
34 growth.
- 35 b. The Department may approve an alternative cap system if the owner  
36 or operator can adequately demonstrate (i) the alternative cap system  
37 will achieve an equivalent or greater reduction in infiltration as the  
38 low-permeability barrier specified in sub-subdivision a. of this  
39 subdivision and (ii) the erosion layer will provide equivalent or  
40 improved protection as the erosion layer specified in sub-subdivision  
41 a. of this subdivision.
- 42 (4) A groundwater monitoring system, ~~that~~ which shall be approved by the  
43 Department and, at a minimum, consists of all of the following:
- 44 a. A sufficient number of wells, installed at appropriate locations and  
45 depths, to yield groundwater samples from the uppermost aquifer that  
46 represent the quality of groundwater passing the relevant point of  
47 compliance as approved by the Department. A down-gradient  
48 monitoring system shall be installed at the relevant point of  
49 compliance so as to ensure detection of groundwater contamination in  
50 the uppermost aquifer.

- 1                   b.     A proposed monitoring plan, which shall be certified by a licensed  
2                   geologist or professional engineer to be effective in providing early  
3                   detection of any release of hazardous constituents from any point in a  
4                   structural fill or leachate surface impoundment to the uppermost  
5                   aquifer, so as to be protective of public health, safety, and welfare; the  
6                   environment; and natural resources.
- 7                   c.     A groundwater monitoring program, which shall include consistent  
8                   sampling and analysis procedures that are designed to ensure  
9                   monitoring results that provide an accurate representation of  
10                  groundwater quality at the background and down-gradient wells.  
11                  Monitoring shall be conducted through construction and the  
12                  post-closure care period. The sampling procedures and frequency shall  
13                  be protective of public health, safety, and welfare; the environment;  
14                  and natural resources.
- 15                 d.     A detection monitoring program for all Appendix I constituents. For  
16                  purposes of this subdivision, the term "Appendix I" means Appendix  
17                  I to 40 C.F.R. Part 258, "Appendix I Constituents for Detection  
18                  Monitoring," including subsequent amendments and editions.
- 19                 e.     An assessment monitoring program and corrective action plan if one  
20                  or more of the constituents listed in Appendix I is detected in  
21                  exceedance of a groundwater protection standard.

22                 (c)     Siting for Structural Fill Facilities. – Coal combustion products used as a structural  
23                  fill shall not be placed:

- 24                 (1)     Within 50 feet of any property boundary.
- 25                 (2)     Within 300 horizontal feet of a private dwelling or well.
- 26                 (3)     Within 50 horizontal feet of the top of the bank of a perennial stream or other  
27                  surface water body.
- 28                 (4)     Within four feet of the seasonal high groundwater table.
- 29                 (5)     Within a 100-year floodplain except as authorized under  
30                  G.S. 143-215.54A(b). A site located in a floodplain shall not restrict the flow  
31                  of the 100-year flood, reduce the temporary water storage capacity of the  
32                  floodplain or result in washout of solid waste so as to pose a hazard to human  
33                  life, wildlife or land or water resources.
- 34                 (6)     Within 50 horizontal feet of a wetland, unless, after consideration of the  
35                  chemical and physical impact on the wetland, the United States Army Corps  
36                  of Engineers issues a permit or waiver for the fill.

37                 **"§ 130A-309.221. Financial assurance requirements for large projects using coal  
38                  combustion products for structural fill.**

39                 (a)     ~~For projects involving placement of 8,000 or more tons of coal combustion products~~  
40                  ~~per acre or 80,000 or more tons of coal combustion products in total per project, the~~ The applicant  
41                  for a permit or a permit holder to construct or operate a structural fill shall establish financial  
42                  assurance that will ensure that sufficient funds are available for facility closure, post-closure  
43                  maintenance and monitoring, any corrective action that the Department may require, and to  
44                  satisfy any potential liability for sudden and nonsudden accidental occurrences, and subsequent  
45                  costs incurred by the Department in response to an incident at a structural fill project, even if the  
46                  applicant or permit holder becomes insolvent or ceases to reside, be incorporated, do business,  
47                  or maintain assets in the State.

48                 (b)     To establish sufficient availability of funds under this section, the applicant for a  
49                  permit or a permit holder may use insurance, financial tests, third-party guarantees by persons  
50                  who can pass the financial test, guarantees by corporate parents who can pass the financial test,  
51                  irrevocable letters of credit, trusts, surety bonds, or any other financial device, or any combination

1 of the foregoing shown to provide protection equivalent to the financial protection that would be  
2 provided by insurance if insurance were the only mechanism used.

3 (c) The applicant for a permit or a permit holder and any parent, subsidiary, or other  
4 affiliate of the applicant, permit holder, or parent, including any joint venturer with a direct or  
5 indirect interest in the applicant, permit holder, or parent shall be a guarantor of payment for  
6 closure, post-closure maintenance and monitoring, any corrective action that the Department may  
7 require, and to satisfy any potential liability for sudden and nonsudden accidental occurrences  
8 arising from the operation of the hazardous waste facility.

9 (d) Assets used to meet the financial assurance requirements of this section shall be in a  
10 form that will allow the Department to readily access funds for the purposes set out in this section.  
11 Assets used to meet financial assurance requirements of this section shall not be accessible to the  
12 permit holder except as approved by the Department.

13 (e) The Department may provide a copy of any filing that an applicant for a permit or a  
14 permit holder submits to the Department to meet the financial responsibility requirements under  
15 this section to the State Treasurer. The State Treasurer shall review the filing and provide the  
16 Department with a written opinion as to the adequacy of the filing to meet the purposes of this  
17 section, including any recommended changes.

18 (f) In order to continue to hold a permit for a structural fill, a permit holder must maintain  
19 financial responsibility as required by this Part and must provide any information requested by  
20 the Department to establish that the permit holder continues to maintain financial responsibility.

21 (g) An applicant for a permit or a permit holder shall satisfy the Department that the  
22 applicant or permit holder has met the financial responsibility requirements of this Part before  
23 the Department is required to otherwise review the application.

24 ~~"§ 130A-309.222. Closure of projects using coal combustion products for structural fill.~~

25 ~~(a) Closure of Structural Fill Projects.—~~

26 ~~(1) No later than 30 working days or 60 calendar days, whichever is less, after~~  
27 ~~coal combustion product placement has ceased, the final cover shall be applied~~  
28 ~~over the coal combustion product placement area.~~

29 ~~(2) The final surface of the structural fill shall be graded and provided with~~  
30 ~~drainage systems that do all of the following:~~

31 ~~a. Minimize erosion of cover materials.~~

32 ~~b. Promote drainage of area precipitation, minimize infiltration, and~~  
33 ~~prevent ponding of surface water on the structural fill.~~

34 ~~(3) Other erosion control measures, such as temporary mulching, seeding, or silt~~  
35 ~~barriers shall be installed to ensure no visible coal combustion product~~  
36 ~~migration to adjacent properties until the beneficial end use of the project is~~  
37 ~~realized.~~

38 ~~(4) The constructor or operator shall submit a certification to the Department~~  
39 ~~signed and sealed by a registered professional engineer or signed by the~~  
40 ~~Secretary of the Department of Transportation or the Secretary's designee~~  
41 ~~certifying that all requirements of this Subpart have been met. The report shall~~  
42 ~~be submitted within 30 days of application of the final cover.~~

43 ~~(b) Additional Closure and Post-Closure Requirements for Large Structural Fill Projects.~~  
44 ~~—For projects involving placement of 8,000 or more tons of coal combustion products per acre~~  
45 ~~or 80,000 or more tons of coal combustion products in total per project, a constructor or operator~~  
46 ~~shall conduct post-closure care. Post-closure care shall be conducted for 30 years, which period~~  
47 ~~may be increased by the Department upon a determination that a longer period is necessary to~~  
48 ~~protect public health, safety, and welfare; the environment; and natural resources, or decreased~~  
49 ~~upon a determination that a shorter period is sufficient to protect public health, safety, and~~  
50 ~~welfare; the environment; and natural resources. Additional closure and post-closure~~  
51 ~~requirements include, at a minimum, all of the following:~~

- 1           (1)    Submit a written closure plan that includes all of the following:  
2           a.     A description of the cap liner system and the methods and procedures  
3           used to install the cap that conforms to the requirement in G.S.  
4           130A-309.220(b).  
5           b.     An estimate of the largest area of the structural fill project ever  
6           requiring the cap liner system at any time during the overall  
7           construction period that is consistent with the drawings prepared for  
8           the structural fill.  
9           e.     An estimate of the maximum inventory of coal combustion products  
10          ever on site over the construction duration of the structural fill.  
11          d.     A schedule for completing all activities necessary to satisfy the closure  
12          criteria set forth in this section.
- 13          (2)    Submit a written post-closure plan that includes all of the following:  
14          a.     A description of the monitoring and maintenance activities required  
15          for the project and the frequency at which these activities must be  
16          performed.  
17          b.     The name, address, and telephone number of the person or office  
18          responsible for the project during the post-closure period.  
19          e.     A description of the planned uses of the property during the  
20          post-closure period. Post-closure use of the property must not disturb  
21          the integrity of the cap system, base liner system, or any other  
22          components of the containment system or the function of the  
23          monitoring systems, unless necessary to comply with the requirements  
24          of this subsection. The Department may approve disturbance if the  
25          constructor or operator demonstrates that disturbance of the cap  
26          system, base liner system, or other component of the containment  
27          system will not increase the potential threat to public health, safety,  
28          and welfare; the environment; and natural resources.  
29          d.     The cost estimate for post-closure activities required under this  
30          section.
- 31          (3)    Maintain the integrity and effectiveness of any cap system, including repairing  
32          the system as necessary to correct the defects of settlement, subsidence,  
33          erosion, or other events and preventing run-on and runoff from eroding or  
34          otherwise damaging the cap system.
- 35          (4)    Maintain and operate the leachate collection system. The Department may  
36          allow the constructor or operator to stop managing leachate upon a satisfactory  
37          demonstration that leachate from the project no longer poses a threat to human  
38          health and the environment.
- 39          (5)    Monitor and maintain the groundwater monitoring system in accordance with  
40          G.S. 130A-309.220 and monitor the surface water in accordance with 15A  
41          NCAC 13B .0602.
- 42          (e)    Completion of Post-Closure Care. — Following completion of the post-closure care  
43          period, the constructor or operator shall submit a certification, signed by a registered professional  
44          engineer, to the Department, verifying that post-closure care has been completed in accordance  
45          with the post-closure plan, and include the certification in the operating record.

46        "**§ 130A-309.222A. Closure and post-closure requirements for projects using coal**  
47        **combustion products for structural fill.**

- 48        (a)    Closure and post-closure requirements include, at a minimum, all of the following:  
49        (1)    No later than 30 working days or 60 calendar days, whichever is less, after  
50        coal combustion product placement has ceased, apply the final cover over the  
51        coal combustion product placement area.

- 1           (2)    The final surface of the structural fill shall be graded and provided with  
2           drainage systems that do all of the following:  
3           a.     Minimize erosion of cover materials.  
4           b.     Promote drainage of area precipitation, minimize infiltration, and  
5           prevent ponding of surface water on the structural fill.  
6           (3)    Install other erosion control measures, such as temporary mulching, seeding,  
7           or silt barriers to ensure no visible coal combustion product migration to  
8           adjacent properties until the beneficial end use of the project is realized.  
9           (4)    Submit a certification to the Department signed and sealed by a registered  
10          professional engineer or signed by the Secretary of the Department of  
11          Transportation or the Secretary's designee certifying that all requirements of  
12          this Subpart have been met. The report shall be submitted within 30 days of  
13          application of the final cover.  
14          (5)    Submit a written closure plan that includes all of the following:  
15          a.     A description of the cap liner system and the methods and procedures  
16          used to install the cap that conforms to the requirement in  
17          G.S. 130A-309.220(b).  
18          b.     An estimate of the largest area of the structural fill project ever  
19          requiring the cap liner system at any time during the overall  
20          construction period that is consistent with the drawings prepared for  
21          the structural fill.  
22          c.     An estimate of the maximum inventory of coal combustion products  
23          ever on-site over the construction duration of the structural fill.  
24          d.     A schedule for completing all activities necessary to satisfy the closure  
25          criteria set forth in this section.  
26          (6)    Submit a written post-closure plan that includes all of the following:  
27          a.     A description of the monitoring and maintenance activities required  
28          for the project and the frequency at which these activities must be  
29          performed.  
30          b.     The name, address, and telephone number of the person or office  
31          responsible for the project during the post-closure period.  
32          c.     A description of the planned uses of the property during the  
33          post-closure period. Post-closure use of the property must not disturb  
34          the integrity of the cap system, base liner system, or any other  
35          components of the containment system or the function of the  
36          monitoring systems, unless necessary to comply with the requirements  
37          of this subsection. The Department may approve disturbance if the  
38          constructor or operator demonstrates that disturbance of the cap  
39          system, base liner system, or other component of the containment  
40          system will not increase the potential threat to public health, safety,  
41          and welfare; the environment; and natural resources.  
42          d.     The cost estimate for post-closure activities required under this  
43          section.  
44          (7)    Maintain the integrity and effectiveness of any cap system, including repairing  
45          the system as necessary to correct the defects of settlement, subsidence,  
46          erosion, or other events and preventing run-on and runoff from eroding or  
47          otherwise damaging the cap system.  
48          (8)    Maintain and operate the leachate collection system. The Department may  
49          allow the constructor or operator to stop managing leachate upon a satisfactory  
50          demonstration that leachate from the project no longer poses a threat to human  
51          health and the environment.



1           (9)   Monitor and maintain the groundwater monitoring system in accordance with  
2                   G.S. 130A-309.220 and monitor the surface water in accordance with 15A  
3                   NCAC 13B .0602.

4           (b)   Duration and Completion of Post-Closure Care. – Post-closure care shall be  
5                   conducted for 30 years, which period may be increased by the Department upon a determination  
6                   that a longer period is necessary to protect public health, safety, and welfare; the environment;  
7                   and natural resources, or decreased upon a determination that a shorter period is sufficient to  
8                   protect public health, safety, and welfare; the environment; and natural resources. Following  
9                   completion of the post-closure care period, the constructor or operator shall submit a certification,  
10                  signed by a registered professional engineer, to the Department, verifying that post-closure care  
11                  has been completed in accordance with the post-closure plan, and include the certification in the  
12                  operating record.

13           ...."

14                   **SECTION 2.** This act is effective when it becomes law and applies to contracts for  
15           the use of structural fill executed on or after that date.