



Sen. Michael E. Hastings

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LRB100 04970 MJP 26929 a

1 AMENDMENT TO SENATE BILL 401

2 AMENDMENT NO. _____. Amend Senate Bill 401 by replacing
3 everything after the enacting clause with the following:

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

1 demolition debris fill operation.

2 (B) The Agency shall approve an interim authorization upon
3 its receipt of a written application for the interim
4 authorization that is signed by the site owner and the site
5 operator, or their duly authorized agent, and that contains the
6 following information: (i) the location of the site where the
7 clean construction or demolition debris fill operation is
8 taking place, (ii) the name and address of the site owner,
9 (iii) the name and address of the site operator, and (iv) the
10 types and amounts of clean construction or demolition debris
11 being used as fill material at the site.

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

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

26 (2) Beginning September 1, 2006, owners and operators of

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

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

1 Act or (ii) in violation of any regulations or standards
2 adopted by the Board under this Act.

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

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

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

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

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

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

1 fill operations and the submission and review of permits
2 required under this Section.

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

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

17 (B) Retain for a minimum of 3 years the following
18 information:

19 (i) The name of the hauler, the name of the
20 generator, and place of origin of the debris or
21 soil;

22 (ii) The approximate weight or volume of the
23 debris or soil; and

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

25 (d) This Section applies only to clean construction or
26 demolition debris that is not considered "waste" as provided in

1 Section 3.160 of this Act.

2 (e) For purposes of this Section:

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

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

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

19 (4) The term "uncontaminated soil" shall have the same
20 meaning as uncontaminated soil under Section 3.160 of this
21 Act.

22 (f) (1) No later than one year after the effective date of
23 this amendatory Act of the 96th General Assembly, the Agency
24 shall propose to the Board, and, no later than one year after
25 the Board's receipt of the Agency's proposal, the Board shall
26 adopt, rules for the use of clean construction or demolition

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

19 (2) Until the effective date of the Board rules adopted
20 under subdivision (f)(1) of this Section, and in addition to
21 any other requirements, owners and operators of clean
22 construction or demolition debris fill operations must do all
23 of the following in subdivisions (f)(2)(A) through (f)(2)(D) of
24 this Section for all clean construction or demolition debris
25 and uncontaminated soil accepted for use as fill material. The
26 requirements in subdivisions (f)(2)(A) through (f)(2)(D) of

1 this Section shall not limit any rules adopted by the Board.

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

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

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

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

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

18 (3) Owners and operators of clean construction or
19 demolition debris fill operations must maintain all
20 documentation required under subdivision (f)(2) of this
21 Section for a minimum of 3 years following the receipt of each
22 load of clean construction or demolition debris or
23 uncontaminated soil, except that documentation relating to an
24 appeal, litigation, or other disputed claim must be maintained
25 until at least 3 years after the date of the final disposition
26 of the appeal, litigation, or other disputed claim. Copies of

1 the documentation must be made available to the Agency and to
2 units of local government for inspection and copying during
3 normal business hours. The Agency may prescribe forms and
4 formats for the documentation required under subdivision
5 (f)(2) of this Section.

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

11 (4) Within one year after the effective date of this
12 amendatory Act of the 100th General Assembly, the Agency shall
13 propose rules to the Board and the Board shall, within one year
14 thereafter, adopt amendments to the rules adopted under
15 subdivision (f)(1) of this Section to require groundwater
16 monitoring at all clean construction or demolition debris fill
17 operations; provided, however, that groundwater monitoring
18 shall not be required for clean construction or demolition
19 debris facilities which: (A) are located entirely within a
20 groundwater prohibition zone as established by any unit of
21 local government; (B) demonstrate to the agency, and continue
22 to demonstrate to the agency on an annual basis thereafter,
23 that an inward gradient has been established and maintained
24 which prevents the discharge of water flowing through the site
25 into surrounding areas of available drinking water; or (C)
26 apply to the Agency for closure prior to the Board's adoption

1 of rules under this subdivision. The groundwater monitoring
2 requirements adopted under this subdivision shall be designed
3 to prevent degradation of existing groundwater quality.

4 The groundwater monitoring requirements adopted by the
5 Board under this subdivision shall include, but not be limited
6 to, the following: establishing a baseline determination of
7 groundwater quality in areas surrounding clean construction or
8 demolition debris facilities; establishing a methodology for
9 determining monitoring frequency, the number and location of
10 wells; establishing a methodology for determining post-closure
11 monitoring duration, which shall, in no event, exceed 5 years;
12 installation of the groundwater monitoring system within one
13 year after the Board adopts these rules; remedial action
14 procedures in the event of a degradation of existing
15 groundwater by or as a result of the operation of a clean
16 construction or demolition debris facility; and financial
17 assurance for corrective action, closure and post-closure in
18 the form of a performance bond or other security instrument.
19 The Board may also create an exception or exclusion to the
20 groundwater monitoring requirements for clean construction or
21 demolition debris facilities that are located a sufficient
22 distance from a potable water source so as to create no
23 reasonable threat of contamination to available groundwater.

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

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

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

6 (415 ILCS 5/22.51a)

7 Sec. 22.51a. Uncontaminated Soil Fill Operations.

8 (a) For purposes of this Section:

9 (1) The term "uncontaminated soil" shall have the same
10 meaning as uncontaminated soil under Section 3.160 of this
11 Act.

12 (2) The term "uncontaminated soil fill operation"
13 means a current or former quarry, mine, or other excavation
14 where uncontaminated soil is used as fill material, but
15 does not include a clean construction or demolition debris
16 fill operation.

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

19 (c) Owners and operators of uncontaminated soil fill
20 operations must register the fill operations with the Agency.
21 Uncontaminated soil fill operations that received
22 uncontaminated soil prior to the effective date of this
23 amendatory Act of the 96th General Assembly must be registered
24 with the Agency no later than March 31, 2011. Uncontaminated
25 soil fill operations that first receive uncontaminated soil on

1 or after the effective date of this amendatory Act of the 96th
2 General Assembly must be registered with the Agency prior to
3 the receipt of any uncontaminated soil. Registrations must be
4 submitted on forms and in a format prescribed by the Agency.

5 (d) (1) No later than one year after the effective date of
6 this amendatory Act of the 96th General Assembly, the Agency
7 shall propose to the Board, and, no later than one year after
8 the Board's receipt of the Agency's proposal, the Board shall
9 adopt, rules for the use of uncontaminated soil as fill
10 material at uncontaminated soil fill operations. The rules must
11 include standards and procedures necessary to protect
12 groundwater, which shall include, but shall not be limited to,
13 testing and certification of soil used as fill material and
14 requirements for recordkeeping.

15 (2) Until the effective date of the Board rules adopted
16 under subdivision (d) (1) of this Section, owners and operators
17 of uncontaminated soil fill operations must do all of the
18 following in subdivisions (d) (2) (A) through (d) (2) (F) of this
19 Section for all uncontaminated soil accepted for use as fill
20 material. The requirements in subdivisions (d) (2) (A) through
21 (d) (2) (F) of this Section shall not limit any rules adopted by
22 the Board.

23 (A) Document the following information for each load of
24 uncontaminated soil received: (i) the name of the hauler,
25 the address of the site of origin, and the owner and the
26 operator of the site of origin of the uncontaminated soil,

1 (ii) the weight or volume of the uncontaminated soil, and
2 (iii) the date the uncontaminated soil was received.

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

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

25 (D) Visually inspect each load to confirm that only
26 uncontaminated soil is being accepted for use as fill

1 material.

2 (E) Screen each load of uncontaminated soil using a
3 device that is approved by the Agency and detects volatile
4 organic compounds. Such a device may include, but is not
5 limited to, a photo ionization detector or a flame
6 ionization detector. All screening devices shall be
7 operated and maintained in accordance with the
8 manufacturer's specifications. Unacceptable soil must be
9 rejected from the fill operation.

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

19 (3) Owners and operators of uncontaminated soil fill
20 operations must maintain all documentation required under
21 subdivision (d)(2) of this Section for a minimum of 3 years
22 following the receipt of each load of uncontaminated soil,
23 except that documentation relating to an appeal, litigation, or
24 other disputed claim must be maintained until at least 3 years
25 after the date of the final disposition of the appeal,
26 litigation, or other disputed claim. Copies of the

1 documentation must be made available to the Agency and to units
2 of local government for inspection and copying during normal
3 business hours. The Agency may prescribe forms and formats for
4 the documentation required under subdivision (d)(2) of this
5 Section.

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

11 (4) Within one year after the effective date of this
12 amendatory Act of the 100th General Assembly, the Agency shall
13 propose rules to the Board and the Board shall, within one year
14 thereafter, adopt amendments to the rules adopted under
15 subdivision (d)(1) of this Section to require groundwater
16 monitoring at all uncontaminated clean soil fill operations;
17 provided, however, that groundwater monitoring shall not be
18 required for uncontaminated clean soil fill operations which:
19 (A) are located entirely within a groundwater prohibition zone
20 as established by any unit of local government; (B) demonstrate
21 to the agency, and continue to demonstrate to the agency on an
22 annual basis thereafter, that an inward gradient has been
23 established and maintained which prevents the discharge of
24 water flowing through the site into surrounding areas of
25 available drinking water; or (C) apply to the Agency for
26 closure prior to the Board's adoption of rules under this

1 subdivision.

2 The groundwater monitoring requirements adopted under this
3 subdivision shall be designed to prevent degradation of
4 existing groundwater quality. The groundwater monitoring
5 requirements adopted by the Board under this subdivision shall
6 include, but not be limited to, the following: establishing a
7 baseline determination of groundwater quality in areas
8 surrounding uncontaminated clean soil fill operations;
9 establishing a methodology for determining monitoring
10 frequency, the number and location of wells; establishing a
11 methodology for determining post-closure monitoring duration,
12 which shall, in no event, exceed 5 years; installation of the
13 groundwater monitoring system within one year after the Board
14 adopts these rules; remedial action procedures in the event of
15 a degradation of existing groundwater by or as a result of the
16 operation of an uncontaminated clean soil facility; and
17 financial assurance for corrective action, closure and
18 post-closure in the form of a performance bond or other
19 security instrument. The Board may also create an exception or
20 exclusion to the groundwater monitoring requirements for
21 uncontaminated clean soil operations that are located a
22 sufficient distance from a potable water source so as to create
23 no reasonable threat of contamination to available
24 groundwater.

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