



Sen. John J. Millner

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LRB095 19613 HLH 49434 a

1 AMENDMENT TO SENATE BILL 2166

2 AMENDMENT NO. _____. Amend Senate Bill 2166 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Environmental Protection Act is amended by
5 changing Sections 3.160 and 22.51 as follows:

6 (415 ILCS 5/3.160) (was 415 ILCS 5/3.78 and 3.78a)

7 Sec. 3.160. Construction or demolition debris.

8 (a) "General construction or demolition debris" means
9 non-hazardous, uncontaminated materials resulting from the
10 construction, remodeling, repair, and demolition of utilities,
11 structures, and roads, limited to the following: bricks,
12 concrete, and other masonry materials; soil; rock; wood,
13 including non-hazardous painted, treated, and coated wood and
14 wood products; wall coverings; plaster; drywall; plumbing
15 fixtures; non-asbestos insulation; roofing shingles and other
16 roof coverings; reclaimed or other asphalt pavement; glass;

1 plastics that are not sealed in a manner that conceals waste;
2 electrical wiring and components containing no hazardous
3 substances; and piping or metals incidental to any of those
4 materials.

5 General construction or demolition debris does not include
6 uncontaminated soil generated during construction, remodeling,
7 repair, and demolition of utilities, structures, and roads
8 provided the uncontaminated soil is not commingled with any
9 general construction or demolition debris or other waste.

10 To the extent allowed by federal law, uncontaminated
11 concrete with protruding rebar shall be considered clean
12 construction or demolition debris and shall not be considered
13 "waste" if it is separated or processed and returned to the
14 economic mainstream in the form of raw materials or products
15 within 4 years of its generation, if it is not speculatively
16 accumulated and, if used as a fill material, it is used in
17 accordance with item (i) in subsection (b) of this Section.

18 (b) "Clean construction or demolition debris" or "CCDD"
19 means broken concrete without protruding metal bars, bricks,
20 rock, stone, or reclaimed or other asphalt pavement, that is
21 generated from construction or demolition activities. "CCDD"
22 also includes clean soil generated from construction or
23 demolition activities, alone or in combination with the
24 materials referenced in this paragraph.

25 (1) "CCDD" is not waste if it is not mixed with any
26 waste and if it is:

1 (A) used as fill material in a current or former
2 quarry, mine, or other excavation pursuant to Section
3 22.51 of this Act and the rules adopted under that
4 Section;

5 (B) used as fill material outside of a setback zone
6 if the fill is placed no higher than the highest point
7 of elevation adjacent to the fill area immediately
8 prior to the filling and is covered with sufficient
9 residual soil to support vegetation within 30 days of
10 filling or is covered by a road or structure;

11 (C) separated or processed and returned to the
12 economic mainstream in the form of raw materials or
13 products and is not speculatively accumulated; for
14 purposes of this item, reclaimed or other asphalt
15 pavement shall not be considered speculatively
16 accumulated if: (i) it is not commingled with any other
17 clean construction or demolition debris or any waste,
18 and (ii) it is returned to the economic mainstream in
19 the form of raw materials or products within 4 years
20 after its generation;

21 (D) consists solely of broken concrete without
22 protruding metal bars and is used for erosion control;

23 (E) generated from the construction demolition of
24 a building, road, or other structure if it is used to
25 construct, on the site where the construction or
26 demolition has taken place, a manmade functional

1 structure that does not exceed 20 feet above the
2 highest point of elevation of the property immediately
3 adjacent to the new manmade functional structure as
4 that elevation existed prior to the creation of that
5 new structure, provided that the structure shall be
6 covered with sufficient soil materials to sustain
7 vegetation or shall be covered by a road, and further
8 provided that no such structure shall be constructed
9 within a home rule municipality with a population over
10 500,000 without the consent of the municipality; or

11 (F) used on the site where the clean construction
12 or demolition debris was generated.

13 (c) "Clean soil" means soil that contains concentrations of
14 regulated substances that are within the most stringent
15 residential Tier 1 remediation objective adopted by the Board
16 under Title XVII of this Act or as specified in Section 22.51
17 (d) of this Act. Clean soil is not waste. Clean soil is CCDD
18 and subject to the requirements of subsection (b) of this
19 Section and, for CCDD fill operations, subject also to the
20 requirements of Section 22.51. "Clean fill soil" means soil
21 that (i) does not contain contaminants which exceed a list of
22 contaminants that shall be published by the Agency, which shall
23 not exceed 50% of the most stringent residential Tier 1
24 remediation objectives adopted by the Board under Title XVII of
25 this Act; (ii) is not co-mingled with CCDD; and (iii) does not
26 contain waste. Clean fill soil is not regulated under this Act.

1 Soil excavated from a developed commercial site in an urban
2 area, an industrial site, or a site enrolled in the site
3 remediation program shall not be considered clean soil or clean
4 fill soil unless it has been properly characterized as it
5 exists at the site of origin in accordance with a statistically
6 valid method of sampling and analysis conducted pursuant to
7 standards adopted by the United States Environmental
8 Protection Agency, the Agency, or the American Society for
9 Testing and Materials and which has been certified as to its
10 accuracy by a licensed professional engineer.

11 ~~(b) "Clean construction or demolition debris" means~~
12 ~~uncontaminated broken concrete without protruding metal bars,~~
13 ~~bricks, rock, stone, reclaimed or other asphalt pavement, or~~
14 ~~soil generated from construction or demolition activities.~~

15 ~~Clean construction or demolition debris does not include~~
16 ~~uncontaminated soil generated during construction, remodeling,~~
17 ~~repair, and demolition of utilities, structures, and roads~~
18 ~~provided the uncontaminated soil is not commingled with any~~
19 ~~clean construction or demolition debris or other waste.~~

20 ~~To the extent allowed by federal law, clean construction or~~
21 ~~demolition debris shall not be considered "waste" if it is (i)~~
22 ~~used as fill material outside of a setback zone if the fill is~~
23 ~~placed no higher than the highest point of elevation existing~~
24 ~~prior to the filling immediately adjacent to the fill area, and~~
25 ~~if covered by sufficient uncontaminated soil to support~~
26 ~~vegetation within 30 days of the completion of filling or if~~

1 ~~covered by a road or structure, or (ii) separated or processed~~
2 ~~and returned to the economic mainstream in the form of raw~~
3 ~~materials or products, if it is not speculatively accumulated~~
4 ~~and, if used as a fill material, it is used in accordance with~~
5 ~~item (i), or (iii) solely broken concrete without protruding~~
6 ~~metal bars used for erosion control, or (iv) generated from the~~
7 ~~construction or demolition of a building, road, or other~~
8 ~~structure and used to construct, on the site where the~~
9 ~~construction or demolition has taken place, a manmade~~
10 ~~functional structure not to exceed 20 feet above the highest~~
11 ~~point of elevation of the property immediately adjacent to the~~
12 ~~new manmade functional structure as that elevation existed~~
13 ~~prior to the creation of that new structure, provided that the~~
14 ~~structure shall be covered with sufficient soil materials to~~
15 ~~sustain vegetation or by a road or structure, and further~~
16 ~~provided that no such structure shall be constructed within a~~
17 ~~home rule municipality with a population over 500,000 without~~
18 ~~the consent of the municipality.~~

19 ~~For purposes of this subsection (b), reclaimed or other~~
20 ~~asphalt pavement shall not be considered speculatively~~
21 ~~accumulated if: (i) it is not commingled with any other clean~~
22 ~~construction or demolition debris or any waste; (ii) it is~~
23 ~~returned to the economic mainstream in the form of raw~~
24 ~~materials or products within 4 years after its generation;~~
25 ~~(iii) at least 25% of the total amount present at a site during~~
26 ~~a calendar year is transported off of the site during the next~~

1 ~~calendar year; and (iv) if used as a fill material, it is used~~
2 ~~in accordance with item (i) of the second paragraph of this~~
3 ~~subsection (b).~~

4 (Source: P.A. 94-272, eff. 7-19-05; 95-121, eff. 8-13-07.)

5 (415 ILCS 5/22.51)

6 Sec. 22.51. Clean Construction or Demolition Debris Fill
7 Operations.

8 (a) No person shall conduct any clean construction or
9 demolition debris fill operation in violation of this Act or
10 any regulations or standards adopted by the Board or without a
11 permit. A clean construction demolition debris fill operation
12 is any former quarry, mine, or other excavation that accepts
13 CCDD, as defined in Section 3.160 of this Act, as fill. The
14 term "other excavation" does not include holes, trenches, or
15 similar earth removal created as part of normal construction,
16 removal, or maintenance of a structure, utility, or
17 transportation infrastructure.

18 (b) (1) (A) Beginning 30 days after the effective date of
19 this amendatory Act of the 94th General Assembly but prior to
20 July 1, 2008, no person shall use clean construction or
21 demolition debris as fill material in a current or former
22 quarry, mine, or other excavation, unless they have applied for
23 a permit or an interim authorization from the Agency for the
24 clean construction or demolition debris fill operation.

25 (B) The Agency shall approve an interim authorization upon

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

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

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

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

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

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

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

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

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

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

13 (c) In accordance with Title VII of this Act, the Board may
14 adopt regulations to promote the purposes of this Section, as
15 provided below or as may later be necessary. The Agency shall
16 consult with the mining and construction industries during the
17 development of any regulations to promote the purposes of this
18 Section.

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

1 required under this Section.

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

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

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

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

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

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

24 (d) CCDD fill operations that are former quarries, mines,
25 or other excavations may accept soil within the Agency's Tiered
26 Approach to Corrective Action Objectives (TACO) Tier 1

1 residential standards adopted by the Board under Title XVII of
2 this Act and as hereinafter may be amended, as relevant to
3 specific site conditions at the CCDD fill operation and
4 excluding the use of the ingestion and inhalation exposure
5 route-specific values found at 35 Ill. Adm. Code 742, Appendix
6 B, Table A, provided the following conditions are met:

7 (1) Deed. The CCDD fill operation has recorded a land
8 use restriction that restricts the fill operation property
9 to industrial or commercial use and that such restriction
10 is recorded in the chain of title for the property on which
11 the quarry, mine, or other excavation is located.

12 (2) Soil Acceptance Plan. The CCDD fill operation has
13 implemented a soil acceptance plan, certified by a licensed
14 professional engineer, which delineates the parameters of
15 the soil the facility will be authorized to accept,
16 consistent with this subsection.

17 (3) Soil Testing Plan. The CCDD fill operation has
18 implemented a soil testing plan, certified by a licensed
19 professional engineer, which sets forth a sampling,
20 screening, and testing protocol for all incoming and filled
21 soil, sufficient to demonstrate that the conditions
22 outlined in this subsection will be achieved.

23 (4) Groundwater Protection. The CCDD fill operation
24 has implemented a groundwater protection plan, certified
25 by a licensed professional engineer, which demonstrates,
26 through the use of engineered barriers and other

1 appropriate groundwater and surface water controls and
2 monitoring, that the fill operation will not violate this
3 Act.

4 (5) Closure and Post Closure Plan. The CCDD fill
5 operation shall develop for implementation a Closure and
6 Post-Closure Plan, certified by a licensed professional
7 engineer, which provides that, upon closure, the fill site
8 will be covered with a minimum of 3 feet of soil meeting
9 the strictest TACO Tier I residential standards. Upon
10 closure, a CCDD fill operation that sufficiently
11 demonstrates to the Agency that the site meets the
12 stringent residential Tier 1 remediation objective adopted
13 by the Board under Title XVII of the Act, shall be eligible
14 for removal of the land use condition set forth in
15 paragraph (1) above, pursuant to procedures that may be
16 adopted pursuant to this Section.

17 (6) Record Keeping. The CCDD fill operation shall
18 maintain adequate records as may be necessary to ensure
19 compliance with paragraphs (1) through (5) and this Act.
20 The Agency shall have full access to such records and to
21 the inspection of CCDD fill operations.

22 (7) Permit Procedures. The Agency is authorized to
23 develop permit conditions and procedures with sufficient
24 specificity as may be necessary to ensure compliance with
25 this subsection. Any such permit procedures and conditions
26 are subject to Sections 39 and 40 of this Act.

1 ~~(d) This Section applies only to clean construction or~~
2 ~~demolition debris that is not considered "waste" as provided in~~
3 ~~Section 3.160 of this Act.~~

4 (e) For purposes of a clean construction or demolition
5 debris fill operation:

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

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

18 (f) This Section does not apply to State agencies and units
19 of local government that reuse CCDD or clean soil, when both
20 the site of excavation and the site of fill is within their
21 jurisdictional territories so long as such use is consistent
22 with Section 3.160(c) of this Act. Such entities may, by
23 ordinance or regulation, develop procedures and protocols for
24 such reuse.

25 (Source: P.A. 94-272, eff. 7-19-05; 94-725, eff. 6-1-06.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.".