



State of Wisconsin
2021 - 2022 LEGISLATURE

LRBa0798/1
ZDW:skw

**SENATE AMENDMENT 1,
TO SENATE SUBSTITUTE AMENDMENT 1,
TO SENATE BILL 93**

September 22, 2021 - Offered by Senator JACQUE.

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 1, line 3: delete the material beginning with “Lakes” and ending with
3 “exemptions” on line 4 and substitute “Lakes, extending the time limit for emergency
4 rule procedures, and providing an exemption from emergency rule procedures”.

5 **2.** Page 2, line 1: before that line insert:

6 “**SECTION 1m.** 289.43 (8) (title) of the statutes is amended to read:

7 289.43 (8) (title) EXEMPTION FROM REGULATION; LOW-HAZARD WASTE AND MATERIAL
8 DREDGED FROM GREAT LAKES.”.

9 **3.** Page 2, line 2: delete the material beginning with that line and ending with
10 page 3, line 2, and substitute:

11 “289.43 (8) (d) 1. The department may not regulate under s. 289.30 or 289.31
12 any facility for the disposal of material dredged by a municipality or county or a

1 contractor for a municipality or county from Lake Michigan, Lake Superior, or bays
2 or harbors adjacent to Lake Michigan or Lake Superior, if all of the following apply:

3 a. The department determines that the dredging and disposal will have a
4 demonstrable economic public benefit, as defined under s. 281.36 (1) (am).

5 b. The department determines that the cumulative adverse environmental
6 impact of the dredging and disposal is insignificant and will not injure public rights
7 or interests, cause environmental pollution, as defined in s. 299.01 (4), or result in
8 material injury to the rights of any riparian owner.

9 c. The department determines that the facility is in compliance with
10 performance standards established by the department by rule.

11 d. The facility accepts dredged material for not more than 10 years or in an
12 amount not to exceed 35,000 cubic yards, whichever occurs first, unless there is a
13 material adverse change in the contamination of the dredged material that would be
14 disposed of at the facility or if there is a material change in the intended use of the
15 dredged material.

16 e. The disposal facility is located at least 100 feet from any wetland or critical
17 habitat area and is outside a floodplain. This subd. 1. e. does not apply if the project
18 is for beach nourishment above the ordinary high water mark on a public beach that
19 has already been noticeably disturbed by human activities such as the construction
20 of a parking lot, public swimming area, or other improvement and that has no unique
21 ecological value.

22 f. The disposal facility is located at least 100 feet from any water supply well.

23 g. The facility confines the disposal area to as limited a geographic area as is
24 practicable.

1 h. The department determines that the application and proposed facility are
2 in compliance with any other conditions established by the department by rule.

3 i. At least 60 days prior to beginning disposal under this paragraph, the
4 municipality or county or the contractor for the municipality or county submits to the
5 department the address or location of the disposal site, the name of the person or
6 entity accepting the dredged material, a map or aerial image showing the disposal
7 location, the coordinates for the center of the disposal location, the dates when
8 dredged material is to be received at the disposal location, the approximate volume
9 of material to be disposed, the intended uses of the dredged material, and the
10 available laboratory analytical data for samples collected from the dredged material
11 to determine environmental impact.

12 j. The department determines that a received application is complete and does
13 not provide a written objection to the application within 30 days of receipt by the
14 department. An application may not be reviewed until the department has
15 determined the application is complete. One application may authorize disposal of
16 dredged material from one dredging location at multiple disposal sites.”.

17 **4.** Page 3, line 4: after “if” insert “the amount of dredged material deposited
18 at the facility exceeds 35,000 cubic yards,”.

19 **5.** Page 3, line 6: substitute “facility,” for “facility”.

20 **6.** Page 4, line 4: delete the material beginning with that line and ending with
21 page 5, line 17.

22 **7.** Page 5, line 18: before that line insert:

23 **“SECTION 7m. Nonstatutory provisions.**

1 (1) The department of natural resources shall use the procedure under s. 227.24
2 to promulgate rules under s. 289.43 (8) (d) 1. no later than the first day of the 7th
3 month beginning after the effective date of this subsection. Notwithstanding s.
4 227.24 (1) (c) and (2), emergency rules promulgated under this subsection remain in
5 effect until the first day of the 36th month beginning after the effective date of the
6 emergency rules or the date on which permanent rules take effect, whichever is
7 earlier. Emergency rules promulgated under this subsection shall be limited to rules
8 pertaining to sediment sample analysis, the number of samples to be collected, and
9 other items determined to be necessary by the department of natural resources.
10 Notwithstanding s. 227.24 (1) (a) and (3), the department of natural resources is not
11 required to provide evidence that promulgating a rule under this subsection as an
12 emergency rule is necessary for the preservation of public peace, health, safety, or
13 welfare and is not required to provide a finding of emergency for a rule promulgated
14 under this subsection.”.

15 (END)