



General Assembly

January Session, 2021

Raised Bill No. 6496

LCO No. 3596



Referred to Committee on ENVIRONMENT

Introduced by:
(ENV)

AN ACT CONCERNING CERTAIN SOIL-RELATED INITIATIVES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 22a-209f of the general statutes is amended by
2 adding subsection (c) as follows (*Effective October 1, 2021*):

3 (NEW) (c) (1) For purposes of this subsection: (A) "Beneficially
4 reclaimed materials" means any of the following materials that may
5 contain de minimis amounts of solid waste that is present incidentally
6 in such materials, including any mixture of the following materials:

7 (i) Soil or dewatered sediment that does not exceed the criteria
8 established by regulations adopted pursuant to title 22a, including, but
9 not limited to, criteria for any additional polluting substances for which
10 criteria are not specified in such regulations;

11 (ii) Asphalt, brick, concrete or ceramic material, provided such
12 material is virtually inert and poses no threat to pollute any
13 groundwater or surface waters;

14 (iii) Casting sand;

15 (iv) Crushed recycled glass; or

16 (v) Street sweepings or catch basin clean-out materials.

17 "Beneficially reclaimed materials" does not include materials that
18 contain any asbestos, polychlorinated biphenyls, persistent
19 bioaccumulative toxins, hazardous waste or, unless approved by the
20 commissioner in writing, pyrrhotite-containing concrete;

21 (B) "Soil" means unconsolidated geologic material overlying bedrock;

22 (C) "Dewatered sediment" means unconsolidated material occurring
23 in a surface water body, with water removed;

24 (D) "Casting sand" means waste sand from the casting of metals,
25 provided such sand is not hazardous waste;

26 (E) "Crushed recycled glass" has the same meaning as provided in
27 section 22a-208z;

28 (F) "Hazardous waste" has the same meaning as provided in section
29 22a-448;

30 (G) "Persistent bioaccumulative toxins" means long-lived chemicals
31 that accumulate in the tissues of humans and that are toxic; and

32 (H) "Aquifer protection area" has the same meaning as provided in
33 section 22a-354h.

34 (2) (A) The Commissioner of Energy and Environmental Protection
35 may establish a pilot program for the beneficial use of beneficially
36 reclaimed materials. The primary purpose of such program shall be to
37 allow beneficially reclaimed materials to be used as fill when there is an
38 engineering need for fill materials and to facilitate the reclamation or
39 redevelopment of environmentally impaired or underutilized land.

40 (B) To implement the pilot program established pursuant to this
41 subdivision, the commissioner may issue no more than four
42 authorizations, provided: (i) Such authorization does not allow an

43 activity for which an individual or general permit has been issued; (ii)
44 such authorization is not inconsistent with the requirements of the
45 federal Resource Conservation and Recovery Act, 42 USC 6901 et seq.;

46 (iii) such authorization is for single locations only and provides for not
47 less than one hundred thousand cubic yards of beneficially reclaimed
48 materials to be used as fill at such location; (iv) that prior to the
49 submission of an application for authorization in accordance with this
50 subsection, each municipality in which beneficially reclaimed materials
51 will be used as fill has issued all the necessary approvals specified in
52 subdivision (4) of this subsection; and (v) the commissioner finds that
53 the beneficial use of beneficially reclaimed materials does not harm or
54 present a threat to human health, safety or the environment.

55 (3) The commissioner may establish guidelines protective of public
56 health, safety and the environment for such authorizations and for a
57 letter of credit provided in accordance with this subsection and shall
58 give public notice on the Department of Energy and Environmental
59 Protection's Internet web site of such guidelines, or any subsequent
60 revision of such guidelines, with an opportunity for submission of
61 written comments by interested persons for a period of thirty days
62 following the publication of such notice. The commissioner shall post a
63 response to any comments received on the Department of Energy and
64 Environmental Protection's Internet web site. At a minimum, any such
65 guidelines shall contain a preference for use of environmentally
66 impaired or underutilized locations, provided that any location for
67 which an authorization is issued under this subsection shall:

68 (A) Be in an area (i) where the quality of the groundwaters of the
69 state, as classified in regulations adopted pursuant to section 22a-426,
70 and the classification maps adopted pursuant to said section, is either
71 "GB" or "GC", or (ii) that is served by a public drinking water supply;

72 (B) Not be in an aquifer protection area; and

73 (C) Be operated in compliance with sections 22a-426-1 to 22a-426-9,
74 inclusive, of the regulations of Connecticut state agencies and not

75 adversely affect sensitive receptors or resources, including, but not
76 limited to, public or private water supply wells, wetlands, floodplains,
77 or threatened or endangered species.

78 (4) Prior to the submission of an application for authorization in
79 accordance with this subsection, an applicant shall: (A) Obtain a valid
80 certificate of zoning approval, special permit, special exception or
81 variance, or other documentation, from each municipality in which
82 beneficially reclaimed materials will be used as fill; (B) obtain a copy of
83 wetlands, aquifer protection, coastal site plan and any other required
84 approval from a municipality; and (C) comply with the process
85 specified in subsection (b) of section 22a-20a, regardless of whether the
86 location where beneficially reclaimed materials will be used as fill is
87 located in an environmental justice community;

88 (5) An application for authorization pursuant to this section shall be
89 submitted on forms prescribed by the commissioner and shall include,
90 at a minimum, the following information: (A) A plan for ensuring that
91 only beneficially reclaimed materials that satisfy the requirements of
92 this subsection are used as fill and a description of acceptability criteria
93 for the beneficially reclaimed materials proposed for beneficial use at
94 the subject location; (B) a plan describing the process for placing and
95 recording the placement of beneficially reclaimed materials; (C) a plan
96 for monitoring the waters of the state during the filling process and for
97 a period of not less than thirty years after filling is complete; (D) a
98 proposed letter of credit that conforms to the guidelines established by
99 the commissioner and the basis for the cost estimate used in such
100 proposed letter of credit; (E) the qualifications of the environmental
101 professionals intended to exercise oversight of all aspects of the
102 proposed activities; (F) a redevelopment plan for the location where
103 beneficially reclaimed materials will be placed, including engineering
104 plans and drawings in support of such redevelopment; (G) a list of each
105 municipal approval required for the proposed placement of beneficially
106 reclaimed materials and a written copy of each such approval; and (H)
107 any additional information required by the commissioner. Any such
108 application shall be accompanied by a nonrefundable application fee of

109 twenty-five thousand dollars.

110 (6) Notwithstanding section 22a-208a or any regulations adopted
111 pursuant to section 22a-209, the issuance of an authorization under this
112 subsection, or a modification of an authorization under this subsection
113 when such modification is sought by the holder of an authorization,
114 shall conform to the following procedures: (A) The Commissioner of
115 Energy and Environmental Protection shall publish a notice of intent to
116 issue an authorization on the Department of Energy and Environmental
117 Protection's Internet web site. Such notice shall, at a minimum, include:
118 (i) The name and mailing address of the applicant and the address of the
119 location of the proposed activity; (ii) the application number; (iii) the
120 tentative decision regarding the application; (iv) the type of
121 authorization sought, including a reference to the applicable provision
122 of the general statutes or regulations of Connecticut state agencies; (v) a
123 description of the location of the proposed activity and any natural
124 resources that will be affected by such activity; (vi) the name, address
125 and telephone number of any agent of the applicant from whom
126 interested persons may obtain copies of the application; (vii) the length
127 of time available for submission of public comments to the
128 commissioner; and (viii) any other additional information the
129 commissioner deems necessary. There shall be a comment period of
130 thirty days following the publication of such notice by the commissioner
131 during which interested persons may submit written comments to the
132 commissioner; (B) the commissioner shall post a response to any
133 comments received on the Department of Energy and Environmental
134 Protection's Internet web site; and (C) the commissioner may approve
135 or deny such authorization based upon a review of the submitted
136 information. Any authorization issued pursuant to this subsection shall
137 define clearly the activity covered by such authorization and may
138 include such conditions or requirements as the commissioner deems
139 appropriate, including, but not limited to, investigation or remediation
140 of a location prior to placement of beneficially reclaimed materials,
141 operation and maintenance requirements, best management practices,
142 qualifications and requirements for environmental professional

143 exercising oversight, groundwater monitoring, compliance with fill
144 management, closure, redevelopment or other plans, reporting and
145 recordkeeping requirements, auditing by an independent party and a
146 specified term. The commissioner shall require the posting of a letter of
147 credit to assure compliance with any authorization issued under this
148 subsection, including, but not limited to, implementation of a closure
149 plan and post-closure maintenance and monitoring.

150 (7) The commissioner may suspend or revoke any such authorization
151 and may modify an authorization if such modification is not sought by
152 the holder of an authorization, in accordance with the provisions of
153 section 4-182 and the applicable rules of practice adopted by the
154 department.

155 (8) Unless required by the federal Clean Water Act, a discharge
156 permit under section 22a-430 shall not be required for a discharge
157 authorized under this subsection. In addition, the soil reuse provisions
158 of the state remediation standards, adopted pursuant to section 22a-
159 133k, shall not apply to an activity authorized under this subsection.

160 Sec. 2. Section 22a-5 of the general statutes is repealed and the
161 following is substituted in lieu thereof (*Effective October 1, 2021*):

162 The commissioner shall carry out the energy and environmental
163 policies of the state and shall have all powers necessary and convenient
164 to faithfully discharge this duty. In addition to and consistent with the
165 environment policy of the state, the commissioner shall (1) promote and
166 coordinate management of water, land and air resources to assure their
167 protection, enhancement and proper allocation and utilization; (2)
168 provide for the protection and management of plants, trees, fish,
169 shellfish, wildlife and other animal life of all types, including the
170 preservation of endangered species; (3) provide for the protection,
171 enhancement and management of the public forests, parks, open spaces
172 and natural area preserves; (4) provide for the protection, enhancement
173 and management of inland, marine and coastal water resources,
174 including, but not limited to, wetlands, rivers, estuaries and shorelines;

175 (5) provide for the prevention and abatement of all water, land and air
176 pollution including, but not limited to, that related to particulates, gases,
177 dust, vapors, noise, radiation, odors, nutrients and cooled or heated
178 liquids, gases and solids; (6) provide for control of pests and regulate
179 the use, storage and disposal of pesticides and other chemicals which
180 may be harmful to man, sea life, animals, plant life or natural resources;
181 (7) regulate the disposal of solid waste and liquid waste, including but
182 not limited to, domestic and industrial refuse, junk motor vehicles, litter
183 and debris, which methods shall be consistent with sound health, scenic
184 environmental quality and land use practices; (8) regulate the storage,
185 handling and transportation of solids, liquids and gases which may
186 cause or contribute to pollution; (9) provide for minimum state-wide
187 standards for soil health and for the mining, extraction, excavation or
188 removal of earth materials of all types; (10) develop a comprehensive
189 energy plan for the state; (11) transition the state to cleaner, more diverse
190 and sustainable sources of energy; and (12) create opportunities for
191 innovation and technological advances in conserving energy and
192 reducing costs.

193 Sec. 3. Section 22a-314 of the general statutes is repealed and the
194 following is substituted in lieu thereof (*Effective October 1, 2021*):

195 The Commissioner of Energy and Environmental Protection may (a)
196 make or cause to be made surveys, investigations and research
197 concerning the problems of soil and water erosion and its control and
198 soil health and publish his findings and disseminate information
199 concerning the subject; (b) cooperate with or enter into agreements with
200 any state agency or any owner or occupant of land in this state to carry
201 out the provisions of this section; (c) obtain options upon or acquire, by
202 purchase, exchange, lease, gift, grant, bequest or devise, any property,
203 real or personal, or rights or interests therein, maintain, administer and
204 improve any property so acquired, and receive income from such
205 property and expend such income in carrying out the purposes of this
206 section; and may sell, lease or otherwise dispose of any such property
207 or interest therein for such purposes; (d) accept contributions in money,
208 services, materials or otherwise from the United States or from this state

209 or from any person, firm or corporation for such purposes; and (e) as a
210 condition to extending of any material benefits to landowners, under
211 this section, require contributions to any operations upon such land and
212 require landowners who have consented to such work being done on
213 their land to enter into and perform such agreements as to long-term use
214 of such lands as will tend to prevent erosion thereon. Said
215 commissioner, or any assistant or employee of the Department of
216 Energy and Environmental Protection, may, at any reasonable time and
217 upon notice by registered mail sent to the last-known address of the
218 owner of such premises or with the oral permission of such owner or his
219 agent, enter any premises while engaged in the performance of duty
220 under the provisions of this title. Said commissioner shall have power
221 to make necessary regulations to carry out the provisions of this section.

222 Sec. 4. Section 22a-315 of the general statutes is repealed and the
223 following is substituted in lieu thereof (*Effective October 1, 2021*):

224 (a) In order to assist the Commissioner of Energy and Environmental
225 Protection in identifying and remedying the problems of soil and water
226 erosion, the commissioner shall, by regulation, establish soil and water
227 conservation districts and boards. Such boards shall advise him on
228 matters of soil and water conservation, soil health, erosion and
229 sedimentation control and shall assist him in implementing programs
230 concerning such matters. Such regulations shall (1) establish geographic
231 boundaries for each district, (2) establish procedures for the selection,
232 by the residents in each district, of a board of supervisors for each
233 district, and (3) provide operating procedures for such boards of such
234 districts. Such regulations shall be adopted pursuant to chapter 54.

235 (b) The commissioner by regulation pursuant to chapter 54, may
236 authorize such boards to (1) develop soil and water conservation, soil
237 health, erosion and sedimentation control programs, priorities and
238 workplans; (2) provide, by agreement, for technical assistance from
239 cooperating state and federal agencies to municipal and regional
240 agencies and to landowners; (3) receive funds, by transfer, grant or
241 otherwise from the commissioner, including grants pursuant to section

242 22a-317, or by donation or subscription from private sources, and
243 expend such funds without regard to the provisions of chapter 50; (4)
244 use or provide for the use of state equipment made available pursuant
245 to section 22a-316; (5) enter into contracts and employ consultants and
246 other assistants on a contract basis or other basis for rendering legal,
247 financial, technical or other assistance and duties to carry out the
248 purposes of this chapter; and (6) acquire property by purchase, lease,
249 gift or otherwise and to hold such property in the name of the district.

250 (c) The commissioner may, by regulation, adopted pursuant to
251 chapter 54, establish a council to coordinate the activities of such boards
252 of such districts with the activities of the Department of Energy and
253 Environmental Protection and other state, regional and local agencies
254 and propose regulations to said department in matters of soil and water
255 erosion conservation and to advise and assist the commissioner in
256 conserving and protecting the land, water and other natural resources
257 of the state. The council shall be within the Department of Energy and
258 Environmental Protection for administrative purposes only. Such
259 council shall consist of nine members, five representing the soil and
260 water conservation districts to be selected by each of the five districts'
261 boards, the Commissioner of Energy and Environmental Protection or a
262 designee, the Commissioner of Agriculture, or a designee, a
263 representative of a nongovernmental organization appointed by the
264 Governor and a representative of The University of Connecticut's
265 cooperative extension system. In addition, the council shall include, but
266 not be limited to, the following at-large nonvoting members: The State
267 Conservationist or designee of the Natural Resource Conservation
268 Service, the director of the Connecticut Agricultural Experiment Station
269 or a designee, the director of the Storrs Agricultural Experiment Station
270 or a designee, municipal staff representatives responsible for erosion
271 and sedimentation control, the State Committee Chairman of the Farm
272 Services Agency and a council member of a resource conservation and
273 development area. The commissioner shall have the authority to receive
274 funds from any source on behalf of the council and shall expend such
275 funds with the advice and consent of the council for equipment,

276 supplies, and such full-time and part-time staff and consultants as may
277 be necessary to carry out the council's duties and any other at-large,
278 nonvoting members who have expertise to support the duties of the
279 council.

280 (d) The council may receive funds from any source and expend such
281 funds for equipment, supplies, staff and consultants as may be
282 necessary to carry out its duties. The council shall distribute funds for
283 program activities after a vote in which the members representing the
284 boards of the soil and water conservation districts shall collectively have
285 one vote. The council may employ an executive director who shall not
286 be subject to the provisions of chapter 67. The council may seek funding
287 and provide financial support to boards of soil and water conservation
288 districts and other organizations for activities contributing to soil and
289 water conservation and soil health. The council may adopt and amend
290 by a majority vote such bylaws as it deems necessary to conduct its
291 business.

292 (e) Prior to the promulgation of any regulations by the commissioner
293 pursuant to subsections (a) and (b) of this section, such proposed
294 regulations shall first be approved by a majority of said council.

295 (f) For the purposes of this section, soil and water conservation
296 districts or boards shall not be considered state agencies or political or
297 administrative subdivisions of the state.

298 Sec. 5. Section 22a-328 of the general statutes is repealed and the
299 following is substituted in lieu thereof (*Effective October 1, 2021*):

300 The council shall develop guidelines for soil erosion and sediment
301 control and preservation of soil health on land being developed. The
302 guidelines shall outline methods and techniques for minimizing erosion
303 and sedimentation based on the best currently available technology.
304 Such guidelines shall include, but not be limited to, model regulations
305 that may be used by municipalities to comply with the provisions of
306 sections 22a-325 to 22a-329, inclusive. The Commissioner of Energy and
307 Environmental Protection and the soil and water conservation districts

308 shall make the guidelines available to the public.

309 Sec. 6. (NEW) (Effective from passage) Notwithstanding the provisions
310 of chapter 444 and 446i of the general statutes, the Commissioner of
311 Energy and Environmental Protection shall create a separate,
312 streamlined permit process for maintenance marine dredging in order
313 to provide for the removal of accumulated sediment at marina basins
314 and access channels and boat slips. Not later than February 1, 2022, the
315 commissioner shall submit any legislative recommendations to further
316 implement the provisions of this section to the joint standing committee
317 of the General Assembly having cognizance of matters relating to the
318 environment.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2021</i>	22a-209f
Sec. 2	<i>October 1, 2021</i>	22a-5
Sec. 3	<i>October 1, 2021</i>	22a-314
Sec. 4	<i>October 1, 2021</i>	22a-315
Sec. 5	<i>October 1, 2021</i>	22a-328
Sec. 6	<i>from passage</i>	New section

Statement of Purpose:

To authorize the use of certain sites for soil material deposits, encourage healthy soils and expedite certain dredging requirements for marina basin applications.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]