



House of Representatives

General Assembly

File No. 230

January Session, 2021

Substitute House Bill No. 6496

House of Representatives, March 31, 2021

The Committee on Environment reported through REP. BORER of the 115th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

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:

4 (A) "Beneficially reclaimed materials" means any of the following
5 materials generated in the state that may contain de minimis amounts
6 of solid waste that is present incidentally in such materials, including
7 any mixture of the following materials:

8 (i) Soil or dewatered sediment that does not exceed the criteria
9 established by regulations adopted pursuant to section 22a-133k,
10 including, but not limited to, criteria for any additional polluting
11 substances for which criteria are not specified in such regulations;

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

14 groundwater or surface waters;

15 (iii) Casting sand;

16 (iv) Crushed recycled glass; or

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

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

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

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

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

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

29 (F) "Hazardous waste" has the same meaning as provided in section
30 22a-448;

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

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

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

41 (B) To implement the pilot program established pursuant to this
42 subsection, the commissioner may issue no more than four
43 authorizations, provided: (i) Such authorization does not allow an
44 activity for which an individual or general permit has been issued; (ii)
45 such authorization is not inconsistent with the requirements of the
46 federal Resource Conservation and Recovery Act, 42 USC 6901 et seq.;
47 (iii) such authorization is for single locations only and provides for not
48 less than one hundred thousand cubic yards of beneficially reclaimed
49 materials to be used as fill at such location; (iv) that prior to the
50 submission of an application for authorization in accordance with this
51 subsection, each municipality in which beneficially reclaimed materials
52 will be used as fill has issued all the necessary approvals specified in
53 subdivision (4) of this subsection; and (v) the commissioner finds that
54 the beneficial use of beneficially reclaimed materials does not harm or
55 present a threat to human health, safety or the environment.

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

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

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

74 (C) Be operated in compliance with sections 22a-426-1 to 22a-426-9,
75 inclusive, of the regulations of Connecticut state agencies and not
76 adversely affect sensitive receptors or resources, including, but not
77 limited to, public or private water supply wells, wetlands, floodplains,
78 or threatened or endangered species.

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

89 (5) An application for authorization pursuant to this subsection shall
90 be submitted on forms prescribed by the commissioner and shall
91 include, at a minimum, the following information: (A) A plan for
92 ensuring that only beneficially reclaimed materials that satisfy the
93 requirements of this subsection are used as fill and a description of
94 acceptability criteria for the beneficially reclaimed materials proposed
95 for beneficial use at the subject location; (B) a plan describing the process
96 for placing and recording the placement of beneficially reclaimed
97 materials; (C) a plan for monitoring the waters of the state during the
98 filling process and for a period of not less than thirty years after filling
99 is complete; (D) a proposed letter of credit that conforms to the
100 guidelines established by the commissioner pursuant to subdivision (3)
101 of this subsection and the basis for the cost estimate used in such
102 proposed letter of credit; (E) the qualifications of the environmental
103 professionals intended to exercise oversight of all aspects of the
104 proposed activities; (F) a redevelopment plan for the location where
105 beneficially reclaimed materials will be placed, including engineering
106 plans and drawings in support of such redevelopment; (G) a list of each
107 municipal approval required for the proposed placement of beneficially

108 reclaimed materials and a written copy of each such approval; and (H)
109 any additional information required by the commissioner. Any such
110 application shall be accompanied by a nonrefundable application fee of
111 twenty-five thousand dollars.

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

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

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

157 (8) Unless required by the federal Clean Water Act, a discharge
158 permit under section 22a-430 shall not be required for a discharge
159 authorized under this subsection. In addition, the soil reuse provisions
160 of the state remediation standards, adopted pursuant to section 22a-
161 133k, shall not apply to an activity authorized under this subsection.

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

164 The commissioner shall carry out the energy and environmental
165 policies of the state and shall have all powers necessary and convenient
166 to faithfully discharge this duty. In addition to and consistent with the
167 environment policy of the state, the commissioner shall (1) promote and
168 coordinate management of water, land and air resources to assure their
169 protection, enhancement and proper allocation and utilization; (2)
170 provide for the protection and management of plants, trees, fish,
171 shellfish, wildlife and other animal life of all types, including the
172 preservation of endangered species; (3) provide for the protection,
173 enhancement and management of the public forests, parks, open spaces
174 and natural area preserves; (4) provide for the protection, enhancement
175 and management of inland, marine and coastal water resources,

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

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

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

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

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

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

238 (b) The commissioner by regulation pursuant to chapter 54, may
239 authorize such boards to (1) develop soil and water conservation, soil
240 health, erosion and sedimentation control programs, priorities and
241 workplans; (2) provide, by agreement, for technical assistance from
242 cooperating state and federal agencies to municipal and regional

243 agencies and to landowners; (3) receive funds, by transfer, grant or
244 otherwise from the commissioner, including grants pursuant to section
245 22a-317, or by donation or subscription from private sources, and
246 expend such funds without regard to the provisions of chapter 50; (4)
247 use or provide for the use of state equipment made available pursuant
248 to section 22a-316; (5) enter into contracts and employ consultants and
249 other assistants on a contract basis or other basis for rendering legal,
250 financial, technical or other assistance and duties to carry out the
251 purposes of this chapter; and (6) acquire property by purchase, lease,
252 gift or otherwise and to hold such property in the name of the district.

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

278 funds with the advice and consent of the council for equipment,
279 supplies, and such full-time and part-time staff and consultants as may
280 be necessary to carry out the council's duties and any other at-large,
281 nonvoting members who have expertise to support the duties of the
282 council.

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

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

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

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

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

310 Environmental Protection and the soil and water conservation districts
311 shall make the guidelines available to the public.

312 Sec. 6. (*Effective from passage*) Not later than November 1, 2021, the
313 Commissioner of Energy and Environmental Protection shall submit to
314 the joint standing committee of the General Assembly having
315 cognizance of matters relating to the environment, in accordance with
316 section 11-4a of the general statutes, a report on the approval process for
317 maintenance marine dredging projects for the previous four-year
318 period. Such report shall include, but not be limited to, a description of
319 each such application during such four-year period, an analysis of the
320 timeframe for action on such application by the Department of Energy
321 and Environmental Protection and whether such application was
322 approved or denied by the department.

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 Legislative Commissioners:

In Sections 1, 4 and 6, technical changes were made for adherence to standard drafting conventions.

ENV *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 22 \$	FY 23 \$
Department of Energy and Environmental Protection	GF - Potential Cost	Approximately 200,000	None

Note: GF=General Fund

Municipal Impact: None

Explanation

Section 1 allows the Department of Energy and Environmental Protection (DEEP) to establish a pilot program using as fill reclaimed materials containing minor amounts of solid waste content. This has no fiscal impact as DEEP currently has expertise to implement the pilot program.

Sections 2 - 5 allows DEEP to perform research on soil health and requires updated regulations on soil and water conservation districts and boards to include soil health. This may result in one-time cost to DEEP of approximately \$200,000 for outside consultants to develop soil health standards in conjunction with other state agencies and external organizations on soil health.

Lastly, Section 6 requires DEEP to submit a report, by November 1, 2021, to the Environment Committee on the approval process for maintenance marine dredging projects for the last four years. This has no fiscal impact since DEEP has the expertise to prepare the report.

The Out Years

There is no annualized ongoing fiscal impact since the potential cost identified above is estimated to occur only in FY 22.

OLR Bill Analysis**sHB 6496****AN ACT CONCERNING CERTAIN SOIL-RELATED INITIATIVES.****SUMMARY**

This bill allows the Department of Energy and Environmental Protection (DEEP) commissioner to establish a pilot program to beneficially use as fill certain reclaimed materials generated in Connecticut that may have very minor amounts of solid waste. Under the bill, the commissioner may authorize four projects using these materials, subject to certain conditions, including that there is no harm or threat to human health, safety, or the environment (§ 1).

The law charges the DEEP commissioner with carrying out the state's environmental policies. The bill expands her responsibilities under this charge by requiring her to provide statewide soil health standards. It correspondingly expands the Council on Soil and Water Conservation's charge. The bill also (1) allows DEEP's commissioner to have research done on soil health and (2) requires her to update regulations on soil and water conservation districts and boards to include soil health matters (§§ 2-5).

Lastly, the bill requires the DEEP commissioner, by November 1, 2021, to submit a report to the Environment Committee on the approval process for maintenance marine dredging projects for the last four years. The report must (1) describe each dredging project application and (2) analyze how long it took DEEP to act on each application and specify if DEEP approved or denied the application (§ 6).

EFFECTIVE DATE: October 1, 2021, except the DEEP reporting requirement for marine dredging projects is effective upon passage.

§ 1 — BENEFICIAL USE PILOT PROGRAM

Program Purpose

Under the bill, the pilot program's primary purposes are to (1) allow the use of "beneficially reclaimed materials" as fill if there is an engineering need for fill materials and (2) help reclaim or redevelop environmentally impaired or underused land.

Acceptable Materials

The bill allows the following "beneficially reclaimed materials," which may have de minimis amounts of incidentally present solid waste, to be used for projects accepted as part of the pilot program:

1. soil or dewatered sediment that does not exceed criteria set out in state regulations for remediating pollution at hazardous waste disposal sites and properties that had a spill, and criteria for other polluting substances not provided in the regulations;
2. virtually inert asphalt, brick, concrete (including concrete with pyrrhotite if the DEEP commissioner provides written permission to use it), or ceramic materials that do not threaten to pollute groundwater or surface water;
3. waste sand from metal casting that is not hazardous waste;
4. crushed recycled glass; and
5. street sweepings or catch basin clean-out materials;

These materials may not include those with asbestos; polychlorinated biphenyls (PCBs); persistent bioaccumulative toxins, which are long-lived toxic chemicals that accumulate in human tissue; and hazardous waste.

Project Restrictions

The bill allows for up to four projects to use these materials but provides several restrictions on projects that may use it. Among them, an applicant must have the necessary municipal approvals for using the materials before submitting its application to DEEP (see "Municipal Approval," below).

Under the bill, DEEP may not authorize an activity for which it already issued an individual or general permit. The authorization must also be for (1) a single location and (2) use of at least 100,000 cubic yards of the materials.

The bill requires that the DEEP commissioner find that the use of the materials does not harm or threaten human health, safety, or the environment. The use must also be consistent with federal law on proper solid waste management.

The bill specifies that (1) someone operating under the pilot program does not need to obtain a discharge permit, unless the federal Clean Water Act requires it, and (2) the state remediation standards' soil reuse provisions do not apply to pilot program projects.

DEEP Protective Guidelines

The bill allows the DEEP commissioner to establish authorization guidelines (1) to protect public health, safety, and the environment and (2) for a letter of credit (LOC).

Under the bill, the guidelines must at least prefer using environmentally impaired or underused locations but they cannot be in an aquifer protection area. The locations must be in areas where groundwater quality is (1) suitable for specific industrial purposes, but not human consumption (classified as GB) or subject to municipal and industrial discharge and unsuitable for human consumption (GC) and (2) served by a public drinking water supply. The locations must also (1) operate in compliance with state water quality standards and (2) not adversely affect sensitive receptors or resources such as water supply wells, wetlands, floodplains, or threatened or endangered species.

The bill requires the commissioner to provide public notice of the guidelines, or revisions to them, on the department's website. The public must have an opportunity to submit written comments for at least 30 days after DEEP publishes the notice. DEEP must then publish any response it has to the comments on the website.

Municipal Approval

Before applying to DEEP for authorization, a project applicant must obtain local approvals from each municipality where the materials will be used, including a (1) valid certificate of zoning approval, special permit, special exception, variance, or other documentation and (2) copy of wetlands, aquifer protection, coastal site plan, or other required municipal approvals.

The bill also requires applicants to comply with the state environmental justice law's public participation and community benefit agreement process, whether or not the location is in an environmental justice community (i.e., a distressed municipality or a census block group where at least 30% of the noninstitutionalized population has an income below a certain threshold). The state's environmental justice law generally requires applicants for certain projects in these areas to, before applying to DEEP for the project, (1) obtain approval of and implement a meaningful participation plan (e.g., provide certain notices and hold an informal public meeting) so the public can learn about the proposed project and (2) discuss with municipal officials the need for a community environmental benefit agreement to mitigate the project's impacts (CGS § 22a-20a, as amended by PA 20-6).

Application Process

The bill requires an authorization application to be submitted on DEEP commissioner-prescribed forms, include a non-refundable \$25,000 application fee, and provide the following information:

1. a plan to ensure that only materials meeting the bill's definition of "beneficially reclaimed materials" be used as fill, including a description of acceptability criteria for materials proposed for use at the location;
2. a plan describing the process for placing and recording the materials' placement;
3. a plan for monitoring water during the filling process and for at least 30 years afterward;

4. a proposed LOC conforming to the commissioner's guidelines, with the basis for the cost estimate used for it;
5. the qualifications of environmental professionals intended to oversee the project;
6. a redevelopment plan for the location, including engineering plans and drawings;
7. a list of municipal approvals required for the project, with a written copy of each;
8. any additional information the commissioner requires.

DEEP Authorization Process

Under the bill, the process for obtaining an authorization, or a modification to one, involves a public notice and comment period.

Notice. The bill requires the DEEP commissioner to publish a notice of intent to issue an authorization on the department's website. The notice must include the following information:

1. applicant's name and mailing address;
2. project location address;
3. application number and tentative decision on the application;
4. name, address, and telephone number of any applicant agent that interested people may contact for copies of the application;
5. requested authorization type, with applicable statutory or regulatory references;
6. descriptions of the project location and any affected natural resources;
7. the available amount of time to submit written comments to the commissioner; and

8. any other information the commissioner deems necessary.

Comment Period and Review. The bill requires a 30-day comment period from after the commissioner publishes the notice. The commissioner must post a response to any comment she receives on the website.

Final Decision. Under the bill, the commissioner may approve or deny an authorization based on her review of the submitted information. The bill requires the authorization to clearly define the activity it covers. As the commissioner deems appropriate, the authorization may include conditions or requirements that may pertain to investigating or remediating a location before placing the materials; operation and maintenance; best management practices; requiring environmental professionals to oversee the projects, including their qualifications; groundwater monitoring; fill management; closure; redevelopment or other plans; reporting and recordkeeping; independent auditing; and term specifications.

The commissioner must require posting a LOC to assure compliance with the authorization, including implementing a closure plan and performing maintenance and monitoring after closure. The bill allows her to modify, suspend, or revoke an authorization, under the procedures of the Uniform Administrative Procedure Act and applicable DEEP rules of practice.

§§ 2-5 — SOIL HEALTH

Commissioner Duties (§§ 2 & 3)

The bill requires the DEEP commissioner, as part of her duty to carry out the state's environmental policies, to provide for minimum statewide standards for soil health. The law already requires her to provide the standards for mining, extraction, excavation, or removal of earth materials.

As she may already do on soil and water erosion, the bill allows the commissioner to (1) have surveys, investigations, and research conducted on soil health and (2) publish and disseminate related

information. The bill extends to the soil health activities the commissioner's existing authorizations for carrying out soil and water erosion activity, such as entering into agreements with landowners, acquiring property, or accepting monetary contributions.

Soil and Water Conservation District Boards and Council (§§ 4 & 5)

Existing law requires the commissioner to establish, by regulation, soil and water conservation districts and boards to help identify and fix soil and water erosion problems. The bill requires the boards to also advise her on soil health matters and help implement related programs.

The bill allows the commissioner to amend current district board regulations to allow them to develop soil health programs, priorities, and workplans, as they already may do for soil and water conservation, erosion, and sedimentation control (Conn. Agencies. Regs. § 22a-315-1 *et seq.*).

Under existing law, the commissioner established the Council on Soil and Water Conservation to (1) coordinate the boards' activities with DEEP and other agencies; (2) propose regulations related to soil and water erosion conservation; and (3) advise and help the commissioner conserve and protect the state's natural resources.

As it may already do for soil and water conservation activities, the bill allows the council to seek funding and provide financial support to district boards for soil health activities. Similarly, the bill requires the council to develop guidelines for preserving soil health on land being developed, which it must already do for soil erosion and sediment control on this land.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 33 Nay 0 (03/12/2021)