

**Proposed Substitute
Bill No. 6496**

LCO No. 4750

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

301 The council shall develop guidelines for soil erosion and sediment
302 control and preservation of soil health on land being developed. The
303 guidelines shall outline methods and techniques for minimizing erosion
304 and sedimentation based on the best currently available technology.
305 Such guidelines shall include, but not be limited to, model regulations
306 that may be used by municipalities to comply with the provisions of

307 sections 22a-325 to 22a-329, inclusive. The Commissioner of Energy and
308 Environmental Protection and the soil and water conservation districts
309 shall make the guidelines available to the public.

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