

# STATE OF NEW YORK

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5767--A

2019-2020 Regular Sessions

## IN ASSEMBLY

February 19, 2019

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Introduced by M. of A. PHEFFER AMATO -- read once and referred to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, in relation to the filling of borrow pits in Jamaica Bay; and to amend chapter 288 of the laws of 2014 amending the environmental conservation law relating to the filling of borrow pits in Jamaica Bay, in relation to making the provisions of such chapter permanent

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Legislative intent. Due to the increase in vessel size in  
2 recent years, New York State waterways such as channels, berthing areas  
3 and harbors are being excavated in a process known as dredging to main-  
4 tain sufficient depth for safe and efficient vessel operation.

5 Dredged material is naturally accumulated sediment, much of the  
6 dredged material does contain some contaminants at varying concen-  
7 trations.

8 Jamaica Bay was dredged to supply soil for a number of construction  
9 projects. This process created borrow pits in the bay. These borrow pits  
10 have been identified as an attractive alternative for the disposing of  
11 dredge material.

12 § 2. Subdivisions 1 and 3-a of section 15-0505 of the environmental  
13 conservation law, subdivision 1 as amended by chapter 233 of the laws of  
14 1979 and subdivision 3-a as added by chapter 288 of the laws of 2014,  
15 are amended to read as follows:

16 1. No person, local public corporation or interstate authority shall  
17 excavate or place fill below the mean high water level in any of the  
18 navigable waters of the state, or in marshes, estuaries, tidal marshes  
19 and wetlands that are adjacent to and contiguous at any point to any of  
20 the navigable waters of the state and that are inundated at mean high

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 water level or tide, without a permit issued pursuant to subdivision 3  
2 of this section. For the purposes of this section, fill shall include,  
3 but shall not be limited to, earth, clay, silt, sand, gravel, stone,  
4 rock, shale, concrete (whole or fragmentary), ashes, cinders, slag,  
5 metal, dredged material or any other similar material whether or not  
6 enclosed or contained by (1) crib work of wood, timber, logs, concrete  
7 or metal, (2) bulkheads and cofferdams of timber sheeting, bracing and  
8 piling or steel sheet piling or steel H piling, separated or in combina-  
9 tion. Nothing contained in this section is intended to be, nor shall be  
10 construed to limit, impair or affect the memorandum of understanding  
11 which any state department enters into with the Department of Environ-  
12 mental Conservation or the general powers and duties of the Department  
13 of Transportation relating to canals or the general powers and duties of  
14 the Department of Environmental Conservation relating to flood control.

15 3-a. ~~[The department may only grant a permit for the filling of the~~  
16 ~~Jamaica Bay borrow pits if the proposed sediments and fill materials:~~

17 ~~(1) have been tested and the test results are in accordance with the~~  
18 ~~requirements set forth in the department's technical operational guid-~~  
19 ~~ance series 5.1.9 for the in water management of sediment and dredge~~  
20 ~~material; and~~

21 ~~(2) meet the department's class a criteria]~~ In filling the Jamaica Bay  
22 borrow pits the department may only grant a permit if the proposed sedi-  
23 ments and fill materials meet the following criteria:

24 (1) comply with federal unrestricted ocean dumping criteria;

25 (2) have been tested and test results indicate no unacceptable toxici-  
26 ty or bioaccumulation in biological test systems;

27 (3) has no potential short-term (acute) impacts or long-term (chronic)  
28 impacts; and

29 (4) requires no special precautionary measures are required during  
30 disposal.

31 § 3. Section 3 of chapter 288 of the laws of 2014 amending the envi-  
32 ronmental conservation law relating to the filling of borrow pits in  
33 Jamaica Bay, as amended by chapter 499 of the laws of 2016, is amended  
34 to read as follows:

35 § 3. This act shall take effect immediately [~~and shall expire and be~~  
36 ~~deemed repealed June 30, 2022~~].

37 § 4. This act shall take effect immediately.