

# STATE OF NEW YORK

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4165--A

Cal. No. 819

2019-2020 Regular Sessions

## IN SENATE

March 4, 2019

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Introduced by Sen. ADDABBO -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- committee discharged and said bill committed to the Committee on Rules -- reported favorably from said committee, ordered to a third reading, passed by Senate and delivered to the Assembly, recalled, vote reconsidered, restored to third reading, amended and ordered reprinted, retaining its place in the order of third reading

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

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

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

18 3-a. [The department may only grant a permit for the filling of the  
19 Jamaica Bay borrow pits if the proposed sediments and fill materials:

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

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

27 (1) comply with federal unrestricted ocean dumping criteria;  
28 (2) have been tested and test results indicate no unacceptable toxiciti-  
29 ty or bioaccumulation in biological test systems;

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

32 (4) requires no special precautionary measures are required during  
33 disposal.

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

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

40 § 4. This act shall take effect immediately.