

STATE OF NEW YORK

453

2021-2022 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 6, 2021

Introduced by M. of A. PHEFFER AMATO -- read once and referred to the
Committee on Environmental Conservation

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 Assem-
bly, 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
21 water level or tide, without a permit issued pursuant to subdivision 3

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

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1 of this section. For the purposes of this section, fill shall include,
2 but shall not be limited to, earth, clay, silt, sand, gravel, stone,
3 rock, shale, concrete (whole or fragmentary), ashes, cinders, slag,
4 metal, dredged material or any other similar material whether or not
5 enclosed or contained by (1) crib work of wood, timber, logs, concrete
6 or metal, (2) bulkheads and cofferdams of timber sheeting, bracing and
7 piling or steel sheet piling or steel H piling, separated or in combina-
8 tion. Nothing contained in this section is intended to be, nor shall be
9 construed to limit, impair or affect the memorandum of understanding
10 which any state department enters into with the Department of Environ-
11 mental Conservation or the general powers and duties of the Department
12 of Transportation relating to canals or the general powers and duties of
13 the Department of Environmental Conservation relating to flood control.

14 3-a. [~~The department may only grant a permit for the filling of the~~
15 ~~Jamaica Bay borrow pits if the proposed sediments and fill materials~~

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

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

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

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

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

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

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

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

36 § 4. This act shall take effect immediately.