

# **GUIDELINES: PILOT PROGRAM FOR BENEFICALLY RECLAIMED MATERIALS AS FILL IN LARGE SCALE PROJECTS**

## **I. Introduction**

### **Overview**

Pursuant to [Section 22a-209f\(c\) of the Connecticut General Statutes](#) (“CGS”), the Department of Energy and Environmental Protection (the “Department”) may establish a pilot program to issue no more than four authorizations for the use of beneficially reclaimed materials for use as fill. The authorizations will allow beneficially reclaimed materials to be used as fill when there is an engineering need for fill materials and to facilitate the reclamation or redevelopment of environmentally impaired or underutilized land.

CGS Section 22a-209f(c) provides the Commissioner of Energy and Environmental Protection authority to establish a pilot program for the beneficial use of lightly contaminated materials provided: (i) Such authorization does not allow an activity for which an individual or general permit has been issued; (ii) such authorization is not inconsistent with the requirements of the federal Resource Conservation and Recovery Act, 42 USC 6901 et seq.; (iii) such authorization is for single locations only and provides for not less than one hundred thousand cubic yards of beneficially reclaimed materials to be used as fill at such location; (iv) that prior to the submission of an application for authorization, each municipality in which beneficially reclaimed materials will be used as fill has issued all the necessary approvals for the proposed reclamation and redevelopment of the site; and (v) that the beneficial use of beneficially reclaimed materials does not harm or present a threat to public health, safety or the environment.

### **Purpose**

The purpose of these guidelines is to provide information to municipalities, property owners, and developers to facilitate the use of beneficially reclaimed materials as an integrated part of site reclamation and redevelopment. These guidelines are intended to provide information on the requirements for a successful pilot program which will be protective of human health and the environment.

For a pilot authorization to be considered, the Department will require the submission of specific information regarding various aspects of the proposed project. These guidelines provide a framework for the considerations and content of the submittals in support of an application for a proposed pilot project.

## **Process Steps:**

### **A. Before an Application is Submitted**

#### **1. Pre-Application Meeting**

Interested developers/applicants are required to complete a [Pre-Application Questionnaire](#) with the Department's [Office of Planning and Program Development](#) (OPPD). OPPD will then schedule a pre-application meeting with the developer and Department Permitting program representatives. At the pre-application meeting, Department staff will discuss with the applicant the conceptual plan for the proposed project including but not limited to: the placement site features, environmental and regulatory status; physical and chemical characteristics and origin(s) of proposed beneficially reclaimed materials to be beneficially used; the application requirements; the applicant's plan for compliance with the public outreach requirements; and verification that the interested applicant is in the process of securing all required municipal approvals.

#### **2. Local Engagement and Approvals**

A prospective applicant is required to comply with CGS Section 22a-20a regardless of whether the placement site is located in a [Distressed Municipality or an Environmental Justice Community](#). The applicant is required to develop a [Meaningful Public Participation Plan](#) and to engage with the Chief Elected Official of the municipality or municipalities in which the placement site is located regarding a Community Environmental Benefit Agreement. Additionally, prior to submitting an application for authorization under the pilot program, the applicant shall have obtained all required local approvals. **Note that the project proposed and represented in application documents submitted to the Department shall not deviate, to any substantial degree, from the project as it may have been modified after engaging with the public and local officials and for which local approvals may have been required and received.**

### **B. Placement Site**

To be considered for authorization under the pilot, the proposed placement site shall be: located in an area where the groundwater quality is identified as GB or GC; served by public water; and not located in an Aquifer Protection Area.

### **C. Application Form, Supporting Documents and Authorization**

To apply for an authorization under the pilot program, an applicant must submit a complete application form, including all supporting documents as required, along with a fee of \$25,000.00 to the Department's [Central Permits Processing Unit](#). No submittal shall be considered an application without the appropriate fee accompanying the submittal. **It is the applicant's responsibility to demonstrate to the Department how the use of beneficially reclaimed materials will not pose a risk to public health, safety, or the environment.**

#### **1. Application Components.**

A complete application will include, but may not be limited to, a completed and signed application form and the following supporting documents:

- a. Material Acceptability Protocol - a plan for ensuring the quality of beneficially reclaimed materials shall be developed and submitted. All beneficially reclaimed materials that are proposed for placement shall not exceed the applicable criteria for constituents present at the placement site. Such beneficially reclaimed materials shall satisfy the placement quality criteria and the requirements pursuant to CGS Section 22a-209f(c) to be eligible for use as fill at the placement site and not degrade the waters of the state. In order to develop an appropriate plan, the applicant or developer shall have characterized the proposed placement site, in accordance with current standard practices, to identify all suspected substances and constituents present there above background concentrations;
- b. Placement Plan - a plan describing the process to be established for storing, placing and recording the quality, volume and specific placement at the site of beneficially reclaimed materials from each generation location and how such plan shall be protective of wetlands and wetland buffers and areas where sensitive species may be located;
- c. Water Quality Monitoring Plan - a plan that meets minimum Department requirements for monitoring the waters of the state during the filling process and for a period of not less than thirty years after filling is complete. Such plan shall include sampling locations, parameters and frequency and shall include the proposed locations and depths for installation of groundwater monitoring wells as needed for such water quality monitoring;
- d. Letter of Credit - a proposed letter of credit that conforms to the [Financial Assurance](#) guidelines established by the Commissioner and the basis for the cost estimate used in such letter of credit;
- e. Environmental Professional(s) Identification - the qualifications of the environmental professionals who will exercise oversight of all aspects of the proposed activities;
- f. Redevelopment Plan - a narrative plan specific to the location where beneficially reclaimed materials will be placed, that details the post-project use and site improvements proposed for the placement site. Such plan shall include engineering plans and drawings in support of such redevelopment and specifications for structural requirements needed for the proposed redevelopment;
- g. Local and Other Approvals –
  - i. a list of the municipalities that the placement site or portions thereof are located within;
  - ii. a list of the municipal approval(s), for each municipality, required for the proposed placement of beneficially reclaimed materials at the placement site;
  - iii. a written copy of each such approval from each municipality;
  - iv. approvals from other applicable jurisdictions (e.g., U.S. Army Corps of Engineers); and
- h. Additional Information - any additional information required by the Commissioner and identified to the applicant from the time of the Pre-Application meeting until the submission of the application to the Department.

## **2. Application Processing**

Upon receipt of an application and the \$25,000 application fee for a pilot project, the Department shall initiate a review of the submission to determine its sufficiency. A notice of sufficiency

(NOS) will be issued if the submission is determined to be complete and comprehensive, otherwise a notice of insufficiency will be issued with a timeframe for the applicant to remedy the submission and render it sufficient. Failure to rectify the insufficiency within the timeframe specified may result in the rejection of an application. Once the application is deemed sufficient an NOS will be issued and the Department will then initiate the technical review of the application and supporting documents. There may be a need for the submission of additional information; the applicant will be notified and provided a timeframe to respond with the required information to allow the technical review to continue.

If the Department determines that the application may be approved, the applicant will be notified and a notice of tentative determination (NTD) will be published on the Department's website along with a draft authorization. Such posting will initiate the minimum thirty day public comment period. The NTD may include an opportunity for a public informational meeting if the Commissioner determines that it is warranted. After all public comments have been received and evaluated the Commissioner will issue an authorization as drafted or may modify the decision in response to public comment.

### **3. Authorization**

An authorization for filling activities under the pilot program shall be effective for a term of no more than 10 years. The authorization shall require quarterly progress reports, water quality monitoring reports and compliance audits to be submitted to the Department. A project website accessible to the public shall be established no later than concurrent with the submission of an application to the Department. The applicant shall ensure all required documentation shall be posted on that website, including the application documents and the updates to such documents.

### **Renewals**

The Department will issue a notice of expiration of the authorization in accordance with [CGS Section 22a-6j](#). To renew an authorization, the licensee shall submit an application form and fee no later than 120 days prior to the expiration date of the authorization pursuant to the [Regulations of Connecticut State Agencies \(RCSA\) Section 22a-3a-5](#). The forms as provided on the Department's website at the time of making a new application, application to renew, or for a modification of an existing Authorization shall be used.

## **ADDITIONAL RESOURCES AND LINKS**

[Site Characterization Essentials](#)

[Site Characterization Guidance Document](#)

[Chapter 446k - Water Pollution Control \(ct.gov\) - CGS Sec. 22a-426](#)

[Connecticut Water Quality Standards](#)

[Remediation Standard Regulations](#)