

105TH CONGRESS
1ST SESSION

H. R. 244

To terminate ocean dumping at the Mud Dump Site and other sites within the New York Bight Apex off of the coast of New Jersey.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 1997

Mr. PALLONE introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To terminate ocean dumping at the Mud Dump Site and other sites within the New York Bight Apex off of the coast of New Jersey.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “New Jersey Marine
5 and Estuarine Ecosystem Protection Act of 1997”.

6 **SEC. 2. PURPOSE.**

7 The purpose of this Act is to preserve and restore
8 the fisheries and other marine wildlife of the New York
9 Bight by closing the Mud Dump Site and ending the prac-
10 tice of disposal of dredged material within that area.

1 **SEC. 3. CLOSURE OF MUD DUMP SITE.**

2 (a) TERMINATION OF DUMPING.—On and after Sep-
3 tember 1, 1997, no person shall transport any dredged
4 material for the purpose of dumping it into ocean waters
5 at the Mud Dump Site, other than for purposes of remedi-
6 ation in accordance with subsection (c).

7 (b) CONDITIONS FOR DUMPING BEFORE TERMI-
8 NATION.—

9 (1) CATEGORY I AND CATEGORY II DREDGED
10 MATERIAL ONLY.—After the date of the enactment
11 of this Act, no person shall transport any dredged
12 material for the purpose of dumping it into ocean
13 waters at the Mud Dump Site, other than Category
14 I dredged material or Category II dredged material.

15 (2) CONDITIONS FOR CATEGORY II DREDGED
16 MATERIAL.—After the date of the enactment of this
17 Act, no person shall transport any Category II
18 dredged material for the purpose of dumping it into
19 ocean waters at the Mud Dump Site, unless the ap-
20 plicant for a permit for the transport under title I
21 of the Marine Protection, Research, and Sanctuaries
22 Act of 1972 (33 U.S.C. 1411 et seq.) has certified,
23 and the Secretary of the Army has published a find-
24 ing of, the following:

25 (A) The affected States or ports were re-
26 quested to provide alternative sites for disposal

1 of the material and failed to provide a reason-
2 able alternative site.

3 (B) Dumping of the material (including
4 necessary capping material) at the Mud Dump
5 Site will not increase the elevation of the ocean
6 bottom at the Mud Dump Site—

7 (i) such that the depth of the ocean at
8 that site is less than 65 feet below the sur-
9 face of the ocean; and

10 (ii) above an elevation designed, based
11 on scientific evidence, to contain the mate-
12 rial within the lateral limits of the Mud
13 Dump Site.

14 (c) SITE REMEDIATION.—

15 (1) PLAN.—The Administrator of the Environ-
16 mental Protection Agency, in cooperation with the
17 Secretary of Commerce and the Secretary of the
18 Army, shall develop a remediation and restoration
19 plan in accordance with applicable laws and regula-
20 tions for the Mud Dump Site and surrounding
21 areas.

22 (2) DESIGNATION OF SITE.—The Administrator
23 of the Environmental Protection Agency shall des-
24 ignate the Mud Dump Site and surrounding areas

1 that have historically been used for disposal of con-
2 taminated material as the Historic Area Remedi-
3 ation Site under part 228 of title 40, Code of Fed-
4 eral Regulations, effective September 1, 1997.

5 (3) MANAGEMENT OF SITE.—The Historic Area
6 Remediation Site—

7 (A) shall be managed to reduce impacts at
8 that site to acceptable levels in accordance with
9 part 228.11(c) of title 40, Code of Federal Reg-
10 ulations; and

11 (B) shall be remediated with
12 uncontaminated dredged material that—

13 (i) meets standards for Category I
14 dredged material; and

15 (ii) will not cause significant undesir-
16 able effects, including such effects through
17 bioaccumulation.

18 (d) MODIFICATION OF ENVIRONMENTAL ASSESS-
19 MENT.—The Secretary of the Army and the Administrator
20 of the Environmental Protection Agency shall modify envi-
21 ronmental assessment activities at the Mud Dump Site as
22 appropriate to reflect the provisions of this Act.

1 **SEC. 4. TERMINATION OF OTHER OCEAN DUMPING OF**
2 **DREDGED MATERIAL OFF OF COAST OF NEW**
3 **JERSEY.**

4 (a) IN GENERAL.—On and after September 1, 1997,
5 no person shall transport any dredged material for the
6 purpose of dumping it into ocean waters in the New York
7 Bight Apex outside of the Historic Area Remediation Site
8 designated under section 3(c), or into waters of the New
9 York-New Jersey Harbor.

10 (b) PROHIBITION ON DESIGNATION OF SITES AND
11 ISSUANCE OF PERMITS.—The Administrator of the Envi-
12 ronmental Protection Agency may not designate any new
13 site for ocean dumping of dredged material within the New
14 York Bight Apex, and the Secretary of the Army may not
15 issue any permit for transportation of dredged material
16 for the purpose of dumping it in the New York Bight
17 Apex, except in accordance with this Act.

18 **SEC. 5. VIOLATIONS.**

19 Any violation of section 3 (a) or (b) or section 4(a)
20 shall be treated as a violation of title I of the Marine Pro-
21 tection, Research, and Sanctuaries Act of 1972 (33 U.S.C.
22 1411 et seq.).

23 **SEC. 6. DISPOSAL ALTERNATIVES.**

24 (a) IN GENERAL.—The Secretary of the Army, in co-
25 operation with the Administrator of the Environmental
26 Protection Agency, the Secretary of Transportation, State

1 and local governments, and environmental and port inter-
2 ests, may establish, operate, and maintain a confined
3 dredged material disposal facility or facilities within the
4 confines of the Port of New York and New Jersey. Costs
5 associated with implementation of this section shall be
6 paid by non-Federal interests in substantially the same
7 manner as costs are required to be paid by non-Federal
8 interests under section 101 of the Water Resources Devel-
9 opment Act of 1986 (33 U.S.C. 2211).

10 (b) PROHIBITION ON CONSTRUCTION OF CERTAIN
11 SEDIMENT CONTAINMENT ISLANDS.—The Secretary of
12 the Army may not construct sediment containment islands
13 in the Port of New York-New Jersey if such construction
14 would result in the loss of shellfish or other fisheries habi-
15 tat.

16 (c) LIMITATION ON DESIGNATION OF UPLAND DIS-
17 POSAL SITES.—If the Secretary of the Army determines
18 that upland disposal of dredged material is necessary in
19 the Port of New York-New Jersey, the site of such dis-
20 posal shall be designated within close proximity of the ac-
21 tual dredging site.

22 (d) AUTHORIZATION OF APPROPRIATIONS.—There
23 are authorized to be appropriated to carry out this section
24 \$260,000,000.

1 **SEC. 7. DEFINITIONS.**

2 In this Act, the following definitions apply:

3 (1) TERMS DEFINED IN MARINE PROTECTION,
4 RESEARCH, AND SANCTUARIES ACT OF 1972.—Any
5 term used in this Act that is defined in section 3 of
6 the Marine Protection, Research, and Sanctuaries
7 Act of 1972 (33 U.S.C. 1402) has the meaning
8 given the term in that section.

9 (2) CATEGORY I AND CATEGORY II DREDGED
10 MATERIAL.—Each of the terms “Category I dredged
11 material” and “Category II dredged material”, re-
12 spectively, means such material as determined under
13 the 1992 United States Army Corps of Engineers
14 New York District and the Environmental Protec-
15 tion Agency Region II Guidance for Performing
16 Tests on Dredged Material Proposed for Ocean Dis-
17 posal.

18 (3) MUD DUMP SITE.—The term “Mud Dump
19 Site” means the area designated by the Adminis-
20 trator of the Environmental Protection Agency
21 under part 228.115(d)(6) of title 40, Code of Fed-
22 eral Regulations, as the New York Bight Dredged
23 Material Disposal Site (Mud Dump) in the New
24 York Bight Apex, North Atlantic Ocean for the dis-
25 posal of dredged material generated in the Port of
26 New York and New Jersey and nearby harbors.

1 (4) NEW YORK BIGHT APEX.—The term “New
2 York Bight Apex” means the ocean waters of the
3 Atlantic Ocean westward of 73 degrees 30 minutes
4 west longitude and northward of 40 degrees 10 min-
5 utes north latitude.

6 (5) UNCONTAMINATED DREDGED MATERIAL.—
7 The term “uncontaminated dredged material”
8 means dredged material that, when subject to the
9 criteria for evaluating environmental impact under
10 subpart B of part 227 of title 40, Code of Federal
11 Regulations, does not demonstrate chronic toxicity in
12 appropriate sensitive marine organisms and does not
13 cause appropriate sensitive benthic marine orga-
14 nisms to bioaccumulate one or more of the prohib-
15 ited constituents set forth in section 227.6 of such
16 title to statistically significant levels.

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