

106TH CONGRESS
2D SESSION

H. R. 3892

To amend the Marine Protection, Research, and Sanctuaries Act of 1972 to transfer to a Commission on Dredge Material Policy the authority to issue permits for transportation of dredged material for the purpose of dumping it into ocean waters.

IN THE HOUSE OF REPRESENTATIVES

MARCH 9, 2000

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

A BILL

To amend the Marine Protection, Research, and Sanctuaries Act of 1972 to transfer to a Commission on Dredge Material Policy the authority to issue permits for transportation of dredged material for the purpose of dumping it into ocean waters.

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 “Safe and Healthy Oce-
5 anic Recovery and Enhancement Act”.

1 **SEC. 2. TRANSFER OF AUTHORITY TO ISSUE PERMITS FOR**
2 **TRANSPORTATION OF DREDGED MATERIAL**
3 **FOR OCEAN DUMPING.**

4 (a) TRANSFER.—The authority under section 103 of
5 the Marine Protection, Research, and Sanctuaries Act of
6 1972 (33 U.S.C. 1413) to issue permits for transportation
7 of dredged material for the purpose of dumping it into
8 ocean waters is transferred from the Secretary of the
9 Army to the Commission on Dredge Material Policy estab-
10 lished by the amendment made by section 3 of this Act
11 (in this section referred to as the “Commission”).

12 (b) REFERENCES.—Any reference in any other Fed-
13 eral law, Executive order, rule, regulation, or delegation
14 of authority, or any document of or pertaining to a depart-
15 ment or office from which authority is transferred by this
16 section to the head of such department or office, or to
17 such department or office, is deemed to refer to the Com-
18 mission.

19 (c) EXERCISE OF AUTHORITIES.—Except as other-
20 wise provided by law, the Commission may, for purposes
21 of performing the authority transferred by this section, ex-
22 ercise all authorities under any other provision of law that
23 were available with respect to the exercise of that author-
24 ity to the Secretary of the Army immediately before the
25 effective date of the transfer of the function under this
26 section.

1 (d) SAVINGS PROVISIONS.—

2 (1) LEGAL DOCUMENTS.—All orders, deter-
3 minations, rules, regulations, permits, grants, loans,
4 contracts, agreements, certificates, licenses, and
5 privileges—

6 (A) that have been issued, made, granted,
7 or allowed to become effective by the Secretary
8 of the Army or any other Government official,
9 or by a court of competent jurisdiction, in the
10 exercise of any authority that is transferred by
11 this section, and

12 (B) that are in effect on the effective date
13 of such transfer (or become effective after such
14 date pursuant to their terms as in effect on
15 such effective date),

16 shall continue in effect according to their terms until
17 modified, terminated, superseded, set aside, or re-
18 voked in accordance with law by the President, the
19 Commission, a court of competent jurisdiction, or
20 operation of law.

21 (2) PROCEEDINGS.—This section shall not af-
22 fect any proceedings or any application for any bene-
23 fits, service, license, permit, certificate, or financial
24 assistance pending on the date of the enactment of
25 this Act with respect to any authority transferred by

1 this section, but such proceedings and applications
2 shall be continued. Orders shall be issued in such
3 proceedings, appeals shall be taken therefrom, and
4 payments shall be made pursuant to such orders, as
5 if this section had not been enacted, and orders
6 issued in any such proceeding shall continue in ef-
7 fect until modified, terminated, superseded, or re-
8 voked by a duly authorized official, by a court of
9 competent jurisdiction, or by operation of law. Noth-
10 ing in this paragraph shall be considered to prohibit
11 the discontinuance or modification of any such pro-
12 ceeding under the same terms and conditions and to
13 the same extent that such proceeding could have
14 been discontinued or modified if this section had not
15 been enacted.

16 (3) SUITS.—This section shall not affect suits
17 commenced before the date of the enactment of this
18 Act, and in all such suits, proceeding shall be had,
19 appeals taken, and judgments rendered in the same
20 manner and with the same effect as if this section
21 had not been enacted.

22 (4) NONABATEMENT OF ACTIONS.—No suit, ac-
23 tion, or other proceeding commenced by or against
24 any individual in the official capacity of such indi-
25 vidual as an officer or employee responsible for exer-

1 cising an authority transferred by this section, shall
2 abate by reason of the enactment of this Act.

3 (5) CONTINUANCE OF SUITS.—If any Govern-
4 ment officer in the official capacity of such officer
5 is party to a suit with respect to a function of the
6 officer, and under this section the authority to per-
7 form such function is transferred to any other offi-
8 cer or office, then such suit shall be continued with
9 the other officer or the head of such other office, as
10 applicable, substituted or added as a party.

11 (6) ADMINISTRATIVE PROCEDURE AND JUDI-
12 CIAL REVIEW.—Except as otherwise provided by this
13 Act, any statutory requirements relating to notice,
14 hearings, action upon the record, or administrative
15 or judicial review that apply to the exercise of any
16 authority transferred by this section shall apply to
17 the exercise of such authority by the Commission.

18 (e) TRANSFER OF ASSETS.—Except as otherwise pro-
19 vided in this Act, so much of the personnel, property,
20 records, and unexpended balances of appropriations, allo-
21 cations, and other funds employed, used, held, available,
22 or to be made available in connection with an authority
23 transferred to the Commission by this section shall be
24 available to the Commission at such time or times as the

1 Director of the Office of Management and Budget directs
2 for use in connection with the authorities transferred.

3 (f) DELEGATION AND ASSIGNMENT.—Except as oth-
4 erwise expressly prohibited by law or otherwise provided
5 in this Act, the Commission may delegate any of the au-
6 thorities transferred to the Commission by this section to
7 such officers and employees of the Commission as the
8 Commission may designate, and may authorize successive
9 redelegations of such authority as may be necessary or ap-
10 propriate. No delegation of functions under this subsection
11 or under any other provision of this Act shall relieve the
12 Commission of responsibility for the administration of the
13 authority.

14 (g) AUTHORITY OF DIRECTOR OF THE OFFICE OF
15 MANAGEMENT AND BUDGET WITH RESPECT TO FUNC-
16 TIONS TRANSFERRED.—

17 (1) DETERMINATIONS.—If necessary, the Di-
18 rector of the Office of Management and Budget
19 shall make any determination of the authority that
20 are transferred under this section.

21 (2) INCIDENTAL TRANSFERS.—The Director of
22 the Office of Management and Budget, at such time
23 or times as the Director shall provide, may make
24 such determinations as may be necessary with re-
25 gard to the authority transferred by this section,

1 and may make such additional incidental disposi-
2 tions of personnel, assets, liabilities, grants, con-
3 tracts, property, records, and unexpended balances
4 of appropriations, authorizations, allocations, and
5 other funds held, used, arising from, available to, or
6 to be made available in connection with such author-
7 ity as may be necessary to carry out the provisions
8 of this Act. The Director shall provide for the termi-
9 nation of the affairs of all entities terminated pursu-
10 ant to this Act and for such further measures and
11 dispositions as may be necessary to effectuate this
12 Act.

13 (h) AVAILABILITY OF EXISTING FUNDS.—Existing
14 appropriations and funds available for the performance of
15 functions, programs, and activities terminated pursuant to
16 this Act shall remain available, for the duration of their
17 period of availability, for necessary expenses in connection
18 with the termination and resolution of such functions, pro-
19 grams, and activities.

20 (i) CONFORMING AMENDMENTS.—The Marine Pro-
21 tection, Research, and Sanctuaries Act of 1972 (33 U.S.C.
22 1413) is amended—

23 (1) in section 3 (33 U.S.C. 1402) by adding at
24 the end the following:

1 “(n) The term ‘Commission’ means the Commission
2 on Dredge Material Policy established by title IV.”;

3 (2) in title I by striking “Secretary” each place
4 it appears in reference to the Secretary of the Army,
5 other than in section 106(d)(2)(C) (33 U.S.C.
6 1416(d)(2)(C)), and inserting “Commission”;

7 (3) in section 103 (33 U.S.C. 1413) by striking
8 the section heading and inserting the following:

9 “PERMITS FOR TRANSPORTATION OF DREDGED
10 MATERIAL”;

11 and

12 (4) in section 106(d)(2)(C) (33 U.S.C.
13 1416(d)(2)(C)) by striking “Secretary of the Army”
14 and inserting “Commission”.

15 **SEC. 3. ESTABLISHMENT OF COMMISSION ON DREDGE MA-**
16 **TERIAL POLICY.**

17 The Marine Protection, Research, and Sanctuaries
18 Act of 1972 (33 U.S.C. 1401 et seq.) is amended by add-
19 ing at the end the following:

20 **“TITLE IV—COMMISSION ON**
21 **DREDGED MATERIAL POLICY**

22 **“SEC. 401. ESTABLISHMENT.**

23 “There is established a commission to be known as
24 the ‘Commission on Dredged Material Policy’.

1 **“SEC. 402. DUTIES OF COMMISSION.**

2 “The Commission shall carry out the duties of the
3 Commission under title I of this Act.

4 **“SEC. 403. MEMBERSHIP.**

5 “(a) NUMBER AND APPOINTMENT.—

6 “(1) IN GENERAL.—The Commission shall be
7 composed of 16 members appointed by the President
8 by and with the advice and consent of the Senate,
9 from among individuals who are knowledgeable in
10 ocean and dredging activities, including individuals
11 representing State and local governments, ocean-re-
12 lated industries, academic and technical institutions,
13 and public interest organizations involved with sci-
14 entific, regulatory, economic, and environmental
15 ocean and dredging activities. The membership of
16 the Commission shall be balanced geographically to
17 the extent consistent with maintaining the highest
18 level of expertise on the Commission.

19 “(2) RECOMMENDATIONS.—Of the members of
20 the Commission appointed under this subsection—

21 “(A) 4 shall be appointed from a list of 8
22 individuals who shall be recommended by the
23 majority leader of the Senate in consultation
24 with the Chairman of the Committee on Com-
25 merce, Science, and Transportation of the Sen-
26 ate;

1 “(B) 4 shall be appointed from a list of 8
2 individuals who shall be recommended by the
3 Speaker of the House of Representatives in con-
4 sultation with the Chairmen of the Committees
5 on Resources, Transportation and Infrastruc-
6 ture, and Science of the House;

7 “(C) 2 shall be appointed from a list of 4
8 individuals who shall be recommended by the
9 minority leader of the Senate in consultation
10 with the ranking minority party member of the
11 Committee on Commerce, Science, and Trans-
12 portation of the Senate; and

13 “(D) 2 shall be appointed from a list of 4
14 individuals who shall be recommended by the
15 minority leader of the House of Representatives
16 in consultation with the ranking minority party
17 members of the Committees on Resources,
18 Transportation and Infrastructure, and Science
19 of the House.

20 “(b) TERMS.—

21 “(1) IN GENERAL.—Except as provided in para-
22 graphs (2) and (3), each member shall be appointed
23 for a term of 4 years.

1 “(2) TERMS OF INITIAL APPOINTEES.—As des-
2 ignated by the President at the time of appointment,
3 of the members first appointed—

4 “(A) 4 shall be appointed for a term of 3
5 years; and

6 “(B) 2 shall be appointed for a term of 2
7 years.

8 “(3) VACANCIES.—Any member appointed to
9 fill a vacancy occurring before the expiration of the
10 term for which the member’s predecessor was ap-
11 pointed shall be appointed only for the remainder of
12 that term. A member may serve after the expiration
13 of that member’s term until a successor has taken
14 office. A vacancy in the Commission shall be filled
15 in the manner in which the original appointment was
16 made.

17 “(c) BASIC PAY.—Members of the Commission shall
18 each be entitled to receive the daily equivalent of the min-
19 imum annual rate of basic pay payable for grade GS–4
20 of the General Schedule for each day (including travel
21 time) during which they are engaged in the actual per-
22 formance of duties vested in the Commission.

23 “(d) TRAVEL EXPENSES.—Each member shall re-
24 ceive travel expenses, including per diem in lieu of subsist-

1 ence, in accordance with sections 5702 and 5703 of title
2 5, United States Code.

3 “(e) QUORUM.—A majority of the members of the
4 Commission shall constitute a quorum but a lesser number
5 may hold hearings.

6 “(f) CHAIRPERSON.—The Chairperson of the Com-
7 mission shall be elected by the members of the Commis-
8 sion. The term of office of the Chairperson shall be 2
9 years.

10 “(g) MEETINGS.—The Commission shall meet at the
11 call of the Chairperson or a majority of its members, ex-
12 cept that the first meeting of the Commission shall occur
13 not later than 30 days after the completion of appointment
14 of its members.

15 **“SEC. 404. STAFF OF COMMISSION; EXPERTS AND CONSULT-**
16 **ANTS.**

17 “(a) STAFF.—With the approval of the Chairperson,
18 the Chairperson may appoint and fix the pay of personnel
19 as the Chairperson considers appropriate.

20 “(c) STAFF OF FEDERAL AGENCIES.—Upon request
21 of the Chairperson, the head of any Federal department
22 or agency may detail, on a reimbursable basis, any of the
23 personnel of that department or agency to the Commission
24 to assist it in carrying out its duties under this Act.

1 **“SEC. 405. POWERS OF COMMISSION.**

2 “(a) HEARINGS AND SESSIONS.—The Commission
3 may, for the purpose of carrying out this Act, hold hear-
4 ings, sit and act at times and places, take testimony, and
5 receive evidence as the Commission considers appropriate.

6 “(b) POWERS OF MEMBERS AND AGENTS.—Any
7 member or agent of the Commission may, if authorized
8 by the Commission, take any action which the Commission
9 is authorized to take by this section.

10 “(c) OBTAINING OFFICIAL DATA.—The Commission
11 may secure directly from any department or agency of the
12 United States information necessary to enable it to carry
13 out this Act. Upon request of the Chairperson of the Com-
14 mission, the head of that department or agency shall fur-
15 nish that information to the Commission.

16 “(d) MAILS.—The Commission may use the United
17 States mails in the same manner and under the same con-
18 ditions as other departments and agencies of the United
19 States.

20 “(e) ADMINISTRATIVE SUPPORT SERVICES.—Upon
21 the request of the Commission, the Administrator of Gen-
22 eral Services shall provide to the Commission, on a reim-
23 bursable basis, the administrative support services nec-
24 essary for the Commission to carry out its responsibilities
25 under this Act.

1 “(f) CONTRACT AUTHORITY.—The Commission may
2 contract with and compensate government and private
3 agencies or persons for supplies and services.”.

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