

108TH CONGRESS
2D SESSION

H. R. 4482

To amend the Marine Protection, Research, and Sanctuaries Act of 1972
to prohibit the dumping of dredged material in certain bodies of water.

IN THE HOUSE OF REPRESENTATIVES

JUNE 2, 2004

Mr. BISHOP of New York 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 prohibit the dumping of dredged material
in certain bodies of water.

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 “Long Island Sound
5 Protection Act”.

6 **SEC. 2. PROHIBITION ON DUMPING OF DREDGED MATE-**
7 **RIAL.**

8 Section 106 of the Marine Protection, Research, and
9 Sanctuaries Act of 1972 (33 U.S.C. 1416) is amended by
10 striking subsection (f) and inserting the following:

1 “(f) PROHIBITION ON DUMPING OF DREDGED MATE-
2 RIAL.—

3 “(1) DEFINITIONS.—In this subsection:

4 “(A) COVERED BODY OF WATER.—The
5 term ‘covered body of water’ means—

6 “(i) Long Island Sound;

7 “(ii) Fisher’s Island Sound;

8 “(iii) Block Island Sound;

9 “(iv) Peconic Bay; and

10 “(v) any harbor or tributary of a body
11 of water described in any of clauses (i)
12 through (iv).

13 “(B) COVERED PROJECT.—The term ‘cov-
14 ered project’ means—

15 “(i) any Federal dredging project (or
16 any project conducted for a Federal agency
17 pursuant to Federal authorization);

18 “(ii) a dredging project carried out by
19 a non-Federal entity that results in the
20 production of more than 25,000 cubic
21 yards of dredged material; and

22 “(iii) any of 2 or more dredging
23 projects carried out by 1 or more non-Fed-
24 eral entities in a covered body of water, si-
25 multaneously or sequentially within a 180-

1 day period, that result, in the aggregate, in
2 the production of more than 25,000 cubic
3 yards of dredged material.

4 “(C) PLAN.—The term ‘plan’ means the
5 dredged material management plan required
6 under paragraph (5).

7 “(2) PROHIBITION.—No dredged material from
8 any covered project shall be dumped, or transported
9 for the purpose of dumping, into any covered body
10 of water unless and until the dredged material is de-
11 termined by the Administrator—

12 “(A) to have, or to cause (including
13 through bioaccumulation), concentrations of
14 chemical constituents that are not greater than
15 those concentrations present in the water col-
16 umn, sediments, and biota of areas proximate
17 to, but unaffected by, the proposed disposal
18 site; and

19 “(B) to meet all requirements under this
20 title (including the trace contaminant provision
21 under section 227.6 of title 40, Code of Federal
22 Regulations (or a successor regulation), and re-
23 quirements under other regulations promul-
24 gated under section 108).

1 “(3) DESIGNATION OF SITES.—No dredged ma-
2 terial shall be dumped, or transported for the pur-
3 pose of dumping, into any covered body of water ex-
4 cept—

5 “(A) at a site designated by the Adminis-
6 trator in accordance with section 102(c); and

7 “(B) upon a determination by the Admin-
8 istrator, following approval of the plan required
9 under paragraph (5)(F), that no feasible alter-
10 native to ocean disposal, including sediment re-
11 mediation, beneficial reuse, and land-based al-
12 ternatives, is available prior to the time of des-
13 ignation.

14 “(4) RELATIONSHIP TO OTHER LAW.—

15 “(A) IN GENERAL.—Except as provided in
16 subparagraph (B), this title applies to each cov-
17 ered body of water.

18 “(B) EXCEPTION.—No waiver under sec-
19 tion 103(d) shall be available for the dumping
20 of dredged material in any covered body of
21 water.

22 “(5) DREDGED MATERIAL MANAGEMENT
23 PLAN.—

24 “(A) IN GENERAL.—Before designation of
25 any dredged material disposal site in a covered

1 body of water, the Secretary and the Adminis-
2 trator, in consultation with the United States
3 Fish and Wildlife Service, the National Marine
4 Fisheries Service, the Coast Guard, and the
5 States of Connecticut and New York, shall—

6 “(i) develop a dredged material man-
7 agement plan for the management of all
8 dredged sediment in the covered bodies of
9 water; and

10 “(ii) submit the plan to Congress and
11 the Governors of the States of Connecticut
12 and New York.

13 “(B) OBJECTIVES.—The objectives of the
14 plan shall be—

15 “(i) to identify sources, quantities,
16 and the extent of contamination of dredged
17 material that requires disposal;

18 “(ii) to determine management ac-
19 tions that are to be taken to reduce sedi-
20 ment and contaminant loading of dredged
21 areas;

22 “(iii) to thoroughly assess alternative
23 locations, treatment technologies, and ben-
24 eficial uses for dredged material;

1 “(iv) to ensure that dumping is the
2 disposal option of last resort for dredged
3 material and is used only after all other
4 options have been exhausted;

5 “(v) to secure—

6 “(I) alternative methods of dis-
7 posal of dredged materials, including
8 decontamination technologies; and

9 “(II) alternative uses of mate-
10 rials, including upland disposal, con-
11 tainment, beach nourishment, marsh
12 restoration, habitat construction, and
13 other beneficial reuses; and

14 “(vi) to confirm the specific roles of
15 Federal, State, and local agencies with re-
16 spect to various aspects of dredged mate-
17 rial management.

18 “(C) REQUIREMENTS.—The plan shall in-
19 clude environmental, economic, and other anal-
20 ysis required to meet the objectives listed in
21 subparagraph (B), including—

22 “(i) an analysis of strategies to reduce
23 sediment loading of harbors and navigation
24 areas;

1 “(ii) an analysis of sources of sedi-
2 ment contamination, including rec-
3 ommendations for management measures
4 to limit or reduce those contamination
5 sources;

6 “(iii) an analysis of options for reduc-
7 ing dredging needs through modification of
8 navigation strategies;

9 “(iv) an analysis of decontamination
10 technologies, including subsequent alter-
11 native uses of decontaminated materials
12 (such as upland disposal, containment,
13 beach nourishment, marsh restoration, and
14 habitat construction); and

15 “(v) a program for use of alternative
16 methods of disposal and use of dredged
17 material, including alternatives to dumping
18 or dispersal in a covered body of water.

19 “(D) PUBLIC INPUT.—The Secretary and
20 the Administrator shall—

21 “(i) during the development of the
22 plan, hold in the States of Connecticut and
23 New York a series of public hearings on
24 the plan; and

1 “(ii) append to the plan a summary of
2 the public comments received.

3 “(E) SUPPORT.—Each of the Federal
4 agencies referred to in subparagraph (A) shall
5 provide such staff support and other resources
6 as are necessary to carry out this paragraph.

7 “(F) APPROVAL BY CONNECTICUT AND
8 NEW YORK.—

9 “(i) IN GENERAL.—Not later than 60
10 days after the date of receipt of the plan,
11 the Governors of the States of Connecticut
12 and New York shall notify the Secretary
13 and the Administrator of whether the
14 States approve or disapprove the plan.

15 “(ii) DUMPING OF DREDGED MATE-
16 RIAL.—No dredged material from a cov-
17 ered project may be dumped, or trans-
18 ported for the purpose of dumping, in any
19 covered body of water unless the dredged
20 material—

21 “(I) conforms to a plan that has
22 been approved by the Governors of the
23 States of Connecticut and New York;
24 and

1 “(II) is to be dumped in a
2 dredged material disposal site des-
3 ignated by the Administrator under
4 this title.

5 “(iii) FINALITY.—No dredged mate-
6 rial disposal plan shall become final until
7 the plan has been approved by the States
8 of Connecticut and New York under clause
9 (i).

10 “(iv) PREVIOUSLY DESIGNATED
11 SITES.—No dredged material disposal site
12 in any covered body of water that was des-
13 ignated before the date of enactment of
14 this clause shall be used for dumping of
15 dredged material from a covered project
16 until the plan has been approved by the
17 States of Connecticut and New York under
18 clause (i).

19 “(G) AUTHORIZATION OF APPROPRIA-
20 TIONS.—There is authorized to be appropriated
21 to carry out this paragraph \$5,000,000 for each
22 of fiscal years 2005 and 2006.”.

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