

108TH CONGRESS
2D SESSION

S. 2482

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 SENATE OF THE UNITED STATES

JUNE 1, 2004

Mrs. CLINTON (for herself and Mr. SCHUMER) introduced the following bill;
which was read twice and referred to the Committee on Environment and
Public Works

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”.

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

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

6 “(f) PROHIBITION ON DUMPING OF DREDGED MATE-
 7 RIAL.—

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

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

11 “(i) Long Island Sound;

12 “(ii) Fisher’s Island Sound;

13 “(iii) Block Island Sound;

14 “(iv) Peconic Bay; and

15 “(v) any harbor or tributary of a body
 16 of water described in any of clauses (i)
 17 through (iv).

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

20 “(i) any Federal dredging project (or
 21 any project conducted for a Federal agency
 22 pursuant to Federal authorization);

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

1 “(iii) any of 2 or more dredging
2 projects carried out by 1 or more non-Fed-
3 eral entities in a covered body of water, si-
4 multaneously or sequentially within a 180-
5 day period, that result, in the aggregate, in
6 the production of more than 25,000 cubic
7 yards of dredged material.

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

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

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

23 “(B) to meet all requirements under this
24 title (including the trace contaminant provision
25 under section 227.6 of title 40, Code of Federal

1 Regulations (or a successor regulation), and re-
 2 quirements under other regulations promul-
 3 gated under section 108).

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

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

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

17 “(4) RELATIONSHIP TO OTHER LAW.—

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

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

1 “(5) DREDGED MATERIAL MANAGEMENT
2 PLAN.—

3 “(A) IN GENERAL.—Before designation of
4 any dredged material disposal site in a covered
5 body of water, the Secretary and the Adminis-
6 trator, in consultation with the United States
7 Fish and Wildlife Service, the National Marine
8 Fisheries Service, the United States Coast
9 Guard, and the States of Connecticut and New
10 York, shall—

11 “(i) develop a dredged material man-
12 agement plan for the management of all
13 dredged sediment in the covered bodies of
14 water; and

15 “(ii) submit the plan to Congress and
16 the Governors of the States of Connecticut
17 and New York.

18 “(B) OBJECTIVES.—The objectives of the
19 plan shall be—

20 “(i) to identify sources, quantities,
21 and the extent of contamination of dredged
22 material that requires disposal;

23 “(ii) to determine management ac-
24 tions that are to be taken to reduce sedi-

1 ment and contaminant loading of dredged
2 areas;

3 “(iii) to thoroughly assess alternative
4 locations, treatment technologies, and ben-
5 eficial uses for dredged material;

6 “(iv) to ensure that dumping is the
7 disposal option of last resort for dredged
8 material and is used only after all other
9 options have been exhausted;

10 “(v) to secure—

11 “(I) alternative methods of dis-
12 posal of dredged materials, including
13 decontamination technologies; and

14 “(II) alternative uses of mate-
15 rials, including upland disposal, con-
16 tainment, beach nourishment, marsh
17 restoration, habitat construction, and
18 other beneficial reuses; and

19 “(vi) to confirm the specific roles of
20 Federal, State, and local agencies with re-
21 spect to various aspects of dredged mate-
22 rial management.

23 “(C) REQUIREMENTS.—The plan shall in-
24 clude environmental, economic, and other anal-

1 ysis required to meet the objectives listed in
2 subparagraph (B), including—

3 “(i) an analysis of strategies to reduce
4 sediment loading of harbors and navigation
5 areas;

6 “(ii) an analysis of sources of sedi-
7 ment contamination, including rec-
8 ommendations for management measures
9 to limit or reduce those contamination
10 sources;

11 “(iii) an analysis of options for reduc-
12 ing dredging needs through modification of
13 navigation strategies;

14 “(iv) an analysis of decontamination
15 technologies, including subsequent alter-
16 native uses of decontaminated materials
17 (such as upland disposal, containment,
18 beach nourishment, marsh restoration, and
19 habitat construction); and

20 “(v) a program for use of alternative
21 methods of disposal and use of dredged
22 material, including alternatives to dumping
23 or dispersal in a covered body of water.

24 “(D) PUBLIC INPUT.—The Secretary and
25 the Administrator shall—

1 “(i) during the development of the
2 plan, hold in the States of Connecticut and
3 New York a series of public hearings on
4 the plan; and

5 “(ii) append to the plan a summary of
6 the public comments received.

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

11 “(F) APPROVAL BY CONNECTICUT AND
12 NEW YORK.—

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

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

1 “(I) conforms to a plan that has
2 been approved by the Governors of the
3 States of Connecticut and New York;
4 and

5 “(II) is to be dumped in a
6 dredged material disposal site des-
7 ignated by the Administrator under
8 this title.

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

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

23 “(G) AUTHORIZATION OF APPROPRIA-
24 TIONS.—There is authorized to be appropriated

- 1 to carry out this paragraph \$5,000,000 for each
- 2 of fiscal years 2005 and 2006.”.

