

103D CONGRESS
1ST SESSION

H. R. 2173

Relating to the procedures and criteria for the issuance of permits authorizing the ocean dumping of dredged material.

IN THE HOUSE OF REPRESENTATIVES

MAY 19, 1993

Mr. MENENDEZ (for himself and Mr. FRANKS of New Jersey) introduced the following bill; which was referred jointly to the Committees on Merchant Marine and Fisheries and Public Works and Transportation

A BILL

Relating to the procedures and criteria for the issuance of permits authorizing the ocean dumping of dredged material.

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 “Harbor Environmental
5 Dredging and Management Act of 1993”.

6 **SEC. 2. DUMPING PERMIT PROGRAM FOR DREDGED MATE-**
7 **RIAL.**

8 (a) GENERAL PROCEDURES.—Section 103 of the Ma-
9 rine Protection, Research, and Sanctuaries Act of 1973
10 (33 U.S.C. 1413) is amended by redesignating subsections

1 (d) and (e) as subsections (e) and (f), respectively, and
2 by inserting after subsection (c) the following:

3 “(d) PROCEDURE.—The following procedure applies
4 concerning action by the Secretary with respect to an ap-
5 plication for a permit under this section:

6 “(1) NOTICE.—Within 15 days after the date
7 on which the Secretary receives an application for a
8 permit under this section, the Secretary shall cause
9 to be published a notice that contains—

10 “(A) a description of the project;

11 “(B) such other information that the Sec-
12 retary considers appropriate; and

13 “(C) an invitation for comment on the ap-
14 plication and on any other matters of relevance,
15 including the effect of approval of the applica-
16 tion on endangered species, if appropriate, from
17 interested Federal agencies, other public agen-
18 cies, and private persons.

19 “(2) INFORMATION TO BE CONSIDERED.—In
20 making the determination required by subsection (a)
21 regarding the application, the Secretary shall con-
22 sider any comment or other information that the
23 Secretary receives from interested agencies and per-
24 sons during the 30-day period following the date on

1 which the notice under paragraph (1) is published
2 with respect to the application.

3 “(3) DEADLINE FOR HEARING.—If the Sec-
4 retary determines that a public hearing should be
5 conducted with respect to the application, the Sec-
6 retary shall complete the hearing within 30 days
7 after the last day of the comment period for the ap-
8 plication under paragraph (2).

9 “(4) INFORMATION TO EPA AND OTHER INTER-
10 ESTED FEDERAL AGENCIES.—Within 15 days after
11 the date on which the Secretary receives all informa-
12 tion pertaining to the application, the Secretary shall
13 provide necessary and appropriate information con-
14 cerning the application to the Administrator and to
15 the heads of all other interested Federal agencies.
16 Within 15 days of receiving such information, the
17 Administrator and the heads of such other agencies
18 shall review the information and request any addi-
19 tional information they deem necessary.

20 “(5) CONCURRENT EVALUATION OF APPLICA-
21 TION.—The Secretary and the Administrator shall
22 concurrently evaluate the application and, as appro-
23 priate and to the maximum extent possible, confer
24 on the application in order to complete its consider-
25 ation at the earliest possible date.

1 “(6) DEADLINE FOR DETERMINATION BY SEC-
2 RETARY.—The Secretary shall make a determination
3 regarding whether or not to issue a permit under
4 this section within 90 days after—

5 “(A) the last day of the 30-day comment
6 period for the application under paragraph (2);
7 or

8 “(B) if a public hearing is held with re-
9 spect to the application, the last day of the pub-
10 lic hearing.

11 “(7) STANDARDS.—The Secretary, in determin-
12 ing under subsection (a) whether or not the dumping
13 proposed in the application will result in the unrea-
14 sonable degradation or endangerment referred to in
15 such subsection, shall—

16 “(A) apply the applicable criteria and
17 standards as such criteria and standards are in
18 effect on the date of receipt of the application
19 by the Secretary; and

20 “(B) disregard any change made to any
21 such standard after such date of receipt.

22 “(8) CONSIDERATION OF EFFECT OF FAILURE
23 TO DREDGE.—In addition to applying the criteria re-
24 ferred to in section 102(a) in making the determina-
25 tion required by subsection (a), the Secretary shall

1 also consider the effect that the failure to dredge the
2 material concerned will have on human health and
3 welfare, including economic, esthetic, and rec-
4 reational values.

5 “(9) TIME LIMITS ON PROCESS.—The Secretary
6 and the Administrator shall make a determination
7 regarding whether to issue a permit under this sec-
8 tion within 165 days after the Secretary receives an
9 application for the permit under this section.”.

10 (b) CONCURRENCE BY ADMINISTRATOR.—Subsection
11 (c) of such section is amended—

12 (1) by adding at the end of paragraph (1) the
13 following: “The Secretary shall provide the informa-
14 tion requested within 15 days after the date of re-
15 ceipt of the request for the information from the Ad-
16 ministrator.”; and

17 (2) in paragraph (2) by striking “45” each
18 place it appears and inserting “30”.

19 (c) CONFORMING AMENDMENT.—Subsection (f) of
20 such section, as redesignated by subsection (a) of this sec-
21 tion, is amended by striking “and (d)” and inserting “,
22 (d), and (e)”.

1 **SEC. 3. DIOXIN CONTAMINATED SEDIMENT DISPOSAL**
2 **STANDARD.**

3 Not later than 6 months after the date of the enact-
4 ment of this Act, the Administrator of the Environmental
5 Protection Agency, in consultation with the Secretary of
6 the Army, shall develop a national standard for the dis-
7 posal of sediments contaminated with dioxin. The stand-
8 ard shall apply, at a minimum, to determinations required
9 to be made under subsection (a) of section 103 of the Ma-
10 rine Protection, Research, and Sanctuaries Act of 1973.

11 **SEC. 4. MUD DUMP CONTAINMENT ISLAND.**

12 (a) PLAN.—The Administrator of the Environmental
13 Protection Agency and the Secretary of the Army shall
14 develop a plan for the construction of a containment island
15 as an alternative to the Mud Dump Site, as defined in
16 section 412(d) of the Water Resources Development Act
17 of 1990, for the disposal of contaminated dredged mate-
18 rial. The plan shall include, at a minimum, the following:

- 19 (1) A recommended location for the island.
- 20 (2) Proposed timetable for construction of the
21 island, including public hearings, permit processes,
22 and environmental impact statements.
- 23 (3) An analysis and estimate of the cost of con-
24 struction of the island and recommended financing
25 mechanisms for the construction.

1 (4) The status of decontamination technologies
2 to be used on the contaminated materials.

3 (b) REPORT.—Not later than 12 months after the
4 date of the enactment of this Act, the Administrator and
5 the Secretary shall submit to Congress the plan developed
6 under subsection (a), together with recommendations for
7 its implementation.

8 **SEC. 5. CONTAINMENT AND CLEAN-UP OF DIOXIN IN PAS-**
9 **SAIC RIVER, NEW JERSEY.**

10 (a) PLAN.—The Administrator of the Environmental
11 Protection Agency and the Secretary of the Army, in con-
12 sultation with State authorities, shall develop a com-
13 prehensive plan for the containment, clean-up, and preven-
14 tion of dioxin contamination in the Passaic River basin
15 in the vicinity of Newark, New Jersey.

16 (b) MINIMUM CONTENT REQUIREMENTS.—The plan
17 to be developed under this section shall include, at a mini-
18 mum, the following:

19 (1) A comprehensive strategy for monitoring,
20 containing, and preventing the spread of dioxin in
21 the Passaic River basin to Newark Bay.

22 (2) A comprehensive strategy for the clean-up
23 of dioxin in the Passaic River basin, including a pro-
24 posed timetable, estimate of the cost, and financing
25 mechanism for the clean-up.

1 (3) A comprehensive strategy for preventing
2 land activities from becoming new sources of dioxin
3 pollution in the Passaic River basin and Newark
4 Bay.

5 (4) The status of sediment sources in Newark
6 Bay.

7 (c) REPORT.—Not later than 6 months after the date
8 of the enactment of this Act, the Administrator and the
9 Secretary shall submit to Congress the comprehensive plan
10 developed under subsection (a), together with rec-
11 ommendations for its implementation.

12 **SEC. 6. CONSORTIUM OF DREDGED MATERIALS DISPOSAL**
13 **PERMITTEES.**

14 The Secretary of the Army is authorized to approve
15 the establishment of a consortium of permittees for the
16 testing, permitting, and disposal of dredged materials in
17 an effort to promote the cost-effective disposal and envi-
18 ronmental management of dredged materials.

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