

104TH CONGRESS
2D SESSION

H. R. 3170

To dispose of contaminated dredged sediments in a more environmentally responsible manner, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 27, 1996

Mr. FRANKS of New Jersey (for himself, Mr. PALLONE, Mr. FRELINGHUYSEN, and Mr. ZIMMER) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To dispose of contaminated dredged sediments in a more environmentally responsible manner, and for other purposes.

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 “Port Revitalization Act
5 of 1996”.

1 **SEC. 2. COST SHARING FOR LAND-BASED AND CONFINED**
2 **DREDGED MATERIAL DISPOSAL FACILITIES.**

3 (a) TREATMENT AS GENERAL NAVIGATION FEA-
4 TURE.—Notwithstanding any other provision of law, the
5 cost of providing, after the date of enactment of this Act,
6 land-based and confined aquatic dredged material disposal
7 facilities associated with the construction, operation, and
8 maintenance of any Federal navigation project for any
9 harbor or other federally maintained waterway, including
10 the cost of diking and applying dredged material to bene-
11 ficial use, and other improvements necessary for the prop-
12 er disposal of dredged material at such facilities shall be
13 considered a general navigation feature of the project and
14 shall be subject to cost sharing as a general navigation
15 feature in accordance with section 101(a) of the Water
16 Resources Development Act of 1986 (33 U.S.C. 2211(a);
17 100 Stat. 4082–4083).

18 (b) COST SHARING FOR OPERATION AND MAINTENANCE.—The Federal share of the cost of operation and
19 maintenance of each disposal facility to which subsection
20 (a) applies shall be determined in accordance with section
21 101(b) of the Water Resources Development Act of 1986
22 (33 U.S.C. 2211(b); 100 Stat. 4083).

24 (c) ELIGIBLE OPERATION AND MAINTENANCE
25 COSTS.—For the purposes of section 210 of the Water
26 Resources Development Act of 1986 (33 U.S.C. 2238; 100

1 Stat. 4106), eligible operation and maintenance costs shall
2 include—

3 (1) the Federal share of the costs of construct-
4 ing dredged material disposal facilities associated
5 with the operation and maintenance of all Federal
6 navigation projects for harbors and other federally
7 maintained waterways;

8 (2) the Federal share of the cost of operating
9 and maintaining dredged material disposal facilities
10 associated with the construction, operation, and
11 maintenance of all such navigation projects;

12 (3) the Federal share of the costs of environ-
13 mental dredging and disposal facilities for contami-
14 nated sediments which are in or which affect the
15 maintenance of such Federal navigation channels
16 and the mitigation of environmental impacts result-
17 ing from Federal dredging activities; and

18 (4) the Federal share for the dredging, manage-
19 ment and disposal of contaminated sediments, or
20 other environmental remediation in critical port and
21 harbor areas in order to facilitate commercial navi-
22 gation, as determined by the Secretary.

23 In selecting and carrying out projects made eligible for
24 assistance by paragraph (4), the Secretary of the Army
25 shall give preference to projects in a port area to the ex-

1 tent that annual payments of the harbor maintenance tax
2 imposed by section 9505 of the Internal Revenue Code of
3 1986 exceed Federal expenditures made from the Harbor
4 Maintenance Trust Fund for projects carried out in such
5 port area.

6 (d) LIMITATIONS ON USE OF FUNDS.—No funds
7 comprising the Federal share of costs of construction of
8 a dredged material disposal facility for operation and
9 maintenance of Federal navigation projects for harbors
10 and other federally maintained waterways shall be ex-
11 pended for such construction until the Secretary of the
12 Army determines that such funds are not otherwise re-
13 quired to cover other eligible operation and maintenance
14 costs assigned to commercial navigation. The Secretary
15 shall assure that funds expended for construction of such
16 facilities are equitably apportioned in accordance with
17 identified regional needs.

18 (e) APPLICABILITY.—This section shall apply to the
19 construction of dredged material disposal facilities for
20 which a contract for construction or construction of usable
21 increment thereof, or the construction of the associated
22 navigation project or usable increment thereof, has not
23 been awarded on or before the date of the enactment of
24 this Act. With the consent of the non-Federal interest, the
25 Secretary of the Army shall amend project cooperative

1 agreements in effect on the date of the enactment of this
2 Act to provide for the Federal share of project costs of
3 dredged material disposal facilities as provided in this sec-
4 tion.

5 (f) NO INCREASE IN NON-FEDERAL SHARE.—Noth-
6 ing in this section shall be construed as increasing, or re-
7 sulting in the increase of, the non-Federal share of the
8 costs of any dredged material disposal facility authorized
9 to be provided before the date of the enactment of this
10 Act.

11 **SEC. 3. FEDERAL PARTICIPATION.**

12 (a) ADDITIONAL CAPACITY.—At the request of a non-
13 Federal project sponsor, the Secretary of the Army may
14 provide additional capacity at a dredged material disposal
15 facility constructed by the Department of the Army be-
16 yond that which would be required for project purposes
17 if the non-Federal project sponsor agrees to pay, during
18 the period of construction, all costs associated with the
19 construction of the additional capacity. The non-Federal
20 project sponsor may recover the costs assigned to the addi-
21 tional capacity through fees assessed on 3rd parties whose
22 dredged sediments are deposited in the facility and who
23 enter into agreements with the non-Federal sponsor for
24 the use of such facility. The amount of such fees may be
25 determined by the non-Federal sponsor.

1 (b) USE OF DISPOSAL FACILITIES.—

2 (1) IN GENERAL.—The Secretary of the
3 Army—

4 (A) may permit the use of any dredged
5 material disposal facility under the jurisdiction
6 of, or managed by, the Department of the Army
7 by a non-Federal interest if the Secretary deter-
8 mines that such use will not compromise the
9 availability of the facility for project purposes;
10 and

11 (B) may impose fees to recover capital, op-
12 eration, and maintenance costs associated with
13 such use.

14 (2) USE OF FEES.—Notwithstanding section
15 401(c) of the Federal Water Pollution Control Act,
16 any monies received through collection of fees under
17 this subsection shall be available to the Secretary,
18 and shall be used by the Secretary, for the operation
19 and maintenance of the disposal facility from which
20 they were collected.

21 (c) FEDERAL PARTICIPATION IN NON-FEDERAL DIS-
22 POSAL FACILITIES.—The Secretary of the Army is author-
23 ized to participate in the construction and use of dredged
24 material disposal facilities developed by non-Federal inter-
25 ests if such facilities are necessary to the construction or

1 operation and maintenance of a Federal navigation
2 project, without respect to whether or not such facilities
3 could be used in environmental restoration of the applica-
4 ble water body. The Secretary is further authorized to pay
5 disposal fees associated with Federal use of such facilities.

6 (d) SPECIAL RULES.—Any reference in this Act to
7 a non-Federal sponsor’s obligation to provide “lands, ease-
8 ments, rights-of-way, relocations and dredged material
9 disposal areas,” shall, with respect to “dredged material
10 disposal areas,” be limited to the acquisition of property
11 and shall not include any costs associated with the con-
12 struction or preparation of such areas or any related engi-
13 neering, design, permitting, environmental mitigation, or
14 restoration costs. Unless otherwise specifically provided to
15 the contrary, costs involving preparation or improvement
16 of an acquired disposal area to render it usable for receipt
17 of dredged material shall be considered a part of project
18 costs and as such shall be fully subject to the applicable
19 cost-sharing formulas.

20 (e) MANAGEMENT TECHNIQUES.—The Secretary of
21 the Army shall use, to the extent feasible, management
22 techniques to extend the useful life of all land-based and
23 confined aquatic dredged material disposal facilities man-
24 aged by the Secretary and constructed by the Secretary
25 after the date of the enactment of this Act.

1 **SEC. 4. LOWER HARBOR MAINTENANCE TAX.**

2 (a) AMOUNT OF TAX.—Effective January 1, 1997,
3 section 4461(b) of the Internal Revenue Code of 1986 is
4 amended to read as follows:

5 “(b) AMOUNT OF TAX.—The amount of the tax im-
6 posed by subsection (a) on any port use shall be an
7 amount equal to 0.085 percent of the value of the commer-
8 cial cargo involved.”.

9 (b) ASSESSMENT OF TAX.—For each calendar year
10 beginning after the date of the enactment of this Act, the
11 Secretary of the Army, in consultation with the Secretary
12 of the Treasury, shall conduct an assessment of the Har-
13 bor Maintenance Trust Fund established by section 9505
14 of the Internal Revenue Code of 1986 to determine the
15 advisability of a reduction or an increase in the tax on
16 port use imposed by section 4461 of such Code with the
17 objective of ensuring the maintenance of a balance in the
18 Trust Fund at a sufficient level to pay the eligible oper-
19 ation and maintenance costs as provided for in section
20 210(a) of the Water Resources Development Act of 1986
21 and this Act.

22 (c) REPORT; PROCESS FOR CHANGING AMOUNT OF
23 TAX.—Not later than December 31, 1997, and December
24 31 of each calendar year thereafter, the Secretary of the
25 Army shall report to Congress on the determination made
26 under subsection (b).

1 **SEC. 5. SEDIMENTS DECONTAMINATION TECHNOLOGY.**

2 (a) PROJECT PURPOSE.—Section 405(a) of the
3 Water Resource Development Act of 1992 (33 U.S.C.
4 2239 note; 106 Stat. 4863) is amended by adding at the
5 end the following:

6 “(3) PROJECT PURPOSE.—The purpose of the
7 project to be carried out under this section is to pro-
8 vide for the development of 1 or more sediment de-
9 contamination technologies on a pilot scale dem-
10 onstrating a capacity of at least 500,000 cubic yards
11 per year.”.

12 (b) AUTHORIZATION OF APPROPRIATIONS.—The first
13 sentence of section 405(c) of such Act is amended by in-
14 serting before the period at the end the following: “and
15 ending before October 1, 1996, and \$10,000,000 for fiscal
16 years beginning after September 30, 1996”.

17 (c) REPORTS.—Section 405 of such Act is amended
18 by adding at the end the following:

19 “(d) REPORTS.—Not later than September 30, 1998,
20 and September 30 of each calendar year thereafter, the
21 Administrator and the Secretary shall transmit to Con-
22 gress a report on the results of the project to be carried
23 out under this section, including an assessment of the
24 progress made in achieving the purpose of the project set
25 forth in subsection (a)(3).”.

1 **SEC. 6. AUTHORIZATION OF DREDGE MATERIAL CONTAIN-**
2 **MENT FACILITY FOR PORT OF NEW YORK/**
3 **NEW JERSEY.**

4 (a) **IN GENERAL.**—The Secretary of the Army is au-
5 thorized to construct, operate, and maintain a dredged
6 material containment facility with a capacity commensu-
7 rate with the long-term dredged material disposal needs
8 of port facilities under the jurisdiction of the Port of New
9 York/New Jersey substantially in accordance with a final
10 report of the Chief of Engineers. The costs associated with
11 feasibility studies, design, engineering, and construction
12 shall be shared with the local sponsor in accordance with
13 the provisions of section 2 of this Act.

14 (b) **ELIGIBILITY.**—Notwithstanding the provisions of
15 the Marine Protection, Research, and Sanctuaries Act of
16 1972, dredged material from the Port of New York/New
17 Jersey that is not acceptable for ocean disposal may be
18 disposed of in the facility to be constructed under this sec-
19 tion.

20 (c) **BENEFICIAL USE.**—After the facility to be con-
21 structed under subsection (a) has been filled to capacity
22 with dredged material, the Secretary shall maintain the
23 facility for the public benefit.

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