

13:19-33

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2003 **CHAPTER:** 65
NJSA: 13:19-33 (Limits amount of PCB's in dredged materials)
BILL NO: S1969 (Substituted for A2897)

SPONSOR(S): Palaia and Adler

DATE INTRODUCED: October 17, 2002

COMMITTEE: **ASSEMBLY:** ----

SENATE: Environment

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** March 3, 2003

SENATE: March 20, 2003

DATE OF APPROVAL: May 4, 2003

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (2nd reprint enacted)
(Amendments during passage denoted by superscript numbers)

S1969

[SPONSORS STATEMENT:](#) (Begins on page 2 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: [Yes](#)

[FLOOR AMENDMENT STATEMENT:](#) [Yes](#)

LEGISLATIVE FISCAL ESTIMATE: No

A2897

[SPONSORS STATEMENT:](#) (Begins on page 2 of original bill) [Yes](#)

Bill and Sponsors Statement identical to S1969

COMMITTEE STATEMENT: **ASSEMBLY:** [Yes](#)

Identical to Senate Statement for S1969

SENATE: No

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

[GOVERNOR'S PRESS RELEASE ON SIGNING:](#) [Yes](#)

FOLLOWING WERE PRINTED:

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REPORTS:

No

HEARINGS:

No

NEWSPAPER ARTICLES:

Yes

"New law limits PCB's to dredged materials," 5-6-2003 Courier-Post, pB1.

P.L. 2003, CHAPTER 65, *approved May 4, 2003*
Senate, No. 1969 (*Second Reprint*)

1 AN ACT concerning ²[coastal management program consistency
2 determinations] the transport of dredged material² and
3 supplementing Title 13 of the Revised Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. ¹a.¹ ²[In making consistency determinations under authority
9 granted to the State pursuant to section 307 of the federal "Coastal
10 Zone Management Act of 1972," as amended, 16 U.S.C. s.1456, the]
11 The² Department of Environmental Protection shall ²[find] not permit
12 or otherwise authorize² the transport ¹in State waters¹ ²[for ocean
13 disposal or for placement at the ¹[Historical] Historic¹ Area
14 Remediation Site, or ocean disposal or placement at the ¹[Historical]
15 Historic¹ Area Remediation Site,]² of dredged material ²[¹,¹ or any
16 other material ¹,¹] for the purpose of placing or dumping of such
17 material into State waters of the Atlantic Ocean at a site designated for
18 remediation if the material is² found to exceed an effects level of 113
19 parts per billion of polychlorinated biphenyls (PCBs) ²[detected]² in
20 the tissue of worms tested ²[in sediment] and analyzed in accordance
21 with the applicable federal procedures² , or a level ²or in accordance
22 with a procedure² subsequently determined by the Commissioner of
23 Environmental Protection to be more protective of human health and
24 the environment ²[, is inconsistent with the coastal management
25 program and the enforceable policies thereof adopted by the State
26 pursuant to 16 U.S.C. s.1451 et seq. and State law]² .

27 ²[For the purposes of this section, ¹["Historical] Historic¹ Area
28 Remediation Site" means the federally designated and approved ocean
29 disposal site described in federal regulations at 40 CFR 228.15 (d) (6)
30 and located approximately three and one-half miles off the coast of
31 Sandy Hook, New Jersey.]

32 b. The Department of Environmental Protection shall implement
33 the provisions of subsection a. of this section through the enforceable
34 policies of the State, including, but not limited to, any rules and
35 regulations adopted pursuant to R.S.12:5-3.²

36 ²[¹b. Within six months after] c. Upon² the effective date of this
37 act, the Commissioner of Environmental Protection shall ²[adopt,
38 pursuant to the "Administrative Procedure Act," P.L.1968, c.410

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SEN committee amendments adopted December 12, 2002.

² Assembly floor amendments adopted February 10, 2003.

1 (C.52:14B-1 et seq.), rules and regulations incorporating the
2 requirements of subsection a. of this section into any rules and
3 regulations used by the department as the enforceable policies for the
4 review of consistency determinations. The commissioner shall, upon
5 adoption,]² submit ²[the rules and regulations required by this
6 subsection] P.L. , c. (C.) (now before the Legislature as this
7 bill]² to the National Oceanic and Atmospheric Administration under
8 the provisions of the federal "Coastal Zone Management Act of 1972"
9 ², as amended, 16 U.S.C. s.1451 et seq.,² for incorporation into the
10 ²[State's]² enforceable policies ²of the approved State management
11 program² .¹

12

13 2. This act shall take effect immediately.

14

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16

17

18 Requires DEP to not authorize transport of polychlorinated biphenyl-
19 contaminated material in coastal zone under certain circumstances.

SENATE, No. 1969

STATE OF NEW JERSEY
210th LEGISLATURE

INTRODUCED OCTOBER 17, 2002

Sponsored by:

Senator JOSEPH A. PALAIA

District 11 (Monmouth)

Senator JOHN H. ADLER

District 6 (Camden)

SYNOPSIS

Requires DEP to find transport and disposal of polychlorinated biphenyl-contaminated material in coastal zone as inconsistent with State's coastal management program.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning coastal management program consistency
2 determinations and supplementing Title 13 of the Revised Statutes.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. In making consistency determinations under authority granted
8 to the State pursuant to section 307 of the federal "Coastal Zone
9 Management Act of 1972," as amended, 16 U.S.C. s.1456, the
10 Department of Environmental Protection shall find the transport for
11 ocean disposal or for placement at the Historical Area Remediation
12 Site, or ocean disposal or placement at the Historical Area
13 Remediation Site, of dredged material or any other material found to
14 exceed an effects level of 113 parts per billion of polychlorinated
15 biphenyls (PCBs) detected in the tissue of worms tested in sediment,
16 or a level subsequently determined by the Commissioner of
17 Environmental Protection to be more protective of human health and
18 the environment, is inconsistent with the coastal management program
19 and the enforceable policies thereof adopted by the State pursuant to
20 16 U.S.C. s.1451 et seq. and State law.

21 For the purposes of this section, "Historical Area Remediation Site"
22 means the federally designated and approved ocean disposal site
23 described in federal regulations at 40 CFR 228.15 (d) (6) and located
24 approximately three and one-half miles off the coast of Sandy Hook,
25 New Jersey.

26
27 2. This act shall take effect immediately.

28
29
30 STATEMENT

31
32 This bill would provide that when making consistency
33 determinations under authority granted to the State pursuant to the
34 federal "Coastal Zone Management Act of 1972" (CZMA), the
35 Department of Environmental Protection would be required to find the
36 transport for ocean disposal or for placement at the Historical Area
37 Remediation Site (or HARS, which is located approximately three and
38 one-half miles off the coast of Sandy Hook), or ocean disposal or
39 placement at the HARS, of dredged material or any other material
40 found to exceed an effects level of 113 parts per billion of
41 polychlorinated biphenyls (PCBs) detected in the tissue of worms
42 tested in sediment, or a level subsequently determined by the
43 Commissioner of Environmental Protection to be more protective of
44 human health and the environment, is inconsistent with the coastal
45 management program and the enforceable policies thereof adopted by
46 the State pursuant to federal and State law.

1 Through the CZMA, states are given the right to determine if
2 actions that are conducted by the federal government, or that require
3 a federal license or permit, are consistent with the state's own federally
4 approved coastal management program. Actions that may affect any
5 land or water use or natural resource of the coastal zone may be
6 reviewed by the state to determine if the proposed action is consistent
7 with the state's coastal management program. The proposed actions
8 may occur within or outside of the coastal zone as long as effects to
9 the coastal zone may happen because of the actions.

10 When dredge spoils contain elevated levels of PCBs, their disposal
11 in the ocean or placement at the HARS represent a health risk to
12 humans and wildlife and threaten the environment and the safe
13 recreational and commercial uses of the shore and of the ocean waters
14 off New Jersey's coast. The United States Environmental Protection
15 Agency's ocean dumping guideline for PCB contaminated dredge
16 spoils, established in September 2000, at 113 parts per billion, has
17 served as a standard that protects the ocean environment, and is a
18 benchmark for the safe placement of these materials. This bill would
19 help implement and enforce that standard.

SENATE ENVIRONMENT COMMITTEE

STATEMENT TO

SENATE, No. 1969

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 12, 2002

The Senate Environment Committee reports favorably and with committee amendments Senate Bill No. 1969.

As amended, Senate Bill No. 1969 would provide that when making consistency determinations under the authority granted to the State pursuant to the federal "Coastal Zone Management Act of 1972" (CZMA), the Department of Environmental Protection would be required to find the transport in State waters for ocean disposal or for placement at the Historic Area Remediation Site (or HARS, which is located approximately three and one-half miles off the coast of Sandy Hook), or ocean disposal or placement at the HARS, of dredged material, or any other material, found to exceed an effects level of 113 parts per billion of polychlorinated biphenyls (PCBs) detected in the tissue of worms tested in sediment, or a level subsequently determined by the Commissioner of Environmental Protection to be more protective of human health and the environment, is inconsistent with the coastal management program and the enforceable policies thereof adopted by the State pursuant to federal and State law.

The bill would require the Commissioner of Environmental Protection, within six months, to adopt rules and regulations incorporating the provisions of the bill into any rules and regulations used by the department as the enforceable policies for the review of consistency determinations.

The bill would further require the Commissioner to, upon adoption, submit these rules and regulations to the National Oceanic and Atmospheric Administration under the provisions of the federal "Coastal Zone Management Act of 1972" for incorporation into the State's enforceable policies.

Senate Committee amendments to the bill:

(1) require the Commissioner of Environmental Protection, within six months of the bill's effective date, to adopt rules and regulations incorporating the provisions of the bill into any rules and regulations used by the department as the enforceable policies for the review of consistency determinations;

(2) require the Commissioner, upon adoption, to submit these

rules and regulations to the National Oceanic and Atmospheric Administration under the provisions of the federal "Coastal Zone Management Act of 1972" for incorporation into the State's enforceable policies;

(3) clarify that the provisions of the bill apply to the transport in State waters for ocean disposal or for placement at the HARS of dredged material, or any other material, found to exceed the specified level;

(4) clarify that the provisions of the bill apply to both dredged material found to exceed the specified level, and to any other material found to exceed the specified level; and

(5) make a technical amendment to clarify the name of the Historic Area Remediation Site.

As amended, Senate Bill No. 1969 is identical to Assembly Bill No. 2897 1R.

STATEMENT TO
[First Reprint]
SENATE, No. 1969

with Assembly Floor Amendments
(Proposed By Assemblyman CORODEMUS)

ADOPTED: FEBRUARY 10, 2003

These Assembly Floor Amendments to Senate Bill No. 1969 (1R) would provide that the Department of Environmental Protection (DEP) shall not permit, or otherwise authorize, the transport in State waters of dredged material for the purpose of placing or dumping of such material into State waters of the Atlantic Ocean at a site designated for remediation if the material is found to exceed an effects level of 113 parts per billion of polychlorinated biphenyls (PCBs) in the tissue of worms tested and analyzed in accordance with the applicable federal procedures, or a level or procedure subsequently determined by the Commissioner of Environmental Protection to be more protective of human health and the environment. The floor amendments delete the specific reference to the Historic Area Remediation Site, although the intent and purpose of subsection a. of section 1 of the bill is to address remediation activities equivalent to those at the Historic Area Remediation Site.

The floor amendments delete the rulemaking requirements contained in the bill, and instead require the DEP Commissioner to submit this bill, upon enactment, to the National Oceanic and Atmospheric Administration under the provisions of the federal "Coastal Zone Management Act of 1972" for incorporation into the enforceable policies of the approved State management program.

The floor amendments also include an affirmative statement that the DEP shall implement the provisions of subsection a. of section 1 of the bill through the enforceable policies of the State, including, but not limited to, any rules and regulations adopted pursuant to R.S.12:5-3, commonly referred to as the "Waterfront Development Law."

ASSEMBLY, No. 2897

STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED OCTOBER 10, 2002

Sponsored by:

Assemblyman STEVE CORODEMUS

District 11 (Monmouth)

Assemblyman REED GUSCIORA

District 15 (Mercer)

Assemblyman JEFF VAN DREW

District 1 (Cape May, Atlantic and Cumberland)

Co-Sponsored by:

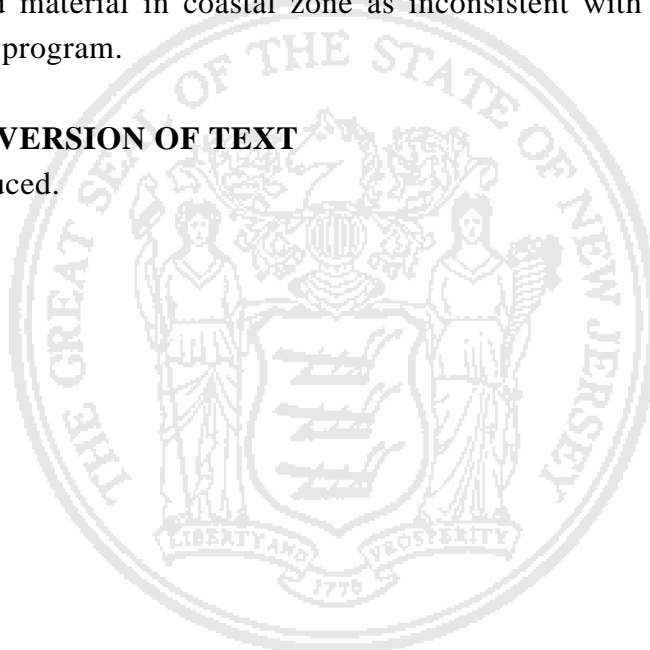
Assemblyman S.Kean

SYNOPSIS

Requires DEP to find transport and disposal of polychlorinated biphenyl-contaminated material in coastal zone as inconsistent with State's coastal management program.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/10/2002)

1 AN ACT concerning coastal management program consistency
2 determinations and supplementing Title 13 of the Revised Statutes.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. In making consistency determinations under authority granted
8 to the State pursuant to section 307 of the federal "Coastal Zone
9 Management Act of 1972," as amended, 16 U.S.C. s.1456, the
10 Department of Environmental Protection shall find the transport for
11 ocean disposal or for placement at the Historical Area Remediation
12 Site, or ocean disposal or placement at the Historical Area
13 Remediation Site, of dredged material or any other material found to
14 exceed an effects level of 113 parts per billion of polychlorinated
15 biphenyls (PCBs) detected in the tissue of worms tested in sediment,
16 or a level subsequently determined by the Commissioner of
17 Environmental Protection to be more protective of human health and
18 the environment, is inconsistent with the coastal management program
19 and the enforceable policies thereof adopted by the State pursuant to
20 16 U.S.C. s.1451 et seq. and State law.

21 For the purposes of this section, "Historical Area Remediation Site"
22 means the federally designated and approved ocean disposal site
23 described in federal regulations at 40 CFR 228.15 (d) (6) and located
24 approximately three and one-half miles off the coast of Sandy Hook,
25 New Jersey.

26
27 2. This act shall take effect immediately.
28
29

30 STATEMENT

31
32 This bill would provide that when making consistency
33 determinations under authority granted to the State pursuant to the
34 federal "Coastal Zone Management Act of 1972" (CZMA), the
35 Department of Environmental Protection would be required to find the
36 transport for ocean disposal or for placement at the Historical Area
37 Remediation Site (or HARS, which is located approximately three and
38 one-half miles off the coast of Sandy Hook), or ocean disposal or
39 placement at the HARS, of dredged material or any other material
40 found to exceed an effects level of 113 parts per billion of
41 polychlorinated biphenyls (PCBs) detected in the tissue of worms
42 tested in sediment, or a level subsequently determined by the
43 Commissioner of Environmental Protection to be more protective of
44 human health and the environment, is inconsistent with the coastal
45 management program and the enforceable policies thereof adopted by
46 the State pursuant to federal and State law.

1 Through the CZMA, states are given the right to determine if
2 actions that are conducted by the federal government, or that require
3 a federal license or permit, are consistent with the state's own federally
4 approved coastal management program. Actions that may affect any
5 land or water use or natural resource of the coastal zone may be
6 reviewed by the state to determine if the proposed action is consistent
7 with the state's coastal management program. The proposed actions
8 may occur within or outside of the coastal zone as long as effects to
9 the coastal zone may happen because of the actions.

10 When dredge spoils contain elevated levels of PCBs, their disposal
11 in the ocean or placement at the HARS represent a health risk to
12 humans and wildlife and threaten the environment and the safe
13 recreational and commercial uses of the shore and of the ocean waters
14 off New Jersey's coast. The United States Environmental Protection
15 Agency's ocean dumping guideline for PCB contaminated dredge
16 spoils, established in September 2000, at 113 parts per billion, has
17 served as a standard that protects the ocean environment, and is a
18 benchmark for the safe placement of these materials. This bill would
19 help implement and enforce that standard.

ASSEMBLY ENVIRONMENT AND SOLID WASTE
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2897

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 9, 2002

The Assembly Environment and Solid Waste Committee reports favorably and with committee amendments Assembly Bill No. 2897.

As amended by the committee, this bill would provide that when making consistency determinations under the authority granted to the State pursuant to the federal "Coastal Zone Management Act of 1972" (CZMA), the Department of Environmental Protection would be required to find the transport in State waters for ocean disposal or for placement at the Historic Area Remediation Site (or HARS, which is located approximately three and one-half miles off the coast of Sandy Hook), or ocean disposal or placement at the HARS, of dredged material, or any other material, found to exceed an effects level of 113 parts per billion of polychlorinated biphenyls (PCBs) detected in the tissue of worms tested in sediment, or a level subsequently determined by the Commissioner of Environmental Protection to be more protective of human health and the environment, is inconsistent with the coastal management program and the enforceable policies thereof adopted by the State pursuant to federal and State law.

The bill would require the Commissioner of Environmental Protection, within six months, to adopt rules and regulations incorporating the provisions of the bill into any rules and regulations used by the department as the enforceable policies for the review of consistency determinations. The bill would further require the commissioner to, upon adoption, submit these rules and regulations to the National Oceanic and Atmospheric Administration under the provisions of the federal "Coastal Zone Management Act of 1972" for incorporation into the State's enforceable policies.

COMMITTEE AMENDMENTS

Committee amendments to the bill:

(1) require the Commissioner of Environmental Protection, within six months of the effective date of the bill, to adopt rules and regulations incorporating the provisions of the bill into any rules and

regulations used by the department as the enforceable policies for the review of consistency determinations;

(2) require the commissioner to, upon adoption, submit these rules and regulations to the National Oceanic and Atmospheric Administration under the provisions of the federal "Coastal Zone Management Act of 1972" for incorporation into the State's enforceable policies;

(3) clarify that the provisions of the bill apply to the transport in State waters for ocean disposal or for placement at the HARS of dredged material, or any other material, found to exceed the specified level;

(4) clarify that the provisions of the bill apply to both dredged material found to exceed the specified level, and to any other material found to exceed the specified level; and

(5) make a technical amendment to clarify the name of the Historic Area Remediation Site.

PO BOX 004
TRENTON, NJ 08625Contact: Micah Rasmussen
609-777-2600

RELEASE: May 04, 2003

[Previous Screen](#)**Mcgreevey Enacts Protections for New Jersey's Ocean Waters*****Governor signs legislation setting strict standards for PCBs in dredged materials.***

(SANDY HOOK) – Taking a significant step toward safeguarding the State's precious ocean resources, Governor James E. McGreevey today signed a bill, Senate Bill 1969, strictly limiting the amount of polychlorinated biphenyls (PCBs) in dredged materials transported through New Jersey's waters for disposal off New Jersey's coast.

"With this new law, we will have the power we need to protect our coastal resources and more importantly, our families, from harmful materials like PCBs," said McGreevey. "The message is clear: Any and all dredged materials dumped in New Jersey's ocean waters must meet our strict health standards. If they do not meet our tough standards, you can take the materials elsewhere."

The Governor was joined by Department of Environmental Protection (DEP) Commissioner Bradley M. Campbell, Congressmen Rush Holt and Frank Pallone, ocean advocates, and bill sponsors Senator Joseph Palaia, and Assemblymen Reed Gusciora and Steve Corodemus.

More than 100 students and parents from Nut Swamp Elementary School located in Middletown, Monmouth County, joined Governor McGreevey to support the bill signing. As part of an "Action Through Government" project, the students sent postcards to the Governor asking him to support the ban of unsafe ocean dumping off of the New Jersey coast.

"New Jersey's residents can be assured that the persistent threat of unsafe levels of PCBs in dredge materials used to cap toxic areas off of Sandy Hook has been laid to rest," said DEP Commissioner Campbell. "Under Governor McGreevey's leadership, this Administration has issued important health advisories to warn the public of harmful concentrations of PCBs in fish, and it has now acted to reduce a source of that contamination."

"Today is a good day for the ocean. The state has taken a bold and important step toward ensuring that the ocean continues to improve," said Clean Ocean Action's Executive Director Cindy Zipf. "The swift action and unanimous, bipartisan support for this legislation is proof of the unwavering commitment of all citizens to a healthy ocean."

At an oceanfront event at Sandy Hook Gateway Recreation Area, Governor McGreevey signed a bill that bans the transport of all sediments with PCB concentration that exceed 113 parts per billion – as tested in the tissues of worms exposed to the dredged materials - that are slated for placement at the Historic Area Remediation Site (HARS) or any other ocean site within New Jersey's waters. HARS is located about three and one-half miles off the coast of Sandy Hook.

At the urging of the Governor, the U.S. Environmental Protection Agency (EPA) finalized a similar rule this year that set the 113 parts per billion standard for PCB concentration in dredged material destined for HARS. The passage and the signature of New Jersey's legislation will help enforce the stricter standard and solidify the state's ability to protect its citizens, ocean waters and marine life.

"Today's bill signing, on the heels of EPA's finalization of a PCB guideline, provides a double victory for the Jersey Shore weeks before the summer beach season begins," Pallone said. "Both of these actions solidify the importance of the 113 PCB standard, making it virtually impossible for contaminated materials to be sent out to the old Mud Dump Site."

"A clean ocean is important for New Jersey and the nation, and we should take every step to keep it clean. I applaud the administration and the state legislature for passing this bill," said Holt.

Elevated levels of PCBs from dredge spoils represents a health risk to humans and wildlife, and threatens the environment and the safe recreational use of New Jersey's shores. Long-term exposure to PCBs has been shown to cause a number of serious health effects, including impacts on the nervous system of developing

fetuses, the immune system and the reproductive system. PCBs are also considered a probable human carcinogen.

The HARS is a 15.7 square nautical-mile area located approximately 3.5 nautical miles east of the New Jersey Highlands. HARS was designated to allow EPA and the Army Corps of Engineers to remediate portions of the ocean floor that had been contaminated by disposal practices dating back to the 1800s. To properly cap and remediate the HARS and ensure that contaminants are not released, only dredged material that meets federal requirements is allowed to be placed there.

"This bill could not have been signed a minute too soon. No family should have to worry about their kids' health when they go swimming at one of New Jersey's beaches," said Senator John H. Adler (D-Camden). "As we enter into the summer season, those up and down the Jersey Shore should have the peace of mind that their waters are protected. These provisions will set up strict standards for those transporting cancer-causing materials through our state waters."

"The state must protect its citizens from increased exposure to harmful carcinogens in our coastal waters," said Gusciora (D-Mercer). "Just because the federal government has relaxed its standards of PCB contamination doesn't mean New Jersey should follow suit."

"Increasing the harmful levels of PCBs in New Jersey's coastal waters is a disservice to our residents and the tourists who enjoy our beaches," said Van Drew (D-Cape May). "It's time to draw a line in the sand and stop dumping highly contaminated sludge into our ocean."

"New Jersey has a long and proud history of protecting and investing in our waterways and coastal areas. We cannot afford to jeopardize our hard work and our shore tourism industry," Palaia said.

"It is imperative that as legislators we do everything in our power to ensure that these harmful toxins are kept away from people and that our shores remain clean. The current methods of disposal were unacceptable, adopting and enforcing the federal standards will help improve and protect our natural resources," said Corodemus.

Photos and audio and video clips from Governor McGreevey's press conferences are available on the Governor's web page at

<http://www.state.nj.us/governor/>.

Links are located in the Governor's Newsroom section of the page.

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