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## CLEAN VESSEL ACT OF 1991

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OCTOBER 15, 1991.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. JONES, of North Carolina, from the Committee on Merchant Marine and Fisheries, submitted the following

### REPORT

[To accompany H.R. 1297]

[Including cost estimate of the Congressional Budget Office]

The Committee on Merchant Marine and Fisheries to whom was referred the bill (H.R. 1297) to amend the Dingell-Johnson Sport Fish Restoration Act to authorize the use by coastal States of apportionments under that Act for construction, renovation, and maintenance of pumpout stations for marine sanitation devices, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Clean Vessel Act of 1991"

**SEC. 2. FINDINGS; PURPOSE.**

(a) **FINDINGS.**—The Congress finds the following:

(1) The discharge of untreated sewage by vessels is prohibited under Federal law in all areas within the navigable waters of the United States.

(2) The discharge of treated sewage by vessels is prohibited under either Federal or State law in many of the United States bodies of water where recreational boaters operate.

(3) There is currently an inadequate number of pumpout stations for marine sanitation devices where recreational vessels normally operate.

(4) Sewage discharged by recreational vessels because of an inadequate number of pumpout stations is a substantial contributor to the degradation of water quality in the United States.

(b) **PURPOSE.**—The purpose of this Act is to provide funds to coastal States for the construction, renovation, operation, and maintenance of pumpout stations for marine sanitation devices and facilities to receive wastes from portable toilets.

**SEC. 3. DETERMINATION AND PLAN REGARDING STATE MARINE SANITATION DEVICE PUMPOUT STATION NEEDS.**

**(a) SURVEY.—**

(1) **IN GENERAL.**—Each coastal State shall conduct a survey to determine, using guidance issued under section 4(b)(4), whether pumpout stations for marine sanitation devices and facilities to receive waste from portable toilets are adequate and reasonably available to meet recreational vessel needs within the State.

(2) **FUNDING.**—Amounts made available to a coastal State pursuant to the amendments made by section 4 may be used to conduct a survey under this subsection.

**(b) PLAN.**—Based on the survey conducted under subsection (a), each coastal State shall—

(1) develop and submit to the Administrator of the Environmental Protection Agency a plan for the construction or renovation of marine sanitation device pumpout stations and facilities to receive wastes from portable toilets, that are adequate and reasonably available to meet recreational vessel needs in the State; and

(2) submit to the Administrator with that plan a list of all such stations and facilities in the State which are operational on the date of submittal.

**(c) PLAN APPROVAL.—**

(1) **IN GENERAL.**—Not later than 60 days after a plan is submitted by a State under subsection (b), the Administrator of the Environmental Protection Agency shall approve or disapprove the plan, based on—

(A) the adequacy of the survey conducted by the State under subsection (a); and

(B) the ability of the plan to meet the construction and renovation needs identified in the survey.

(2) **NOTIFICATION OF STATE; MODIFICATION.**—The Administrator shall promptly notify the affected Governor of the approval or disapproval of a plan. If a plan is disapproved, the Administrator shall recommend necessary modifications and return the plan to the affected Governor.

(3) **RESUBMITTAL.**—Not later than 60 days after receiving a plan returned by the Administrator, the Governor shall make the appropriate changes and resubmit the plan.

**(d) INDICATION OF STATIONS AND FACILITIES ON NOAA CHARTS.—**

(1) **IN GENERAL.**—The Under Secretary of Commerce for Oceans and Atmospheric Administration for the use of operators of recreational vessels, the locations of pumpout stations for marine sanitation devices and facilities to receive waste from portable toilets.

**(2) NOTIFICATION OF NOAA.—**

(A) **LISTS OF STATIONS AND FACILITIES.**—The Administrator of the Environmental Protection Agency shall transmit to the Under Secretary of Commerce for Oceans and Atmosphere each list of operational stations and facilities submitted by a State under section 3(b)(2), by not later than 30 days after the date of receipt of that list.

(B) **COMPLETION OF PROJECT.**—The Director of the United States Fish and Wildlife Service shall notify the Under Secretary of the location of each station or facility at which a construction or renovation project is completed by a State with amounts made available under section 8(d)(1)(B) of the Act of August 9, 1950 (popularly known as the “Dingell-Johnson Sport Fish Restoration Act”; 16 U.S.C. 777g), as amended by this Act, by not later than 30 days after the date of the completion of the project.

**SEC. 4. MARINE SANITATION DEVICE PUMPOUT STATION FUNDING.**

**(a) FUNDING.**—Section 8 of the Act of August 9, 1950 (16 U.S.C. 777g), popularly known as the “Dingell-Johnson Sport Fish Restoration Act”, is amended by adding at the end the following new subsection:

**“(d) PUMPOUT STATIONS.—**

**(1) USE OF FUNDS AUTHORIZED.**—For each of the fiscal years 1992 through 1996, each coastal State shall use 5 percent of the amounts apportioned to it under section 4 to pay not more than 75 percent of the costs of—

“(A) conducting the survey and preparing the plan required by section 3 of the Clean Vessel Act of 1991; and

“(B) constructing, renovating, operating, or maintaining pumpout stations for marine sanitation devices and facilities to receive wastes from portable toilets, in accordance with a plan approved under section 3 of the Clean Vessel Act of 1991.

"(2) **WAIVER.**—The Secretary of the Interior shall, if requested by the Governor of a coastal State, waive or reduce the percentage of the State's apportionment under section 4 that is required to be used in a fiscal year in accordance with paragraph (1) by any amount which is not needed to implement the plan of the State approved under section 3 of the Clean Vessel Act of 1991.

"(3) **EDUCATIONAL PROGRAM.**—Notwithstanding paragraph (1), a coastal State may use not more than 20 percent of the amounts required to be used in accordance with that paragraph to conduct a program to educate recreational boaters about the problems of sewage discharges from boats and inform them of the location of pumpout stations for marine sanitation devices.

"(4) **REALLOCATION.**—

"(A) **IN GENERAL.**—The Secretary of the Interior shall reallocate any amount that is required to be used in accordance with paragraph (1), or is authorized to be used in accordance with paragraph (3), and which is not expended or obligated by a coastal State within 2 years after it is available for expenditure, among the other coastal States for use in accordance with paragraphs (1) and (3).

"(B) **MANNER OF REALLOCATION.**—The Secretary of the Interior shall carry out reallocations under this paragraph in the manner described in section 4 for apportioning remaining appropriations.

"(5) **DEFINITIONS.**—For the purposes of this subsection—

"(A) the term 'coastal State'—

"(i) means a State of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean; the Gulf of Mexico; Long Island Sound; or one or more of the Great Lakes;

"(ii) includes Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa; and

"(iii) does not include a State for which—

"(I) the ratio of the number of recreational vessels in the State numbered under chapter 123 of title 46, United States Code, to number of miles of shoreline (as that term is defined in section 926.2(d) of title 15, Code of Federal Regulations, as in effect on January 1, 1991), is less than one; and

"(II) the Governor certifies to the Secretary of the Interior that the water quality of the State is not significantly affected by sewage discharged from recreational vessels;

"(B) the term 'marine sanitation device' includes any equipment for installation on board a vessel which is designed to receive, retain, treat, or discharge sewage, and any process to treat such sewage; and

"(C) the term 'recreational vessel' means a vessel—

"(i) manufactured for operation, or operated, primarily for pleasure;

or

"(ii) leased, rented, or chartered to another for the latter's pleasure."

(b) **NOTIFICATION.**—Not later than 6 months after the date of the enactment of this Act, the Director of the United States Fish and Wildlife Service, in consultation with the Administrator of the Environmental Protection Agency, shall notify in writing the fish and game, water pollution control, and coastal zone management authorities of each coastal State of the availability of the amounts under subsection (d) of section 8 of the Act of August 9, 1950 (16 U.S.C. 777g), as amended by this Act, to finance the construction, renovation, operation, and maintenance of pumpout stations for marine sanitation devices and facilities to receive wastes from portable toilets. The notification shall include—

(1) a description of the availability of amounts in the Sport Fish Restoration Account for those purposes;

(2) a projection of the apportionments to the State under that program for each of the succeeding 5 fiscal years;

(3) guidance regarding the types of pumpout facilities that may be appropriate for construction, renovation, operation, or maintenance with those funds and appropriate location of the facilities within a marina or boatyard;

(4) guidance defining what constitutes adequate and reasonably available pumpout facilities in boating areas;

(5) guidance on appropriate methods for disposal of vessel sewage from pumpout facilities;

(6) guidance on appropriate connector fittings to facilitate the sanitary and expeditious discharge of sewage from vessels;

(7) guidance on the coastal waters most likely to be affected by the discharge of sewage from vessels; and

(8) other information that the Administrator of the Environmental Protection Agency considers necessary to promote the establishment of pumpout facilities to reduce sewage discharges from vessels and to protect coastal waters.

#### SEC. 5. DEFINITIONS.

For the purposes of this act—

(1) the term "coastal State" has the meaning that term has in section 8(d)(5)(A) of the Act of August 9, 1950, as amended by this Act; and

(2) the term "recreational vessel" means a vessel—

- (A) manufactured for operation, or operated, primarily for pleasure; or
- (B) leased, rented, or chartered to another for the latter's pleasure.

#### PURPOSE OF THE BILL

The purpose of H.R. 1297 is to increase the number of boat sewage pumpout stations available to recreational boaters in coastal waters by directing coastal states to spend up to five percent of their Sport Fish Restoration Account apportionments on the construction, renovation, operation, and maintenance of pumpout stations for boat toilets for Fiscal Years 1992 through 1995.

#### BACKGROUND AND NEED FOR LEGISLATION

Sewage discharges from boat toilets affect coastal water quality in three ways. First, the sewage may contain human pathogens which can cause hepatitis, gastroenteritis, and cholera. This poses a threat to swimmers who come in contact with contaminated water, or shellfish consumers who eat shellfish harvested from contaminated waters. Second, the decomposition of the organic matter in sewage removes dissolved oxygen from coastal waters. Finally, vessel sewage contains nutrients which can trigger algae blooms. When these dense populations of algae die, their decomposition robs the water of oxygen which is essential to aquatic life.

Boat toilets and disposal of their wastes are regulated under section 312 of the Clean Water Act (33 U.S.C. 1321). While this bill does not amend or alter that regulatory program, some background understanding is useful. Section 312 requires the Environmental Protection Agency (EPA) to promulgate standards which are designed to prevent the discharge of treated and untreated sewage from boats into the waters of the United States. The Coast Guard is charged with promulgating regulations governing the design, construction, installation and operation of boat toilets, or marine sanitation devices (MSDs), which are consistent with the EPA standards. This section also requires that all vessels with installed toilet systems have Coast Guard approved MSDs. Section 312 also allows states to prohibit the discharge of any sewage into specific water bodies if the EPA determines that adequate and reasonably available MSD pumpout facilities exist for that water body. The Coast Guard is primarily responsible for enforcing section 312, although states are authorized to supplement Coast Guard enforcement. However, most states have not used this authority because all penalties assessed are deposited in the U.S. Treasury.

There are three types of MSDs approved for used by the Coast Guard: Type I, Type II, and Type III. Type I MSDs macerate the wastes and treat them with disinfectants so that the wastes meet EPA discharge standards. Type II MSDs use similar treatment techniques, but the wastes must meet more stringent EPA dis-

charge standards. Finally, type III MSDs are designed to prevent the discharge of sewage. The most common technique used is to retain the waste in a holding tank and dispose of it at a shoreside pumpout station or pump it over the side at sea beyond the territorial sea (i.e., more than 3 miles from shore). Section 312 does not require the construction of pumpout stations; however, they may be required under state or local laws.

Problems with an inadequate number of MSD pumpout stations have been identified in many parts of the country. Through the EPA's National Estuary Program, problems have been identified in the Albemarle/Pamlico Sounds, Buzzards Bay, Puget Sound, Tampa Bay, and the inland portions of Delaware Bay. The Coalition for Buzzards Bay has issued a report which indicates that there are only 100 MSD pumpout stations at marinas from Maine to New York. A North Carolina Office of Coastal Zone Management survey found that only 20 of the 250 marinas in the state had pumpout stations. The Chesapeake Bay Commission found that 52 of 458 marinas in Maryland and 200 of 733 marinas in Virginia have pumpout stations. Faced with an inadequate number of pumpout stations, many recreational boaters illegally pump raw sewage directly into the water.

Several states have developed programs to encourage the installation of MSD pumpout stations. In North Carolina, all new marinas and marinas which plan to expand have to provide pumpout facilities as a condition to receive a permit under the Coastal Area Management Act. Maryland has a program to reimburse private marina owners and operators for the cost of installing pumpout facilities. The State of Washington also has a grant program to pay for the installation of pumpout stations at private and public marinas.

While some states have programs designed to increase the number of pumpout stations, most do not. Moreover, there is no national effort designed to increase the number of pumpout stations, nor to increase the usage of existing facilities.

The Federal Aid in Sport Fish Restoration Act, commonly called the Dingell-Johnson Act, was enacted in 1950 to fund research, management, and development activities designed to improve sport fish populations. Originally, funds for this program were generated from excise taxes on fishing rods, reels, creels, and other fishing tackle. In 1984, the Wallop-Breaux amendments to the Deficit Reduction Act established the Aquatic Resources Trust Fund, which was comprised of the Sport Fish Restoration Account and the Boat Safety Account.

The Boat Safety Account receives the first \$70 million of the gasoline tax attributable to fuel used in recreational vessels. These monies are used to offset the costs of the Coast Guard's recreational boat safety programs, and to fund state recreational boating safety programs. The Wallop-Breaux amendments also expanded the number of fishing tackle items subject the excise tax and transferred all fishing tackle taxes to the Sport Fish Restoration Account along with the import duties on fishing tackle and yachts, taxes on fish finders and trolling motors, and the gasoline taxes attributable to fuels used by motorboats which are not transferred to the Boat Safety Account. Sport Fish Restoration Account monies

are apportioned to states for sport fish restoration projects, boating access projects, and aquatic education.

Under current FWS regulations, states may spend their Sport Fish Restoration Account apportionments on the construction, renovation, maintenance, and operation of MSD pumpout facilities. While most states are aware of this, (a recent survey by the States Organization for Boating Access indicated that 88 percent of the states are aware that they can spend their Sport Fish Restoration Account funds for this purpose), only six pumpout facilities have been built nationwide with these funds.

Recent increases in the amount of money going into the Sport Fish Restoration Account make this an opportune time to increase expenditures on MSD pumpout facilities. The 2.5 cent increase in the gasoline tax contained in the Omnibus Budget Reconciliation Act of 1990 will increase the gasoline taxes transferred to the Sport Fish Restoration Account by approximately \$37 million per year. Therefore, if a portion of this increase is earmarked for MSD pumpout construction and renovation, state sport fish restoration programs will still receive an increase in funding.

#### COMMITTEE ACTION

H.R. 1297 was introduced on March 6, 1991, by Mr. Jones, Mr. Davis, Mr. Studds, Mr. Abercrombie, Mr. Foglietta, Mr. Goss, Mr. Hochbrueckner, Mr. Hughes, Mr. Jefferson, Mr. Lipinski, Mr. Manton, Mr. Pickett, Mr. Ravenel, Mr. Saxton, and Mr. Tallon. The bill was referred to the Committee on Merchant Marine and Fisheries. Within the Committee it was referred to the Subcommittee on Fisheries and Wildlife Conservation and the Environment. By May 13, 1991, eight additional Members had joined as cosponsors of H.R. 1297: Mr. Laughlin, Mr. Lent, Mr. Pallone, Mr. McMullen of Maryland, Mrs. Morella, Mrs. Lowey, Mr. Santorum, and Mr. Gilchrest.

On May 9, 1991, the Subcommittee on Fisheries and Wildlife Conservation and the Environment held a hearing on H.R. 1297. Testimony was heard from Mr. Conley Moffett, Deputy Assistant Director for Fish and Wildlife Enhancement, U.S. Fish and Wildlife Service (FWS); Mr. Craig Vogt, Deputy Director, Division of Ocean and Coastal Protection, Office of Water, U.S. Environmental Protection Agency (EPA); Mr. R. Max Peterson, Executive Vice President, International Association of Fish and Wildlife Agencies; Mr. William N. Keene, President, Edson Corporation; Ms. Veronica Floyd, First Vice President, American League of Anglers and Boaters; and Mr. Russell C. Scott, member, Recreational Boat Pollution Work Group, Chesapeake Bay Program.

Witnesses at the hearing provided views on H.R. 1297 which included strong support, qualified support, and opposition. Mr. Vogt testified that sewage discharges from recreational vessels is a problem throughout the country in areas where boats congregate. He noted that, while no national survey has been conducted, water quality problems due to vessel discharges have been identified in Buzzards Bay, Tampa Bay, and the inner portions of Delaware Bay. Mr. Vogt went on to say that building additional pumpout stations was only part of the solution to this problem. He noted that better

enforcement of existing regulations and education were also necessary. Messrs. Keene and Scott also testified in support of the bill. Ms. Floyd and Mr. Peterson supported an alternative proposal which, among other features, would increase the amount of money earmarked for boating access under the Sport Fish Restoration program and highlight its availability for pumpout construction. Mr. Moffett testified that the FWS did not support the bill because it believes that states should be free to determine their own spending priorities under the Federal Sport Fish Restoration program.

On July 18, 1991, the Subcommittee met to mark up H.R. 1297. Mr. Studds offered an amendment in the nature of a substitute which: (1) required coastal states to conduct a survey to determine pumpout station construction needs; (2) required coastal states to develop a plan to address the needs identified in the survey; (3) simplified the process by which states can be exempted from the requirements of H.R. 1297; (4) allowed states to spend a portion of the pumpout construction money on education; and (5) modified the definition of "coastal state." The amendment was agreed to by voice vote, and the bill, as amended, was ordered reported to the Full Committee by voice vote.

On October 3, 1991, the Full Committee met to consider H.R. 1297. Mr. Jones offered an amendment which directs the National Oceanic and Atmospheric Administration (NOAA) to indicate the locations of pumpout stations on navigational charts. The amendment was agreed to by voice vote, and the bill, as amended, was ordered reported to the House by voice vote.

## SECTION-BY-SECTION ANALYSIS

### SECTION 1. SHORT TITLE

This section provides that the Act shall be referred to as the "Clean Vessel Act of 1991."

### SEC. 2. FINDINGS; PURPOSE

Subsection (a) states the findings of Congress that the discharge of untreated sewage is illegal under Federal law, the discharge of treated sewage is prohibited in many areas under state and Federal law, there are an inadequate number of pumpout stations for MSDs where recreational vessels operate, and sewage discharges from MSDs is a water quality problem in U.S. waters.

Subsection (b) provides that the purpose of the Act is to provide funds for the construction, renovation, operation, and maintenance of pumpout stations for MSDs and portable toilets in coastal states.

### SEC. 3. DETERMINATION AND PLAN REGARDING STATE MARINE SANITATION DEVICE PUMPOUT STATION NEEDS

Subsection (a) directs each coastal state, as defined in new section 8(d) of the Dingell-Johnson Act, to conduct a survey to determine whether pumpout stations for MSDs and portable toilets are adequate and reasonably available to meet the recreational vessel needs within the state. The survey should focus on obtaining two pieces of information: (1) the number and location of all operational MSD or portable toilet pumpout stations; and (2) the number and

areas where recreational vessels with type III MSDs or portable toilets congregate (i.e., marinas, mooring areas, and docks). This survey should include pumpout facilities at both public and private boating access facilities (i.e., marinas, docks, and boat launches). A list of the location of all operational pumpout stations is required to be transmitted to the Administrator of the EPA under subsection (b). Each coastal state is to use the guidance developed pursuant to section 4(b)(4) of this Act to determine what constitutes an adequate and reasonably available number of pumpout stations for the recreational vessels which operate on its waters. Amounts available under section 8(d) of the Dingell-Johnson Act (as added by this Act) may be used to conduct this survey.

Subsection (b) directs each coastal state to develop and submit to the Administrator of the EPA a plan for the construction or renovation of MSD and portable toilet pumpout stations that are adequate and reasonably available, based on the guidance developed pursuant to section 4(b)(4) of this Act, to meet the recreational vessel needs in the state. At the same time that it submits the plan to the Administrator, each state should submit a list of the MSD and portable toilet pumpout stations which were operational when the survey mandated by subsection (a) was conducted. The plan and the list should be based on information developed and needs identified in the survey mandated by subsection (a). The plan may include proposals to construct pumpout facilities at private as well as public boating access facilities.

Subsection (c) requires the EPA Administrator to approve or disapprove each state's plan within 60 days of receipt. The Administrator is to base this decision on the adequacy of the survey conducted by the state under subsection (a), and the ability of the plan to meet the construction and renovation needs identified in the survey. The Administrator is to promptly notify the affected Governor of the approval or disapproval of the plan. If the plan is disapproved, the Administrator shall state the reasons and recommend the necessary modifications. The affected Governor has sixty days after the plan is returned to make the necessary changes and re-submit the plan.

Subsection (d) directs the Under Secretary of Commerce for Oceans and Atmosphere to indicate the locations of pumpout facilities for MSDs and portable toilets on charts published by NOAA. This directive only applies to NOAA charts that are published for use by recreational boaters. To assist NOAA in updating its charts, the EPA Administrator is to transmit each coastal state's list of existing pumpout facilities to NOAA within 30 days of receipt. The FWS is also directed to notify NOAA within 30 days of the completion of each project funded under the Clean Vessel Act of 1991 so that the location of these facilities can be indicated on the NOAA nautical charts. The Committee anticipates that NOAA will carry out the mandates of this subsection as part of its normal nautical chart revisions.

#### SEC. 4. MARINE SANITATION DEVICE PUMPOUT STATION FUNDING

Subsection (a) of this section amends section 8 of the Dingell-Johnson Act (16 U.S.C. 777g) by adding a new subsection which

mandates the expenditure of Sport Fish Restoration Account monies on the construction, renovation, operation, or maintenance of pumpout stations for MSDs and portable toilets for Fiscal Years 1992 through 1996. Specifically, this subsection directs that each coastal state use five percent of its annual Sport Fish Restoration Account apportionment to pay not more than 75 percent of the costs of: (1) conducting the survey and developing the plan required by section 3 of this Act; and (2) constructing, renovating, operating, or maintaining pumpout stations for MSDs and portable toilets in accordance with a plan approved under section 3. It is the Committee's intent that monies available for expenditure under the authority of this subsection be expended for projects that benefit recreational boaters. The Committee anticipates that states will use a portion of their 10 percent boating access set aside to construct, renovate, operate, or maintain MSD and portable toilet pumpout stations after Fiscal Year 1996.

The Committee intends that coastal states have the flexibility to spend monies available under this subsection for the construction, renovation, operation, or maintenance of pumpout facilities at both public and private boating access facilities depending the vessel needs of the state. However, the Committee wishes to emphasize that any pumpouts built at private facilities should be available to the public on the same basis as patrons of those facilities. In addition, private facilities may not charge more to use pumpouts funded under this subsection than would be required to cover the normal costs of operation, and may not charge the general public more than patrons of the private facility. The owners or operators of private facilities shall be required to pay 25 percent of the cost of projects funded under this Act which are constructed or renovated on their property.

The Committee would like to emphasize that the Secretary of the Interior should make every effort to insure that pumpout stations constructed with funds made available under the Clean Vessel Act of 1991 are fully utilized. The Secretary should give priority to projects which have the potential for the most use and those that are the easiest for recreational boaters to use. The Committee is aware that there are several types of portable pumpout facilities (barges and wheeled units) which do not require recreational boaters to move their vessels in order to have their holding tanks pumped out. The Secretary should emphasize the construction of these facilities where it is practical and technologically feasible.

The Secretary of the Interior shall, if requested by the Governor, waive or reduce a coastal state's mandatory five percent set aside under this subsection by any amount which is not needed to implement the state's MSD construction and renovation plan. Therefore, if a coastal state's approved plan identifies no construction or renovation needs, the five percent set aside may be waived entirely. If the state's approved plan identifies construction and renovations needs over the next five years which require expenditure of less than five percent of the state's Sport Fish Restoration Account apportionment, the percentage shall be reduced accordingly.

Coastal states are allowed to use not more than 20 percent of the amounts required to be used for construction and renovation under this subsection to educate the boating public about the problem of

sewage discharges from recreational boats and to inform them of the location of MSD pumpout stations. Testimony at the May 9 Subcommittee hearing indicated that while sewage discharges from recreational boats are a major source of pollution in coastal areas where boats congregate, many recreational boaters do not believe that boats are a significant source of pollution. Therefore, the Committee believes that it is imperative that coastal states develop comprehensive boater education programs to increase boaters' awareness of the costs and consequences of boat discharges. Coastal states should also ensure the distribution of charts and brochures to publicize the location of pumpout facilities.

The Secretary of the Interior is required to reallocate any amount that is required to be used to implement a state's MSD pumpout construction and renovation plan, or which is allowed to be used to increase recreational boaters' awareness of the problems associated with vessel sewage discharges, which is not spent or obligated by a coastal state within two years of when it became available, to other coastal states for MSD pumpout construction and renovation and education programs. The Secretary shall reallocate these monies in the manner described in section 4 of the Dingell-Johnson Act for apportioning remaining appropriations (i.e., the Secretary should not deduct six percent of these monies for administration before applying the apportionment formula).

For the purposes of new subsection (d), several terms are defined. First, the term "coastal state" is defined as a state bordering on the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or a state bordering one or more of the Great Lakes. The term includes Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa. The term does not include a state for which the ratio of the number of recreational vessels in the state to the number of miles of shoreline is less than one and the Governor certifies to the Secretary of the Interior that water quality in the state is not significantly affected by sewage discharged from recreational vessels. The Committee believes that states with very low densities of recreational boats should not be required to undergo the time and expenses of conducting the survey and developing the plan mandated by section 3 of the Clean Vessel Act of 1991. Information available to the Committee indicates that only Alaska and American Samoa meet these requirements. The term "marine sanitation device" is defined as any equipment for installation on board a vessel which is designed to receive, retain, treat, or discharge sewage, and any process to treat such sewage. Finally, the term "recreational vessel" is defined as a vessel which is manufactured for operation, or operated, primarily for pleasure, or is leased, rented, or chartered to another for the latter's pleasure.

Subsection (b) requires the Director of the U.S. FWS, in consultation with the Administrator of the EPA, to notify, within 6 months of the date of enactment of this Act, in writing, the fish and game, water pollution control, and coastal zone management authorities of such coastal state of the availability of amounts under new subsection (d) of the Dingell-Johnson Act to finance the construction, renovation, operation, and maintenance of pumpout stations for MSDs and portable toilets. The notification shall include: (1) a de-

scription of the availability of funds under section 8(d) of the Dingell-Johnson Act for pumpout construction; (2) a projection of the amounts available under section 8(d) for the next five years; (3) guidance on the types of pumpout facilities that may be appropriate for construction, renovation, operation, or maintenance with funds available under section 8(d) and the appropriate location of pumpout facilities within a marina or boatyard; (4) guidance defining what constitutes adequate and reasonably available pumpout facilities in boating areas; (5) guidance on appropriate methods of disposal of vessel sewage from pumpout facilities; (6) guidance on appropriate connector fittings to facilitate discharge of sewage from vessels; (7) guidance on coastal waters most likely to be affected by sewage discharges from vessels; and (8) any other information the EPA Administrator considers necessary to promote the establishment of pumpout facilities.

#### SEC. 5. DEFINITIONS

This section contains the definitions of terms used in this Act. The term "coastal state" is defined the same way as it is in section 8(d)(5)(A) of the Dingell-Johnson Act, as amended by the Clean Vessel Act of 1991. The term "recreational vessel" means a vessel which is manufactured for operation, or operated, primarily for pleasure, or is leased, rented, or chartered to another for the latter's pleasure.

#### INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1)(4) of Rule XI of the Rules of the House of Representatives, the Committee estimates that the enactment of H.R. 1297 will have no significant inflationary impact on prices and costs in the operation of the national economy.

#### COST OF THE LEGISLATION

Clause 7(a) of Rule XIII of the Rules of the House of Representatives requires an estimate by the Committee of the costs which would be incurred in carrying out H.R. 1297. However, clause 7(d) provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974.

#### COMPLIANCE WITH HOUSE RULE XI

1. The Subcommittee on Fisheries and Wildlife Conservation and the Environment held a hearing on the Clean Vessel Act of 1991, H.R. 1297, on May 9, 1991.

2. With respect to the requirement of clause 2(1)(3)(B) of Rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, H.R. 1297 does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. With respect to the requirement of clause 2(1)(3)(D) of Rules XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from

the Committee on Government Operations on the subject of H.R. 1297.

4. With respect to the requirement of clause 2(1)(3)(C) of Rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 1297 from the Director of the Congressional Budget Office.

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, October 15, 1991.*

Hon. WALTER B. JONES,  
*Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 1297, the Clean Vessel Act of 1991, as ordered reported by the House Committee on Merchant Marine and Fisheries on October 3, 1991. We estimate that enactment of this legislation would not have any significant impact on federal spending. The bill would not affect direct spending or receipts and thus would not involve any pay-as-you-go scoring under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

H.R. 1297 would require coastal states to conduct surveys to determine the adequacy of existing marine sanitation pumpout facilities for recreational boating needs. Based on the results of such surveys, each state would be required to develop a plan for the construction or renovation of pumpout facilities to meet marine sanitation needs within its jurisdiction. Funding for these activities, as well as for the construction and operation of qualified facilities, would be provided from amounts available under the Sport Fish Restoration Program. Specifically, for each of the fiscal years 1992 through 1996, five percent of each coastal state's annual grant allocation under this program would be reserved for marine sanitation pumpout projects.

Expenses incurred by federal agencies to administer this program are expected to be minor. Guidelines to be used in conducting state surveys have largely been established by the Environmental Protection Agency (EPA) under the Clean Water Act and would probably need only review by the U.S. Fish and Wildlife Service. Similarly, provisions requiring the National Oceanic and Atmospheric Administration (NOAA) to mark the location of pumpout facilities on navigational charts would not impose any significant new burden on that agency because it already does so. (As more facilities are constructed, NOAA charts would be revised accordingly whenever scheduled updates occur.) Finally, EPA costs to review state plans are not expected to be significant.

H.R. 1297 would impose some requirements on state and local governments. CBO estimates that about 34 states (as defined under Section 4(a) of the bill) would be required to conduct surveys and prepare plans under Section 3. Under current law, these states will be allocated total federal funds of about \$127 million for Sport Fish Restoration Projects in fiscal year 1992, or about \$15 million (13 percent) more than their 1991 apportionments. Total projected allo-

cations to these states over the 1992-1996 period will be about \$700 million.

The requirements of H.R. 1297 would force most of the affected coastal states to shift up to \$35 million in federal grants away from other types of eligible projects over the 1992-1996 period (\$6 million in 1992). However, because the percentage and type of nonfederal matching contributions would be the same as for other eligible projects, state expenditures would probably be the same as under current law, though the five-percent set-aside may force a number of states to delay some planned sport fish projects until after 1996. If a state failed to comply with the bill's requirements, its grant funds could be reduced by the amount of the unused set-aside after two years, when any unobligated balances reserved for this program would be reallocated to other, participating states. Grant funds available for sport fish projects over the next few years would exceed the 1991 level, even with the set-aside, because of increases projected under current law. Several states are already using federal sport fish grants for pumpout facilities projects or already have adequate facilities. These states would probably be able to have the five-percent reservation reduced or eliminated.

Enactment of this legislation would have no impact on other state or local governments.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis, who can be reached at 226-2860.

Sincerely,

ROBERT D. REISCHAUER,  
*Director.*

#### DEPARTMENTAL REPORTS

The Committee has received no departmental reports on H.R. 1297.

#### CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, as amended, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic, existing law in which no change is proposed is shown in roman):

#### 16 U.S.C. 777g

#### § 777g. Maintenance of projects

##### (a) DUTY OF STATES; STATUS OF PROJECTS; TITLE TO PROPERTY

\* \* \* \* \*

(c) AQUATIC RESOURCE EDUCATION PROGRAM; FUNDING, ETC.— Each State may use not to exceed 10 per centum of the funds apportioned to it under section 777c of this title to pay up to 75 per centum of the costs of an aquatic resource education program for the purpose of increasing public understanding of the Nation's water resources and associated aquatic life forms. The non-Federal share of such costs may not be derived from other Federal grant

programs. The Secretary shall issue not later than the one hundred and twentieth day after the effective date of this subsection such regulations as he deems advisable regarding the criteria for such programs.

(d) **PUMPOUT STATION.**—

(1) **USE OF FUNDS AUTHORIZED.**—For each of the fiscal years 1992 through 1996, each coastal State shall use 5 percent of the amounts apportioned to it under section 4 to pay not more than 75 percent of the costs of—

(A) conducting the survey and preparing the plan required by section 3 of the Clean Vessel Act of 1991; and

(B) constructing, renovating, operating, or maintaining pumpout stations for marine sanitation devices and facilities to receive wastes from portable toilets, in accordance with a plan approved under section 3 of the Clean Vessel Act of 1991.

(2) **WAIVER.**—The Secretary of the Interior shall, if requested by the Governor of a coastal State, waive or reduce the percentage of the State's apportionment under section 4 that is required to be used in a fiscal year in accordance with paragraph (1) by any amount which is not needed to implement the plan of the State approved under section 3 of the Clean Vessel Act of 1991.

(3) **EDUCATIONAL PROGRAM.**—Notwithstanding paragraph (1), a coastal State may use not more than 20 percent of the amounts required to be used in accordance with that paragraph to conduct a program to educate recreational boaters about the problem of sewage discharges from boats and inform them of the location of pumpout stations for marine sanitation devices.

(4) **REALLOCATION.**—

(A) **IN GENERAL.**—The Secretary of the Interior shall reallocate any amount that is required to be used in accordance with paragraph (1), or is authorized to be used in accordance with paragraph (3), and which is not expended or obligated by a coastal State within 2 years after it is available for expenditure, among the other coastal States for use in accordance with paragraphs (1) and (3).

(B) **MANNER OF REALLOCATION.**—The Secretary of the Interior shall carry out reallocations under this paragraph in the manner described in section 4 for apportioning remaining appropriations.

(5) **DEFINITIONS.**—For the purposes of this subsection—

(A) the term "coastal State"—

(i) means a State of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean; the Gulf of Mexico; Long Island Sound; or one or more of the Great Lakes;

(ii) includes Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa; and

(iii) does not include a State for which—

(I) the ratio of the number of recreational vessels in the State numbered under chapter 123 of title 46, United States Code, to number of miles of

*shoreline (as that term is defined in section 926.2(d) of title 15, Code of Federal Regulations, as in effect on January 1, 1991), is less than one; and*

*(II) the Governor certifies to the Secretary of the Interior that the water quality of the State is not significantly affected by sewage discharged from recreational vessels;*

*(B) the term "marine sanitation device" includes any equipment for installation on board a vessel which is designed to receive, retain, treat, or discharge sewage, and any process to treat such sewage; and*

*(C) the term "recreational vessel" means a vessel—*

*(i) manufactured for operation, or operated, primarily for pleasure; or*

*(ii) leased, rented, or chartered to another for the latter's pleasure.*

