

MARINE PROTECTION, RESEARCH AND SANCTUARIES
ACT AUTHORIZATION—FISCAL YEAR 1977

MAY 13, 1976.—Ordered to be printed

Mr. HOLLINGS, from the Committee on Commerce;
submitted the following

REPORT

[To accompany S. 3147]

The Committee on Commerce, to which was referred the bill (S. 3147) to extend the Marine Protection, Research, and Sanctuaries Act for 2 years, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill as amended do pass.

PURPOSE AND BRIEF DESCRIPTION

The purpose of S. 3147 is to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to extend authorization of funds to carry out provisions for title I, II, and III of the act for fiscal year 1977.

The bill authorizes appropriations to carry out provisions of the Marine Protection, Research, and Sanctuaries Act of 1972 for fiscal year 1977. Sums not to exceed \$4,800,000 are authorized for title I, \$5,600,000 for title II, and \$500,000 for title III. A separate annual report is required from the U.S. Army Corps of Engineers and U.S. Coast Guard on their administration of provisions in the act.

BACKGROUND AND NEED

The Marine Protection, Research, and Sanctuaries Act was signed into law on October 23, 1972 (Public Law 92-532). The legislation originated with an administration proposal based on a report by the President's Council on Environmental Quality ("Ocean Dumping—A National Policy," October 1970). The Committee on Commerce reported the legislation in the second session of the 92nd Congress.

The act is part of a national commitment to protect the coastal waters of the United States. It provides a regulatory scheme to control the dumping of wastes and dredged materials into ocean waters. The act requires the maintenance of a research program to develop information on the effects of disposed materials upon the ocean environment as an integral part of the regulatory program.

Title I of the act establishes an ocean dumping permit program. The Environmental Protection Agency is authorized to issue permits, after establishing criteria, for dumping of materials into the oceans, except for dredged materials. The Army Corps of Engineers is authorized to issue permits for dredged materials based upon criteria established by EPA. The purpose of the permit program is "to prevent or strictly limit the dumping into ocean waters of any material which would adversely effect human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities."

Title II of the act directs the Secretary of Commerce to initiate and maintain a comprehensive research program regarding the effects of ocean dumping on the marine environment. The consideration of alternatives to ocean dumping shall be part of this research program.

Title III of the act authorizes the Secretary of Commerce to designate certain areas of ocean waters as marine sanctuaries for the purpose of preserving or restoring such areas for their conservation, recreational, ecological, or esthetic values.

Appropriations for implementation of the act were authorized through fiscal year 1975. The committee conducted oversight hearings on the administration of the act in 1975 (May 20, 1975) and ordered favorably reported H.R. 5710, extending authorization through the transitional quarter of fiscal year 1976. The history of authorizations and appropriations of funding to carry out provisions of the Act since its passage is provided in table 1.

TABLE 1.—AUTHORIZATIONS AND APPROPRIATIONS, 1973-76

[In thousands of dollars]

	Fiscal year 1973		Fiscal year 1974		Fiscal year 1975		Fiscal year 1976		1976 transition period	
	Authoriza- tion	Appro- priation	Authoriza- tion	Appro- priation	Authoriza- tion	Appro- priation	Authoriza- tion	Appro- priation	Authoriza- tion	Appro- priation
EPA title I permits.....	3,600	290	5,500	1,276	5,500	1,229	5,300	1,313	1,325	328
NOAA title II research.....	6,000	0	6,000	0	6,000	0	6,000	0	1,500	0
NOAA title III marine sanc- tuaries.....	10,000	0	10,000	0	10,000	0	6,200	0	1,550	0

The committee conducted further oversight hearings with regard to the act on April 12, 1976, and also printed a report prepared by the Congressional Research Service entitled "Ocean Dumping Regulation: An Appraisal of Implementation."

A number of issues have been raised with regard to the implementation of the act. Differing opinions exist as to how soon ocean dumping activities should be eliminated. The EPA, for example, has ruled that disposal of sewage sludge originating from Philadelphia be reduced to one-half its 1975 level by 1979, and totally eliminated by 1981.

While Philadelphia protested the short time framework, others, including environmentalists and the mayor of Ocean City, Md., off whose shore the Philadelphia sludge was being dumped, argue the dumping restriction should proceed more quickly.

The issue of timing, that is, how soon should dumping be eliminated, raises the question of whether total elimination of dumping should be the ultimate congressional goal. If ocean dumping of sludge, dredge spoils, and other materials is completely eliminated, then the materials could pose an increased burden on the land and air space. Testimony was received and information exists that suggests that the oceans do have a carrying capacity to handle certain amounts and types of wastes. The committee feels at present that some ocean dumping is acceptable, but only if it will not result in harmful effects upon human health, the marine environment, or the economic welfare of an area.

The amounts of ocean dumping that would be acceptable depend in large measure upon an understanding of the effects of ocean dumping. This understanding requires a sustained and comprehensive research program as specified in title II. The committee recognizes that research is an integral and necessary part of the permit program, and is particularly concerned that this research is not being conducted. The National Oceanic and Atmospheric Administration (NOAA) has responsibility for research under title II, but has not had any funds appropriated since the act was enacted, though \$24 million have been authorized.

The lack of funds for NOAA also inhibits research on possible alternatives to ocean dumping. EPA has undertaken some research on alternatives, but the effort has not been commensurate with the problems posed by ocean dumping. The inadequate EPA effort has been largely a result of insufficient funding. The committee expects that with increased appropriations, more research would be devoted to seeking alternatives to ocean dumping.

A final issue concerns monitoring of the ocean dumping permit program. The Coast Guard is required under the act to monitor ocean dumping operations. The Coast Guard has not met its surveillance goals, particularly at night when significant dumping occurs. The lack of resources committed to this effort has been the main obstacle to full implementation of an effective monitoring program.

The original mandate provided by the Marine Protection, Research, and Sanctuaries Act of 1972 to protect the ocean and coastal environment from the harmful effects of ocean dumping is still valid. Though criticisms have been made that the act has not been effectively implemented, there is complete agreement that authorizations for the act should be extended. Effective implementation will depend on the authorization and expenditure of sufficient funds to carry out provisions of the act, and on continuous oversight by the Congress.

The Marine Protection, Research, and Sanctuaries Act Authorization for fiscal year 1977 provides \$10.9 million to carry out provisions of the act. \$4.8 million are authorized for the EPA permit program under title I, \$5.6 million are authorized for the NOAA research program under title II, and \$500,000 are authorized for marine sanctuaries under title III. To assist the Congress in its oversight of the implementation of the act, S. 3147 requires the Army Corps of

Engineers and the Coast Guard to prepare separate annual reports regarding their administration of provisions of the act.

SECTION-BY-SECTION ANALYSIS

SECTION 1

This section extends the funding authorization for title I of the act for 1 additional year, until September 30, 1977, and authorizes to be appropriated for fiscal year 1977 an amount not to exceed \$4,800,000.

SECTION 2

This section requires that the Environmental Protection Agency, the Army Corps of Engineers and the Coast Guard individually prepare annual reports on their administration of provisions in the act by March 1 of each year.

SECTION 3

This section extends funding authorization for title II of the act for 1 additional year, until September 30, 1977, and authorizes to be appropriated for fiscal year 1977 an amount not to exceed \$5,600,000.

SECTION 4

This section extends the funding authorization for title III of the act for 1 additional year, until September 30, 1977, and authorizes to be appropriated for fiscal year 1977 an amount not to exceed \$500,000.

TEXT OF S. 3147, AS REPORTED

A BILL To extend the Marine Protection, Research, and Sanctuaries Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 111 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1420) is amended—

(1) by striking out "and" immediately after "fiscal year 1976," and

(2) by adding immediately after "September 30, 1976)," the following: "and not to exceed \$4,800,000 for fiscal year 1977,".

SEC. 2. Section 112 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1421) is amended—

(1) by striking out "Administrator shall" and inserting, in lieu thereof "Administrator, the Secretary, and the Secretary of the department in which the Coast Guard is operating shall each individually";

(2) by striking out "June 30 of each year" and inserting in lieu thereof "March 1 of each year".

SEC. 3. The last sentence of section 204 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1444) is amended by inserting immediately before the period the following: ", and not to exceed \$5,600,000 for fiscal year 1977".

SEC. 4. Section 304 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434) is amended—

(1) by striking out “and” immediately after “fiscal year 1976,”; and

(2) by adding immediately after “September 30, 1976)” the following: “, and not to exceed \$500,000 for fiscal year 1977”.

ESTIMATED COSTS

Pursuant to the requirements of section 252 of the Legislative Reorganization Act of 1970, the committee estimates that the cost of the proposed legislation, if funded at maximum authorization, would be as follows:

	<i>Fiscal year</i> 1977
Title I.....	\$4,800,000
Title II.....	5,600,000
Title III.....	500,000
Total.....	10,900,000

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

THE MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT OF 1972

(86 Stat. 1052, 33 U.S.C. 1420, 1421, 1444)

* * * * *

SEC. 111. There are hereby authorized to be appropriated not to exceed \$3,600,000 for fiscal year 1973, not to exceed \$5,500,000 for each of the fiscal years 1974 and 1975, not to exceed \$5,300,000 for fiscal year 1976, [and] not to exceed \$1,325,000 for the transition period (July 1 through September 30, 1976), *and not to exceed \$4,800,000 for fiscal year 1977*, for the purposes and administration of this title, and for succeeding fiscal years only such sums as the Congress may authorize by law.

SEC. 112. The [Administrator shall] *Administrator, the Secretary, and the Secretary of the department in which the Coast Guard is operating shall; each individually* report annually, on or before [June 30 of each year,] *March 1 of each year*, with the first report to be made on or before June 30, 1973 to the Congress, on his administration of this title, including recommendations for additional legislation if deemed necessary:

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SEC. 204. There are authorized to be appropriated for the first fiscal year after this Act is enacted and for the next two fiscal years thereafter such sums as may be necessary to carry out this title, but the sums appropriated for any such fiscal year may not exceed \$6,000,000.

There are authorized to be appropriated not to exceed \$1,500,000 for the transition period (July 1 through September 30, 1976), and not to exceed \$5,600,000 for fiscal year 1977.

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(89 Stat. 303, 16 U.S.C. 1434)

SEC. 304. There are authorized to be appropriated not to exceed \$10,000,000 for each of the fiscal years 1973, 1974, and 1975, not to exceed \$6,200,000 for fiscal year 1976, [and] not to exceed \$1,550,000 for the transition period (July 1 through September 30, 1976), and not to exceed \$500,000 for fiscal year 1977 to carry out the provisions of this title, including the acquisition, development, and operation of marine sanctuaries designated under this title.

AGENCY COMMENTS

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., April 9, 1976.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce, U.S. Senate, 5202 New Senate
Office Building, Washington, D.C.

DEAR SENATOR MAGNUSON: This is in response to your letter to the Director of April 2, 1976, requesting the views of the Office of Management and Budget on S. 3147, a bill "To extend the Marine Protection, Research, and Sanctuaries Act for two years."

As you know, this is legislation that was submitted by the Administration to provide the appropriation authorization necessary for the Environmental Protection Agency to continue its activities under the ocean dumping program through fiscal year 1978. We understand that the Committee is interested in this Office's views on the appropriate division of responsibilities among the four agencies involved in this program—the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, the Army Corps of Engineers and the Coast Guard. The existing roles of these agencies can briefly be described as follows.

EPA.—Under Title I of the Act, the Administrator of EPA is authorized to strictly regulate ocean dumping of all materials except for dredged material, which is regulated by the Corps of Engineers. Title I strictly prohibits the dumping in ocean waters of chemical, biological, and radiological warfare agents and high level radioactive materials. Since enactment of the Act, EPA has developed criteria for the evaluation of permit applications, approved on an interim basis some 110 disposal sites, and issued approximately 100 permits.

NOAA.—Under Title II of the Act, NOAA carries out intensive research studies to determine the short-term effects of ocean dumping upon marine ecosystems. These studies are conducted in close cooperation with EPA and state and local officials. NOAA also is working with the Corps of Engineers to study the impact of the disposal of dredged materials.

NOAA insures adequate research efforts to determine the long range effects of man's activities on ocean ecosystems. NOAA works closely with other agencies with responsibilities in this area, including

EPA and Interior. Direct NOAA research programs include environmental assessment studies of the impact of OCS oil and gas development on the Alaskan shelf, in cooperation with Interior. NOAA also is conducting the Deep Ocean Mining Environmental Study to obtain baseline data necessary to determine the impact of deep ocean mining. In addition, NOAA is involved in several international efforts to obtain data on background levels of pollutants in the oceans.

Corps of Engineers.—The Army Corps of Engineers performs several activities related to the Marine Protection, Research and Sanctuaries Act. We estimate that about 1.5 percent of its general regulatory funds in fiscal year 1977 will be used for ocean dumping related work. The Corps is conducting a five-year congressionally authorized Dredged Material Research Program at its Waterway Experiment Station in Vicksburg, Mississippi. Finally, its operations and maintenance appropriations for specific channel and harbor projects will be used, as required, for sampling, laboratory testing, and monitoring dredged material at individual project locations.

Coast Guard.—The Coast Guard has been delegated the responsibility to conduct surveillance and other appropriate enforcement activities to prevent unlawful ocean dumping. Specifically, the Coast Guard assures that ocean dumping is carried out in accordance with permits issued by EPA or the Corps. When violations are detected, the Coast Guard undertakes an investigation and refers the case to EPA for disposition.

Surveillance of ocean dumping for federal dredging projects is the primary responsibility of the Corps; however, the Coast Guard actively monitors dumping operations in the New York and San Francisco areas on a continuous basis and supplements Corps surveillance in other dumping areas.

In support of its surveillance and enforcement activity the Coast Guard has underway an effort to develop electronic means of assuring compliance with the dumping permit. These devices will augment current surveillance efforts by shipriders, aircraft and vessels.

We believe the existing assignment of ocean dumping related responsibilities works well. It takes advantage of each agency's relative strengths and particular expertise in our continuing effort to protect this important resource. Moreover, this is still a relatively new Federal program, and we are periodically monitoring and evaluating the agencies' performance to ensure that their resources, both individually and collectively, are being applied in a sound and coordinated manner.

Sincerely yours,

JAMES M. FREY,
Assistant Director for
Legislative Reference.

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