

MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT AUTHORIZATION

MAY 15, 1978.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. Murphy of New York, from the Committee on Merchant Marine and Fisheries, submitted the following

REPORT

[To accompany H.R. 10661]

(Including Cost Estimate of the Congressional Budget Office)

The Committee on Merchant Marine and Fisheries, to whom was referred the bill (H.R. 10661) to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations to carry out the provisions of such Act for fiscal years 1979 and 1980, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

The amendments are as follows:

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

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 1977", and

(2) by adding immediately after "fiscal year 1978," the following: "not to exceed \$6,800,000 for fiscal year 1979, and not to exceed \$7,800,000 for fiscal year 1980,".

Sec. 2: (a) Title I of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1411-1421) is further amended by adding at the end thereof the following new section:

"Sec. 113. (a) The Administrator shall—

"(1) conduct research, investigations, experiments, training, demonstrations, surveys, and studies for the purpose of—

"(A) determining means of minimizing or ending, as soon as possible after the date of the enactment of this section, the dumping into ocean waters or waters described in section 101(b) of material which may unreasonably degrade or endanger human health, welfare, amenities, or the marine environment, ecological systems, or economic potentialities, and

"(B) developing disposal methods as alternatives to the dumping described in subparagraph (A); and

"(2) encourage, cooperate with, promote the coordination of, and render financial and other assistance to appropriate public authorities, agencies, and institutions (whether Federal, State, interstate, or local) and appro-

private private agencies, institutions, and individuals in the conduct of research and other activities described in paragraph (1).

"(b) Nothing in this section shall be construed to affect in any way the December 31, 1981, termination date, established in section 4 of the Act of November 4, 1977 (Public Law 95-153), for the ocean dumping of sewage sludge."

(b) Title II of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1441-1444) is amended by striking out section 203.

SEC. 3. Section 204 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1444) is amended—

(1) by striking out "and" immediately after "fiscal year 1977," and

(2) by striking out "fiscal year 1978." and inserting in lieu thereof the following: "fiscal year 1978, not to exceed \$7,000,000 for fiscal year 1979, and not to exceed \$9,000,000 for fiscal year 1980."

SEC. 4. Section 301 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431) is amended by adding at the end thereof a new sentence to read as follows: "The term 'State', when used in this title means any of the several States or any territory or possession of the United States which has a popularly elected Governor."

SEC. 5. Section 302 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1432) is amended—

(1) by striking out "or a specified portion thereof," and all that follows thereafter in subsection (b) and inserting in lieu thereof the following: "or any of its terms described in subsection (f) (1), are unacceptable to his State, in which case those terms certified as unacceptable will not be effective in the affected State waters until the Governor withdraws his certification of unacceptability. If the Governor does so certify, the Secretary may withdraw the designation."; and

(2) by amending subsection (f) to read as follows:

"(f) (1) The terms of the designation shall include the geographic area included within the sanctuary, the characteristics of the area that give it conservation, recreational, ecological, or esthetic value; and the types of activities that will be subject to regulation by the Secretary in order to protect those characteristics. The terms of the designation may be modified only by the same procedures through which an original designation is made.

"(2) The Secretary, after consultation with other interested Federal and State agencies, shall issue necessary and reasonable regulations to implement the terms of the designation and control the activities described in it, except that all permits, licenses, and other authorizations issued pursuant to any other authority shall be valid unless such regulations otherwise provide.

"(3) The Secretary shall conduct such research, surveillance, and enforcement activities as are necessary and reasonable to carry out the purposes of this title.

"(4) The Secretary may, whenever appropriate, utilize by agreement the personnel, services and facilities of other Federal departments, agencies, and instrumentalities, or State agencies or instrumentalities, whether on a reimbursable or a non-reimbursable basis in carrying out his responsibilities under this title."

SEC. 6. 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 1977."; and

(2) by adding immediately after "fiscal year 1978" the following: ", not to exceed \$2,000,000 for fiscal year 1979, and not to exceed \$3,000,000 for fiscal year 1980".

SEC. 7. Section 4 of Public Law 95-153 (91 Stat. 1255) is amended—

(1) by amending subsection (a)—

(A) by inserting "and industrial waste" immediately after "sewage sludge";

(B) by striking out "Public Law 92-532" and inserting in lieu thereof "the Marine Protection, Research, and Sanctuaries Act of 1972"; and

(C) by striking out "the Marine Protection, Research, and Sanctuaries" and inserting in lieu thereof "such"; and

(2) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) (1) The term 'sewage sludge' means any solid, semisolid, or liquid waste generated by a municipal wastewater treatment plant the ocean dumping of

which may unreasonably degrade or endanger human health, welfare, amenities, or the marine environment, ecological systems, or economic potentialities.

"(2) The term 'industrial waste' means any solid, semisolid, or liquid waste generated by a manufacturing or processing plant the ocean dumping of which may unreasonably degrade or endanger human health, welfare, amenities, or the marine environment; ecological systems, or economic potentialities."

Amend the title so as to read:

A bill to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations to carry out the provisions of such Act for fiscal years 1979 and 1980, and for other purposes.

PURPOSE OF THE LEGISLATION

H.R. 10661 would amend section 111 of title I, section 204 of title II, and section 304 of title III of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, to extend the authority to appropriate funds not to exceed the following amounts for fiscal years 1979 and 1980:

Fiscal year 1979:	
Sec. 111.....	\$6.8
Sec. 204.....	7.0
Sec. 304.....	2.0
Fiscal year 1980:	
Sec. 111.....	7.8
Sec. 204.....	9.0
Sec. 304.....	3.0

In addition, H.R. 10661 would transfer the authority to conduct research and development for waste disposal alternatives to ocean dumping from the Department of Commerce to the Environmental Protection Agency under title I of the act.

Further, the bill would amend Public Law 95-153 to require the termination on or before December 31, 1981, of the ocean dumping of industrial wastes, which are harmful to the marine environment.

Finally, H.R. 10661 would amend title III of the act to require the Secretary of Commerce to identify those activities which are to be regulated prior to the designation of any marine sanctuary. This amendment would provide an opportunity for appropriate departments and agencies of the Federal Government and the Governor of an affected State to comment or, in the case of the Governor of an affected State, take appropriate actions on a more informed basis prior to the official designation of a marine sanctuary. This would clarify the intent of the Secretary of Commerce with respect to the purposes of the designation of each marine sanctuary prior to its establishment and give the States sufficient input in the marine sanctuary designation process.

LEGISLATIVE BACKGROUND AND EXPLANATION OF BILL

H.R. 10661 was introduced on January 31, 1978, by Mr. Murphy of New York and 21 other members of the Merchant Marine and Fisheries Committee. The bill was referred jointly to the Committees on Merchant Marine and Fisheries, and Science and Technology.

As introduced, H.R. 10661 would have authorized funds of not more than \$4.8 million for fiscal year 1979 and \$5.8 million for fiscal

year 1980 to be appropriated to the Environmental Protection Agency (EPA) for the administration of the ocean dumping permit program mandated under title I of the Marine Protection, Research, and Sanctuaries Act of 1972. In addition, the bill would have authorized the appropriation of not more than \$7 million for fiscal year 1979 and \$9 million for fiscal year 1980 to the Department of Commerce (under title II of the act) for research pertaining to the effects of ocean dumping, ocean pollution in general, and other man-induced changes to the marine environment.

Finally H.R. 10661, as introduced, would have authorized the appropriation of not more than \$2 million and \$3 million respectively for fiscal years 1979 and 1980 to the Department of Commerce for the purposes of carrying out the marine sanctuaries program mandated under title III of the act.

On February 1, 1978, the Subcommittee on Oceanography and Fisheries and Wildlife Conservation and the Environment of the Merchant Marine and Fisheries Committee convened hearings on the bill H.R. 10661. The subcommittees heard testimony from Thomas Jorling, EPA's Assistant Administrator for Water and Hazardous Materials, Dr. Wilmot Hess, Acting Associate Administrator of the National Oceanic and Atmospheric Administration (NOAA), and Samuel Bleicher, Director of NOAA's Office of Ocean Management.

On March 1, 1978, the Subcommittee on Oceanography and Fisheries and Wildlife Conservation and the Environment considered, and favorably reported by unanimous voice vote, two amendments to H.R. 10661.

The first amendment, offered by Representatives Breaux and Forsythe, would amend titles I and II of the act to transfer the authority to conduct research into alternatives to ocean dumping from NOAA to EPA under title I of the act.

The amendment would also increase the authority to appropriate funds to EPA under section 111 of the act by \$2 million for fiscal years 1979 to 1980 to reflect the agencies additional responsibilities subsequent to the transfer of the authority granted under section 203.

The second amendment, offered by Mr. Studds, amended title III of the act. The amendment would require the Secretary of Commerce to list those activities which are to be regulated within a marine sanctuary prior to the designation of such sanctuary by the President. In addition, the Studds amendment would grant the Governor of any State the authority to determine, within a specified period of time, which activities shall be regulated by the Secretary of Commerce in the portion of a sanctuary which falls within the State's jurisdiction. Once the sanctuary is approved and officially designated by the President, the Secretary of Commerce would have the authority to regulate only those activities included on the approved list.

The subcommittees favorably reported, by unanimous voice vote, H.R. 10661, with two amendments, to the full Merchant Marine and Fisheries Committee.

On May 10, 1978, the Merchant Marine and Fisheries Committee considered H.R. 10661, as reported by the Subcommittees on Oceanography and Fisheries and Wildlife Conservation and the Environment.

Mr. Forsythe offered an amendment to the bill which would require the termination of ocean dumping of all "industrial wastes" which are harmful to the marine environment on or before December 31, 1981. Industrial waste is defined as "any solid, semisolid, or liquid waste generated by a manufacturing or processing plant the ocean dumping of which may unreasonably degrade or endanger human health, welfare, amenities, or the marine environment, ecological systems, or economic potentialities." This amendment was adopted by the committee.

Mr. Studds offered a substitute to his previous amendment which was adopted during the Subcommittee mark-up on March 1, 1978. The Studds substitute would amend title III of the Act to:

(1) expand the definition of the term "State" to include "any territory or possession of the United States which has a popularly elected Governor";

(2) require the Secretary of Commerce to formulate terms of the designation which will include the geographic area included within the sanctuary, the characteristics of the area that give it special value, and the types of activities that will be subject to regulation by the Secretary;

(3) require the Secretary of Commerce to conduct research, surveillance, and enforcement activities to carry out the purposes of the sanctuaries program; and

(4) authorize the Secretary of Commerce to utilize personnel, services, and facilities of other federal or state agencies for the purposes of the sanctuaries programs.

The Studds amendment was adopted by the committee.

During full committee markup, Mr. Forsythe noted for the record that EPA had indicated during oversight hearings held before the subcommittees that its enforcement authority granted under the act may not be sufficient to ensure compliance with the December 31, 1981, deadline. Mr. Forsythe further stated that recently EPA has indicated that no additional legislation to strengthen the agency's enforcement authority under the act was needed to insure compliance with the 1981 deadline.

The Committee on Merchant Marine and Fisheries favorably reported the bill, H.R. 10661, by unanimous voice vote.

BACKGROUND AND NEED FOR THE LEGISLATION

In 1970 President Nixon requested that the newly created Council on Environmental Quality conduct a study on the effects of ocean dumping on the marine environment. In its report entitled "Ocean Dumping, A National Policy," published in October 1970, the Council concluded that there was "a critical need for a national policy on ocean dumping."

In 1971, the Committee on Merchant Marine and Fisheries favorably reported H.R. 9727, the Marine Protection, Research, and Sanctuaries Act. The Act was signed into law on October 23, 1972. Since that time, all ocean dumping activities have come under the regulation of the EPA except for dredged material, which is regulated by the U.S. Army Corps of Engineers (COE).

When the act became effective on April 23, 1973, the EPA established various categories of permits authorizing ocean-dumping activities. One such category, called an interim permit, was established to allow the ocean dumping of materials which did not comply with EPA's environmental criteria for acceptable ocean dumping. In its revised rules and regulations published in the Federal Register on January 11, 1977, EPA enunciated a policy to phase out all ocean dumping authorized under interim permits by December 31, 1981.

Last year the Committee on Merchant Marine and Fisheries favorably reported H.R. 4297 which codified in law (Public Law 95-153) EPA's December 31, 1981 deadline for the cessation of the ocean dumping of sewage sludge which is harmful to the marine environment. H.R. 1061 contains an amendment to Public Law 95-153 which would expand the purview of the 1981 deadline to include the phaseout of the ocean dumping of industrial waste which is harmful to the marine environment.

Currently, the Environmental Protection Agency has issued 13 interim permits and one emergency permit (Camden, N.J.) authorizing the ocean dumping of sewage sludge. In addition, EPA has issued 14 interim permits authorizing the ocean dumping of industrial wastes. Each interim permit contains a specified phase out schedule with numerous interim dates by which the permittee must comply.

To date, EPA has issued complaints against five sewage sludge dumpers for noncompliance with their phaseout schedules. New York City has been granted three extensions to its phase out schedule.

The committee is concerned that the mandatory December 31, 1981, deadline will not be met by all interim permit holders unless strong measures are taken by EPA. In an effort to expedite the development and implementation of land-based alternatives to ocean dumping, the committee has provided for the transfer of the authority to conduct research for the development of land-based disposal alternatives to EPA under title I of the act. The committee recognizes that EPA has established expertise in alternative waste disposal methods through the administration of the Federal Water Pollution Control Act of 1972, as amended.

The transfer of authority granted under section 203 was fully endorsed by NOAA and EPA during hearings convened on February 1, 1978. In order to effectively implement its new responsibilities with regard to the research of alternatives to ocean dumping, the authority to appropriate funds to EPA under title I has been increased by \$2 million per annum for fiscal years 1979 and 1980.

In addition to the assistance provided to the agency under H.R. 10661, the committee recommends that EPA utilize funds appropriated under the construction grants program of title II of the FWPCA to assist interim permit holders to develop and implement land-based alternatives to ocean dumping in time to meet the December 31, 1981, deadline.

H.R. 10661 authorizes the appropriation of not more than \$7 million and \$9 million for fiscal years 1979 and 1980, respectively, for the conduct of research mandated under title II. The committee recognizes the need for NOAA to implement an aggressive program to monitor and assess the effects of ocean dumping on the marine environment. Although the ocean dumping of most sewage sludge and

industrial wastes is scheduled to be phased out before 1982, the study of the effects of such pollution on the marine environment will provide valuable information which could assist with decisions regarding the future utilization and efficient development of our marine resources. A more thorough consideration of the differences between harmless cost-effective waste assimilation in the marine environment and harmful ocean dumping could also be accomplished. In addition, such information will prove useful in our Nation's attempt to negotiate effective environmental guidelines in international treaties and agreements.

During hearings held on February 1, 1978, Dr. Wilmot Hess stated that NOAA would soon begin a pilot dredge material study in the Gulf of Mexico. Since dredge material constitutes over 90 percent of all material ocean dumped, the committee feels that it is extremely important that the EPA and COE, who are charged under the act to regulate such activities, are aware of the effects of dredge material dumping.

The committee feels strongly that close cooperation and coordination between NOAA, EPA, and COE is essential for the effective administration and realization of the stated goals of the act.

H.R. 10661 would authorize the appropriation of funds for the purposes of section 202. This section constitutes the primary statutory authority to NOAA to conduct ocean pollution research. The committee has been disappointed with NOAA's lack of enthusiasm toward the effective implementation of section 202.

The Merchant Marine and Fisheries Committee reported S. 1617, which on May 8, 1978, was signed into law. This bill, the National Ocean Pollution Research and Development and Monitoring Program Act of 1978, designates NOAA as the lead Federal agency for preparing a national ocean pollution research plan. The moneys authorized to be appropriated to NOAA under title II will provide support to the agency to carry out the purposes of the national plan. The Members hope that the substantial legislative support to NOAA initiated by the committee will result in a much needed improvement in the research effort to determine the effects of pollution on the marine environment.

Since its creation by law in 1972, the marine sanctuaries program has not received any appropriated funds. To date only two marine sanctuaries have been designated: The monitor and Key Largo sites. During fiscal year 1977, the marine sanctuaries program was operating within the Office of Coastal Zone Management. The program had one staff person and \$130,000 in reprogrammed NOAA funds.

Again, for fiscal year 1978, the program received no appropriated funds, but \$500,000 is expected to be made available by reprogramming funds from another NOAA program.

The marine sanctuaries program received increased attention after President Carter delivered his message on the environment on May 23, 1977. In his address, the President indicated that his administration would place a high priority on identifying potential marine sanctuaries in areas where development appears to be imminent, particularly in sensitive areas scheduled for OCS mineral lease sales, such as off the Alaskan coast.

In response to this directive, NOAA requested other Federal agencies, States, and the public to identify sites potentially suitable for sanctuary status. These efforts resulted in the identification of 170 potential sanctuary sites. NOAA is currently evaluating these sites in terms of their suitability for being formally nominated for sanctuary status.

Most recently, a reorganization within NOAA culminated in the creation of the Office of Ocean Management, bringing together a number of NOAA programs affecting ocean uses. The marine sanctuaries program is to play a prominent role in this office, which is designed to evaluate and identify areas of multiple, and often conflicting, ocean uses.

The Office of Ocean Management hopes to designate 5 additional sanctuaries in each of fiscal year 1978, fiscal year 1979, and fiscal year 1980, bringing the total number of sanctuaries to 17 by the end of fiscal year 1980.

Funds will be required to provide for the management, surveillance, enforcement, and assessment of each sanctuary. For the purposes of the marine sanctuaries program, H.R. 10661 would authorize \$2 million and \$3 million to be appropriated in fiscal years 1979 and 1980, respectively.

H.R. 10661 would amend title III of the act to correct certain problems arising from the process by which marine sanctuaries are now designated. Under existing law, once the Secretary of Commerce nominates a marine sanctuary, comments are solicited from appropriate Federal agencies. Upon consideration of these comments, the President must then grant final approval for the actual designation of the sanctuary. In addition, if a sanctuary's boundaries encompass State controlled waters then the Governor of the affected State has the authority to exclude from the sanctuary, upon his discretion, the area within his State's jurisdiction.

H.R. 10661 would provide for the President, other Federal agencies, and the Governor of an effected State a specific indication of the purposes of a marine sanctuary and the nature of the regulations which will be adopted by the Secretary of Commerce, including all activities which necessarily will be regulated within the marine sanctuary, prior to the designation. The Governor would have an opportunity to disapprove of any regulation of activities proposed within the Governor's State waters, but this disapproval would not affect the designation or regulation of activities beyond State waters.

In addition, H.R. 10661 would require the Secretary of Commerce to conduct necessary research, surveillance, and enforcement activities to carry out the purposes of the marine sanctuaries program. Finally, the Secretary of Commerce would be granted authority under the bill to utilize personnel, services, and facilities of other Federal or State agencies for the purposes of the marine sanctuaries program. The latter provision would permit cooperation on the part of states

in assisting the Secretary of Commerce in carrying out management responsibilities for marine sanctuaries.

COST OF LEGISLATION

Pursuant to clause 7 of rule XIII of the Rules of the House of Representatives, the committee estimates that the cost of the legislation will be as follows:

Fiscal year 1979:	
Title I-----	\$8, 800, 000
Title II-----	7, 000, 000
Title III-----	2, 000, 000
Fiscal year 1980:	
Title I-----	7, 800, 000
Title II-----	9, 000, 000
Title III-----	3, 000, 000

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. 10661 would have no significant inflationary impact on the prices and costs in the national economy.

COMPLIANCE WITH HOUSE RULE XI

(1) With respect to the requirements of clause 2(1)(3)(A) of Rule XI of the Rules of the House of Representatives, 1 day of hearings was held on February 1, 1978, in addition to 1 day of oversight hearings held on September 20, 1977. The February 1 hearing focused on the determination of appropriate levels of funds to be authorized to the three titles for fiscal years 1979 and 1980. The September 20 oversight hearing addressed the problem of terminating ocean dumping by December 31, 1981, and finding acceptable land-based alternatives. At this hearing it was suggested by both EPA and NOAA that section 203 responsibilities (research pertaining to the development of land-based alternatives) be transferred from NOAA to EPA. This suggestion was incorporated in H.R. 10661.

(2) With respect to the requirements of clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, the committee has received no report from the Committee on Government Operations on this subject.

(3) Pursuant to clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives, this bill does not contain any new budget authority or tax expenditures.

(4) With respect to the requirements 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 estimate and comparison of the cost of H.R. 10661 from the Director of the Congressional Budget Office:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., May 12, 1978:

HON. JOHN M. MURPHY,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 10661, a bill to amend the Marine Protection, Research and Sanctuaries Act of 1972 to authorize appropriations to carry out the provisions of such act for fiscal years 1979 and 1980.

Should the Committee so desire we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ROBERT A. LEVINE,
Deputy Director.

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: H.R. 10661.

2. Bill title: A bill to amend the Marine Protection, Research and Sanctuaries Act of 1972 to authorize appropriations to carry out the provisions of such act for fiscal years 1979 and 1980.

3. Bill Status: As ordered reported by the House Committee on Merchant Marine and Fisheries, May 10, 1978.

4. Bill purpose: The bill authorizes appropriations for the National Oceanic and Atmospheric Administration (NOAA) for fiscal years 1979 and 1980. There are specific authorizations in three areas: enforcement and surveillance of ocean dumping procedures, research and monitoring with respect to ocean dumping, and development and operation of marine sanctuaries. This is an authorization bill requiring subsequent appropriation action.

5. Cost estimate:

	<i>Millions</i>
Fiscal year 1979:	
Authorization level.....	15.8
Estimated cost.....	11.8
Fiscal year 1980:	
Authorization level.....	19.8
Estimated cost.....	19.8
Fiscal year 1981:	
Authorization level.....	---
Estimated cost.....	4.3
Fiscal year 1982:	
Authorization level.....	---
Estimated cost.....	0.2
Fiscal year 1983:	
Authorization level.....	---
Estimated cost.....	---

The costs of this bill fall within budget function 300.

6. Basis of estimate: The authorization levels are those stated in the bill, and the full amounts authorized are assumed to be appropriated.

The bill authorizes \$6,800,000 and \$7,800,000 for fiscal years 1979 and 1980, respectively for use by NOAA to carry out surveillance and enforcement activities with regard to ocean dumping activities. Based on information from NOAA, 25 percent of these funds are used for salaries and administrative costs, which are estimated to spend out at a rate of 90 percent in the first year, and 10 percent in the second year. The remaining 75 percent of these funds are used for one-year contractual agreements. Based on historical patterns, these are spent at a rate of 80 percent in the first year, and 20 percent in the second year.

Additionally, the bill authorizes \$7,000,000 for fiscal year 1979 and \$9,000,000 for fiscal year 1980 for NOAA's use in monitoring and in research activities in areas of ocean dumping. Based on consultation with NOAA's staff, it is assumed that 32 percent of these funds are used for salaries, and are spent at a rate of 90 percent in the first year and 10 percent in the second year. The remaining 68 percent are used for contractual efforts and are estimated to be spent at a rate of 80 percent the first year and 20 percent for the second year. The term of these contracts is one year.

The bill also authorizes \$2,000,000 for fiscal year 1979 and \$3,000,000 for fiscal year 1980 to be used by NOAA to maintain two current marine sanctuaries and establish and maintain new marine sanctuaries beginning in 1979. Since current funding is at substantially lower levels than those authorized in the bill, obligations are projected to be relatively low in fiscal year 1979 as the program expands. The sanctuaries costs involve one year contractual agreements and are spent at a rate of 80 percent the first year and 20 percent the second year.

7. Estimate comparison: None.

8. Previous CBO estimate: On May 10, 1978, an estimate was prepared for H.R. 10661 as ordered reported by the House Committee on Science and Technology. That version of the bill includes a total authorization level slightly lower than this one.

9. Estimate prepared by: Susan Cirillo and Steve Glamm.

10. Estimate approved by:

JAMES L. BLUM,
Assistant Director for Budget Analysis.

DEPARTMENTAL REPORTS

Reports on H.R. 10661 were requested from the Departments of Commerce, Defense, Transportation, the Council on Environmental Quality, and the Environmental Protection Agency. At the time this report was filed in the House, only the Department of Transportation had submitted comments which follow herewith:

OFFICE OF THE SECRETARY OF TRANSPORTATION,
Washington, D.C., April 28, 1978.

HON. JOHN M. MURPHY,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of this Department on H.R. 10661, a bill "To amend the Marine

Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations to carry out the provisions of such Act for fiscal years 1979 and 1980."

The proposed bill makes no changes in the Marine Protection, Research, and Sanctuaries Act of 1972 other than to extend the authorization for appropriations. The bill has no impact on programs of this Department, and we have no objection to it.

We would defer to the Department of Commerce as to the adequacy of sums to be authorized.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this proposed legislation to the Congress.

Sincerely,

LINDA HELLER KAMM,
General Counsel.

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 (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

THE MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT OF 1972

(86 Stat. 1052, 16 U.S.C. 1431-1434; 33 U.S.C. 1401-1444)

* * * * *

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, not to exceed \$1,325,000 for the transition period (July 1 through September 30, 1976), not to exceed \$4,800,000 for fiscal year 1977, [and] not to exceed \$4,800,000 for fiscal year 1978, *not to exceed \$6,800,000 for fiscal year 1979, and not to exceed \$7,800,000 for fiscal year 1980*, for the purposes and administration of this title, and for succeeding fiscal years only such sums as the Congress may authorize by law.

* * * * *

SEC. 113. (a) *The Administrator shall—*

(1) *conduct research, investigations, experiments, training, demonstrations, surveys, and studies for the purpose of—*

(A) *determining means of minimizing or ending, as soon as possible after the date of the enactment of this section, the dumping into ocean waters or waters described in section 101(b) of material which may unreasonably degrade or endanger human health, welfare, amenities, or the marine environment, ecological systems, or economic potentialities, and*

(B) *developing disposal methods as alternatives to the dumping described in subparagraph (A); and*

(2) *encourage, cooperate with, promote the coordination of, and render financial and other assistance to appropriate public authorities, agencies, and institutions (whether Federal, State, interstate, or local) and appropriate private agencies, institutions, and individuals in the conduct of research and other activities described in paragraph (1).*

(b) *Nothing in this section shall be construed to affect in any way the December 31, 1981, termination date, established in section 4 of the Act of November 4, 1977 (Public Law 95-153), for the ocean dumping of sewage sludge.*

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[SEC. 203. The Secretary of Commerce shall conduct and encourage, cooperate with, and render financial and other assistance to appropriate public (whether Federal, State, interstate, or local) authorities, agencies, and institutions, private agencies and institutions, and individuals in the conduct of, and to promote the coordination of, research, investigations, experiments, training, demonstrations, surveys, and studies for the purpose of determining means of minimizing or ending all dumping of materials within five years of the effective date of this Act.]

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), not to exceed \$5,600,000 for fiscal year 1977, [and] not to exceed \$6,500,000 for [fiscal year 1978.] *fiscal year 1978, not to exceed \$7,000,000 for fiscal year 1979, and not to exceed \$9,000,000 for fiscal year 1980.*

• • • • • •

(16 U.S.C. 1431-1434)

SEC. 301. Notwithstanding the provisions of subsection (h) of section 3 of this Act, the term "Secretary", when used in this title, means Secretary of Commerce. *The term "State", when used in this title, means any of the several States or any territory or possession of the United States which has a popularly elected Governor.*

SEC. 302. (a) The Secretary, after consultation with the Secretaries of State, Defense, the Interior, and Transportation, the Administrator, and the heads of other interested Federal agencies, and with the approval of the President, may designate as marine sanctuaries those areas of the ocean waters, as far seaward as the outer edge of the Continental Shelf, as defined in the Convention of the Continental Shelf (15 U.S.T. 74; TIAS 5578), of other coastal waters where the tide ebbs and flows, or of the Great Lakes and their connecting waters which he determines necessary for the purpose of preserving or restoring such areas for their conservation, recreational, ecological, or esthetic values. The consultation shall include an opportunity to review and comment on a specific proposed designation.

(b) Prior to designating a marine sanctuary which includes waters lying within the territorial limits of any State or superjacent to the subsoil and seabed within the seaward boundary of a coastal State, as that boundary is defined in section 2 of title I of the Act of May 22, 1953 (67 State 29), the Secretary shall consult with, and give due consideration to the views of, the responsible officials of the State involved. As to such waters, a designation under this section shall become effective sixty days after it is published, unless the Governor of any State involved shall, before the expiration of the sixty-day period, certify to the Secretary that the designation, [or a specified portion thereof, is unacceptable to his State, in which case the designated sanctuary shall not include the area certified as unacceptable until such time as the Governor withdraws his certification of unacceptability.] *or any of its terms described in subsection (f) (1), are unacceptable to his State, in which case those terms certified as unacceptable will not be effective in the affected State waters until the Governor withdraws his certification of unacceptability. If the Governor does so certify, the Secretary may withdraw the designation.*

[(f) After a marine sanctuary has been designated under this section, the Secretary, after consultation with other interested Federal agencies, shall issue necessary and reasonable regulations to control any activities permitted within the designated marine sanctuary, and no permit, license, or other authorization issued pursuant to any other authority shall be valid unless the Secretary shall certify that the permitted activity is consistent with the purposes of this title and can be carried out within the regulations promulgated under this section.]

(f) (1) The terms of the designation shall include the geographical area included within the sanctuary, the characteristics of the area that give it conservation, recreational, ecological, or esthetic value; and the types of activities that will be subject to regulation by the Secretary in order to protect those characteristics. The terms of the designation may be modified only by the same procedures through which an original designation is made.

(2) The Secretary, after consultation with other interested Federal and State agencies, shall issue necessary and reasonable regulations to implement the terms of the designation and control the activities described in it, except that all permits, licenses, and other authorizations issued pursuant to any other authority shall be valid unless such regulations otherwise provide.

(3) The Secretary shall conduct such research, surveillance, and enforcement activities as are necessary and reasonable to carry out the purposes of this title.

(4) The Secretary may, whenever appropriate, utilize by agreement the personnel, services and facilities of other Federal departments, agencies, and instrumentalities, or State agencies or instrumentalities, whether on a reimbursable or a non-reimbursable basis in carrying out his responsibilities under this title.

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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, not to exceed \$1,550,000 for the transition period (July 1 through September 30, 1976), not to exceed \$500,000 for fiscal year 1977, [and] not to exceed \$500,000 for fiscal year 1978, *not to exceed \$2,000,000 for fiscal year 1979, and not to exceed \$3,000,000 for fiscal year 1980* to carry out the provisions of this title, including the acquisition, development, and operation of marine sanctuaries designated under this title.

SECTION 4 OF PUBLIC LAW 95-153 (91 STAT. 1255)

SEC. 4. (a) The Administrator of the Environmental Protection Agency (hereinafter referred to in this section as the "Administrator") shall end the dumping of sewage sludge and industrial waste into ocean waters, or into waters described in section 101 (b) of [Public Law 92-532,] *the Marine Protection, Research, and Sanctuaries Act of 1972*, as soon as possible after the date of enactment of this section, but in no case may the Administrator issue any permit, or any renewal thereof (under title I of [the Marine Protection, Research, and Sanctuaries] *such Act of 1972*) which authorizes any such dumping after December 31, 1981.

[(b) For purposes of this section, the term "sewage sludge" means any solid, semisolid, or liquid waste generated by a municipal wastewater treatment plant the ocean dumping of which may unreasonably degrade or endanger human health, welfare, amenities, or the marine environment, ecological systems, or economic potentialities.]

(b) (1) *The term "sewage sludge" means any solid, semisolid, or liquid waste generated by a municipal wastewater treatment plant the ocean dumping of which may unreasonably degrade or endanger human health, welfare, amenities, or the marine environment, ecological systems, or economic potentialities.*

(2) *The term "industrial waste" means any solid, semisolid, or liquid waste generated by a manufacturing or processing plant the ocean dumping of which may unreasonably degrade or endanger human health, welfare, amenities, or the marine environment, ecological systems, or economic potentialities.*