

MARINE PROTECTION, RESEARCH, AND SANCTUARIES  
ACT OF 1972 AUTHORIZATION

MAY 16, 1977.—Ordered to be printed

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

REPORT

[Including Cost Estimate of the Congressional Budget Office]

[To accompany H.R. 4297]

The Committee on Merchant Marine and Fisheries, to whom was referred the bill (H.R. 4297) to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations to carry out the provisions of such Act for fiscal year 1978, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

On page 2, after line 14, insert the following new section:

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 into ocean waters, or into waters described in section 101(b) of Public Law 92-532, 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 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.

## PURPOSE OF THE LEGISLATION

The purpose of H.R. 4297 is to amend the Marine Protection, Research, and Sanctuaries Act of 1972. The bill authorizes for fiscal year 1978 the necessary funding under titles I, II, and III of the act. In addition, H.R. 4297, as amended, establishes that by no later than December 31, 1981, the dumping into ocean waters of municipal sewage sludge which may unreasonably degrade the marine environment shall be ended as soon as possible, and in no case shall continue beyond December 31, 1981.

## LEGISLATIVE BACKGROUND

H.R. 4297 was introduced on March 2, 1977, by Mr. Leggett, and cosponsored by Mr. Breaux, Mr. Forsythe and Mr. Pritchard.

The Subcommittees on Oceanography and Fisheries and Wildlife, Conservation and the Environment convened joint hearings concerning H.R. 4297 on March 9, 1977. Representatives from the Environmental Protection Agency and the National Oceanic and Atmospheric Administration, the two agencies authorized to be appropriated funds under the statute, and the National Wildlife Federation, presented testimony. Representatives from the two other agencies given responsibilities under the Act (the U.S. Coast Guard and the U.S. Corps of Engineers) were in attendance but deferred testimony to EPA and NOAA.

After giving careful consideration to the testimony presented at the hearings, the Subcommittees ordered H.R. 4297, with an amendment to the full Committee on March 31, 1977, by unanimous voice vote of the Subcommittee.

The amendment adopted by the subcommittee was offered by Mr. Hughes of New Jersey. Essentially, this amendment would prohibit the dumping of any sewage sludge into ocean waters after December 31, 1981. The amendment also permitted the Administrator of the Environmental Protection Agency to prohibit the dumping of sewage sludge prior to December 31, 1981, if the Administrator found that the sewage sludge would unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economical potentialities.

The bill, as amended by the subcommittee, was considered by the full committee on May 5, 1977. An amendment was offered by Mr. Breaux to delete the Hughes amendment adopted by the subcommittee. After lengthy debate, consideration of the bill and amendments thereto was deferred until May 11, 1977.

The full committee met on May 11, 1977, whereupon a substitute to the Breaux amendment was offered by Mr. Hughes. The substitute amendment to the Breaux amendment altered the language of the original Hughes amendment to meet some objections which members of the committee had. The substitute altered language so as not to prohibit the dumping of all sewage sludge after 1981, but only sewage sludge which may unreasonably degrade the marine environment. Some members of the committee had serious reservations with respect to statutorily mandating a rigid cutoff date for such sludge. These members felt that the phase-out date should be determined by the Administrator of EPA based on evolving technological and economical

data. Even though strong objections were voiced, the substitute was adopted, and the bill, as amended by the substitute, was favorably ordered reported to the House by a unanimous voice vote of the committee, a quorum being present. The amendment, as amended by the substitute, will be discussed under "Explanation of Amendment" section.

#### BACKGROUND AND EXPLANATION OF AMENDMENT

Pursuant to the Marine Protection, Research and Sanctuaries Act of 1972, EPA issued regulations and criteria with respect to the transportation of wastes for the purpose of ocean dumping. EPA's ocean dumping criteria, based on section 102 of the act, are used to determine when materials can be safely disposed of in the oceans, and thereby qualify for a dumping permit. In addition, EPA's ocean dumping regulations include a permit classification termed "interim permits" which allows wastes not meeting the established criteria to be dumped into the ocean. The dumping of materials such as sewage sludge and industrial wastes, which adversely affect the marine environment, has not been curtailed by EPA pursuant to the 1972 act. The committee questions the legal authority of EPA to issue interim permits at all under the 1972 act.

In their Final Revision of Regulations and Criteria, published in the Federal Register on January 11, 1977 (vol. 42, No. 7), EPA stated in section 220.3(d) that interim permits will not be continued past December 31, 1981. That is, EPA clearly indicated that it intends to end, by 1981, any ocean dumping which unreasonably degrades or endangers human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities.

The Merchant Marine and Fisheries Committee has not been satisfied with EPA's progress in curbing harmful ocean dumping. In particular, the committee is concerned with EPA's reluctance to establish firm phase-out dates for harmful ocean dumping and, more importantly, with EPA's continued sanctioning of the ocean dumping of materials—such as sewage sludge—which cannot meet EPA's own Ocean Dumping Criteria. In response to this concern, the committee believes it is necessary to codify EPA's stated goal of ending the ocean dumping of sewage sludge which is harmful to the marine environment or to human health, welfare, and amenities. Further, the committee wants to terminate the ocean dumping of sewage sludge which may be harmful to the marine environment or to human health, welfare, and amenities.

In the substitute amendment to H.R. 4297, offered by Congressman Hughes of New Jersey before the full committee, Congress requires that the Administrator of EPA end the dumping of sewage sludge into ocean waters as soon as possible and, in any event, by December 31, 1981. "Sewage sludge" is defined to be any solid, semisolid, or liquid waste generated by a municipal wastewater treatment plant which, when dumped, may unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities.

In determining whether such sewage sludge "may unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities" the Administrator of EPA shall apply the criteria which were established by

such agency in the Federal Register on January 11, 1977. If the sewage sludge to be dumped does not satisfy such criteria, it shall be deemed by the Administrator to fall within the definition of "sewage sludge" as set forth in section 4 of this bill, and, thereby, such dumping shall be phased out as soon as possible but prior to December 31, 1981.

The term "ocean waters" as used in this amendment shall have the same meaning as such term is defined in Section 3(b) of Public Law 92-532.

It should be noted that, after December 31, 1981, the Administrator shall be prohibited from issuing any permit for the disposal of material falling within the definition of sewage sludge as set forth in on Section of this bill.

#### GENERAL DISCUSSION

In 1976 the Subcommittees on Oceanography and Fisheries and Wildlife Conservation and the Environment conducted six days of oversight hearings concerning the administration of the Marine Protection, Research and Sanctuaries Act of 1972. These included four days of hearings in Washington and one day each in New York City and Hempstead, N.Y.

Several events transpired in the summer of 1976 which brought a great deal of attention to the practice of ocean dumping. In late June, large quantities of foul materials washed up on the beaches of Long Island, causing many of Long Island's major public ocean beaches to be closed to swimmers. In that same summer, a massive fish kill occurred affecting an area of the Middle Atlantic Ocean stretching from Long Island to Delaware. The concern over the condition of the ocean's ecosystems, especially in those areas of the Mid-Atlantic where municipal sewage sludge dumping is taking place, has increased greatly even though the fish kill could not be shown to be directly attributable to the dumping of sewage sludge. To date the Food and Drug Administration has closed over one-fifth of this Nation's shellfishing beds due to pollution which has rendered these organisms unsafe for human consumption.

Some progress has been made toward phasing out industrial ocean dumping. However, the committee is losing confidence in EPA's ability to compel municipalities, which now dump their sewage sludge into ocean waters, to adopt environmentally acceptable land-based alternatives. It is, therefore, the committee's intent to establish, by statute, the requirement that all ocean dumping of municipal sewage sludge which may be harmful cease on or before December 31, 1981.

Congress has been criticized for not stating specific goals and objectives in the Ocean Dumping Act of 1972. Some of the agencies have stated that the act was unclear in its intent to phase out the dumping of potentially harmful sewage sludge into ocean waters. By the adoption of this Act the congressional policy will be clearly set forth for all concerned.

#### LEGISLATIVE HISTORY

In 1970, the President directed the newly formed Council on Environmental Quality to make a study of the ocean disposal of waste materials. Results of that study, in a published report entitled "Ocean Dumping—A National Policy", were presented to the Presi-

dent in October of that year. The Council's report which cited a "critical need for a national policy on ocean dumping" provided a basis for the Administration's proposal, which resulted in the Marine Protection, Research and Sanctuaries Act of 1972. The statute (commonly referred to as the Ocean Dumping Act) was originally reported out of the Committee on Merchant Marine and Fisheries in the form of H.R. 9727 during the first session of the 92nd Congress.

The Ocean Dumping Act establishes regulatory control over the dumping of certain materials into U.S. waters. In addition, the Act prohibits any person or agent of the United States from dumping materials into ocean waters which are harmful to the marine environment.

Public Law 92-532, as amended, is organized into three titles. Title I specifies how ocean dumping shall be regulated. Title II deals primarily with the research aspects needed to support the intent of the Act which is to limit the ocean dumping of harmful materials. Title III provides for the designation and regulation of marine sanctuaries.

While Congress was developing this legislation, the Administration was simultaneously working to secure an international agreement covering similar subject matter. The Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, resulting from these efforts, was ratified by the United States and incorporated into the Act by Public Law 93-254.

#### *Title I*

The U.S. Corps of Engineers (COE) is given the authority to issue permits for the dumping of dredge spoil. However, EPA, the lead agency with respect to Title I, directly regulates the ocean dumping of other materials and retains veto power over all permits issued by the Corps. This title specifically prohibits the ocean dumping of any radiological, chemical, or biological warfare agent or waste and directs the EPA to formulate criteria and issues regulations by which permit applications shall be evaluated. The Act authorizes to EPA a wide range of regulatory controls including: (1) the establishment of various categories of permits; (2) designation of sites or times for dumping; (3) assessment of alternative means to dispose of materials other than by ocean dumping.

Under this title, the U.S. Coast Guard (USCG) is given responsibility for surveillance of ocean dumping activities and is authorized to issue regulations relating to "safe transportation, handling, carriage, storage, and stowage".

The Act requires EPA, COE, and USCG, individually, to report on or before March 1 to the Congress on their respective administration of title I. Prior to June 30, 1976, when the Act was amended (Public Law 94-326), only EPA was required to report annually to the Congress.

#### *Title II*

Section 201 directs the Secretary of Commerce, in cooperation with the USFC and the EPA, to "initiate a comprehensive and continuing program of monitoring and research regarding the effects "of ocean dumping and to report not less than annually on these activities. The Commerce Department submitted its third such report on August 22, 1976.

Section 202 directs the Secretary of Commerce to conduct research with respect to the possible long-range effects of pollution, overfishing, and man-induced changes of oceans ecosystems. A report is required on activities carried out pursuant to this section in January of each year. The third such report was submitted on September 20, 1976.

Section 203 directs Commerce to assist and coordinate research to minimize or end all dumping by October 23, 1977. This includes the research of alternatives to ocean dumping.

The research most essential under this section is research which examines the degree of harmful effects of different waste materials under varying oceanic conditions as well as research for alternative methods of disposal. These research tasks must be coordinated between EPA and NOAA, and should include the development of methods to evaluate tradeoffs between disposal alternatives.

### *Title III*

Section 302 of title III directs the Secretary of Commerce to designate areas of the oceans as marine sanctuaries for the purpose of preserving or restoring such areas for their conservation, recreational, ecological, or esthetic values. The Secretary of Commerce is authorized to issue regulations for the purpose of controlling activities within the sanctuary. The Secretary is required to submit an annual report on the administration of title III on or before November 1 of each year.

### NEED FOR THIS LEGISLATION

The Marine Protection, Research, and Sanctuaries Act has been law since 1972. In that time the EPA has, through its ocean dumping permit program, phased out 81 former or potential industrial waste dumpers. EPA's final revision of regulations and criteria for ocean dumping, published in the Federal Register on January 11, 1977, represent a substantial improvement in the procedures by which permits are administered. These regulations also declare a deadline of 1981 for the cessation of all sewage sludge dumping which cannot meet EPA established criteria.

Despite this evidence of progress, there remains a long way to go with respect to achieving the goals and intent of the act. The impact of the tremendous quantities of dredged spoil being ocean dumped is not fully understood. This is a significant concern to the committee in light of the fact that dredged material accounts for approximately 90 percent of all materials ocean dumped.

Fiscal year 1977 is the first year that NOAA has been appropriated funds under title II. With the \$1.1 million appropriated in fiscal year 1977, NOAA plans to conduct baseline investigations at the Galveston and New Orleans industrial waste dump sites and continue with studies at Deepwater Dumpsite 106. There are currently eleven active non-dredged material dumpsites and over 120 dredged material dumpsites.

The Marine Sanctuaries program mandated by Title III is housed within the Office of Coastal Zone Management. To date no funds have been appropriated to this title. Final guidelines for nomination, designation and operation of marine sanctuaries were published on July 27, 1974. In 1975, the remains of the U.S.S. Monitor, off the coast of North Carolina and an area off Key Largo, Fla., were designated marine sanctuaries.

For fiscal year 1977, the sanctuaries program has been able to operate only through the allocation of \$130,000 in reprogrammed NOAA funds. To date four areas have been nominated for designation as marine sanctuaries: Isles of Shoals off the coasts of Maine and New Hampshire; Cape Lookout off the coast of North Carolina; Looe Key Coral Reef in Florida; and a killer whale area in Puget Sound.

BUDGET HISTORY—AUTHORIZATIONS AND APPROPRIATIONS, 1973-77

[In thousands of dollars]

|                         | Fiscal year<br>1973 | Fiscal year<br>1974 | Fiscal year<br>1975 | Fiscal year<br>1976 | Transition<br>quarter | Fiscal year<br>1977 |
|-------------------------|---------------------|---------------------|---------------------|---------------------|-----------------------|---------------------|
| <b>EPA, title I:</b>    |                     |                     |                     |                     |                       |                     |
| Authorization.....      | 3,600               | 5,500               | 5,500               | 5,300               | 1,325                 | 4,800               |
| Appropriation.....      | 290                 | 1,276               | 1,229               | 1,313               | 328                   | 1,406               |
| <b>NOAA, title II:</b>  |                     |                     |                     |                     |                       |                     |
| Authorization.....      | 6,000               | 6,000               | 6,000               | 6,000               | 1,500                 | 5,600               |
| Appropriation.....      | 0                   | 0                   | 0                   | 0                   | 0                     | 1,070               |
| <b>NOAA, title III:</b> |                     |                     |                     |                     |                       |                     |
| Authorization.....      | 10,000              | 10,000              | 10,000              | 6,200               | 1,550                 | 500                 |
| Appropriation.....      | 0                   | 0                   | 0                   | 0                   | 0                     | 0                   |

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:

|                | <i>Fiscal<br/>year 1978</i> |
|----------------|-----------------------------|
| Title I.....   | \$4,800,000                 |
| Title II.....  | 6,000,000                   |
| Title III..... | 500,000                     |
| Total.....     | 11,300,000                  |

The Department of Commerce has submitted to the Congress an Executive Communication which would establish an authorization level for fiscal year 1978 of \$500,000 for purposes of title III. The Administration's recommendation for funds to be authorized in fiscal year 1978 is identical to the authorization included in H.R. 4297. In addition, the Environmental Protection Agency has submitted to the Congress an Executive Communication authorizing \$1,400,000 for fiscal year 1978 for purposes of title I. The Administration's recommended authorization level for fiscal year 1978 is \$3,400,000 less than the corresponding authorization provided for in H.R. 4297. The administration has made no recommendation for the authorization of title II.

COMPLIANCE WITH HOUSE RULE XI

(1) With respect to the requirement of clause 2(l)(3)(A) of Rule XI of the Rules of the House of Representatives, one day of hearings was convened on March 9, 1977 in addition to the 6 days of oversight hearings held during the 94th Congress. The March 9 hearing focused on the determination of appropriate levels of funds to be authorized to the three titles of the act for fiscal year 1978. This hearing did, however, result in several recommendations including: (1) the improvement of the environmental criteria by which EPA evaluates ocean dumping permit applications; (2) intensification of dump site

survey efforts; and (3) the development of better methodology for the selection of ocean dump sites. Further oversight hearings will be conducted later in this session of Congress.

(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)(4) of Rule XI of the Rules of the House of Representatives, the Committee estimates that the enactment of H.R. 4297 would have no significant inflationary impact on the prices and costs in the national economy.

(4) With respect to the requirements of clause 2(1)(3)(B)(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. 4297 from the Director of the Congressional Budget Office:

CONGRESSIONAL BUDGET OFFICE,  
U.S. CONGRESS,  
Washington, D.C., April 26, 1977.

HON. JOHN B. BREAUX,  
*Chairman, Subcommittee on Oceanography Committee on Merchant Marine and Fisheries, U.S. House of Representatives, Longworth House Office Building, 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. 4297, 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 year 1978.

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

Sincerely,

JAMES BLUM.  
(For Alice M. Rivlin, Director).

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

APRIL 26, 1977.

1. Bill Number: H.R. 4297.
2. Bill Title: To amend the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations to carry out the provisions of such Act for fiscal year 1978.
3. Bill Status: As introduced in the House on March 2, 1977.
4. Bill Purpose: The bill authorizes appropriation of \$11.3 million to carry out the purposes of the Marine Protection, Research, and Sanctuaries Act of 1972. This bill is authorizing legislation which requires subsequent appropriation action.
5. Budget Impact:



*Section 1—Ocean Dumping (Subfunction 304)*

|                            | <i>Millions</i> |
|----------------------------|-----------------|
| Fiscal year 1978:          |                 |
| Authorization amount.....  | \$4.8           |
| Estimated costs.....       | 4.1             |
| Fiscal year 1979:          |                 |
| Authorization amount.....  | 0               |
| Estimated costs.....       | 0.7             |
| Fiscal year 1980:          |                 |
| Authorization amount.....  | 0               |
| Estimated costs.....       | 0               |
| Fiscal year 1981:          |                 |
| Authorization amounts..... | 0               |
| Estimated costs.....       | 0               |
| Fiscal year 1982:          |                 |
| Authorization amount.....  | 0               |
| Estimated costs.....       | 0               |

*Section 2—Comprehensive research on ocean dumping (subfunction 306)*

|                           | <i>Millions</i> |
|---------------------------|-----------------|
| Fiscal year 1972:         |                 |
| Authorization amount..... | \$6.0           |
| Estimated cost.....       | 4.4             |
| Fiscal year 1979:         |                 |
| Authorization amount..... | 0               |
| Estimated cost.....       | 1.1             |
| Fiscal year 1980:         |                 |
| Authorization amount..... | 0               |
| Estimated cost.....       | 0.5             |
| Fiscal year 1981:         |                 |
| Authorization amount..... | 0               |
| Estimated cost.....       | 0               |
| Fiscal year 1982:         |                 |
| Authorization amount..... | 0               |
| Estimated cost.....       | 0               |

*Section 3—Marine sanctuaries (subfunction 306)*

|                           | <i>Millions</i> |
|---------------------------|-----------------|
| Fiscal year 1972:         |                 |
| Authorization amount..... | \$0.5           |
| Estimated cost.....       | 0.4             |
| Fiscal year 1979:         |                 |
| Authorization amount..... | 0               |
| Estimated cost.....       | 0.1             |
| Fiscal year 1980:         |                 |
| Authorization amount..... | 0               |
| Estimated cost.....       | 0               |
| Fiscal year 1981:         |                 |
| Authorization amount..... | 0               |
| Estimated cost.....       | 0               |
| Fiscal year 1982:         |                 |
| Authorization amount..... | 0               |
| Estimated cost.....       | 0               |

6. Basis for estimate: The authorization amounts are those stated in the bill. For the purposes of this estimate, it is assumed that this legislation and the necessary appropriation action are enacted prior to FY 1978. The outlay rates used in this estimate were determined after consultation with staff of the Environmental Protection Agency and the National Oceanic and Atmospheric Administration. The spendout rates of 85 percent in year 1 and 15 percent in year 2 used in Section 1; 73 percent in year 1, 18 percent in year 2, and 9 percent in year 3 used in Section 2 and Section 3 are based on the historical experience of this program.

7. Estimate comparison: None.
8. Previous CBO estimate: None.
9. Estimate prepared by: Terry Nelson.
10. Estimate approved by:

C. G. NUCKOLS,  
(for James L. Blum, Assistant Director  
for Budget Analysis.)

### DEPARTMENTAL REPORTS

H.R. 4297 was the subject of Executive Communications Nos. 1257 and 1258 from the Environmental Protection Agency and the Department of Commerce. These communications along with letters received from EPA dated May 4 and May 11 follow:

U.S. ENVIRONMENTAL PROTECTION AGENCY,  
*Washington, D.C., April 6, 1977.*

HON. THOMAS P. O'NEILL, Jr.,  
*Speaker of the House of Representatives,*  
*Washington, D.C.*

DEAR MR. SPEAKER: Enclosed is our proposed bill "To extend the Marine Protection, Research, and Sanctuaries Act, as amended, for two years."

The bill would extend our authorities under section 111 of the Act. These authorities expire on September 30, 1977.

This extension is suggested in order to enable us to continue the programs envisioned by the Act. We recommend that this bill be referred to the appropriate Committee for consideration, and that it be enacted.

The Office of Management and Budget advises that enactment of this legislative proposal would be consistent with the Administration's objectives.

Sincerely yours,

DOUGLAS M. COSTLE.

Enclosure.

A BILL To extend the Marine Protection, Research, and Sanctuaries Act, as amended, for two years

*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, as amended (33 U.S.C. 1420), is amended by striking "and not to exceed \$4,800,000 for fiscal year 1977," and inserting in lieu thereof "not to exceed \$4,800,000 for fiscal year 1977, not to exceed \$1,400,000 for fiscal year 1978, and such sums as may be necessary for fiscal year 1979,".*

THE SECRETARY OF COMMERCE,  
*Washington, D.C., April 12, 1977.*

HON. THOMAS P. O'NEILL, Jr.  
*Speaker of the House of Representatives,*  
*Washington, D.C.*

DEAR MR. SPEAKER, enclosed are six copies of a draft bill "To amend Section 304 of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, to extend the authorization of appropriate

tions." together with a statement of purpose and need in support thereof.

This proposed legislation has been reviewed by the Department in the light of Executive Order No. 11821 and has been determined not to be a major proposal requiring evaluation and certification as to its inflationary impact.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of our draft bill to the Congress and further that enactment would be consistent with the Administration's objectives.

Sincerely,

JUANITA M. KREPS.

Enclosures.

A BILL To amend Section 304 of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, to extend the authorization of appropriations

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 304 of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended (86 Stat. 1063, as amended; 33 U.S.C. 1434) is further amended—(1) by striking out the word "and" immediately after the words "September 30, 1976)," and (2) by striking out the words "fiscal year 1977" and inserting in lieu thereof the words "each of the fiscal years 1977 and 1978, and such sums as may be necessary for fiscal year 1979".*

#### STATEMENT OF PURPOSE AND NEED

Title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431-34) authorizes the Secretary of Commerce, to designate, acquire, develop and manage marine sanctuaries. This authority has been delegated to the National Oceanic and Atmospheric Administration (NOAA).

Section 304 of Title III (16 U.S.C. 1434) authorizes funds to be appropriated to carry out the purposes of the title. The original funding authority under Section 304 was \$10 million for fiscal years 1973 through 1975 and by amendment funding authority was set at \$6.2 million for fiscal year 1976, \$0.5 million for the transition period (July 1 through September 30, 1976) and \$0.5 million for fiscal 1977.

Through fiscal 1977 no funds have been appropriated under the Section 304 authority, however, NOAA has made limited use of other funds to carry out the provisions of Title III.

The potential of Title III for protecting significant national ocean resources has been adequately demonstrated. The Nation's first marine sanctuary was established on January 30, 1975 off the coast of North Carolina and provides protection of the wreck of the U.S.S. *Monitor*. The effect of this designation has been to provide regulatory control under Section 302(f) (16 U.S.C. 1432(f)) over souvenir hunters and research conducted on the wreck. Without this marine sanctuary designation, the wreck of this historic vessel could have been irreversibly damaged.

Protection of a different sort of national resource is provided at the second marine sanctuary, the Key Largo Coral Reef in Florida, adjoining the John Pennekamp Coral Reef State Park. The designation of this site in December 1975 has helped substantially to prevent the destruction of this fragile coral reef. NOAA is providing protection,

at an annual cost of \$55,000, over approximately a 100 square miles of living coral which was threatened with extinction.

The Coast Guard has the responsibility for patrolling this coral reef sanctuary. While the emphasis to date has been on public education of people caught violating sanctuary controls, if prosecution is deemed necessary, section 303 (16 U.S.C. 1433) provides authority to do so and, in fact, a number of charges have been filed. NOAA provides \$25,000 annually to the State of Florida to support its management effort in the sanctuary.

NOAA has received a number of proposals, ranging from Port Royal Sound and the adjacent continental shelf in South Carolina to a killer whale reserve in Puget Sound, to designate other areas as marine sanctuaries and is presently processing these proposals.

Extension of the authorization of appropriations which expires with the expiration of fiscal year 1977 is essential in order to consider further designations, maintain existing sanctuaries and develop an overall management scheme.

This bill would make appropriate amendments to section 304 to extend, at the present level, the authorization of appropriations for Title III through fiscal year 1978 and to authorize the appropriations of such sums as may be necessary for fiscal year 1979.

U.S. ENVIRONMENTAL PROTECTION AGENCY,  
Washington, D.C., May 4, 1977.

Hon. JOHN B. Breaux,

*Chairman, Subcommittee on Oceanography Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: Thank you for the opportunity to comment on section 4 of the Oceanography Subcommittee reported bill, H.R. 4297.

Section 4 would amend section 102 of the Marine Protection, Research, and Sanctuaries Act of 1972 (MPRSA) by prohibiting ocean dumping of sewage sludge after 1981.

EPA opposes this proposed section. The statutory authority to end ocean dumping of sewage sludge by 1981 already exists in the MPRSA.

Existing dumpers who are unable to meet the 1978 deadline may receive interim permits after that date if they have implementation schedules adequate to allow phasing out of ocean dumping or compliance with all requirements for special permits by December 31, 1981. The 1981 deadline is based on implementation schedules contained in current interim permits, all of which provide for compliance or phasing out by the end of 1981. 40 C.F.R. Part 220.

Enactment of a legally required phase-out date for sewage sludge would commit this Nation to a specific future action which may not be needed if sewage sludge can be treated to be non-toxic, or may not be economically feasible if the municipalities are unable to obtain sufficient funding.

The Administration and Congress are grappling with the problem of being unable to meet unrealistic mandated dates in the Federal Water Pollution Control Act of 1972. Enactment of a legally required date for prohibiting sewage sludge dumping could create the same problems.

The Office of Management and Budget advises us that there is no objection to the presentation of this report from the standpoint of the President's program.

Sincerely yours,

DOUGLAS M. COSTLE.

U.S. ENVIRONMENTAL PROTECTION AGENCY,  
Washington, D.C., May 11, 1977.

JOHN M. MURPHY,

*Chairman, Committee on Merchant Marine and Fisheries,  
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: I would again like to comment on the "Hughes Amendment" to H.R. 4297 which intends to end the dumping of harmful wastes into the oceans by December 31, 1981. While we fully support the concept of this amendments, we do not believe it should be enacted because of the rigidity it would build into the 1981 requirement.

As you are aware, our current regulations explicitly require the phase out of ocean dumping of harmful wastes by December 31, 1981. We intend to enforce compliance with this requirement. At the same time, compliance by the municipalities currently dumping sewage sludge under interim permits will require complex planning, design and construction of facilities for alternative disposal and will require substantial funding, 75 percent of which will be provided by Federal grant assistance under our construction grants program. Our experience with the construction grants program indicates that unavoidable problems and delays in the planning, design and construction of facilities occasionally occur and occasionally justify reasonable extensions of compliance schedules. It should be further noted that the Congress has not yet acted on our proposal for long-term authorization of construction grant appropriations which will be necessary to the funding of alternative disposal facilities. Although we fully expect the Congress to ultimately authorize adequate funding, the current delay, if prolonged, can begin to impact the planning and design of alternative facilities which are currently underway or expected to begin very shortly. In addition, several of the cities are currently experiencing severe fiscal problems and could encounter certain short delays in developing the financing for their share of facility costs. Taken altogether, there could be funding delays, some of which could be attributable to the Federal government, that would justify short extensions of the 1981 compliance date.

Although we do not how foresee development of any of the delays described above, we strongly believe it is in the public interest to have the administrative flexibility to deal with such delays if they should develop and if they are unavoidable and not the result of bad-faith effort. Placing the 1981 compliance date in the statute without provision for administrative extension for good cause would create a rigidity which we believe is not necessary nor advisable.

At the expense of making this argument, I definitely do not want to leave the impression that we will be lax in enforcing our regulations. To the contrary, we have been and will continue to be resolved in aggressively enforcing progress towards and compliance with interim dates leading to the final 1981 date.

I hope that the Committee will carefully consider these points and we will be glad to further discuss and provide more detailed information on these points as the Committee may desire.

The Office of Management and Budget advises us that there is no objection to the presentation of this report from the standpoint of the President's program.

Sincerely yours,

DOUGLAS M. COSTLE.

#### 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, 33 U.S.C. 1420, 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), [and] not to exceed \$4,800,000 for fiscal year 1977, *and not to exceed \$4,800,000 for fiscal year 1978*, for the purposes and administration of this title, and for succeeding fiscal years only such sums as the Congress may authorize by law.

\* \* \* \* \*

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, *and not to exceed \$6,000,000 for fiscal year 1978*.

\* \* \* \* \*

(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, 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, *and not to exceed \$600,000 for fiscal year 1978* to carry out the provisions of this title, including the acquisition, development, and operation of marine sanctuaries designated under this title.