

**MARINE PROTECTION, RESEARCH, AND SANCTUARIES
ACT AUTHORIZATION**

MAY 9, 1979.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

REPORT

together with

SUPPLEMENTAL VIEWS

[To accompany H.R. 2519]

[Including cost estimate of the Congressional Budget Office]

The Committee on Merchant Marine and Fisheries, to whom was referred the bill (H.R. 2519) 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, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

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

That section 111 of the Marine Protection, Research, and Sanctuaries Act of 1972 (83 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 \$3,000,000 for fiscal year 1979, and not to exceed \$3,500,000 for fiscal year 1980,"

Sec. 2. (a) Title I of the Marine Protection, Research, and Sanctuaries Act of 1972 (88 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, or 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; 33 U.S.C. 1412a), 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 redesignated as section 203 and 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 \$6,000,000 for fiscal year 1979, and not to exceed \$10,500,000 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) in subsection (b), by inserting "(1)" after "(b)", by striking out the second sentence thereof, and by inserting at the end thereof the following new paragraph:

"(2) A designation under this section shall become effective unless—

"(A) the Governor of any State described in paragraph (1) certifies to the Secretary, before the end of the sixty-day period beginning on the date of the publication of the designation, that the designation 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 waters described in paragraph (1) in such State until the Governor withdraws his certification of unacceptability; or

"(B) both Houses of Congress adopt a concurrent resolution in accordance with subsection (h) which disapproves the designation or any of its terms described in subsection (f) (1).

The Secretary may withdraw the designation after any such certification or resolution of disapproval. If the Secretary does not withdraw the designation, only those portions of the designation not certified as unacceptable under subparagraph (A) or not disapproved under subparagraph (B) shall take effect."

(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 as is necessary and reasonable to carry out the purposes of this title.

"(4) The Secretary and the Secretary of the department in which the Coast Guard is operating shall conduct such enforcement activities as are necessary and reasonable to carry out the purposes of this title. The Secretary shall whenever appropriate and in consultation with the Secretary of the department in which the Coast Guard is operating, 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 nonreimbursable basis in carrying out his responsibilities under this title."; and

(3) by inserting at the end thereof the following new subsection:

"(h) (1) For purposes of subsection (b) (2) (B), the Secretary shall transmit to the Congress a designation of a marine sanctuary at the time of its publication

The concurrent resolution described in subsection (b) (2) (B) is a concurrent resolution which is adopted by both Houses of Congress before the end of the first period of sixty calendar days of continuing session of Congress after the date on which the designation is transmitted, the matter after the resolving clause of which is as follows: "That the Congress does not favor the taking of effect of the following terms of the marine sanctuary designation numbered _____ transmitted to Congress by the Secretary of Commerce on _____, the first blank space being filled with the number of the designation, the second blank being filled with the date of the transmittal, and the third blank space being filled with the terms of the designation which are disapproved (or the phrase 'the entire designation' if the entire designation is disapproved).

"(2) For the purpose of paragraph (1) of this subsection—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the sixty day period.

"(3) A designation which becomes effective, or that portion of a designation which takes effect under subsection (b), shall be printed in the Federal Register."

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 \$1,000,000 for fiscal year 1979, and not to exceed \$3,000,000 for fiscal year 1980".

Sec. 7. Section 4 of Public Law 95-153 (33 U.S.C. 1412a) 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";

(C) by inserting ", except as provided in subsection (b)," immediately before "in no case", and

(D) 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) After December 31, 1981, the Administrator may issue permits under such title I for the dumping of industrial waste into ocean waters, or into waters described in such section 101 (b), if the Administrator determines—

"(1) that the proposed dumping is necessary to conduct research—

"(A) on new technology related to ocean dumping, or

"(B) to determine whether the dumping of such substance will unreasonably degrade or endanger human, health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities;

"(2) that the scale of the proposed dumping is such that the dumping will have minimal adverse impact upon the human health, welfare, and amenities, and the marine environment, ecological systems, and economic potentialities; and

"(3) after consultation with the Secretary of Commerce, that the potential benefits of such research will outweigh any such adverse impact.

Each permit issued pursuant to this subsection shall be subject to such conditions and restrictions as the Administrator determines to be necessary to minimize possible adverse impacts of such dumping. No permit issued by the Administrator pursuant to this subsection may have an effective period of more than six consecutive months.

"(c) For purposes of this section—

"(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, or amenities, or the marine environment, ecological systems, or economic potentialities; and

"(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, or amenities, or the marine environment, ecological systems, or economic potentialities."

SEC. 8. Section 102(e) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended (33 U.S.C. 1412(e)) is further amended—

(1) by inserting after "transportation of material," the words "by an agency or instrumentality of the United States or", and

(2) by striking out "section." and inserting "section: *Provided*, That in the case of an agency or instrumentality of the United States, no application shall be made for a permit to be issued pursuant to the authority of a foreign State Party to the Convention unless the Administrator concurs in the filing of such application."

PURPOSE OF THE LEGISLATION

H.R. 2519 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 (in millions) for fiscal years 1979 and 1980:

| | |
|-------------------|-------|
| Fiscal year 1979: | |
| Title I | \$3.0 |
| Title II | 6.0 |
| Title III | 1.0 |
| Fiscal year 1980: | |
| Title I | \$3.5 |
| Title II | 10.5 |
| Title III | 3.0 |

In addition, H.R. 2519 would transfer the authority to conduct research on alternative waste disposal methods to ocean dumping from the Department of Commerce to the Environmental Protection Agency.

In cases where a federal agency desires to ocean dump material from a foreign location, the bill would allow that agency to apply for a permit to the foreign government involved, provided that the Environmental Protection Agency (EPA) concurs with the proposed agency action.

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. The bill would allow the issuance of limited permits after the 1981 deadline for ocean dumping of industrial waste which is necessary to conduct research on new technology or to determine whether the ocean dumping of a new or little understood substance will in fact be harmful.

Finally, H.R. 2519 would amend Title III of the Marine Protection, Research, and Sanctuaries Act of 1972 to require the Secretary of Commerce to identify the activities which are to be regulated prior to the designation of a marine sanctuary, to allow popularly elected governors of territories the same rights as state governors in the marine sanctuary designation process, and to provide a method for Congressional disapproval of part or all of a proposed marine sanctuary designation.

COMMITTEE ACTION

H.R. 2519 was introduced on February 28, 1979, by Mr. Murphy of New York, and eight cosponsors. Eleven additional Members joined as cosponsors of the bill before it was ordered reported. H.R. 2519 as introduced was identical to H.R. 10661 which passed the House in the 95th Congress, but was not acted upon by the Senate. H.R. 2519

was jointly referred to the Committees on Merchant Marine and Fisheries and Science and Technology. Within the Committee on Merchant Marine and Fisheries, the bill was further referred jointly to the Subcommittees on Oceanography and Fisheries and, Wildlife Conservation and the Environment.

On March 5, 1979, the two Subcommittees held a joint open hearing on H.R. 2519, receiving testimony from Administration witnesses representing the Environmental Protection Agency and the National Oceanic and Atmospheric Administration. Statements for the record were submitted by several environmental organizations.

On March 19, 1979, the Subcommittee on Oceanography and the Subcommittee on Fisheries and Wildlife Conservation and the Environment met in joint open session and ordered H.R. 2519 reported with amendments to the Full Committee on Merchant Marine and Fisheries by a unanimous voice vote. An amendment by Mr. Forsythe amended section 7 of the bill to permit the Administrator of the Environmental Protection Agency to issue limited permits after the 1981 deadline established by that section, for ocean dumping of industrial waste which is necessary to conduct research on new technology or to determine whether the ocean dumping of a new or little-understood substance will be harmful to the marine environment. An amendment offered by Mr. Pritchard added a new section 8 to the bill which amends current law to allow a federal agency desiring to ocean dump material from a foreign location to apply for a permit to the foreign government involved, with the concurrence of the Environmental Protection Agency. Mr. Studds offered amendments en bloc to sections 1, 3, and 6 of the bill to change five of the six authorization figures as shown in the following table:

H.R. 2519 as filed (Identical to House—passed H.R. 10661 in the 95th Congress)

| | <i>Millions</i> |
|-------------------|-----------------|
| Fiscal year 1979: | |
| Title I..... | \$6.8 |
| Title II..... | 7.5 |
| Title III..... | 2.0 |
| Fiscal year 1980: | |
| Title I..... | 7.8 |
| Title II..... | 9.0 |
| Title III..... | 3.0 |

H.R. 2519 as Amended by Joint Subcommittees

| | <i>Millions</i> |
|-------------------|-----------------|
| Fiscal year 1979: | |
| Title I..... | \$3.0 |
| Title II..... | 6.0 |
| Title III..... | 1.0 |
| Fiscal year 1980: | |
| Title I..... | 3.5 |
| Title II..... | 9.5 |
| Title III..... | 3.0 |

Four of the five changes in authorization levels made by the amendments are reductions from the amount authorized by the bill which passed the House in 1978. The purpose of the reductions is to bring the authorization figures into a more reasonable relationship with the amount actually being appropriated for these activities. The reductions are not intended by the Committee to be interpreted as showing any reduction in the Committee's estimate of the funds needed for these activities, nor to signal the Committee on Appropriations that it should reduce the amounts actually being appropriated. The Com-

mittee believes the full amounts authorized by the amended bill should be appropriated to carry out the important activities authorized by the bill. The fiscal year 1980 authorization for Title II was increased by \$500,000 to cover the Administration's budget request.

Mr. Wyatt offered an amendment to section 5 of the bill, which added provisions allowing the Congress to disapprove part or all of a proposed marine sanctuary designation by passage of a concurrent resolution by both Houses of Congress within 60 days of continuous session after the designation's submission. Mr. Studds offered a series of technical amendments to various sections of the bill. All of the above-mentioned amendments were adopted by voice vote by the Subcommittee on Oceanography and Fisheries and Wildlife Conservation and the Environment.

On April 10, 1979, the Committee on Merchant Marine and Fisheries met in open session on H.R. 2519. The Committee adopted by voice vote an amendment by Mr. Studds to section 5 of the bill to clarify authority over enforcement of marine sanctuary regulations, and an amendment by Mr. Forsythe adding \$1,000,000 to the Fiscal Year 1980 authorization for ocean dumping research (Title II) to fund two studies which will provide information to be used in efforts to reduce the pollution entering the New York Bight area from the Hudson and Raritan Rivers. By voice vote, H.R. 2519 was ordered reported to the House with a single amendment in the nature of a substitute, striking all after the enacting clause and inserting the text resulting from the Committee's deliberations.

ACTIONS DURING 95TH CONGRESS

H.R. 10661 was introduced in the 95th Congress on January 31, 1978 by Mr. Murphy of New York and 21 other Members. The bill was referred jointly to the Committees on Merchant Marine and Fisheries, and Science and Technology. Both Committees held hearings and reported H.R. 10661 to the House with amendments.

On September 25, 1978 the House considered H.R. 10661 under suspension of the Rules, and passed it on a voice vote. The House-passed bill was ordered placed on the Senate calendar and remained there until sine die adjournment of the Congress because of a dispute about Committee jurisdiction over part of the bill.

As passed by the House, H.R. 10661 would have authorized \$6.8 million for fiscal year 1979, and \$7.8 million for fiscal year 1980 Title I of the Act, \$7.5 million for fiscal year 1979 and \$9.0 million for fiscal year 1980 for Title II of the Act, and \$2.0 million for fiscal year 1979 and \$3.0 million for fiscal year 1980 for Title II of the Act. In addition, H.R. 10661 would have transferred the authority to conduct research on waste disposal alternatives to ocean dumping from the Department of Commerce to the Environmental Protection Agency and would have amended Public Law 95-153 to require the termination of 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 have amended 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 a marine sanctuary.

H.R. 2519 as introduced was identical to H.R. 10661 as it passed the House in the 95th Congress.

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 Environmental Protection Agency (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.

In 1977, 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. 2519 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. The bill would allow issuance of limited permits after the 1981 deadline for ocean dumping of industrial waste in connection with research, as recommended by EPA during hearings on the bill.

At the beginning of 1978, EPA had outstanding interim permits authorizing ocean dumping of sewage sludge by 38 municipalities, and one emergency permit (Camden, N.J.). During 1978 the ocean dumping of sewage sludge was ended by Camden and 12 of the municipalities operating under interim permits. Currently, 26 municipalities are ocean dumping sewage sludge under interim permits. In addition, EPA has outstanding 13 interim permits authorizing the ocean dumping of industrial waste, a reduction of one from the number outstanding at the beginning of 1978. Each interim permit contains a specified phase-out schedule with specific dates by which the permittee must complete parts of its compliance schedule.

During 1978, EPA issued complaints against 18 sewage sludge dumpers for noncompliance with their phase-out schedules. Thirteen of those complaints have been resolved satisfactorily, and 5 are still pending. New York City has been granted three extensions to its phase-out schedule. EPA has informed the Committee that it believes that all holders of interim permits except two will meet their phase-out schedules and end their ocean dumping of sewage sludge or industrial waste on or before the December 31, 1981 deadline. The two permittees who apparently will not meet their phase-out schedules are

New York City and Westchester County, and EPA has referred these two cases to the Department of Justice for legal action.

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 from the National Oceanic and Atmospheric Administration (NOAA) 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 (FWPCA) as amended. The transfer of authority granted under section 203 was supported both by NOAA and EPA during hearings on the bill.

In addition to the assistance provided to the agency under H.R. 2519, 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.

Under the current wording of section 102 of the Marine Protection, Research, and Sanctuaries Act, a federal agency which has material to ocean dump from a location in a foreign country which is a party to the Ocean Dumping Convention (to which the U.S. is also a party) must obtain its permit to do so from the Environmental Protection Agency. This procedure forces the EPA to make decisions affecting primarily the waters of other countries which are parties to a convention to which the U.S. has agreed. Although the EPA can consult officials of the country involved to ascertain its opinions of the proposed ocean dumping, EPA could legally approve the dumping even if it were opposed by the country involved. It would then be up to the affected country to confront the United States on the issue.

The Committee believes it makes little sense for the Government of the United States to retain such authority over decisions which primarily affect other countries, particularly when those countries enforce ocean dumping regulations similar to our own by reason of their adherence to the International Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter. Consequently, the bill amends section 102(e) to allow a federal agency which desires to ocean dump material from a location in a foreign country which is a party to the Convention, after obtaining the concurrence of the Administrator of the EPA, to apply directly to that foreign country for a permit. The Committee believes that the Administrator of the EPA should concur in such requests for concurrence from federal agencies only when it appears that the proposed ocean dumping will be consistent with the Convention and U.S. law, and the location of the proposed dumpsite is such that the dumping will have no significant adverse effect on the waters of the United States or on ocean living resources over which the United States exercises sovereign rights or exclusive management authority.

H.R. 2519 as introduced would have authorized appropriation of not more than \$7.5 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 ocean dumping of dredge spoil will not, and the study of the effects of all such pollution and the marine environment will provide valuable information and will help in making informed decisions regarding the future utilization and efficient development of our marine resources. A more thorough specification of the boundary line between harmless cost-effective waste assimilation in the marine environment and harmful ocean dumping could also be accomplished. In addition, such information will assist our nation's attempt to negotiate effective environmental guidelines in international treaties and agreements.

The Committee amended the bill to authorize appropriation of not more than \$6 million for fiscal year 1979 and not more than \$10.5 million for fiscal year 1980 for these research activities. The reduction in the authorization for fiscal year 1979 from \$7.5 million to \$6 million is justified by the fact that half of the fiscal year has now elapsed, making it unlikely that such a substantial increase over the \$5.146 million already appropriated could be spent wisely before the end of the fiscal year. Since funding of some important research projects was foregone because of the delay in passage of the authorization for fiscal year 1979, the Committee has increased the fiscal year 1980 authorization figure in the bill by the same amount (\$1.5 million) which it cut from the fiscal year 1979 authorization figure.

The authorization figure of \$10.5 million for fiscal year 1980 includes the Administration's authorization request (\$9.488 million), and an additional \$1 million for two studies of the Hudson-Raritan estuary area, which is one of the most heavily polluted estuaries in the United States.

In recent years, two types of events have demonstrated the dangerous nature of the situation in the Hudson-Raritan estuary. During periods of extremely heavy rain, raw sewage sometimes reach the waters off Long Island beaches, forcing them to be closed for health and sanitation reasons. The primary source of this raw sewage appears to be overflow from combined sewers which are not capable of handling the increased volume during heavy rains. One of the two studies added by the Committee Amendment to this authorization would result in improved ability to end the problem of sewer overflows at reasonable cost.

During the summer and fall of 1976, mass mortalities of shellfish occurred in a 100-mile-long corridor off the shore of New Jersey. A large area of water suffering from severe oxygen depletion and the formation of hydrogen sulfide killed about 69% of the offshore surf clam stocks of New Jersey and significant numbers of ocean quahogs, sea scallops, lobsters, and other species. A major contributing factor in the creation of this situation was a huge bloom of phytoplankton, which would most likely not have become so large without the presence of vast amounts of organic nutrients such as nitrogen and phosphate from agricultural runoff, and other pollutants caused by human beings. While sewage sludge dumping and other human waste sources have been estimated to contribute less than 10 percent of the total amount of nutrients in the affected waters, these sources are among the ones most possible to control.

The second study added by the Committee to this authorization would monitor and evaluate the human health and environmental effects of key pollutants in the Hudson-Raritan estuary, and develop information needed to evaluate the potential for rehabilitation of the estuary. Each of these studies added by the Committee is expected to cost \$500,000 in fiscal year 1980.

Included within the Administration's authorization request of \$9.488 million for fiscal year 1980 is \$1.624 million for ocean use planning and assessment activities. Studies to be conducted by the multi-disciplinary staff under this description in fiscal year 1980 include completion of a study of total economic damages associated with the AMOCO-CADIZ oil spill in France, which is necessary for development of methods for economic damage assessment and damage claims preparation under NOAA's new responsibilities under Title III of the Outer Continental Shelf Lands Act Amendments (Public Law 95-372); synthesis of available information on oceanographic, biological resource, and socio-economic characteristics of the East Coast in a study which should assist future decisions on siting of major energy facilities work with the Bureau of Land Management to develop an integrated economic-environmental model to assess coastal problems which will result from OCS oil and gas development; and continued development of a computer-assisted ocean resource use information system that will make information now scattered throughout numerous agencies available to decision-makers in a timely and coherent fashion. The Committee believes all of these research projects are important and therefore authorized the full amount of the Administration request.

Although it was created by law in 1972, the Marine Sanctuaries program did not receive any appropriated funds until fiscal year 1979. The program operated on reprogrammed funds from other NOAA programs in fiscal years 1977 and 1978. Since enactment of the legislation, two marine sanctuaries have been actually designated: the area surrounding the U.S.S. *Monitor* off North Carolina, and 100 square miles of coral reef off Key Largo, Florida.

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 sanctuary sights in areas where development appears to be eminent, particularly in sensitive areas scheduled for Outer Continental Shelf oil and gas leasing sales.

In response to this directive, NOAA asked other Federal agencies, States and the public to identify sites potentially suitable for marine sanctuary status. These efforts resulted in the identification of over 100 potential sanctuary sites. NOAA is currently evaluating these sights to determine their suitability for more serious consideration.

On February 5, 1979, NOAA published in the Federal Register a proposed complete revision of the regulations governing the marine sanctuaries program. The comment period on the proposed regulations ended on April 6, 1979.

Since July 1978 NOAA has examined 7 possible sites for designation of additional marine sanctuaries. These are Flower Garden Banks in the Gulf of Mexico, 5 areas offshore California (Santa Barbara Channel, Monterey Bay, Point Reyes-Farallon Islands, the Tanner-Corte

Banks; and San Diego), and Looe Key Coral Reef off Florida. A draft environmental impact statement prepared on the proposed East and West Flower Gardens Marine Sanctuary was issued in early April and draft regulations which would apply if the Sanctuary is designated were published as a proposed rule in the April 13, 1979 Federal Register. In October 1978, NOAA announced that three of the five original sites off California (the waters offshore Point Reyes and the Farallon Islands, Monterey Bay, and the waters surrounding the four Northern Channel Islands and Santa Barbara Island) would be further evaluated for possible designation as marine sanctuaries. An issue paper on the possible California marine sanctuaries sites was issued by NOAA in December 1978. Designation of any sanctuaries off the shore of California could be expected to occur early in fiscal year 1980. Consideration of the Looe Key, Florida site has been postponed by NOAA at the request of the Gulf and South Atlantic Fishery Management Councils.

Funds will be required to provide for assessment of possible marine sanctuary sites and for management of the sanctuaries which have already been designated. For the purposes of the marine sanctuaries program, H.R. 2519 would authorize appropriation of \$1 million for fiscal year 1979 and \$3 million for fiscal year 1980.

H.R. 2519 would amend Title III of the Act to correct certain problems in the current law which regulates the process by which marine sanctuaries are 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 may grant final approval for the actual designation of the sanctuary. In addition, if the sanctuary's boundaries encompass waters under State jurisdiction, then the Governor of the affected State is given the authority to exclude from the sanctuary the area within his State's jurisdiction.

H.R. 2519 would provide for the President, other Federal agencies, Governors of affected States and private individuals, prior to the official designation, specific indication of the purposes of a marine sanctuary and a list of the activities which will be regulated within the marine sanctuary. A Governor would have an opportunity to disapprove any item on the list of activities proposed to be regulated within the waters of his State but this disapproval would not affect a designation, or list of activities to be regulated, beyond State waters. The Congress could disapprove, by concurrent resolution passed within 60 days of continuous session of notification of the designation, part or all of the designation of a marine sanctuary.

Under H.R. 2519, once a marine sanctuary designation becomes effective, the Secretary of Commerce could issue regulations modifying or halting activities permitted under other Federal regulations only if such activities are on the list of activities to be regulated in that sanctuary.

In addition, H.R. 2519 would require the Secretary of Commerce to conduct necessary research to carry out the purposes of the marine sanctuaries program, and would require the Secretary of Commerce and the Secretary of the Department in which the Coast Guard is operating to conduct necessary enforcement activities. Finally, the Secretary of Commerce, after consultation with the Secretary of the De-

partment in which the Coast Guard is operating, would have 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 the States in assisting the Secretary of Commerce in carrying out management responsibilities for marine sanctuaries.

SECTION-BY-SECTION ANALYSIS

Section 1 of the bill amends section 111 of the Marine Protection, Research, and Sanctuaries Act of 1972 (MPRSA) to authorize appropriation of not to exceed \$3 million for fiscal year 1979, and not to exceed \$3.5 million for fiscal year 1980. The authorization figures in this section are for activities under Title I of the Act, which relates primarily to administration of regulations by the Environmental Protection Agency. The authorization figures also cover the additional authority given to the Environmental Protection Agency by section 2 of the bill.

Section 2 repeals section 203 of the Marine Protection, Research, and Sanctuaries Act of 1972, and reenacts similar provisions as section 113 of the Act. The effect of these amendments is to transfer from the National Oceanic and Atmospheric Administration (NOAA) to the Administrator of EPA the responsibility for conducting research on alternatives to ocean dumping. This section does not affect in any way the December 31, 1981 termination date for dumping of sewage sludge established in section 4 of Public Law 95-153, or the similar termination date for ocean dumping of industrial waste established by an amendment to that section in this bill.

Section 3 of the bill redesignates section 204 of the MPRSA as section 203, and amends it to authorize appropriation of not to exceed \$6 million for fiscal year 1979 and not to exceed \$10.5 million for fiscal year 1980 for research authorized under Title II of the Act. This research is conducted by NOAA. The authorization figure of \$10.5 million for fiscal year 1980 includes \$1 million for two studies described in the background and needs section of this report.

Section 4 of the bill adds a new sentence at the end of section 301 of the MPRSA. The new sentence defines the term "State", when used in Title III, to mean any of the several states or any territory or possession of the United States which has a popularly elected Governor. The substantive effect of the new definition is to grant to Governors of territories or possessions, such as the Virgin Islands or Puerto Rico, the same consultation and disapproval rights granted to Governors of States in the marine sanctuary designation process.

Section 5 of the bill amends section 302 of the MPRSA, which sets out the procedures for designation of marine sanctuaries and for regulation of activities within them. Subsection (f) is amended to specify that the terms of a marine sanctuary designation (which must be included in the document designating the sanctuary) 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 type of activities that will be subject to regulation by the Secretary of Commerce in order to protect those characteristics. The amendment provides that the terms of the designation may be modified only by the same procedures through which an

original designation is made. The amendment to subsection (f) requires the Secretary, after consultation with other interested Federal and State agencies, to issue necessary and reasonable regulations to implement the terms of the designation to control the activities described in the designation, and provided that all permits, licenses, and other authorizations issued pursuant to any other authority shall be valid unless such marine sanctuary regulations otherwise provide. This provision replaces the statement in current law that no permit, license, or other authorization issued pursuant to any other authority shall be valid unless the Secretary certifies that the activity is consistent with the purposes of Title III and can be carried out within the regulations promulgated under this section. The amendment expressly restricts the scope of marine sanctuary regulations to those types of activities specifically mentioned in the designation document, while current law does not.

^k The Committee intends that the Secretary, in exercising authority under Title III, shall avoid duplicative regulatory authority and additional layers of bureaucracy where existing law and regulations provide sufficient protection. The amendment provides for specification before a sanctuary is created of the extent of control which will be exercised within it. While current law requires the Secretary to assume authority for total management of marine sanctuaries, the amendment provides for more sophisticated techniques, including multiple-use management and partial management. Under the amendment, the degree of management to be used to protect the values for which a marine sanctuary is created would be specified and discussed before the sanctuary is created. While a few cases may exist in which near-total management is necessary to protect the values for which a marine sanctuary is created, the Committee believes that in most cases some form of multiple-use management will be sufficient to protect the resources involved.

^l The amendment to subsection (f) further requires the Secretary to conduct such research as is necessary and reasonable to carry out the purposes of Title III, and requires the Secretary and the Secretary of the Department in which the Coast Guard is operating to conduct such enforcement activities as are necessary and reasonable to carry out the purposes of Title III. The Secretary is required, whenever appropriate and in consultation with the Secretary of the Department in which the Coast Guard is operating, to utilize by agreement personnel, services, and facilities of other Federal departments, agencies and instrumentalities or State agencies or instrumentalities, whether on a reimbursable or nonreimbursable basis, in carrying out responsibilities under Title III. This authority is intended to apply to management of marine sanctuaries and other activities, in addition to enforcement of marine sanctuary regulations.

^m Subsection 302(b) of the Act is amended by section 5 of the bill to provide that a designation of a marine sanctuary shall become effective unless part or all of its terms are disapproved by a concurrent resolution adopted by both Houses of Congress in accordance with a new subsection (h), or the Governor of a State whose waters are included in the designated marine sanctuary certifies (within a 60-day period after publication of the designation) that the designation or specific terms of it are unacceptable to his State. If a Governor of an affected

State so certifies, the terms specified in his certification of unacceptability will not be effective in the waters of his State until the certificate is withdrawn, but will remain in effect in waters not within the jurisdiction of that State. If the Secretary does not withdraw the designation after, disapproval or modification by a Governor or the Congress, only those portions of the designation not certified as unacceptable or disapproved will take effect.

Section 5 also adds a new subsection (h) to section 302, specifying the procedures for consideration of a congressional resolution of disapproval. The new subsection (h) provides that the Secretary shall transmit formally to the Congress a marine sanctuary designation at the time of its publication in the Federal Register, and specifies the form of concurrent resolution which may be used to disapprove the designation or some of its terms. Such a concurrent resolution to be effective must be adopted by both Houses of Congress before the end of first period of 60 calendar days of continuous session of Congress after the date on which the designation is officially transmitted. The amendment further specifies that continuity of session of Congress is broken only by an adjournment sine die, and that the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the 60-day period. The amendment further provides that a designation which becomes effective, or that portion of the designation which takes effect, shall be printed in the Federal Register. The amendment does not amend the rules of the House or the Senate. Consequently, such a concurrent resolution would be referred to committee and considered by that committee under regular committee procedures. The Committee expects that in the House such resolutions would be referred to the Committee on Merchant Marine and Fisheries.

Section 6 of the bill amends section 304 of the MPRSA to authorize appropriation of not to exceed \$1 million for fiscal year 1979, and not to exceed \$3 million for fiscal year 1980 for the marine sanctuary program authorized by Title III of the Act.

Section 7 of the bill amends section 4 of Public Law 95-153 to add industrial waste to sewage sludge in the provision requiring termination of ocean dumping activities by December 31, 1981, and to authorize issuance of limited permits for research involving the dumping of industrial waste after the 1981 deadline. Industrial waste is defined as any solid, semi-solid, or liquid waste, generated by a manufacturing or processing plant, the ocean dumping of which may unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities. After the December 31, 1981 deadline the Administrator of EPA may issue research permits for ocean dumping of industrial waste if he determines the proposed dumping is necessary to conduct research on new technology related to ocean dumping or to determine whether the dumping of such substance will unreasonably degrade or endanger human health, welfare or amenities, or the marine environment, ecological systems, or economic potentialities; that the scale of the proposed dumping is such that the dumping will have minimal adverse impact on the human health, welfare and amenities, and the marine environment, ecological systems and economic potentialities; and, after consultation with the Secretary of Commerce, that potential

Benefits of such research will outweigh any such adverse impact. The amendment further provides that research permits issued shall be subject to such conditions and restrictions as the Administrator of the EPA determines to be necessary to minimize any possible adverse impact of such dumping, and that no research permit issued under this subsection may have an effective period of more than six months. The intention of the Committee in authorizing EPA to issue research permits is that they be used sparingly, and only when the research is necessary to further the purposes of the Act. Ocean dumping under such research permits may include only industrial waste, not sewage sludge. The determination that the proposed dumping will have minimal adverse impact should be based on scientific analysis (including laboratory experiments), and any research permit issued should contain strict restrictions on the amount, time and location of dumping. In addition, the Committee intends that such research permits provide for continuous monitoring by the EPA, which should retain the right to suspend such a permit at any time should adverse impacts be observed.

Section 8 of the bill amends section 102(e) of the MPRSA to allow a federal agency which desires to ocean dump material from a location in a foreign country which is party to the International Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter to apply, after obtaining the concurrence of the Administrator of the EPA, directly to that foreign country for an ocean dumping permit.

COST OF THE LEGISLATION

Pursuant to clause 7 of Rule XIII of the Rules of the House of Representatives, the Committee estimates the cost of the activities under each Title of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, conducted pursuant to the authorizations in this legislation will be as follows:

| | |
|-------------------|-------------|
| Fiscal year 1979: | |
| Title I..... | \$3,000,000 |
| Title II..... | 6,000,000 |
| Title III..... | 1,000,000 |
| Fiscal year 1980: | |
| Title I..... | 3,500,000 |
| Title II..... | 10,500,000 |
| 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. 2519 would have no significant inflationary impact upon prices and costs in the operation of the national economy.

COMPLIANCE WITH HOUSE RULE XI

11. With respect to the requirements of clause 2(1) (3) (A) of Rule XI of the Rules of the House of Representatives, no oversight findings or recommendations on the subject of H.R. 2519 have been made by the Committee during the 96th Congress. No formal findings or recom-

mendations were made by the Committee as a result of the several days of oversight hearings held during the 95th Congress. The Committee received progress reports on implementation of the Marine Protection, Research, and Sanctuaries Act during its hearings on H.R. 2519 and plans to conduct further oversight activities during 1979.

2. With respect to the requirements of clause 2(1)(3)(E) of Rule XI of the Rules of the House of Representatives, the Committee has received no report from the Committee on Government Operations on the subject of H.R. 2519.

3. With respect to the requirements of clause 2(1)(3)(B) of Rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, H.R. 2519 does not contain any new budget authority or tax expenditures.

4. With respect to the requirements of clause (2)(1)(3)(C) of the 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 of the cost of H.R. 2519, from the Director of the Congressional Budget Office:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., April 13, 1979.

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

DEAR MR. CHAIRMAN: PURSUANT to Section 403 of the Congressional Budget Act, the Congressional Budget Office has prepared the attached cost estimate for H.R. 2519, 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.

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

Sincerely,

ALICE M. RIVLIN,
Director.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

APRIL 13, 1979.

1. Bill number: H.R. 2519.
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, and for other purposes.
3. Bill status: As ordered reported by the House Committee on Merchant Marine and Fisheries, April 10, 1979.
4. Bill purpose: The bill authorizes funds for programs to protect the ocean environment. It authorizes appropriations for 1979 and 1980 for the Environmental Protection Agency (EPA) to issue permits for ocean dumping and for the National Oceanic and Atmospheric Administration (NOAA) to carry out research on marine pollution and to establish marine sanctuaries.

For fiscal year 1979, \$1.4 million has been appropriated for the EPA permit program. This bill authorizes appropriations of \$3.0 million in 1979 and \$3.5 million in 1980. NOAA has received an appropriation of \$5.1 million for marine pollution research for 1979 and the President has requested \$9.5 million in 1980. The bill authorizes \$6.0 million for 1979 and \$10.5 million for 1980. The marine sanctuaries program received an appropriation of \$500,000 in 1979 and the President has requested \$3.0 million for 1980. The bill authorizes \$1.0 million for 1979 and the \$3.0 million requested by the President for 1980.

5. Cost estimate:

[By fiscal years; in millions of dollars]

| | 1979 | 1980 | 1981 | 1982 | 1983 |
|---|------|------|------|------|------|
| Authorization level | 10.0 | 17.0 | | | |
| Less: Amount already appropriated | 7.0 | | | | |
| Net additional authorization | 3.0 | 17.0 | | | |
| Estimated outlays | .3 | 15.4 | 4.3 | | |

The costs of this bill fall within budget function 300.

6. Basis of estimate: The net additional authorization for fiscal year 1979 is the amount stated in the bill less the amounts already appropriated for fiscal year 1979 (\$1.4 million for the EPA permit program, \$5.1 million for marine pollution research, and \$0.5 million for marine sanctuaries). It is assumed that the additional amounts authorized for 1979 will be appropriated by midsummer, and the amounts authorized for 1980 will be appropriated before the beginning of fiscal year 1980.

The funds authorized for EPA to issue and monitor ocean dumping permits are expected to be used primarily for salaries and administration and to be spent out at about 90 percent the first year and 10 percent the second, except that most of the additional authorization for 1979 will be spent in 1980.

It is expected that NOAA pollution research funds will be spent at a rate of 75 percent in the first year and the remainder in the second. This is based on the expectation that about 30 percent of the authorization is for salaries and spent out 90 percent in the first year, while the rest is for studies, to be spent out at a somewhat slower rate.

The sanctuaries program will experience some delay in spending the additional amount authorized for 1979. All of the amount authorized for 1979 will be spent in fiscal year 1980 but there will be some carry-over of 1980 funds into 1981.

7. Estimate comparison: None.

8. Previous CBO estimate: An estimate was prepared for H.R. 2519 as ordered reported by the House Committee on Science and Technology, March 15, 1979. The authorization levels for that version of the bill were higher in both 1979 and 1980.

9. Estimate prepared by: Susan Cirillo (225-7760).

10. Estimate approved by:

JAMES BLUM;
Assistant Director for Budget Analysis.

DEPARTMENTAL REPORTS

H.R. 2519 was the subject of reports from the Department of Defense and the Department of Commerce which follow herewith:

DEPARTMENT OF THE ARMY,
Washington, D.C., April 11, 1979.

Hon. JOHN M. MURPHY,
*Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives.*

DEAR MR. CHAIRMAN: This is in reply to your request to the Secretary of Defense for the views of the Department of Defense on H.R. 2519, 96th Congress, 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." The Department of the Army has been assigned responsibility for expressing the views of the Department of Defense on this bill.

The purpose of the bill is to authorize appropriations to carry out the Marine Protection, Research, and Sanctuaries Act of 1972 for fiscal years 1979 and 1980, to redefine responsibilities with respect to research programs and marine sanctuaries, and to provide that the ocean dumping of industrial waste shall be terminated by December 31, 1981.

The Department of the Army, on behalf of the Department of Defense, defers to the views of the Department of Commerce and the Environmental Protection Agency as the Federal agencies with primary interest in this legislation.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report for the consideration of the Committee.

Sincerely,

MICHAEL BLUMENFELD,
Assistant Secretary of the Army (Civil Works),

GENERAL COUNSEL OF THE
U.S. DEPARTMENT OF COMMERCE,
Washington, D.C., April 30, 1979.

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

DEAR MR. CHAIRMAN: This is in response to your request for the views of this Department regarding H.R. 2519, 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.

Our comments are directed toward the bill as reported March 29 by the Subcommittee on Oceanography, and Fisheries and Wildlife Conservation, and the Environment to the full Merchant Marine and Fisheries Committee. Specifically, we would like to comment on the proposed amendment to Section 302 of the Act which provides that a con-

current resolution passed by both Houses of Congress would have the effect of vetoing a proposed marine sanctuary designation.

The Department of Commerce is strongly opposed to the inclusion of such a provision in this Act. We would regard this legislative veto as an unconstitutional intrusion into the day-to-day administration of the law by the Executive Branch. As you know, the legislative veto is an issue of considerable concern to the President who stated in a June 21, 1978 message to the Congress that, "Such intrusive devices infringe upon the Executive's constitutional duty to faithfully execute the laws. . . . Legislative vetoes thereby circumvent the President's role in the legislative process established by Article I, Section 7 of the Constitution."

It is our strong recommendation that your Committee reconsider this proposal and we would urge you to delete this provision from H.R. 2519.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of this report to the Congress and furthermore, that enactment of H.R. 2519 with this amendment to Sec. 302 in it would not be in accord with the program of the President.

Sincerely,

WILLIAM V. SKIDMORE,
(For C. L. Haslam, General Counsel).

U.S. ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., May 1, 1979.

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 letter of March 8 requesting the views of the Environmental Protection Agency (EPA) on 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, and H.R. 2520, a bill to amend the National Ocean Pollution Research and Development and Monitoring Planning Act of 1978 to authorize appropriations to carry out the provisions of such Act for fiscal year 1980.

Section 1 of H.R. 2519 would reauthorize Title I of the Marine Protection, Research, and Sanctuaries Act for fiscal year 1979 and 1980, with funding at \$6.8 million and \$7.8 million, respectively. EPA has many diverse responsibilities to carry out under the environmental laws. Among them was a total of \$1.2 million requested in the President's budget for fiscal year 1979 to support activities under Title I. These funds will permit us to continue the program at approximately the present level of effort for this fiscal year and is an adequate amount to fulfill our mandate under the law. For this reason, we do not support the level of funding authorized in H.R. 2519.

Section 2 of the bill would transfer to EPA certain research activities presently authorized to be conducted by NOAA under Title II. Much of this research, such as developing land based alternatives to ocean dumping, is already performed by EPA under the Clean Water Act and other statutes. While EPA does not object to the transfer of the authority, we would not, for the reasons stated above, request

funding under this provision to carry out additional research at this time.

Section 7 of H.R. 2519 would amend P.L. 95-153 to prohibit the ocean dumping of harmful industrial wastes after 1981. Presently, under EPA's permit program, all dumpers of harmful industrial wastes are on schedule which will ensure that the only industrial wastes permitted for ocean dumping after 1981 are those that meet EPA's environmental impact criteria and which will not cause unreasonable degradation of the environment. EPA has no objection to making this requirement statutory through adoption of H.R. 2519. We are concerned, however, that such a prohibition would prevent EPA from issuing emergency or research permits on a case-by-case basis to avert a public health hazard or to examine a new technology which shows promise, but has not yet had the full field evaluation necessary to show its environmental acceptability.

An example of this situation is our efforts to develop a procedure for incineration at sea as a viable technology. Much of our success in this area has been due to our ability under the EPA Ocean Dumping Regulations to issue research permits for the destruction or disposal of materials at sea—even when the environmental effects of this method of disposal are not precisely known. Without our ability to issue these research permits, we would have been unable to do the preliminary evaluation of the destruction of Herbicide Orange by incineration at sea. It was this research which made it possible for us to permit the destruction of large amounts of this substance in an environmentally protective fashion.

For this reason, we believe that a certain amount of flexibility is necessary in the issuance of emergency and research permits to assure that EPA can continue to make optimum environmental choices in cases of particular need.

We would defer to the views of the Department of Commerce and the National Oceanic and Atmospheric Administration on sections 3, 4, 5, and 6 of H.R. 2519, as well as H.R. 2520.

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

Sincerely yours,

DOUGLAS M. COSTLE

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, 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) :

MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT OF 1972, AS AMENDED

(33 U.S.C. 1401-44; 16 U.S.C. 1431-4; Public Law 95-153)

* * * * *

SEC. 102. * * *

(e) In the case of transportation of material, by an agency or instrumentality of the United States or by a vessel or aircraft registered in the United States or flying the United States flag, from a location in a foreign State Party to the Convention, a permit issued pursuant to the authority of that foreign State Party, in accordance with Convention requirements, and which otherwise could have been issued pursuant to subsection (a) hereof, shall be accepted, for the purposes of this title, as if it were issued by the Administrator under the authority of this [section] section: *Provided, That in the case of an agency or instrumentality of the United States, no application shall be made for a permit to be issued pursuant to the authority of a foreign State Party to the Convention unless the Administrator concurs in the filing of such application.*

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 \$3,000,000 for fiscal year 1979, and not to exceed \$3,500,000 for fiscal year 1980*, for the purposes and administration of this subchapter, 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, or 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; 33 U.S.C. 1412a), for the ocean dumping of sewage sludge.*

SEC. 203. The Secretary of Commerce shall conduct and encourage, cooperate with, and render financial and other assistance to appropri-

ate 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.] 203. There are authorized to be appropriated for the first fiscal year after October 23, 1972, 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 \$6,000,000 for fiscal year 1979, and not to exceed \$10,500,000 for fiscal year 1980.*

TITLE III—MARINE SANCTUARIES

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) (1) 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 Stat 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.]

(2) *A designation under this section shall become effective unless—*
 (A) *the Governor of any State described in paragraph (1) certifies to the Secretary, before the end of the sixty-day period*

beginning on the date of the publication of the designation, that the designation 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 waters described in paragraph (1) in such State until the Governor withdraws his certification of unacceptability; or

(B) both Houses of Congress adopt a concurrent resolution in accordance with subsection (h) which disapproves the designation or any of its terms described in subsection (f) (1).

The Secretary may withdraw the designation after any such certification or resolution of disapproval. If the Secretary does not withdraw the designation, only those portions of the designation not certified as unacceptable under subparagraph (A) or not disapproved under subparagraph (B) shall take effect.

(c) When a marine sanctuary is designated, pursuant to this section, which includes an area of ocean waters outside the territorial jurisdiction of the United States, the Secretary of State shall take such actions as may be appropriate to enter into negotiations with other Governments for the purpose of arriving at necessary agreements with those Governments, in order to protect such sanctuary and to promote the purposes for which it was established.

(d) The Secretary shall submit an annual report to the Congress, on or before November 1 of each year, setting forth a comprehensive review of his actions during the previous fiscal year undertaken pursuant to the authority of this section, together with appropriate recommendation for legislation considered necessary for the designation and protection of marine sanctuaries.

(e) Before a marine sanctuary is designated under this section, the Secretary shall hold public hearings in the coastal areas which would be most directly affected by such designation, for the purpose of receiving and giving proper consideration to the views of any interested party. Such hearings shall be held no earlier than thirty days after the publication of a public notice thereof.

[(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.]

(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 as is necessary and reasonable to carry out the purposes of this title.

(4) The Secretary and the Secretary of the department in which the Coast Guard is operating shall conduct such enforcement activities as are necessary and reasonable to carry out the purposes of this title. The Secretary shall, whenever appropriate and in consultation with the Secretary of the department in which the Coast Guard is operating, 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 nonreimbursable basis in carrying out his responsibilities under this title.

(g) The regulations issued pursuant to subsection (f) shall be applied in accordance with recognized principles of international law, including treaties, conventions, and other agreements to which the United States is signatory. Unless the application of the regulations is in accordance with such principles or is otherwise authorized by an agreement between the United States and the foreign State of which the affected person is a citizen or, in the case of the crew of a foreign vessel, between the United States and flag State of the vessel, no regulation applicable to ocean waters outside the territorial jurisdiction of the United States shall be applied to a person not a citizen of the United States.

(h) (1) For purposes of subsection (b) (2) (B), the Secretary shall transmit to the Congress a designation of a marine sanctuary at the time of its publication. The concurrent resolution described in subsection (b) (2) (B) is a concurrent resolution which is adopted by both Houses of Congress before the end of the first period of sixty calendar days of continuous session of Congress after the date on which the designation is transmitted, the matter after the resolving clause of which is as follows: 'That the Congress does not favor the taking of effect of the following terms of the marine sanctuary designation numbered _____ transmitted to Congress by the Secretary of Commerce on _____, the first blank space being filled with the number of the designation, the second blank space being filled with the date of the transmittal, and the third blank space being filled with the terms of the designation which are disapproved (or the phrase 'the entire designation' if the entire designation is disapproved).

(2) For the purpose of paragraph (1) of this subsection—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the sixty day period.

(3) A designation which becomes effective, or that portion of a designation which takes effect under subsection (b), shall be printed in the Federal Register.

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 \$1,000,000 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.

PUBLIC LAW 95-153

(33 U.S.C. 1412a)

AN ACT 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

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 “September 30, 1976,”; and

(2) by adding immediately after “fiscal year 1977,” the following: “and not to exceed \$4,800,000 for fiscal year 1978.”

SEC. 2. Section 204 of such Act (33 U.S.C. 1444) is amended—

(1) by striking out “and” immediately after “September 30, 1976,”; and

(2) by adding immediately after “fiscal year 1977” the following: “and not to exceed \$6,500,000 for fiscal year 1978”.

SEC. 3. Section 304 of such Act (16 U.S.C. 1434) is amended—

(1) by striking out “and” immediately after “September 30, 1976,”; and

(2) by adding immediately after “fiscal year 1977” the following: “and not to exceed \$500,000 for fiscal year 1978”.

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, *except as provided in subsection (b)*, 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) *After December 31, 1981, the Administrator may issue permits under such title I for the dumping of industrial waste into ocean waters, or into waters described in such section 101(b), if the Administrator determines—*

(1) *that the proposed dumping is necessary to conduct research—*

(A) *on new technology related to ocean dumping, or*

(B) *to determine whether the dumping of such substance*

will unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities;

(2) that the scale of the proposed dumping is such that the dumping will have minimal adverse impact upon the human health, welfare, and amenities, and the marine environment, ecological systems, and economic potentialities; and

(3) after consultation with the Secretary of Commerce, that the potential benefits of such research will outweigh any such adverse impact.

Each permit issued pursuant to this subsection shall be subject to such conditions and restrictions as the Administrator determines to be necessary to minimize possible adverse impacts of such dumping. No permit issued by the Administrator pursuant to this subsection may have an effective period of more than six consecutive months.

(c) For purposes of this section—

(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, or amenities, or the marine environment, ecological systems, or economic potentialities; and

(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, or amenities, or the marine environment, ecological systems, or economic potentialities.

SUPPLEMENTAL VIEWS

We feel this legislation continues the laudable efforts of the Merchant Marine Committee to protect our oceans and marine resources from despoliation and degradation.

The legislation achieves this worthwhile conservation goal by banning the dumping of harmful industrial wastes in the oceans after 1981. The 1981 ban on industrial waste dumping is a logical extension of the 1981 ban on municipal sewage sludge dumping. That ban was enacted into law as a result of this Committee's efforts 18 months ago.

This legislation, thus, serves notice that industries, as well as municipalities, can no longer use our oceans as cheap, convenient places to dump their wastes. In approving this measure, the Committee has underscored its commitment to protecting the nation's shorelines and coastal resources from the harmful effects of ocean pollution.

During subcommittee markup, a narrowly drawn amendment was adopted that would allow EPA to issue research permits for the ocean dumping of industrial wastes. The amendment limits the research permits to dumping that will be small-scale, have minimal adverse impacts, and have potential benefits outweighing any such adverse impacts. It also sets a six-month limit on the permits.

We supported this provision as a means of giving a degree of needed flexibility to EPA in carrying out the mandates of the Ocean Dumping Act. We wish to emphasize, however, that the provision was amended by the subcommittee to make clear that municipal sludge dumping would not qualify for a research permit under any circumstances. We adopted this amendment to stress that the 1981 deadline for municipal sludge dumping is to stay intact without exceptions.

We remain firm in our strong commitment to outlaw ocean dumping after 1981. Neither municipalities nor industries should view the research permit as a potential means of circumventing the Act's requirements. The research permit does not represent any weakening of our commitment to clean oceans nor does it indicate that legislative relief from the 1981 deadline is on the way. Instead, it provides very limited authority to conduct small-scale research either into new technology for the ocean dumping of industrial wastes or into the potential adverse impacts of dumping such waste in the ocean.

In short, we feel the Ocean Dumping Act is one of our landmark environmental statutes, and we applaud the Committee's action to extend the Act's restrictions to industrial wastes as well as municipal sewage sludge.

EDWIN B. FORSYTHE.
BOB BAUMAN.
BILL HUGHES.
TOM EVANS.