

HJR

61

STATE OF ALASKA
THE LEGISLATURE

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JUNEAU, ALASKA 99811
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May, 1988

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Mary Van Nimwegen

House C+RA 3-25-88 3:00p.m.

HOUSE COMMITTEE REPORT

(5)

Date referred: 2/15/88

FURTHER REFERRALS:

Resources

DATE: MAR 25 1988

The Community and Regional Affairs Committee has considered HJR 61

Relating to garbage dumping in the ocean.

RECOMMENDS:

- replace with _____ the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

Herminth Springer Springer _____

Adelheid Herrmann Herrmann _____

Leona Collins Collins _____

SIGNING OTHER RECOMMENDATIONS:

Springer

Herminth Springer
Chairman's signature

File Contents

HJR 61 - Garbage Dumping in the Ocean

<u>No.</u>	<u>Description</u>
1.	Bill - HJR 61
1.1	Fiscal Note - DCRA (coming)
2.	Federal Pollution Laws
3.	Bill Review - Harrison

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: HJR 61
PUBLISH DATE: _____

1.1 HJR 61

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Relating to garbage dumping in the ocean
Sponsor: Herrmann, Sund, Ellis & Davidson
Requestor: _____

Agency Affected: Community & Regional Affairs
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Jim Plasman
Prepared by: Jim Plasman, Deputy Director Phone: 465-4750
Division: Municipal & Regional Assistance Date: 3/24/88

Approved by Commissioner: *[Signature]* Date: 3/25/88
Agency: Community & Regional Affairs

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

CHAPTER 33—PREVENTION OF POLLUTION FROM SHIPS

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§ 1901. Definitions

Unless the context indicates otherwise, as used in this chapter—

- "MARPOL Protocol" means the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973, done at London on February 17, 1978. This Protocol incorporates and modifies the International Convention for the Prevention of Pollution from Ships, 1973, done at London on November 2, 1973;
- "Convention" means the International Convention for the Prevention of Pollution from Ships, 1973, including Protocols I and II and Annexes I and II attached thereto;
- "discharge" and "harmful substance" and "incident" shall have the meanings provided in the Convention;
- "owner" means any person holding title to, or in the absence of title, any other indicia of ownership of, a ship or terminal, but does not include a person who, without participating in the management or operation of a ship or terminal, holds indicia of ownership primarily to protect a security interest in the ship or terminal;
- "operator" means—
 - in the case of a ship, a charterer by demise or any other person, except the owner, who is responsible for the operation, manning, victualing, and supplying of the vessel, or

(b) in the case of a terminal, any person, except the owner, responsible for the operation of the terminal by agreement with the owner;

(6) "person" means an individual, firm, public or private corporation, partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body;

(7) "Secretary" means the Secretary of the department in which the Coast Guard is operating;

(8) "ship" means a vessel of any type whatsoever, including hydrofoils, air-cushion vehicles, submersibles, floating craft whether self-propelled or not, and fixed or floating platforms; and

(9) "terminal" means an onshore facility or an offshore structure located in the navigable waters of the United States or subject to the jurisdiction of the United States and used, or intended to be used, as a port or facility for the transfer or other handling of a harmful substance.

(Pub.L. 96-478, § 2, Oct. 21, 1980, 94 Stat. 2297.)

Historical Note

References in Text. This chapter, referred to in text, was in the original "this Act", meaning Pub.L. 96-478, Oct. 21, 1980, 94 Stat. 2297, known as the "Act to Prevent Pollution from Ships". For complete classification of this Act to the Code, see Short Title note below and Tables volume.

Effective Date. Section 14(a) and (b) of Pub.L. 96-478 provided:

"(a) Except as provided in subsection (b) of this section, this Act [see Short Title note below] is effective upon the date of enactment [Oct. 21, 1980], or on the date the MARPOL Protocol becomes effective as to the United States whichever is later. [The MARPOL Protocol became effective as to the United States Oct. 2, 1983.]

"(b) The Secretary and the heads of Federal departments shall have the authority to issue regulations, standards, and certifications under sections 3(c), 3(d), 4(b), 5(a), 6(a), 6(c) and 6(f) [sections 1902(c), (d), 1903(b), 1904(a), and 1905(a), (c), (f) of this title] effective on the date of enactment of this Act [Oct. 21, 1980]. Section 13(a)(2) [amending section 391a(3)(E) of Title 46, Shipping] is

effective upon the date of enactment of this Act [Oct. 21, 1980]."

Short Title. Section 1 of Pub.L. 96-478 provided: "That this Act [enacting this chapter, amending section 1321 of this title and section 742c(c) of Title 16, Conservation, and section 391a of Title 46, Shipping, repealing sections 1001 to 1011 and 1013 to 1016 of this title, and enacting provisions set out as notes under section 1001 of this title, and section 742c of Title 16] may be cited as the 'Act to Prevent Pollution from Ships'."

Savings Provision; Regulations in Effect Until Superseded. Section 14(c) of Pub.L. 96-478 provided that: "Any rights or liabilities existing on the effective date of this Act [see Effective Date note above] shall not be affected by this enactment [see Short Title note above]. Any regulations or procedures promulgated or effected pursuant to the Oil Pollution Act, 1961, as amended [former section 1001 et seq. of this title], remain in effect until modified or superseded by regulations promulgated under the authority of the MARPOL Protocol or this Act."

Legislative History. For legislative history and purpose of Pub.L. 96-478, see 1980 U.S. Code Cong. and Adm. News, p. 4849.

Library References

Health and Environment ⇨ 25.7(3).
C.J.S. Health and Environment § 106.

§ 1902. Ships subject to preventive measures

(a) Included vessels

This chapter applies to—

(1) a ship of United States registry or nationality, or one operated under the authority of the United States, wherever located;

(2) a ship registered in or of the nationality of a country party to the MARPOL Protocol, or one operated under the authority of a country party to the MARPOL Protocol, while in the navigable waters of the United States; and

(3) a ship registered in or of the nationality of a country not a party to the MARPOL Protocol, under subsection (c) of this section, while in the navigable waters of the United States.

(b) Excluded vessels

This chapter does not apply to—

(1) a warship, naval auxiliary, or other ship owned or operated by the United States when engaged in noncommercial service; or

(2) any other ship specifically excluded by the MARPOL Protocol.

(c) Regulations

The Secretary shall prescribe regulations applicable to the ships of a country not a party to the MARPOL Protocol to ensure that their treatment is not more favorable than that accorded ships of parties to the MARPOL Protocol.

(d) Noncommercial shipping standards

The heads of Federal departments and agencies shall prescribe standards applicable to ships excluded from this chapter by subsection (b)(1) of this section and for which they are responsible. Standards prescribed under this subsection shall ensure, so far as is reasonable and practicable without impairing the operations or operational capabilities of such ships, that such ships act in a manner consistent with the MARPOL Protocol.

(Pub.L. 96-478, § 3, Oct. 21, 1980, 94 Stat. 2297.)

Historical Note

References in Text. This chapter, referred to in subssecs. (a), (b), and (d) was in the original "this Act", meaning Pub.L. 96-478, Oct. 21, 1980, 94 Stat. 2297, known as the "Act to Prevent Pollution from Ships". For complete classification of this Act to the Code, see Short Title note below and Tables volume.

Effective Date. Subssecs. (a) and (b) effective Oct. 2, 1983, and subssecs. (c) and (d) effective Oct. 21, 1980, see section 14(a) and (b) of Pub.L. 96-478, set out as a note under section 1901 of this title.

Legislative History. For legislative history and purpose of Pub.L. 96-478, see 1980 U.S. Code Cong. and Adm. News, p. 4849.

Code of Federal Regulations

Oil pollution regulations, see 33 CFR 151.01 et seq., 155.100 et seq.

§ 1903. Administration and enforcement

(a) Duty of Secretary; Annexes of Protocol applicable to seagoing vessels

Unless otherwise specified herein, the Secretary shall administer and enforce the MARPOL Protocol and this chapter. In the administration and enforcement of the MARPOL Protocol and this chapter, Annexes I and II of the MARPOL Protocol shall be applicable only to seagoing ships.

(b) Regulations

The Secretary shall prescribe any necessary or desired regulations to carry out the provisions of the MARPOL Protocol or this chapter.

(c) Utilization of personnel, facilities, or equipment of other Federal departments and agencies

The Secretary may utilize by agreement, with or without reimbursement, personnel, facilities, or equipment of other Federal departments and agencies in administering the MARPOL Protocol, this chapter, or the regulations thereunder.

(Pub.L. 96-478, § 4, Oct. 21, 1980, 94 Stat. 2298.)

Historical Note

References in Text. This chapter, referred to in text, was in the original "this Act", meaning Pub.L. 96-478, Oct. 21, 1980, 94 Stat. 2297, known as the "Act to Prevent Pollution from Ships". For complete classification of this Act to the Code, see Short Title note below and Tables volume.

Effective Date. Subsecs. (a) and (c) effective Oct. 2 1983, and subsec. (b) effective Oct.

21, 1980, see section 14(a) and (b) of Pub.L. 96-478, set out under section 1901 of this title.

Legislative History. For legislative history and purpose of Pub.L. 96-478, see 1980 U.S. Code Cong. and Adm. News, p. 4849.

Code of Federal Regulations

Oil pollution regulations, see 33 CFR 151.01 et seq., 155.100 et seq.

Rules for protection of marine environment relating to tank vessels carrying oil in bulk, see 33 CFR 157.01 et seq.

Library References

Health and Environment §25.7(17).

C.J.S. Health and Environment §§ 113, 150 to 153.

§ 1904. Certificates

(a) Issuance by authorized designees; restriction on issuance

The Secretary shall designate those persons authorized to issue on behalf of the United States the certificates required by the MARPOL Protocol. A certificate required by the MARPOL Protocol shall not be issued to a ship which is registered in or of the nationality of a country which is not a party to the MARPOL Protocol.

(b) Validity of foreign certificates

A certificate issued by a country which is a party to the MARPOL Protocol has the same validity as a certificate issued by the Secretary under the authority of the MARPOL Protocol.

(c) Location onboard vessel; inspection of vessels subject to jurisdiction of United States

A ship required by the MARPOL Protocol to have a certificate—

(1) shall carry a valid certificate onboard in the manner prescribed by the authority issuing the certificate; and

(2) is subject to inspection while in a port or terminal under the jurisdiction of the United States.

(d) Onboard inspections; other Federal inspection authority unaffected

An inspection conducted under subsection (c)(2) of this section is limited to verifying whether or not a valid certificate is onboard, unless clear grounds exist which reasonably indicate that the condition of the ship or its equipment does not substantially agree with the particulars of its certificate. This section shall not limit the authority of any official or employee of the United States under any other treaty, law, or regulation to board and inspect a ship or its equipment.

(e) Detention orders; duration of detention; shipyard option

In addition to the penalties prescribed in section 1908 of this title, a ship required by the MARPOL Protocol to have a certificate—

(1) which does not have a valid certificate onboard; or

(2) whose condition or whose equipment's condition does not substantially agree with the particulars of the certificate onboard;

shall be detained by order of the Secretary at the port or terminal where the violation is discovered until, in the opinion of the Secretary, the ship can proceed to sea without presenting an unreasonable threat of harm to the marine environment. The detention order may authorize the ship to proceed to the nearest appropriate available shipyard rather than remaining at the place where the violation was discovered.

(f) Ship clearance or permits; refusal or revocation

If a ship is under a detention order under this section, the Secretary of the Treasury, upon the request of the Secretary, may refuse or revoke—

(1) the clearance required by section 91 of Title 46; or

(2) a permit to proceed under section 313 of Title 46 or section 1443 of Title 19.

(g) Review of detention orders; petition; determination by Secretary

A person whose ship is subject to a detention order under this section may petition the Secretary, in the manner prescribed by regulation, to review the detention order. Upon receipt of a petition under this subsection, the Secretary shall affirm, modify, or withdraw the detention order within the time prescribed by regulation.

(h) Compensation for loss or damage

A ship unreasonably detained or delayed by the Secretary acting under the authority of this chapter is entitled to compensation for any loss or damage suffered thereby.

(Pub.L. 96-478, § 5, Oct. 21, 1980, 94 Stat. 2298.)

Historical Note

References in Text. This chapter, referred to in subsec. (h), was in the original "this Act", meaning Pub.L. 96-478, Oct. 21, 1980, 94 Stat. 2297, known as the "Act to Prevent Pollution from Ships". For complete classification of this Act to the Code, see Short Title note below and Tables volume.

Codification. Section 1443 of Title 19, referred to in subsec. (f)(2), was in the original section 442 of the Tariff Act of 1930, as amended (19 U.S.C. 1443). Although section 442 of the Tariff Act of 1930, June 17, 1930, c. 497, title IV, 46 Stat. 713, is classified to section 1442 of Title 19, Customs Duties, the

reference was translated to reflect the probable intent of Congress as section 1443 of Title 19 which is section 443 of the Tariff Act of 1930.

Effective Date. Subsec. (a) effective Oct. 21, 1980, and subssecs. (b) to (h) effective Oct. 2, 1983, see section 14(a) and (b) of Pub.L. 96-478, set out as a note under section 1901 of this title.

Legislative History. For legislative history and purpose of Pub.L. 96-478, see 1980 U.S. Code Cong. and Adm. News, p. 4849.

Library References

Health and Environment § 25.7(13).
C.J.S. Health and Environment §§ 107, 134.

§ 1905. Pollution reception facilities**(a) Adequacy; criteria**

The Secretary, after consultation with the Administrator of the Environmental Protection Agency, shall establish regulations setting criteria for determining the adequacy of reception facilities of a port or terminal and shall establish procedures whereby a person in charge of a port or terminal may request the Secretary to certify that the port's or terminal's facilities for receiving the residues and mixtures containing oil or noxious liquid substance from seagoing ships are adequate.

(b) Traffic considerations

In determining the adequacy of reception facilities required by the MARPOL Protocol at a port or terminal, the Secretary may consider, among other things, the number and types of seagoing ships using the port or terminal, including their principal trades.

(c) Certificate; issuance; validity; inspection; review of suspension or revocation by Secretary

If, upon inspection, reception facilities of a port or terminal are adequate to meet the requirements of the MARPOL Protocol and the regulations established hereunder, the Secretary shall, after consultation with the Administrator of the Environmental Protection Agency, issue a certificate to that effect to the applicant. A certificate issued under this subsection—

(1) is valid until suspended or revoked by the Secretary for cause or because of changed conditions; and

(2) shall be available for inspection upon the request of the master, other person in charge, or agent of a seagoing ship using or intending to use the port or terminal.

The suspension or revocation of a certificate issued under this subsection may be appealed to the Secretary and acted on by him in the manner prescribed by regulation.

(d) Publication in Federal Register; list of certificated ports or terminals

The Secretary shall periodically cause to be published in the Federal Register a list of the ports or terminals holding a valid certificate issued under this section.

(e) Entry; denial

Except in the case of force majeure, the Secretary shall deny entry to a seagoing ship required by the Convention to retain onboard while at sea, residues and mixtures containing oil or noxious liquid substances, if—

(1) the port or terminal is one required by the MARPOL Protocol or regulations hereunder to have adequate reception facilities; and

(2) the port or terminal does not hold a valid certificate issued by the Secretary under this section.

(f) Surveys

The Secretary is authorized to conduct surveys of existing reception facilities in the United States to determine measures needed to comply with the MARPOL Protocol.

(Pub.L. 96-478, § 6, Oct. 21, 1980, 94 Stat. 2299.)

Historical Note

Effective Date. Subsecs. (a), (c), and (f) effective Oct. 21, 1980, and subsec. (b), (d), and (e) effective Oct. 2, 1983, see section 14(a) and (b) of Pub.L. 96-478, set out as a note under section 1901 of this title.

Legislative History. For legislative history and purpose of Pub.L. 96-478, see 1980 U.S. Code Cong. and Adm. News, p. 4849.

Library References

Health and Environment § 25.7(21).
C.J.S. Health and Environment §§ 106, 125, 131.

§ 1906. Incidents involving ships**(a) Reports to Secretary**

As soon as he has knowledge of an incident, the master or other person in charge of a ship shall report it to the Secretary in the manner prescribed by Article 8 of the Convention.

(b) Action by Secretary

Upon receipt of the report of an incident involving a ship, other than one of United States registry or nationality or one operated under the authority

of the United States, the Secretary shall take the action required by Article 8 of the Convention.

(Pub.L. 96-478, § 7, Oct. 21, 1980, 94 Stat. 2300.)

Historical Note

Effective Date. Section effective Oct. 2, 1983, see section 14(a) of Pub.L. 96-478, set out as a note under section 1901 of this title.

Legislative History. For legislative history and purpose of Pub.L. 96-478, see 1980 U.S. Code Cong. and Adm. News, p. 4849.

§ 1907. Violations

(a) General prohibition; cooperation and enforcement; detection and monitoring measures; reports; evidence

It is unlawful to act in violation of the MARPOL Protocol, this chapter, or the regulations issued thereunder. The Secretary shall cooperate with other parties to the MARPOL Protocol in the detection of violations and in enforcement of the MARPOL Protocol. The Secretary shall use all appropriate and practical measures of detection and environmental monitoring, and shall establish adequate procedures for reporting violations and accumulating evidence.

(b) Investigations; subpoenas; issuance by Secretary, enforcement; action by Secretary; information to party

Upon receipt of evidence that a violation has occurred, the Secretary shall cause the matter to be investigated. In any investigation under this section the Secretary may issue subpoenas to require the attendance of any witness and the production of documents and other evidence. In case of refusal to obey a subpoena issued to any person, the Secretary may request the Attorney General to invoke the aid of the appropriate district court of the United States to compel compliance. Upon completion of the investigation, the Secretary shall take the action required by the MARPOL Protocol and whatever further action he considers appropriate under the circumstances. If the initial evidence was provided by a party to the MARPOL Protocol, the Secretary, acting through the Secretary of State, shall inform that party of the action taken or proposed.

(c) Ship inspections; reports to Secretary; additional action for other than domestic ships

While at a port or terminal subject to the jurisdiction of the United States, a ship to which the MARPOL Protocol applies may be inspected by the Secretary—

(1) to verify whether or not the ship has discharged a harmful substance in violation of the MARPOL Protocol or this chapter; or

(2) to comply with a request from a party to the MARPOL Protocol for an investigation as to whether the ship may have discharged a harmful substance anywhere in violation of the MARPOL Protocol. An investigation may be undertaken under this clause only when the requesting party has furnished sufficient evidence to allow the Secretary reasonably to believe that a discharge has occurred.

If an inspection under this subsection indicates that a violation has occurred, the investigating officer shall forward a report to the Secretary for appropriate action. If a report made under this subsection involves a ship, other than one of United States registry or nationality or one operated under the authority of the United States, the Secretary shall undertake to notify the master of the ship concerned and, acting in coordination with the Secretary of State, shall take any additional action required by Article 6 of the Convention.

(d) Supplemental remedies and requirements; other provisions and available remedies unaffected

Remedies and requirements of this chapter supplement and neither amend nor repeal any other provisions of law, except as expressly provided in this chapter. Nothing in this chapter shall limit, deny, amend, modify, or repeal any other remedy available to the United States or any other person, except as expressly provided in this chapter.

(Pub.L. 96-478, § 8, Oct. 21, 1980, 94 Stat. 2300.)

Historical Note

References in text. This chapter, referred to in text, subsecs. (a), (c)(1), and (d), was in the original "this Act", meaning Pub.L. 96-478, Oct. 21, 1980, 94 Stat. 2297, known as the "Act to Prevent Pollution from Ships". For complete classification of this Act to the Code, see Short Title note below and Tables volume.

Effective Date. Section effective Oct. 2, 1983, see section 14(a) of Pub.L. 96-478, set out as a note under section 1901 of this title.

Legislative History. For legislative history and purpose of Pub.L. 96-478, see 1980 U.S. Code Cong. and Adm. News, p. 4849.

West's Federal Forms

Administrative subpoenas, enforcement of, see § 6004 et seq.
Jurisdiction and venue in district courts, matters pertaining to, see § 1003 et seq.
Proceedings to compel discovery and enforcement of penalties for refusal to make discovery, see § 3681 et seq.
Production of documents, motions and orders pertaining to, see § 3551 et seq.
Subpoenas, see § 3981 et seq.

Library References

Health and Environment ⇨37.
C.J.S. Health and Environment §§ 48, 113,
114, 141, 143, 148, 149, 155.

§ 1908. Penalties for violations

(a) Criminal penalties

A person who knowingly violates the MARPOL Protocol, this chapter, or the regulations issued thereunder shall, for each violation, be fined not more than \$50,000 or be imprisoned for not more than 5 years, or both.

(b) Civil penalties; separate violations; assessment notice; considerations affecting amount

A person who is found by the Secretary, after notice and an opportunity for a hearing, to have—

(1) violated the MARPOL Protocol, this chapter, or the regulations issued thereunder shall be liable to the United States for a civil penalty, not to exceed \$25,000 for each violation; or

(2) made a false, fictitious, or fraudulent statement or representation in any matter in which a statement or representation is required to be made to the Secretary under the MARPOL Protocol, this chapter, or the regulations thereunder, shall be liable to the United States for a civil penalty, not to exceed \$5,000 for each statement or representation.

Each day of a continuing violation shall constitute a separate violation. The amount of the civil penalty shall be assessed by the Secretary, or his designee, by written notice. In determining the amount of the penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other matters as justice may require.

(c) Abatement of civil penalties; collection by Attorney General

The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to assessment or which has been assessed under this section. If any person fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General of the United States for collection in any appropriate district court of the United States.

(d) Liability in rem; district court jurisdiction

A ship operated in violation of the MARPOL Protocol, this chapter, or the regulations thereunder is liable in rem for any fine imposed under subsection (a) of this section or civil penalty assessed pursuant to subsection (b) of this section, and may be proceeded against in the United States district court of any district in which the ship may be found.

(e) Ship clearance or permits; refusal or revocation; bond or other surety

If any ship subject to the MARPOL Protocol or this chapter, its owner, operator, or person in charge is liable for a fine or civil penalty under this section, or if reasonable cause exists to believe that the ship, its owner, operator, or person in charge may be subject to a fine or civil penalty under this section, the Secretary of the Treasury, upon the request of the Secretary, shall refuse or revoke—

(1) the clearance required by section 91 of Title 46; or

(2) a permit to proceed under section 313 of Title 46 or section 1443 of Title 19.

Clearance or a permit to proceed may be granted upon the filing of a bond or other surety satisfactory to the Secretary.

(f) Referrals for appropriate action by foreign country

Notwithstanding subsection (a), (b), or (d) of this section, if the violation is by a ship registered in or of the nationality of a country party to the MARPOL Protocol, or one operated under the authority of a country party to the MARPOL Protocol, the Secretary, acting in coordination with the

Secretary of State, may refer the matter to that country for appropriate action, rather than taking the actions required or authorized by this section.

(Pub.L. 96-478, § 9, Oct. 21, 1980, 94 Stat. 2301.)

Historical Note

References In Text. This chapter, referred to in subsecs. (a), (b)(1), (2), and (d), was in the original "this Act", meaning Pub.L. 96-478, Oct. 21, 1980, 94 Stat. 2297, known as the "Act to Prevent Pollution from Ships". For complete classification of this Act to the Code, see Short Title note below and Tables volume.

Effective Date. Section effective Oct. 2, 1983, see section 14(a) of Pub.L. 96-478, set out as a note under section 1901 of this title.

Legislative History. For legislative history and purpose of Pub.L. 96-478, see 1980 U.S. Code Cong. and Adm. News, p. 4849.

Cross References

Detention orders, see section 1904 of this title.

Failure to refuse or revoke clearances or permits, action against Secretary of Treasury for, see section 1910 of this title.

West's Federal Forms

Bonds and undertakings, see § 1521 et seq.

Jurisdiction and venue in district courts, matters pertaining to, see § 1003 et seq.

Sentence and fine, see § 7531 et seq.

Library References

Health and Environment ◊38.

C.J.S. Health and Environment §§ 49, 50,
134, 139, 151 to 154, 156.

§ 1909. MARPOL Protocol; proposed amendments

(a) Acceptance of certain amendments by President

A proposed amendment to the MARPOL Protocol received by the United States from the Secretary-General of the Inter-Governmental Maritime Consultative Organization pursuant to Article VI of the MARPOL Protocol, may be accepted on behalf of the United States by the President following the advice and consent of the Senate, except as provided for in subsection (b) of this section.

(b) Action on certain amendments by Secretary of State

A proposed amendment to Annex I or II, appendices to the Annexes, or Protocol I of the MARPOL Protocol, received by the United States from the Secretary-General of the Inter-Governmental Maritime Consultative Organization pursuant to Article VI of the MARPOL Protocol, may be the subject of appropriate action on behalf of the United States by the Secretary of State following consultation with the Secretary, who shall inform the Secretary of State as to what action he considers appropriate at least 30 days prior to the expiration of the period specified in Article VI of the MARPOL Protocol during which objection may be made to any amendment received.

(c) Declaration of nonacceptance by Secretary of State

Following consultation with the Secretary, the Secretary of State may make a declaration that the United States does not accept an amendment proposed pursuant to Article VI of the MARPOL Protocol.

(Pub.L. 96-478, § 10, Oct. 21, 1980, 94 Stat. 2302.)

Historical Note

Effective Date. Section effective Oct. 2, 1983, see section 14(a) of Pub.L. 96-478, set out as a note under section 1901 of this title. **Legislative History.** For legislative history and purpose of Pub.L. 96-478, see 1980 U.S. Code Cong. and Adm. News, p. 4849.

Library References

Health and Environment ☞ 25.7(15).
C.J.S. Health and Environment §§ 107, 134.

§ 1910. Legal actions**(a) Persons with adversely affected interests as plaintiffs; defendants**

Except as provided in subsection (b) of this section, any person having an interest which is, or can be, adversely affected, may bring an action on his own behalf—

(1) against any person alleged to be in violation of the provisions of this chapter, or regulations issued hereunder;

(2) against the Secretary where there is alleged a failure of the Secretary to perform any act or duty under this chapter which is not discretionary with the Secretary;

(3) against the Secretary of the Treasury where there is alleged a failure of the Secretary of the Treasury to take action under section 1908(e) of this title.

(b) Commencement conditions

No action may be commenced under subsection (a) of this section—

(1) prior to 60 days after the plaintiff has given notice, in writing and under oath, to the alleged violator, the Secretary concerned, and the Attorney General; or

(2) if the Secretary has commenced enforcement or penalty action with respect to the alleged violation and is conducting such procedures diligently.

(c) Venue

Any suit brought under this section shall be brought—

(1) in a case concerning an onshore facility or port, in the United States district court for the judicial district where the onshore facility or port is located;

(2) in a case concerning an offshore facility or offshore structure under the jurisdiction of the United States, in the United States district court for the judicial district nearest the offshore facility or offshore structure;

(3) in a case concerning a ship, in the United States district court for any judicial district wherein the ship or its owner or operator may be found; or

(4) in any case, in the District Court for the District of Columbia.

(d) Costs; attorney fees; witness fees

The court, in issuing any final order in any action brought pursuant to this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party including the Federal Government.

(e) Federal Intervention

In any action brought under this section, if the Secretary or Attorney General are not parties of record, the United States, through the Attorney General, shall have the right to intervene.

(Pub.L. 96-478, § 11, Oct. 21, 1980, 94 Stat. 2302.)

Historical Note

References in Text. This chapter, referred to in subsec. (a)(1) and (2), was in the original "this Act", meaning Pub.L. 96-478, Oct. 21, 1980, 94 Stat. 2297, known as the "Act to Prevent Pollution from Ships". For complete classification of this Act to the Code, see Short Title note below and Tables volume.

Effective Date. Section effective Oct. 2, 1983, see section 14(a) of Pub.L. 96-478, set out as a note under section 1901 of this title.

Legislative History. For legislative history and purpose of Pub.L. 96-478, see 1980 U.S. Code Cong. and Adm. News, p. 4849.

West's Federal Forms

Intervention, motion for leave, see § 3111 et seq.

Jurisdiction and venue in district courts, matters pertaining to, see § 1003 et seq.

Taxation of costs, see § 4612 et seq.

§ 1911. Authority of Secretary under port and tanker safety program unaffected

Nothing in this chapter shall be construed as limiting, diminishing, or otherwise restricting any of the authority of the Secretary under the Port and Tanker Safety Act of 1978.

(Pub.L. 96-478, § 15, Oct. 21, 1980, 94 Stat. 2303.)

Historical Note

References in Text. This chapter, referred to in text, was in the original "this Act", meaning Pub.L. 96-478, Oct. 21, 1980, 94 Stat. 2297, known as the "Act to Prevent Pollution from Ships". For complete classification of this Act to the Code, see Short Title note below and Tables volume.

The Port and Tanker Safety Act of 1978, referred to in text, is Pub.L. 95-474, Oct. 17, 1978, 92 Stat. 1471, which enacted sections 1225, 1228 to 1231, and 1232 of this title, amended sections 1221 to 1224, 1226, and 1227 of this title, and sections 214 and 391a

of Title 46, Shipping, and enacted provisions set out as notes under sections 1221 and 1224 of this title and section 391a of Title 46. For complete classification of this Act to the Code, see Short Title note set out under section 1221 of this title and Tables volume.

Effective Date. Section effective Oct. 2, 1983, see section 14(a) of Pub.L. 98-478, set out as a note under section 1901 of this title.

Legislative History. For legislative history and purpose of Pub.L. 96-478, see 1980 U.S. Code Cong. and Adm. News, p. 4849.

[enacting section 2073 of this title] is effective on October 1, 1981."

Short Title. Section 1 of Pub.L. 96-591 provided: "That this Act [enacting this chapter, amending sections 151, 1604, 1605, and 1608 of this title, repealing sections 154 to 159, 171 to 183, 191, 192, 201 to 213, 221, 222, 231, 232, 241 to 244, 251 to 262, 271, 272, 281 to 295, 301 to 303, 311 to 323, 331, 341 to 356, 360, and 360a of this title and sections 526b, 526c, and 526d of Title 46, Shipping, and enacting provisions set out as

notes under this section] may be cited as the 'Inland Navigational Rules Act of 1980'."

Repeal of Predecessor Provisions; Savings Provisions. Section 8(a) of Pub.L. 96-591 provided in part that: "The laws specified in the following schedules are repealed. Any prior rights or liabilities existing under these laws are not affected by their repeal." [The schedules repealed sections 154 to 159, 171 to 183, 191, 192, 201 to 213, 221, 222, 231, 232, 301 to 303, 311 to 323, 331, 341 to 356, 360, and 360a of this title and sections 526b, 526c, and 526d of Title 46, Shipping.]

"REVISED STATUTES

SEC 4233.
SEC 4233A.

SEC 4233B.
SEC 4233C.

Date	Chapter	Statutes at Large, sections	Volume	Page
1890: Aug. 19	802		26	320
1893: Mar. 3	202		27	557
1895: Feb. 19	102	1, 3, 4	28	672
1897:				
Mar. 3	389	5, 12, 13	29	689
June 7	4		30	96
1900: Feb. 19	22		31	30
1905: Mar. 3	1457	10	33	1032
1914: May 25	98		38	381
1933: Mar. 1	157		47	1417
1935: Aug. 21	595	2, 3, 4, 5	49	669
1936: May 20	433		49	1367
1940:				
Apr. 22	128	1, 3	54	150
Apr. 25	155	3, 4, 5	54	164
1945: Dec. 3	511	1, 2	59	590
1948:				
Mar. 5	99		62	69
May 21	328		62	249
1953: Aug. 8	386		67	497
1956: June 4	373		70	228

Date	Public Law	Sections	Volume	Page
1958:				
Aug. 14	85	635	72	590
Aug. 14	85	656	72	612
1963:				
Aug. 5	88	84	77	116
Oct. 30	88	163	77	281
1966: Nov. 5	89	764 1, 2, 5, 6	80	1313"

Section 8(b) of Pub.L. 96-591 provided in part that: "The following laws [sections 241 to 244, 251 to 262, 271, 272, and 281 to 295 of this title] are repealed when the Secretary establishes an effective date under section 7 [set out as a note above]."

Date	Chapter	Statutes at Large, sections	Volume	Page
1895: Feb. 8	64		28	645
1928:				

Date	Chapter	Statutes at Large, sections	Volume	Page
May 17	600		45	592
May 17	601		45	593
1929: Feb. 28	370		45	1405
1932: May 9	175		47	152
1940: Apr. 22	128	2	54	150
1948: Mar. 18	138		62	82

Date	Public Law	Sections	Volume	Page
1958: Mar. 28	85-350		72	49
1966: Nov. 5	89-764	3, 4	80	1313"

Legislative History. For legislative history and purpose of Pub.L. 96-591, see 1980 U.S. Code Cong. and Adm News, p. 7068.

Cross References

Liability of operator and vessel for civil penalty for violation of certificate of alternative compliance, see section 2072 of this title.
Registered United States and Canadian pilots for Great Lakes, regulation by state prohibited, see section 9306 of Title 46, Shipping.

Library References

Collision \Rightarrow 6.
C.J.S. Collision § 24 et seq.

Notes of Decisions

Enforcement of rules by state courts 2 2. Enforcement of rules by state courts

Law governing 1
Persons subject to rules 3
Waters subject to rules 4

1. Law governing
Law of flag governs where vessels of same nationality collide in Great Lakes. *Canada Malting Co. v. Paterson Steamships*, N.Y. 1932, 52 S.Ct. 413, 285 U.S. 413, 76 L.Ed. 837.

The rights granted to the town of Huntington, on Long Island, so far as relates to navigable waters within the town, were subject to the general sovereignty and jurisdiction of the government under which the town existed, to which general jurisdiction the state of New York and the United States have legally succeeded, and the laws of the United States regulating navigation are applicable to and binding on all craft on that portion of Great South Bay within the town, the same as upon vessels on navigable waters elsewhere. *The Stella B.*, D.C.N.Y. 1910, 183 F. 507.

2. Enforcement of rules by state courts
The state courts are required to take judicial notice of and to enforce the general statutes of Congress regulating navigation, without any formal proof, even if the point be not urged by counsel. *Curlin v. New York, N.H. & H.R. Co.*, 1911, 130 N.Y.S. 828, 71 Misc. 521.

The common-law courts of a state should give the navigation rules the same construction as they are given by the federal courts sitting in admiralty, and given the force of binding enactments, not mere prudential regulations. *Chesley v. Nantasket Beach Steamboat Co.*, 1901, 61 N.E. 50, 179 Mass. 469.

3. Persons subject to rules
The rules of navigation are rules of conduct enjoined on all, and it is not for a master, or for experts, to say that, in certain circumstances, it is good seamanship to disregard those rules. *Partenreederei Wallschiff v. The Pioneer*, D.C.Mich.1958, 164 F.Supp. 421 affirmed 287 F.2d 886, certiorari denied 82 S.Ct. 44, 366 U.S. 825, 7 L.Ed.2d 29.

Anyone who undertakes to operate a vessel, regardless of size and speed, upon navigable waters in United States is charged with knowledge of existence of these rules and mandatory duty to obey them. *Allen v.*

A collision occurring within Canadian waters is controlled by the Canadian statutes. *The Lansdowne*, D.C.Mich.1900, 105 F. 436.

3 HJR-61



Alaska State Legislature

House of Representatives

Committee on Community & Regional Affairs

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4833

TO: Rep. Henry Springer, Chairman HCRA
FROM: David C. Harrison, P. A., HCRA *DCH*
Subject: HJR 61 Relating to garbage dumping in the ocean.

"MARPOL reference in HJR 61 refers to the PROTOCOL of 1978, the International Convention for the Prevention of Pollution from ships at sea. The agreement was signed on February 17, 1978, in London.

The intent of the Protocol was to help prevent pollution of the oceans by those nations that signed the agreement.

The Protocol's intent is to prevent discharge of harmful substance into the ocean. If ships who fly the flag(s) of the nations that signed the agreement violate the protocol, certain measures can be taken to require remedial action by those nations cooperating in reducing the incidence of ocean pollution. Their ships are subject to certain measures that require certificates, etc. Also nations signing the 'MARPOL' agreement are to provide certain kinds of facilities (on shore) locations to handle such wastes, etc.

There are penalties and remedies for ships violating the MARPOL accord if pollution occurs.

HJR 61 is an appropriate resolution notifying the Federal Congress and those agencies whose duties require them to help prevent pollution and police the marine environment of the State's interest in providing waste facilities for ships under the MARPOL agreements.

Major Fisheries and Coast Guard Bills Move Through Congress Driftnet, Plastics Pollution Restrictions Signed Into Law

Congress has approved and the President has signed into law an omnibus package of legislation that I sponsored which affects the fishing industry in Alaska. Included in the bill are provisions which authorize the Governing International Fisheries Agreement (GIFA) between the U.S. and Japan, implement the Convention on Prevention of Pollution at Sea, reauthorize the Sea Grant Program, and implement controls on the use of high seas driftnets.

The Governing International Fisheries Agreement with Japan will run for two years, and will extend a number of joint ventures in the Kodiak area between Alaska fishermen and Japanese companies.

The bill combats the growing problem of ocean dumping of plastics. It implements Annex V of the International Convention for the Prevention of Pollution from Ships. Annex V prohibits the disposal of plastic garbage from ships anywhere in the sea, and establishes the distance from shore where the disposal of other types of garbage, such as glass, paper, and organic garbage, is prohibited.

The Sea Grant Program is also reauthorized under the legislation. This program has been in effect since the 1970's and has been responsible for important marine research activities. The University of Alaska is a Sea Grant University and receives funds under the program for research and academic instruction. The Alaska Marine Advisory Program is also funded under the Sea Grants.

The driftnet provisions in the bill require the Secretary of Commerce, acting through the Secretary of State, to enter into negotiations with those nations that allow their vessels to engage in driftnet fishing on the high seas in order to establish monitoring of those fisheries. The Secretary is also required to negotiate enforcement agreements with these nations. If these agreements are not negotiated and imple-

mented, the U.S. can embargo imports of fish from that nation.

I agree with many Alaska fishermen that this bill does not go far enough. In order to get any agreement, and the negotiations process started, however, we need the approval of many diverse interests. It is my personal intent to continue to seek ways to more closely control driftnet fishing on the high seas. I do not consider this bill to be the final chapter, but rather one more step in my effort to stop this tremendous waste of our marine resources, and eliminate the high seas interception of salmon.

The House also approved and sent to the Senate separate legislation which authorizes \$2.6 billion for the Coast Guard to carry out its fisheries enforcement, search and rescue, and drug interdiction missions.

The legislation includes two provisions which were added at my request. The first would authorize relocation assistance, similar to that extended to Department of Defense personnel, to Coast Guard employees in Alaska, and in particular Juneau, who were affected by the reorganization of support and logistics functions to Alameda, California. The Authorization also includes an extension of local hire provisions on Coast Guard contracts.

This Authorization should provide the funding levels necessary for the Coast Guard to carry out its critical missions in Alaska. The local hire and relocation assistance programs are very important to Alaska, and I will continue to work with Senators Stevens and Murkowski to see that they are included in the Senate version of the authorization.

This entire package of bills are important to a maritime state like Alaska. The plastics provisions will protect our coastline and marine mammals. The Sea Grant Program funds important research in the state, and the GIFA provides continued employment to a number of Alaska fishermen.

100TH CONGRESS]
1st Session

SENATE

TREATY DOC.
100-3

REGULATIONS FOR THE PREVENTION OF POLLUTION
BY GARBAGE FROM SHIPS (ANNEX V OF MARPOL
73/78)

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

ANNEX V, REGULATIONS FOR THE PREVENTION OF POLLUTION
BY GARBAGE FROM SHIPS, AN OPTIONAL ANNEX TO THE 1978
PROTOCOL RELATING TO THE INTERNATIONAL CONVENTION
FOR THE PREVENTION OF POLLUTION FROM SHIPS, 1973
(MARPOL 73/78)



FEBRUARY 17, 1987.—Annex was read the first time, and together with
the accompanying papers, referred to the Committee on Foreign Rela-
tions and ordered to be printed for the use of the Senate.

U.S. GOVERNMENT PRINTING OFFICE

91-11A

WASHINGTON : 1987

TRANSMITTED FROM 2027834187

02.03.88 18:14 P.04 - JSCF

LETTER OF SUBMITTAL.

**DEPARTMENT OF STATE,
Washington, January 21, 1987.**

**The PRESIDENT,
The White House.**

THE PRESIDENT: I have the honor to submit to you Annex V, Regulations for the Prevention of Pollution by Garbage from Ships, an Optional Annex to the 1978 Protocol Relating to the International Convention for the Prevention of Pollution from Ships, 1973, (MARPOL 73/78). Annex V and the other Optional Annexes, III and IV which deal with pollution from packaged harmful substances and sewage, were transmitted only for the information of the Senate when the original MARPOL Convention was transmitted to the Senate on March 22, 1977 for its advice and consent to ratification. Optional Annexes III and IV are still the subject of ongoing review and Senate advice and consent to them is not now being sought. The MARPOL Protocol entered into force for the United States on October 2, 1983.

Annex V establishes international regulations for prohibiting or otherwise restricting discharges into the oceans of all types of garbage generated during the normal operation of ships. Annex V will not completely solve the pollution threat of garbage disposal into the oceans but I believe that it is a critical first step in dealing with this international problem. Effective implementation of it would make a significant contribution to reducing the amount of vessel generated plastic garbage and other debris which are currently entering the marine environment seriously endangering a variety of marine life, including birds, marine mammals, turtles and seals. United States ratification would demonstrate to the world the United States resolve to protect that environment, giving due consideration to the joint efforts of the international community in the International Maritime Organization and other fora.

A major purpose of Annex V is to prohibit (subject to limited exceptions) the disposal into the sea of all plastics, including but not limited to synthetic ropes, synthetic fishing nets and plastic garbage bags. Disposal into the sea of other garbage must be made as far as practicable from nearest land but in any case is prohibited (subject to limited exceptions) if the vessel's distance from the nearest land is less than 25 nautical miles for dunnage, lining and packing materials which will float, and 12 nautical miles for food wastes and all other garbage including paper products, rags, glass, metal bottles, crockery and similar refuse. Reception facilities capable of accepting garbage from vessels will be required at ports and terminals. We expect the private sector will be capable of providing the additional reception facilities required by this Annex.

REGULATION 3

DISPOSAL OF GARBAGE OUTSIDE SPECIAL AREAS

Subject to the provisions of Regulations 4, 5 and 6 of this Annex:

(a) the disposal into the sea of all plastics, including but not limited to synthetic ropes, synthetic fishing nets and plastic garbage bags is prohibited;

(b) the disposal into the sea of the following garbage shall be made as far as practicable from the nearest land but in any case if prohibited if the distance from the nearest land is less than:

(i) 25 nautical miles for dunnage, lining and packing materials which will float;

(ii) 12 nautical miles for food wastes and all other garbage including paper products, rags, glass, metal, bottles, crockery and similar refuse;

(c) disposal into the sea of garbage specified in sub-paragraph (ii) of this Regulation may be permitted when it has passed through a comminuter or grinder and made as far as practicable from the nearest land but in any case is prohibited if the distance from the nearest land is less than 3 nautical miles. Such comminuted or ground garbage shall be capable of passing through a screen with openings no greater than 25 millimetres.

When the garbage is mixed with other discharges having different disposal or discharge requirements the more stringent requirements shall apply.

REGULATION 4

SPECIAL REQUIREMENTS FOR DISPOSAL OF GARBAGE

Subject to the provisions of paragraph (2) of this Regulation, disposal of any materials regulated by this Annex is prohibited from fixed or floating platforms engaged in the exploration, exploitation and associated offshore processing of sea-bed mineral resources, and from all other ships when alongside or within 500 metres of such platforms.

The disposal into the sea of food wastes may be permitted if they have been passed through a comminuter or grinder on such fixed or floating platforms located more than 12 nautical miles from land and all other ships when alongside or within 500 metres of such platforms. Such comminuted or ground food wastes shall be capable of passing through a screen with openings no greater than 25 millimetres.

REGULATION 5

DISPOSAL OF GARBAGE WITHIN SPECIAL AREAS

For the purposes of this Annex the special areas are the Mediterranean Sea area, the Baltic Sea area, the Black Sea area, the Red Sea area and the "Gulfs area" which are defined as follows:

(a) The Mediterranean Sea area means the Mediterranean Sea proper including the gulfs and seas therein with the boundary between the Mediterranean and the Black Sea constituted by the 41°N parallel and bounded to the west by the Straits of Gibraltar and the meridian of 5°36'W.

(b) The Baltic Sea area means the Baltic Sea proper with the Gulf of Bothnia and the Gulf of Finland and the entrance to the Baltic Sea bounded by the parallel of the Skaw in the Skagerrak at 57°44.8'N.

(c) The Black Sea area means the Black Sea proper with the boundary between the Mediterranean and the Black Sea constituted by the parallel 41°N.

(d) The Red Sea area means the Red Sea proper including the Gulfs of Suez and Araba bounded at the south by the rhumb line between Ras Zi Ane (12°8.5'N, 43°19.6'E) and Husn Murad (12°40.4'N, 43°30.2'E).

(e) The "Gulfs area" means the sea area located north west of the rhumb line between Ras al Hadd (22°30'N, 59°48'E) and Ras al Fasih (25°04'N, 61°25'E).

(2) Subject to the provisions of Regulation 6 of this Annex:

(a) disposal into the sea of the following is prohibited:

(i) all plastics, including but not limited to synthetic ropes, synthetic fishing nets and plastic garbage bags; and

(ii) all other garbage, including paper products, rags, glass, metal, bottles, crockery, dunnage, lining and packing materials;

(b) disposal into the sea of food wastes shall be made as far as practicable from land, but in any case not less than 12 nautical miles from the nearest land.

(3) When the garbage is mixed with other discharges having different disposal or discharge requirements the more stringent requirements shall apply.

(4) Reception facilities within special areas:

(a) The Government of each Party to the Convention, the coastline of which borders a special area, undertakes to ensure that as soon as possible in all ports within a special area, adequate reception facilities are provided in accordance with Regulation 7 of this Annex, taking into account the special needs of ships operating in these areas.

(b) The Government of each Party concerned shall notify the Organization of the measures taken pursuant to sub-paragraph (a) of this Regulation. Upon receipt of sufficient notifications the Organization shall establish a date from which the requirements of this Regulation in respect of the area in question shall take effect. The Organization shall notify all Parties of the date so established no less than twelve months in advance of that date.

(c) After the date so established, ships calling also at ports in these special areas where such facilities are not yet available shall fully comply with the requirements of this Regulation.

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

100TH CONGRESS
1st Session

SENATE

TREATY DOC.
100-3

REGULATIONS FOR THE PREVENTION OF POLLUTION
BY GARBAGE FROM SHIPS (ANNEX V OF MARPOL
73/78)

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

ANNEX V, REGULATIONS FOR THE PREVENTION OF POLLUTION
BY GARBAGE FROM SHIPS, AN OPTIONAL ANNEX TO THE 1978
PROTOCOL RELATING TO THE INTERNATIONAL CONVENTION
FOR THE PREVENTION OF POLLUTION FROM SHIPS, 1973
(MARPOL 73/78)



FEBRUARY 17, 1987.—Annex was read the first time, and together with
the accompanying papers, referred to the Committee on Foreign Rela-
tions and ordered to be printed for the use of the Senate.

U.S. GOVERNMENT PRINTING OFFICE

LETTER OF TRANSMITTAL

THE WHITE HOUSE, February 9, 1987.

To the Senate of the United States:

I transmit herewith, for the advice and consent of the Senate, Annex V, Regulations for the Prevention of Pollution by Garbage from Ships, an Optional Annex to the 1978 Protocol Relating to the International Convention for the Prevention of Pollution from Ships, 1973, (MARPOL 73/78). I also transmit for the information of the Senate the report of the Department of State on this Annex.

The MARPOL Protocol entered into force for the United States on October 2, 1983. Annex V and the other two Optional Annexes III and IV, which deal with pollution from packaged harmful substances and sewage, were transmitted only for the information of the Senate when the original MARPOL Convention was transmitted to the Senate on March 22, 1977, for its advice and consent to ratification.

Annex V prohibits (subject to limited exceptions) the disposal from ships into the sea of all plastics, including but not limited to synthetic ropes, synthetic fishing nets, and plastic garbage bags. It also restricts the discharge at sea of other types of garbage to specified distances from the nearest land.

The entry into force of Annex V of MARPOL 73/78 will be an important step in controlling and preventing pollution from discharges of ship generated garbage. I recommend that the Senate give early consideration to Optional Annex V of MARPOL 73/78 and give its advice and consent to ratification.

RONALD REAGAN.

(11)

As compared to mandatory Annexes I and II on pollution by oil and noxious liquid substances in bulk to which the United States is bound and which have been construed to apply only to seagoing vessels, Annex V will apply to all ships operating in the marine environment.

As with all other MARPOL 73/78 regulations in force for them, States bound by Annex V will be required to apply Annex V regulations to all ships, including those of non-party States, using their ports or otherwise under their jurisdiction.

Annex V will enter into force 12 months after the date on which not less than 15 States, the combined fleets of which constitute not less than 50 percent of the gross tonnage of the world's merchant shipping, have become parties to it. Annex V has not yet entered into force, having been ratified by 21 States representing only approximately 45% of the world's shipping tonnage. United States ratification would increase the tonnage to 49% and would in our view expedite entry into force of Annex V.

This Annex has been under active study by the United States and other nations in an effort to make its provisions more meaningful and enforceable. The International Maritime Organization's Marine Environment Protection Committee (MEPC) at its 23rd session, July 7-11, 1986 agreed to a United States proposed technical amendment to Annex V. This amendment—deletion of the words "or synthetic material incidental to the repair of such nets" from regulation 6(c)—would clarify and strengthen the prohibition on disposal of non-repairable sections of synthetic fishing nets, a problem which is contributing to an increase in the mortality of several marine species. The MEPC also agreed with the United States proposal that this amendment should be circulated with a view to formal adoption in accordance with Article 16 (tacit amendment procedure) of MARPOL 73/78, after entry into force of Annex V so as not to require States that have already ratified the Annex to re-ratify it. This amendment procedure was established to achieve more effective and rapid implementation of technical amendments to MARPOL 73/78 Annexes.

The United States Coast Guard has prepared an environmental assessment indicating that United States ratification of Annex V would not have a significant adverse impact on the environment and would indeed be environmentally beneficial. The environmental assessment will be transmitted separately to the Senate Committee on Foreign Relations. Annex V will require implementing legislation which is being prepared.

Annex V has the support of the United States Coast Guard, National Oceanic and Atmospheric Administration, the Marine Mammal Commission and all other interested agencies of the Executive Branch as well as environmental organizations and a substantial majority of the maritime industry. Although there has been some opposition within the maritime industry, I do not believe it will cause a problem in the ratification process.

I recommend that Annex V be transmitted to the Senate for its advice and consent to ratification at an early date.

Respectfully submitted,

GEORGE P. SHULTZ.

INTERNATIONAL CONVENTION FOR THE PREVENTION OF POLLUTION
FROM SHIPS, 1973

ANNEX V

REGULATIONS FOR THE PREVENTION OF POLLUTION BY GARBAGE FROM
SHIPS

REGULATION 1

DEFINITIONS

For the purposes of this Annex:

(1) "Garbage" means all kinds of victual, domestic and operational waste excluding fresh fish and parts thereof, generated during the normal operation of the ship and liable to be disposed of continuously or periodically except those substances which are defined or listed in other Annexes to the present Convention.

(2) "Nearest land". The term "from the nearest land" means from the baseline from which the territorial sea of the territory in question is established in accordance with international law except that, for the purposes of the present Convention "from the nearest land" off the north eastern coast of Australia shall mean from a line drawn from a point on the coast of Australia in

latitude 11°00' South, longitude 142°08' East to a point in latitude 10°35' South,

longitude 141°55' East, thence to a point latitude 10°00' South, longitude 142°00' East, thence to a point latitude 9°10' South, longitude 143°52' East, thence to a point latitude 9°00' South, longitude 144°30' East, thence to a point latitude 13°00' South, longitude 144°00' East, thence to a point latitude 15°00' South, longitude 146°00' East, thence to a point latitude 18°00' South, longitude 147°00' East, thence to a point latitude 21°00' South, longitude 153°00' East, thence to a point on the coast of Australia in latitude 24°42' South, longitude 153°15' East.

(3) "Special area" means a sea area where for recognized technical reasons in relation to its oceanographical and ecological condition and to the particular character of its traffic the adoption of special mandatory methods for the prevention of sea pollution by garbage is required. Special areas shall include those listed in Regulation 5 of this Annex.

REGULATION 2

APPLICATION

The provisions of this Annex shall apply to all ships.

LETTER OF SUBMITTAL.

DEPARTMENT OF STATE,
Washington, January 21, 1987.

The PRESIDENT,
The White House.

THE PRESIDENT: I have the honor to submit to you Annex V, Regulations for the Prevention of Pollution by Garbage from Ships, an Optional Annex to the 1978 Protocol Relating to the International Convention for the Prevention of Pollution from Ships, 1973, (MARPOL 73/78). Annex V and the other Optional Annexes, III and IV which deal with pollution from packaged harmful substances and sewage, were transmitted only for the information of the Senate when the original MARPOL Convention was transmitted to the Senate on March 22, 1977 for its advice and consent to ratification. Optional Annexes III and IV are still the subject of ongoing review and Senate advice and consent to them is not now being sought. The MARPOL Protocol entered into force for the United States on October 2, 1983.

Annex V establishes international regulations for prohibiting or otherwise restricting discharges into the oceans of all types of garbage generated during the normal operation of ships. Annex V will not completely solve the pollution threat of garbage disposal into the oceans but I believe that it is a critical first step in dealing with this international problem. Effective implementation of it would make a significant contribution to reducing the amount of vessel generated plastic garbage and other debris which are currently entering the marine environment seriously endangering a variety of marine life, including birds, marine mammals, turtles and seals. United States ratification would demonstrate to the world the United States resolve to protect that environment, giving due consideration to the joint efforts of the international community in the International Maritime Organization and other fora.

A major purpose of Annex V is to prohibit (subject to limited exceptions) the disposal into the sea of all plastics, including but not limited to synthetic ropes, synthetic fishing nets and plastic garbage bags. Disposal into the sea of other garbage must be made as far as practicable from nearest land but in any case is prohibited (subject to limited exceptions) if the vessel's distance from the nearest land is less than 25 nautical miles for dunnage, lining and packing materials which will float, and 12 nautical miles for food wastes and all other garbage including paper products, rags, glass, metal bottles, crockery and similar refuse. Reception facilities capable of accepting garbage from vessels will be required at ports and terminals. We expect the private sector will be capable of providing the additional reception facilities required by this Annex.

REGULATION 3

DISPOSAL OF GARBAGE OUTSIDE SPECIAL AREAS

Subject to the provisions of Regulations 4, 5 and 6 of this Annex:

(a) the disposal into the sea of all plastics, including but not limited to synthetic ropes, synthetic fishing nets and plastic garbage bags is prohibited;

(b) the disposal into the sea of the following garbage shall be made as far as practicable from the nearest land but in any case if prohibited if the distance from the nearest land is less than:

(i) 25 nautical miles for dunnage, lining and packing materials which will float;

(ii) 12 nautical miles for food wastes and all other garbage including paper products, rags, glass, metal, bottles, crockery and similar refuse;

(c) disposal into the sea of garbage specified in sub-paragraph (ii) of this Regulation may be permitted when it has passed through a comminuter or grinder and made as far as practicable from the nearest land but in any case is prohibited if the distance from the nearest land is less than 3 nautical miles. Such comminuted or ground garbage shall be capable of passing through a screen with openings no greater than 25 millimetres.

When the garbage is mixed with other discharges having different disposal or discharge requirements the more stringent requirements shall apply.

REGULATION 4

SPECIAL REQUIREMENTS FOR DISPOSAL OF GARBAGE

Subject to the provisions of paragraph (2) of this Regulation, disposal of any materials regulated by this Annex is prohibited from fixed or floating platforms engaged in the exploration, exploitation and associated offshore processing of sea-bed mineral resources, and from all other ships when alongside or within 500 metres of such platforms.

The disposal into the sea of food wastes may be permitted if they have been passed through a comminuter or grinder on such fixed or floating platforms located more than 12 nautical miles from land and all other ships when alongside or within 500 metres of such platforms. Such comminuted or ground food wastes shall be capable of passing through a screen with openings no greater than 25 millimetres.

REGULATION 5

DISPOSAL OF GARBAGE WITHIN SPECIAL AREAS

For the purposes of this Annex the special areas are the Mediterranean Sea area, the Baltic Sea area, the Black Sea area, the Red Sea area and the "Gulfs area" which are defined as follows:

(a) The Mediterranean Sea area means the Mediterranean Sea proper including the gulfs and seas therein with the boundary between the Mediterranean and the Black Sea constituted by the 41°N parallel and bounded to the west by the Straits of Gibraltar and the meridian of 5°36'W.

(b) The Baltic Sea area means the Baltic Sea proper with the Gulf of Bothnia and the Gulf of Finland and the entrance to the Baltic Sea bounded by the parallel of the Skaw in the Skagerrak at 57°44.8'N.

(c) The Black Sea area means the Black Sea proper with the boundary between the Mediterranean and the Black Sea constituted by the parallel 41°N.

(d) The Red Sea area means the Red Sea proper including the Gulfs of Suez and Aqaba bounded at the south by the rhumb line between Ras al Ane (12°8.6'N, 43°19.6'E) and Husn Murad (12°40.4'N, 43°30.2'E).

(e) The "Gulfs area" means the sea area located north west of the rhumb line between Ras al Hadd (22°30'N, 59°48'E) and Ras al Fasteh (25°04'N, 61°25'E).

(2) Subject to the provisions of Regulation 6 of this Annex:

(a) disposal into the sea of the following is prohibited:

(i) all plastics, including but not limited to synthetic ropes, synthetic fishing nets and plastic garbage bags; and

(ii) all other garbage, including paper products, rags, glass, metal, bottles, crockery, dunnage, lining and packing materials;

(b) disposal into the sea of food wastes shall be made as far as practicable from land, but in any case not less than 12 nautical miles from the nearest land.

(3) When the garbage is mixed with other discharges having different disposal or discharge requirements the more stringent requirements shall apply.

(4) Reception facilities within special areas:

(a) The Government of each Party to the Convention, the coastline of which borders a special area, undertakes to ensure that as soon as possible in all ports within a special area, adequate reception facilities are provided in accordance with Regulation 7 of this Annex, taking into account the special needs of ships operating in these areas.

(b) The Government of each Party concerned shall notify the Organization of the measures taken pursuant to sub-paragraph (a) of this Regulation. Upon receipt of sufficient notifications the Organization shall establish a date from which the requirements of this Regulation in respect of the area in question shall take effect. The Organization shall notify all Parties of the date so established no less than twelve months in advance of that date.

(c) After the date so established, ships calling also at ports in these special areas where such facilities are not yet available shall fully comply with the requirements of this Regulation.

REGULATION 6

EXCEPTIONS

Regulations 3, 4 and 5 of this Annex shall not apply to:

- (a) the disposal of garbage from a ship necessary for the purpose of securing the safety of a ship and those on board or being at sea; or
- (b) the escape of garbage resulting from damage to a ship or equipment provided all reasonable precautions have been taken before and after the occurrence of the damage, for the purpose of preventing or minimizing the escape; or
- (c) the accidental loss of synthetic fishing nets or synthetic material incidental to the repair of such nets, provided that all reasonable precautions have been taken to prevent such loss.

REGULATION 7

RECEPTION FACILITIES

The Government of each Party to the Convention undertakes to provide the provision of facilities at ports and terminals for the reception of garbage, without causing undue delay to ships, and according to the needs of the ships using them.

The Government of each Party shall notify the Organization of all cases where the facilities provided under this Regulation are alleged to be inadequate.

This is a true copy of the English text of Annex V of the International Convention for the Prevention of Pollution from Ships, 1973, done at London on 2 November 1973, the original of which is deposited with the Secretary-General of the International Maritime Organization.

This is a true copy of the English text of Annex V of the International Convention for the Prevention of Pollution from Ships, 1973, done at London on 2 November 1973, the original of which is deposited with the Secretary-General of the International Maritime Organization.

[Handwritten signature]

Done at London, 19 December 1986.

TRANSMITTED FROM 2027834187

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100TH CONGRESS
1st Session

SENATE

EXEC. RPT.
100-8

MARPOL CONVENTION, ANNEX V

OCTOBER 14 (legislative day, OCTOBER 13), 1987.--Ordered to be printed

Mr. PELL, from the Committee on Foreign Relations,
submitted the following

REPORT

[To accompany Treaty Doc. 100-8]

The Committee on Foreign Relations, to which was referred Annex V, Regulations for the Prevention of Pollution by Garbage from Ships, an Optional Annex to the 1978 Protocol Relating to the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL 73/78), having considered the same, reports favorably thereon without amendment and recommends that the Senate give its advice and consent to ratification thereof.

PURPOSE

Annex V, entitled Regulations for the Prevention of Pollution by Garbage from Ships, is an Optional Annex to the 1978 Protocol Relating to the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL 73/78). The purpose of Annex V is to prohibit (subject to limited exceptions) the disposal from ships into the sea of all plastics, including but not limited to synthetic ropes, synthetic fishing nets and plastic garbage bags. It also restricts the discharge at sea of other types of garbage to specified distances from the nearest land and mandates that reception facilities capable of holding waste from ships be required at ports and terminals.

BACKGROUND

The discarding of debris as part of normal vessel operations is one of man's oldest pollution practices. Although the Refuse Act of 1899 (33 U.S.C. 403-466 g-1) prohibited the dumping of garbage in rivers and harbors, until recent years there has been no effort to impose sanctions on such practices which occur on the high seas beyond the 3-mile limit.

Since 1899, the type of refuse disposed overboard has changed from degradable materials to waste containing many nondegradable plastic products. In addition to merchant vessels, commercial fishing operations, recreational waste discards, and river runoffs are the major sources through which plastics enter the marine environment.

Exact estimates of the marine plastics problem are unavailable. However, beach surveys and other studies indicate that the problem is widespread. In a 1975 study, the National Research Council of the U.S. National Academy of Sciences estimated that approximately 6.4 million metric tons of trash was discharged into the oceans each year, and of that approximately 0.7 percent or 45,000 tons consisted of plastic garbage. In light of the continuing growth of the plastics industry over the past decade, there is no doubt that, unless checked, even greater quantities of plastic garbage will be dumped into oceans. Recent studies indicate that approximately 40,000 plastic containers are discharged by the world's shipping fleet each day, and each year fishing vessels reportedly dispose at sea approximately 52 million pounds of plastic packaging material and lose more than 298 million pounds of synthetic fishing gear, including nets, lines, and buoys.

A number of studies have documented the large amounts of plastic debris in the marine environment: Benthic sediment surveys off the coast of the United Kingdom showed 2,000 pieces of plastic per square meter, and beach surveys in New Zealand showed even greater concentrations of plastic particles on its beaches. A Mediterranean study revealed 60-70 percent of surveyed debris was plastic and a recent ocean sample of debris in the North Pacific found the level to be higher than 80 percent. Plastic debris is even appearing on the remote shores of Antarctica. Plastics are being used in increasingly greater quantities, and because of their durability remain in the environment longer than most other manmade substances.

Because much of the plastic debris is lightweight and degrades slowly in the marine environment, once discharged it floats at or near the surface for months, years, even decades, and poses hazards to marine mammals, sea birds, turtles, and fish as well as ships. Over time, floating plastic may accumulate attached marine life and sink to the bottom where it can continue to entangle crabs and other benthic marine life indefinitely.

The threat to marine wildlife posed by plastic essentially takes two forms: Entanglement in loops or openings of nets, net fragments, anchor and float lines, ropes, and packing bands; and ingestion of plastic fragments mistaken for natural items of prey, or taken incidentally because they happen to be associated with living prey. Animals which become entangled may exhaust themselves and drown, be slowed to the point of becoming easy prey for other predators or unable to catch fast moving prey, or develop wounds and infections from the abrasion of attached debris. Animals may be poisoned or have digestive tracts blocked or damaged by ingested plastics that are difficult or impossible to excrete, regurgitate, break down, or otherwise eliminate.

Although available information is not sufficient to quantify the number of individual animals affected by plastic debris in oceans,

available information suggests that lost and discarded fishing nets and packing bands may be the primary cause of an ongoing decline in the North Pacific fur seal population. Entanglement in such materials also may be a significant cause of recent declines in the number of endangered Hawaiian monk seals and perhaps certain populations of Steller sea lions and harbor seals in Alaska. It is also clear that many species of seabirds, turtles, sharks, and fish are being affected by plastic debris to varying degrees throughout the world's oceans. Some of these species are listed as endangered and losses due to entanglement or ingestion add an additional factor inhibiting their potential recovery. Other species such as salmon and various crabs are commercially valuable and losses may reduce potential income for fishermen.

Another harmful effect of ship-generated garbage is its appearance on beaches and shorelines. In the United States, trash and debris is a particular problem at the Padre Island National Seashore, where recent studies indicate the majority of debris to be plastics or plastic derivatives. Aside from its aesthetic damage, garbage may physically injure organisms and humans, and physically damage ships and machinery. Occasionally plastic sheets are picked up in water intakes of a ship, and ropes and nets foul propellers resulting in mechanical damage or delay.

The marine environment is capable of absorbing limited and controlled quantities of wastes and, as such, represents an important resource. Careful control of garbage disposal is necessary to ensure that the harm to the marine environment is minimized.

MAJOR PROVISIONS

Annex V prohibits the disposal into the sea of all plastics, including synthetic ropes, synthetic fishing nets, and plastic garbage bags. For other nonplastic garbage such as floating dunnage, lining, and packing materials, Annex V would require their disposal beyond 25 miles. For food wastes and all other garbage, "including paper products, rags, glass, metal, bottles, crockery, and similar refuse," Annex V would require disposal beyond 12 miles. However, if these items are ground, they can be disposed of as close as 3 miles offshore. In addition, the annex would prohibit garbage disposal from fixed platforms.

Specifically excluded from coverage are accidentally lost fishing nets. Regulation 6 of Annex V excludes "the accidental loss of synthetic fishing nets or synthetic material incidental to the repair of such nets, provided that all reasonable precautions have been taken to prevent such loss." However, this regulation does not specify what "reasonable precautions" are.

COMMITTEE ACTION

On July 31, 1987, the committee held a public hearing on Annex V. Testimony was received from the following individuals: (1) Senator John H. Chafee; (2) Senator Frank R. Lautenberg; (3) Rear Adm. John W. Kime, Chief, Office of Marine Safety, Security and Environmental Protection, U.S. Coast Guard, Department of Transportation; and (4) Mr. Richard J. Smith, Principal Deputy Assistant

ary for Oceans and International Environmental and Scien-
fairs, Department of State.

committee considered the treaty at its business meeting on
ber 24, 1987, and voted 19-0 to report it favorably to the
for its advice and consent. Ayes: Senators Pell, Biden, Sar-
Cranston, Dodd, Kerry, Simon, Sanford, Adams, Moynihan,
Lugar, Kassebaum, Boaschwitz, Pressler, Murkowski, Tribble,
and McConnell.

COST ESTIMATE

Congressional Budget Office has supplied the committee
e following information on the possible budgetary impact of
V:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 14, 1987.

LAIBORNE PELL,
an, Committee on Foreign Relations, U.S. Senate, Dirksen
ate Office Building, Washington, DC.

MR. CHAIRMAN: The Congressional Budget Office has re-
Treaty Document 100-3, Annex V, regulations for the pre-
of pollution by garbage from ships, an optional annex to
8 protocol relating to the international convention for the
ion of pollution from ships, 1973, as ordered reported by the
Committee on Foreign Relations, September 24, 1987. CBO
es that the adoption of this treaty by the United States
esult in federal costs of about \$1 million over two to three
hese funds would be used by the U.S. Coast Guard to issue
ons designed to ensure the availability of garbage reception
s at U.S. ports and terminals under Regulation 7 of the

sts would be incurred by state or local governments as a
enactment of this bill.

wish further details on this estimate, we will be pleased to
them.

best wishes,
incerely,

EDWARD M. GRAELICH,
Acting Director.

ENTRY INTO FORCE

c V will enter into force 12 months after the date on which
than 15 States, the combined fleets of which constitute not
n 50 percent of the gross tonnage of the world's merchant
s, have become parties to it. Annex V has not yet entered
e, having been ratified by 27 States representing only ap-
ately 45 percent of the world's shipping tonnage. U.S. ratifi-
ould increase the tonnage to 49 percent. The following is a
he nations that have either ratified or acceded to this

RATIFICATIONS

United Kingdom; France; Federal Republic of Germany; Poland;
Sweden; and Uruguay.

ACCESSIONS

Norway; Colombia; Czechoslovakia; North Korea; Denmark;
Egypt; Finland; Gabon; German Democratic Republic; Greece; Hun-
gary; Italy; Japan; Lebanon; Oman; Panama; Peru; St. Vincent and
the Grenadines; Tunisia; Tuvalu; and Yugoslavia.

TEXT OF RESOLUTION OF RATIFICATION

Resolved (two-thirds of the Senators present concurring therein),
That the Senate advise and consent to the ratification of Annex V,
Regulations for the Prevention of Pollution by Garbage from Ships,
an Optional Annex to the 1978 Protocol Relating to the Interna-
tional Convention for the Prevention of Pollution from Ships, 1973
(MARPOL 73/78).

PUBLIC LAW 100-220—DEC. 29, 1987

**UNITED STATES-JAPAN FISHERY
AGREEMENT APPROVAL ACT OF 1987**

Public Law 100-220
100th Congress

An Act

To provide congressional approval of the Governing International Fishery Agreement between the United States and Japan; to implement the provisions of Annex V to the International Convention for the Prevention of Pollution from Ships, 1973; to reauthorize the National Sea Grant College Program Act; to improve efforts to monitor, assess, and reduce the adverse impacts of driftnets; and for other purposes.

Dec. 29, 1987
[H.R. 3674]

United States-Japan Fishery Agreement Approval Act of 1987. Environmental protection. 16 USC 1801 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States-Japan Fishery Agreement Approval Act of 1987".

SEC. 2. TABLE OF CONTENTS.

The contents of this Act are as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.

TITLE I—APPROVAL OF GOVERNING INTERNATIONAL FISHERY AGREEMENT WITH JAPAN

- Sec. 1001. Approval of agreement.

TITLE II—PLASTIC POLLUTION RESEARCH AND CONTROL

- Sec. 2001. Short title.
- Sec. 2002. Effective date.
- Sec. 2003. Preemption; additional State requirements.

Subtitle A—Amendments to Act to Prevent Pollution From Ships

- Sec. 2101. Definitions.
- Sec. 2102. Application of Act.
- Sec. 2103. Pollution reception facilities.
- Sec. 2104. Violations.
- Sec. 2105. Civil penalties.
- Sec. 2106. Proposed amendments to protocol.
- Sec. 2107. Administration and enforcement; refuse record books; waste management plans; notification of crew and passengers.
- Sec. 2108. Compliance with international law.

Subtitle B—Studies and Report

- Sec. 2201. Compliance reports.
- Sec. 2202. EPA study of methods to reduce plastic pollution.
- Sec. 2203. Effects of plastic materials on the marine environment.
- Sec. 2204. Plastic pollution public education program.

Subtitle C—New York Bight

- Sec. 2301. New York Bight restoration plan.
- Sec. 2302. New York Bight plastic study.
- Sec. 2303. Reports.
- Sec. 2304. Definitions.
- Sec. 2305. Authorization of appropriations.

TITLE III—MARINE SCIENCE, TECHNOLOGY, AND POLICY DEVELOPMENT

- Sec. 3001. Short title.

0—DEC. 29, 1987

PUBLIC LAW 100-220—DEC. 29, 1987

101 STAT. 1459

Subtitle A—National Sea Grant College Program Authorization

- Sec. 3101. Short title.
- Sec. 3102. Reference to the National Sea Grant College Program Act.
- Sec. 3103. Declaration of policy.
- Sec. 3104. Definitions.
- Sec. 3105. Contracts and grants.
- Sec. 3106. Sea grant strategic research program.
- Sec. 3107. Fellowships.
- Sec. 3108. Sea grant review panel.
- Sec. 3109. Marine affairs and resource management improvement grants.
- Sec. 3110. Authorization of appropriations.
- Sec. 3111. Sea grant international program.

Subtitle B—Great Lakes Mapping

- Sec. 3201. Short title.
- Sec. 3202. Great Lakes shoreline mapping plan.
- Sec. 3203. Preparation of Great Lakes shoreline maps.
- Sec. 3204. Contract authority.
- Sec. 3205. Definitions.
- Sec. 3206. Authorization of appropriations.

TITLE IV—DRIFTNET IMPACT MONITORING, ASSESSMENT, AND CONTROL

- Sec. 4001. Short title.
- Sec. 4002. Findings.
- Sec. 4003. Definitions.
- Sec. 4004. Monitoring agreements.
- Sec. 4005. Impact report.
- Sec. 4006. Enforcement agreements.
- Sec. 4007. Evaluations and recommendations.
- Sec. 4008. Construction with other laws.
- Sec. 4009. Authorization of appropriations.

TITLE V—RED TIDE CONTAMINATION

- Sec. 5001. Declaration of disaster.
- Sec. 5002. Provision of assistance.
- Sec. 5003. Recent North Carolina Coast red tide contamination, defined.

TITLE I—APPROVAL OF GOVERNING INTERNATIONAL FISHERY AGREEMENT WITH JAPAN

SEC. 1001. APPROVAL OF AGREEMENT.

Notwithstanding section 203 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1823), the governing international fishery agreement between the Government of the United States of America and the Government of Japan Concerning Fisheries Off the Coasts of the United States, as contained in the message to Congress from the President of the United States, dated November 17, 1987—

- (1) is approved by Congress as a governing international fishery agreement for the purposes of such Act; and
- (2) shall enter into force and effect with respect to the United States on the date of the enactment of this Act.

16 USC 1823
note.

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RESEARCH AND CONTROL

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Marine Plastic
Pollution
Research and
Control Act of
1987.
33 USC 1901
note.

TITLE II—PLASTIC POLLUTION RESEARCH AND CONTROL

SEC. 2001. SHORT TITLE.

This title may be cited as the "Marine Plastic Pollution Research and Control Act of 1987".

SEC. 2002. EFFECTIVE DATE.

(a) **IN GENERAL.**—Except as provided in subsections (b) and (c), this title shall be effective on the date on which Annex V to the International Convention for the Prevention of Pollution from Ships, 1973, enters into force for the United States.

(b) **EXCEPTIONS.**—Sections 2001, 2002, 2003, 2108, 2202, 2203, 2204, and subtitle C of this title shall be effective on the date of the enactment of this title.

(c) **ISSUANCE OF REGULATIONS.**—

(1) **IN GENERAL.**—The authority to prescribe regulations pursuant to this title shall be effective on the date of enactment of this title.

(2) **EFFECTIVE DATE OF REGULATIONS.**—Any regulation prescribed pursuant to this title shall not be effective before the effective date of the provision of this title under which the regulation is prescribed.

SEC. 2003. PREEMPTION; ADDITIONAL STATE REQUIREMENTS.

(a) **PREEMPTION.**—Except as specifically provided in this title, nothing in this title shall be interpreted or construed to supersede or preempt any other provision of Federal or State law, either statutory or common.

(b) **ADDITIONAL STATE REQUIREMENTS.**—Nothing in this title shall be construed or interpreted as preempting any State from imposing any additional requirements.

Subtitle A—Amendments to Act to Prevent Pollution From Ships

SEC. 2101. DEFINITIONS.

33 USC 1901.

Section 2 of the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.) is amended as follows:

(1) "(a)" is inserted after "SEC. 2."

(2) Subsection (a)(1) (as redesignated) is amended to read as follows:

"(1) 'MARPOL Protocol' means the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973, and includes the Convention;"

(3) Subsection (a)(2) (as redesignated) is amended by striking all after "and" the second time it appears and inserting in lieu thereof the following: "Annexes I, II, and V thereto, including any modification or amendments to the Convention, Protocols, or Annexes which have entered into force for the United States;"

(4) Subsection (a)(3) (as redesignated) is amended by inserting "and 'garbage'" after "discharge".

(5) The following is added at the end of section 2:

mining the adequacy of reception facilities for garbage at a port or terminal, and stating such additional measures and requirements as are appropriate to ensure such adequacy. Persons in charge of ports and terminals shall provide reception facilities, or ensure that such facilities are available, for receiving garbage in accordance with those regulations."

33 USC 1905.

(b) CONSIDERATION OF NUMBER AND TYPES OF SHIPS.—Section 6(b) of the Act to Prevent Pollution from Ships is amended by striking "terminal," the first time it appears and inserting in lieu thereof the following: "terminal, and in establishing regulations under subsection (a) of this section," and by striking "seagoing ships" and inserting in lieu thereof the following: "ships or seagoing ships".

(c) CERTIFICATE ISSUANCE.—Section 6(c) of the Act to Prevent Pollution from Ships is amended to read as follows:

"(c)(1) If reception facilities of a port or terminal meet the requirements of Annex V to the Convention and the regulations prescribed under subsection (a)(1), the Secretary shall, after consultation with the Administrator of the Environmental Protection Agency, issue a certificate to that effect to the applicant.

"(2) If reception facilities of a port or terminal meet the requirements of Annex V to the Convention and the regulations prescribed under subsection (a)(2), the Secretary may, after consultation with appropriate Federal agencies, issue a certificate to that effect to the person in charge of the port or terminal.

"(3) A certificate issued under this subsection—

"(A) is valid until suspended or revoked by the Secretary for cause or because of changed conditions; and

"(B) shall be available for inspection upon the request of the master, other person in charge, or agent of a ship using or intending to use the port or terminal.

"(4) The suspension or revocation of a certificate issued under this subsection may be appealed to the Secretary and acted on by the Secretary in the manner prescribed by regulation."

(d) ENTRY DENIAL.—Section 6(e) of the Act to Prevent Pollution from Ships is amended—

(1) by inserting "(1)" immediately after "(e)";

(2) by striking "(1)" and inserting in lieu thereof "(A)";

(3) by striking "(2)" and inserting in lieu thereof "(B)";

(4) in subparagraph (A), as so redesignated, by striking "the MARPOL Protocol" and inserting in lieu thereof the following: "Annexes I and II of the Convention"; and

(5) by adding at the end the following:

"(2) The Secretary may deny the entry of a ship to a port or terminal required by regulations issued under this section to provide adequate reception facilities for garbage if the port or terminal is not in compliance with those regulations."

33 USC 1907.

SEC. 2104. VIOLATIONS.

(a) SHIP INSPECTIONS.—Section 8(c) of the Act to Prevent Pollution from Ships is amended by—

(1) striking "(1)" and inserting "(A)";

(2) striking "(2)" and inserting "(B)";

(3) inserting "(2)" immediately after "(c)";

(4) in the last sentence of paragraph (2) (as redesignated), striking "If a report made under this subsection involves a ship, other than one of United States registry or nationality or one

ilities for garbage at a port
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e such adequacy. Persons in
l provide reception facilities,
available, for receiving gar-
lations."

TYPES OF SHIPS.—Section 6(b)
hips is amended by striking
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iking "seagoing ships" and
: "ships or seagoing ships".

6(c) of the Act to Prevent
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agraph (2) (as redesignated),

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operated under the authority of the United States, the" and
inserting "The"; and

(5) inserting before paragraph (2) (as redesignated) the follow-
ing: "(1) This subsection applies to inspections relating to pos-
sible violations of Annex I or Annex II to the Convention by any
seagoing ship referred to in section 3(a)(2) of this Act."

(b) SHIP INSPECTIONS OTHER THAN AT PORT OR TERMINAL.—Section
8 of the Act to Prevent Pollution from Ships is amended by re-
designating subsection (d) as subsection (f) and inserting after
subsection (c) the following:

33 USC 1907.

"(d)(1) The Secretary may inspect a ship referred to in section
3(a)(3) of this Act to verify whether the ship has disposed of garbage
in violation of Annex V to the Convention or this Act.

"(2) If an inspection under this subsection indicates that a viola-
tion has occurred, the Secretary may undertake enforcement action
under section 9 of this Act.

"(e)(1) The Secretary may inspect at any time a ship of United
States registry or nationality or operating under the authority of
the United States to which the MARPOL Protocol applies to verify
whether the ship has discharged a harmful substance or disposed of
garbage in violation of that Protocol or this Act.

"(2) If an inspection under this subsection indicates that a viola-
tion of the MARPOL Protocol has occurred the Secretary may
undertake enforcement action under section 9 of this Act."

SEC. 2105. CIVIL PENALTIES.

33 USC 1908.

(a) PAYMENT FOR INFORMATION.—

(1) INFORMATION LEADING TO CONVICTION.—Section 9(a) of the
Act to Prevent Pollution From Ships is amended by inserting
after the first sentence the following: "In the discretion of the
Court, an amount equal to not more than 1/2 of such fine may be
paid to the person giving information leading to conviction."

(2) INFORMATION LEADING TO ASSESSMENT OF PENALTY.—Sec-
tion 9(b) of the Act to Prevent Pollution From Ships is amended
by adding at the end the following: "An amount equal to not
more than 1/2 of such penalties may be paid by the Secretary to
the person giving information leading to the assessment of such
penalties."

**(b) REFERENCE OF VIOLATION TO COUNTRY OF REGISTRY OR
NATIONALITY.**—Section 9(f) of the Act to Prevent Pollution from
Ships is amended by striking "to that country" and inserting "to the
government of the country of the ship's registry or nationality, or
under whose authority the ship is operating".

SEC. 2106. PROPOSED AMENDMENTS TO PROTOCOL.

International
organizations.
33 USC 1909.

Section 10 of the Act to Prevent Pollution from Ships is
amended—

(1) in subsection (a), by striking "Inter-Governmental Mari-
time Consultative Organization" and inserting "International
Maritime Organization"; and

(2) in subsection (b), by striking "Annex I or II, appendices to
the Annexes, or Protocol I of the MARPOL Protocol," and
inserting "Annex I, II, or V to the Convention, appendices to
those Annexes, or Protocol I of the Convention", and by striking
"Inter-Governmental Maritime Consultative Organization" and
inserting "International Maritime Organization".

33 USC 1903.

SEC. 2107. ADMINISTRATION AND ENFORCEMENT; REFUSE RECORD BOOKS; WASTE MANAGEMENT PLANS; NOTIFICATION OF CREW AND PASSENGERS.

(a) ADMINISTRATION AND ENFORCEMENT, GENERALLY.—Section 4(a) of the Act to prevent pollution from ships is amended to read as follows:

“(a) Unless otherwise specified in this Act, the Secretary shall administer and enforce the MARPOL Protocol and this Act. In the administration and enforcement of the MARPOL Protocol and this Act, Annexes I and II of the Convention apply only to seagoing ships.”

(b) REFUSE RECORD BOOKS; WASTE MANAGEMENT PLANS; NOTIFICATION OF CREW AND PASSENGERS.—Section 4(b) of the Act to Prevent Pollution from Ships is amended by—

(1) inserting “(1)” after “(b)”; and

(2) adding at the end the following:

“(2) The Secretary of the department in which the Coast Guard is operating shall—

Regulations.

“(A) within 1 year after the effective date of this paragraph, prescribe regulations which—

“(i) require certain ships described in section 3(a)(1) to maintain refuse record books and shipboard management plans, and to display placards which notify the crew and passengers of the requirements of Annex V to the Convention; and

“(ii) specify the ships described in section 3(a)(1) to which the regulations apply;

International agreements.

“(B) seek an international agreement or international agreements which apply requirements equivalent to those described in subparagraph (A)(i) to all vessels subject to Annex V to the Convention; and

Reports.

“(C) within 2 years after the effective date of this paragraph, report to the Congress—

“(i) regarding activities of the Secretary under subparagraph (B); and

“(ii) if the Secretary has not obtained agreements pursuant to subparagraph (B) regarding the desirability of applying the requirements described in subparagraph (A)(i) to all vessels described in section 3(a) which call at United States ports.”

SEC. 2109. COMPLIANCE WITH INTERNATIONAL LAW.

The Act to Prevent Pollution from Ships is amended by adding at the end the following:

33 USC 1912.

“SEC. 17. Any action taken under this Act shall be taken in accordance with international law.”

Subtitle B—Studies and Report

33 USC 1902 note.

SEC. 2201. COMPLIANCE REPORTS.

(a) IN GENERAL.—Within 1 year after the effective date of this section, and biennially thereafter for a period of 6 years, the Secretary of the department in which the Coast Guard is operating, in consultation with the Secretary of Agriculture and the Secretary of Commerce, shall report to the Congress regarding compliance with

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Annex V to the International Convention for the Prevention of Pollution from Ships, 1973, in United States waters.

(b) **REPORT ON INABILITY TO COMPLY.**—Within 3 years after the effective date of this section, the head of each Federal agency that operates or contracts for the operation of any ship referred to in section 3(b)(1)(A) of the Act to Prevent Pollution from Ships that may not be able to comply with the requirements of that section shall report to the Congress describing—

Contracts.

(1) the technical and operational impediments to achieving that compliance;

(2) an alternative schedule for achieving that compliance as rapidly as is technologically feasible;

(3) the ships operated or contracted for operation by the agency for which full compliance with section 3(b)(2)(A) is not technologically feasible; and

(4) any other information which the agency head considers relevant and appropriate.

(c) **CONGRESSIONAL ACTION.**—Upon receipt of the compliance report under subsection (b), the Congress shall modify the applicability of Annex V to ships referred to in section 3(b)(1)(A) of the Act to Prevent Pollution from Ships, as may be appropriate with respect to the requirements of Annex V to the Convention.

SEC. 2202. EPA STUDY OF METHODS TO REDUCE PLASTIC POLLUTION.

42 USC 6981
note.

(a) **IN GENERAL.**—The Administrator of the Environmental Protection Agency, in consultation with the Secretary of Commerce, shall commence a study of the adverse effects of the improper disposal of plastic articles on the environment and on waste disposal, and the various methods to reduce or eliminate such adverse effects.

(b) **SCOPE OF STUDY.**—A study under this section shall include the following:

Wildlife.
Safety.

(1) A list of improper disposal practices and associated specific plastic articles that occur in the environment with sufficient frequency to cause death or injury to fish or wildlife, affect adversely the habitat of fish or wildlife, contribute significantly to aesthetic degradation or economic losses in coastal and waterfront areas, endanger human health or safety, or cause other significant adverse impacts.

(2) A description of specific statutory and regulatory authority available to the Administrator of the Environmental Protection Agency, and the steps being taken by the Administrator, to reduce the amount of plastic materials that enter the marine and aquatic environment.

(3) An evaluation of the feasibility and desirability of substitutes for those articles identified under paragraph (1), comparing the environmental and health risks, costs, disposability, durability, and availability of such substitutes.

(4) An evaluation of the impacts of plastics on the solid waste stream relative to other solid wastes, and methods to reduce those impacts, including recycling.

(5) An evaluation of the impact of plastics on the solid waste stream relative to other solid wastes, and methods to reduce those impacts, including—

(A) the status of a need for public and private research to develop and market recycled plastic articles;

(B) methods to facilitate the recycling of plastic materials by identifying types of plastic articles to aid in their sorting.

and by standardizing types of plastic materials, taking into account trade secrets and protection of public health;

(C) incentives, including deposits on plastic containers, to increase the supply of plastic material for recycling and to decrease the amount of plastic debris, especially in the marine environment;

(D) the effect of existing tax laws on the manufacture and distribution of virgin plastic materials as compared with recycled plastic materials; and

(E) recommendations on incentives and other measures to promote new uses for recycled plastic articles and to encourage or require manufacturers of plastic articles to consider re-use and recycling in product design.

(6) An evaluation of the feasibility of making the articles identified under paragraph (1) from degradable plastics materials, taking into account—

(A) the risk to human health and the environment that may be presented by fragments of degradable plastic articles and the properties of the end-products of the degradation, including biotoxicity, bioaccumulation, persistence, and environmental fate;

(B) the efficiency and variability of degradation due to differing environmental and biological conditions; and

(C) the cost and benefits of using degradable articles, including the duration for which such articles were designed to remain intact.

(c) CONSULTATION.—In carrying out the study required by this section, the Administrator shall consult with the heads of other appropriate Federal agencies, representatives of affected industries, consumer and environment interest groups, and the public.

(d) REPORT.—Within 18 months after the date of the enactment of this Act, the Administrator of the Environmental Protection Agency shall report to the Congress the results of the study required by this section, including recommendations in connection therewith.

SEC. 2203. EFFECTS OF PLASTIC MATERIALS ON THE MARINE ENVIRONMENT.

Not later than September 30, 1988, the Secretary of Commerce shall submit to the Congress a report on the effects of plastic materials on the marine environment. The report shall—

(1) identify and quantify the harmful effects of plastic materials on the marine environment;

(2) assess the specific effects of plastic materials on living marine resources in the marine environment;

(3) identify the types and classes of plastic materials that pose the greatest potential hazard to living marine resources;

(4) analyze, in consultation with the Director of the National Bureau of Standards, plastic materials which are claimed to be capable of reduction to environmentally benign submits under the action of normal environmental forces (including biological decomposition, photodegradation, and hydrolysis); and

(5) recommend legislation which is necessary to prohibit, tax, or regulate sources of plastic materials that enter the marine environment.

SEC. 2204. PLASTIC POLLUTION PUBLIC EDUCATION PROGRAM.

(a) OUTREACH PROGRAM.—

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SEC. 2301

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study required by this section with respect to the heads of other affected industries, and to the public.

the date of the enactment of this section, the Administrator of the Environmental Protection Agency shall conduct a study required by this section with respect to

SECTION ON THE MARINE

Secretary of Commerce shall study the effects of plastic materials and the effects of plastic materials

plastic materials on living marine resources;

plastic materials that pose a threat to living marine resources;

Director of the National Oceanic and Atmospheric Administration shall submit to the Secretary of Commerce a list of plastic materials that are claimed to be benign and that are submitted under section 101 (including biological materials); and

it is necessary to prohibit, tax, or otherwise regulate plastic materials that enter the marine

RESTORATION PROGRAM.

(1) **IN GENERAL.**—Not later than April 1, 1988, the Administrator of the National Oceanic and Atmospheric Administration and the Administrator of the Environmental Protection Agency, in consultation with the Secretary of Transportation, shall jointly commence and thereafter conduct for a period of at least 3 years, a public outreach program to educate the public (including recreational boaters, fishermen, and other users of the marine environment) regarding—

(A) the harmful effects of plastic pollution;

(B) the need to reduce such pollution;

(C) the need to recycle plastic materials; and

(D) the need to reduce the quantity of plastic debris in the marine environment.

(2) **AUTHORIZED ACTIVITIES.**—A public outreach program under paragraph (1) may include—

(A) workshops with interested groups;

(B) public service announcements;

(C) distribution of leaflets and posters; and

(D) any other means appropriate to educating the public.

(b) **CITIZEN POLLUTION PATROLS.**—The Secretary of Commerce, along with the Administrator of the Environmental Protection Agency and the Secretary of the Department in which the Coast Guard is operating, shall conduct a program to encourage the formation of volunteer groups, to be designated as "Citizen Pollution Patrols", to assist in monitoring, reporting, cleanup, and prevention of ocean and shoreline pollution.

Voluntarism.

Subtitle C—New York Bight

33 USC 2267 note.

SEC. 2301. NEW YORK BIGHT RESTORATION PLAN.

(a) **IN GENERAL.**—Within 3 years after the effective date of this section, the Administrator, in consultation with the Administrator of the National Oceanic and Atmospheric Administration and other Federal, State, and interstate agencies, shall prepare a New York Bight Restoration Plan. In preparing such plan, the Administrator shall seek the views and comments of interested persons and hold public hearings in States to be affected by the plan. The first such public hearing shall occur not later than 8 months after the effective date of this section.

State and local governments.

(b) **SCOPE OF PLAN.**—The New York Bight Restoration Plan prepared under subsection (a) shall, at a minimum—

(1) identify and assess the impact of pollutant inputs, such as treated and untreated sewage discharge, industrial outfalls, agricultural and urban runoff, storm sewer overflow, upstream contaminant sources, atmospheric fallout, and dumping, that are affecting the water quality and marine resources of the New York Bight;

(2) identify those uses in the New York Bight and other areas that are being adversely affected by such pollutant inputs;

(3) determine the fate of the contaminants from such pollutant inputs and their effect on human health and the marine environment;

(4) identify technologies and management practices necessary for controlling such pollutant inputs;

(5) identify the costs of implementing such technologies and practices and any impediments to such implementation;

State and local governments.

(6) devise a schedule of economically feasible projects to implement such technologies and practices and to remove such impediments;

(7) develop recommendations for funding and coordinating the various Federal, State, and local government programs necessary to implement the projects referred to in paragraph (6); and

(8) comprehensively assess alternatives to dumping of municipal sludge and the burning of timber in the New York Bight.

SEC. 2302. NEW YORK BIGHT PLASTIC STUDY.

Reports.

The Administrator shall conduct a study of problems associated with plastic debris in the New York Bight, with specific attention to the effect of such debris on beaches, marine life, the environment, and coastal waters, and shall report to the Congress within 6 months after the effective date of this section with recommendations for the elimination of the threats posed by such plastic debris.

SEC. 2303. REPORTS.

(a) SCHEDULE FOR PRELIMINARY REPORTS AND RESTORATION PLAN.—Not later than 6 months after the effective date of this section, the Administrator shall submit to the Congress a detailed schedule (including associated funding requirements) for completing preliminary reports and the New York Bight Restoration Plan under this subtitle.

(b) PRELIMINARY REPORT ON ALTERNATIVES.—Not later than the earlier of January 1, 1990, or the date of any decision by the Administrator affecting the redesignation of the 106-mile Ocean Waste Dump site for municipal sludge or the designation of any additional municipal sludge dump site, the Administrator shall submit to the Congress a preliminary report assessing alternatives to the ocean dumping of municipal sludge.

(c) PRELIMINARY REPORT ON POLLUTANT INPUTS.—Not later than 1 year after the effective date of this section, the Administrator shall submit to the Congress a preliminary report on the examinations required under section 2301(b)(1), (b)(2), and (b)(3).

(d) PRELIMINARY REPORT ON CONTROL MEASURES.—Not later than 2 years after the effective date of this section, the Administrator shall submit to the Congress a preliminary report on the examinations required under section 2301(b)(4), (b)(5), (b)(6), and (b)(7).

(e) SUBMISSION OF RESTORATION PLAN TO CONGRESS.—Not later than 3 years after the effective date of this section, the Administrator shall submit to the Congress the New York Bight Restoration Plan prepared under section 2301.

SEC. 2304. DEFINITIONS.

For purposes of this subtitle—

(1) NEW YORK BIGHT.—The term "New York Bight" means an area comprised of the Hudson-Raritan Estuary and waters of the Atlantic Ocean—

(A) west of Montauk, Long Island, New York (71 degrees, 50 minutes west longitude);

(B) north of Cape May, New Jersey; and

(C) extending seaward to the edge of the Continental Shelf.

(2) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

SEC. 2305. AUTHOR

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SEC. 2305. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Administrator not more than \$3,000,000 for carrying out this subtitle during fiscal years 1988, 1989, and 1990.

TITLE III—MARINE SCIENCE, TECHNOLOGY, AND POLICY DEVELOPMENT

Marine Science, Technology, and Policy Development Act of 1987.
33 USC 1121 note.

SEC. 3001. SHORT TITLE.

This title may be cited as the "Marine Science, Technology, and Policy Development Act of 1987".

Subtitle A—National Sea Grant College Program Authorization

National Sea Grant College Program Authorization Act of 1987.
33 USC 1121 note.
Education. Research and development.

SEC. 3101. SHORT TITLE.

This subtitle may be cited as the "National Sea Grant College Program Authorization Act of 1987".

SEC. 3102. REFERENCE TO THE NATIONAL SEA GRANT COLLEGE PROGRAM ACT.

Unless otherwise provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a title, section, subsection, or other provision, the reference shall be considered to be made to a title, section, subsection, or other provision of the National Sea Grant College Program Act (33 U.S.C. 1121 et seq.).

SEC. 3103. DECLARATION OF POLICY.

Section 202 (33 U.S.C. 1121) is amended as follows:

(1) Subsection (a) is amended—

(A) by redesignating paragraphs (1), (2), and (3) as paragraphs (4), (5), and (6), respectively; and

(B) by inserting before paragraph (4) (as redesignated) the following:

"(1) The national interest requires a strategy to—

"(A) provide for the understanding and wise use of ocean, coastal, and Great Lakes resources and the environment;

"(B) foster economic competitiveness;

"(C) promote public stewardship and wise economic development of the coastal ocean and its margins, the Great Lakes, and the exclusive economic zone;

"(D) understand global environmental processes; and

"(E) promote domestic and international cooperative solutions to ocean, coastal, and Great Lakes issues.

"(2) Investment in a strong program of research, education, training, technology transfer, and public service is essential for this strategy.

"(3) The expanding use and development of ocean, coastal, and Great Lakes resources resulting from growing coastal area populations and the increasing pressures on the coastal and Great Lakes environment challenge the ability of the United States to manage such resources wisely."

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(2) Subsection (b) is amended by striking "ocean and coastal resources" and all that follows through the end of such subsection and inserting in lieu thereof the following: "ocean, coastal, and Great Lakes resources by providing assistance to promote a strong educational base, responsive research and training activities, broad and prompt dissemination of knowledge and techniques, and multidisciplinary approaches to environmental problems."

SEC. 3104. DEFINITIONS.

(a) IN GENERAL.—Section 203 (33 U.S.C. 1122) is amended—

(1) by striking paragraph (2);

(2) by renumbering paragraph (3) as paragraph (2) and inserting immediately thereafter the following:

"(3) the term 'director of a sea grant college' means a person designated by their university or institution to direct a sea grant college, programs, or regional consortium.";

(3) by striking paragraphs (6) and (7) and inserting in lieu thereof the following:

"(6) The term 'ocean, coastal, and Great Lakes resources' means the resources that are located in, derived from, or traceable to, the seabed, subsoil, and waters of—

"(A) the coastal zone, as defined in section 304(1) of the Coastal Zone Management Act (16 U.S.C. 1453(1));

"(B) the Great Lakes;

"(C) the territorial sea;

"(D) the exclusive economic zone;

"(E) the Outer Continental Shelf; and

"(F) the high seas.

"(7) The term 'resource' means—

"(A) living resources (including natural and cultured plant life, fish, shellfish, marine mammals, and wildlife);

"(B) nonliving resources (including energy sources, minerals, and chemical substances);

"(C) the habitat of a living resource, the coastal space, the ecosystems, the nutrient-rich areas, and the other components of the marine environment that contribute to or provide (or which are capable of contributing to or providing) recreational, scenic, esthetic, biological, habitational, commercial, economic, or conservation values; and

"(D) man-made, tangible, intangible, actual, or potential resources."; and

(4) by adding at the end the following:

"(15) The term 'Under Secretary' means the Under Secretary of Commerce for Oceans and Atmosphere."

(b) CONFORMING AMENDMENTS RELATING TO GREAT LAKES RESOURCES.—

(1) Each of the following provisions of the National Sea Grant College Program Act are amended by striking "ocean and coastal resources" each place it appears and inserting in lieu thereof "ocean, coastal, and Great Lakes resources":

(A) Paragraphs (4) and (5) of section 202(a) (as redesignated by section 3103(1)(A) of this subtitle).

(B) Section 202(c).

(C) Paragraphs (4) and (11) of section 203.

(D) Sections (b)(1)(A) and (d)(3) of section 204.

(E) Paragraphs (2)(A) and (3) (A) and (B) of section 207(a).

33 USC 1121.

33 USC 1123.

33 USC 1126.

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(F) Paragraph (1) of section 209(c).

33 USC 1128.

(G) Section 210.

33 USC 1129.

(2) Paragraph (5) of section 204(c) is amended by striking "ocean and coastal resource" and inserting in lieu thereof "ocean, coastal, and Great Lakes resources".

33 USC 1123.

(c) CONFORMING AMENDMENTS RELATING TO UNDER SECRETARY OF COMMERCE FOR OCEANS AND ATMOSPHERE.—Section 204(c) is amended by striking "Administrator" each place it appears and inserting in lieu thereof "Under Secretary".

SEC. 3105. CONTRACTS AND GRANTS.

(a) MINIMIZATION OF PRIOR APPROVAL REQUIREMENTS.—Section 205 (33 U.S.C. 1124) is amended by adding at the end of subsection (d)(1) the following: "Terms, conditions, and requirements imposed by the Secretary under this paragraph shall minimize any requirement of prior Federal approval."

(b) ACCEPTANCE OF FUNDS FROM OTHER FEDERAL AGENCIES.—Section 204(d)(6) is amended by striking "under section 205(a)".

SEC. 3106. SEA GRANT STRATEGIC RESEARCH PROGRAM.

(a) IN GENERAL.—Section 206 (33 U.S.C. 1125) is amended to read as follows:

"SEC. 206. STRATEGIC MARINE RESEARCH PROGRAM.

"(a) GRANT AND CONTRACT AUTHORITY.—The Under Secretary may make grants and enter into contracts to carry out the strategic research program provided for under this section. A grant or contract may cover up to 100 percent of the cost of the research for which the grant or contract is made or awarded.

"(b) STRATEGIC RESEARCH PLAN.—Within 1 year after the effective date of the Marine Science, Technology, and Policy Development Act of 1987, and every 3 years after that date, the Under Secretary shall develop and publish in the Federal Register, a sea grant strategic research plan for the next 3 years. The plan shall—

"(1) identify and describe a limited number of priority areas for strategic research in fields associated with ocean, coastal, and Great Lakes resources; and

"(2) indicate the goals and timetables for the research in those fields.

"(c) CONSULTATION AND CONGRESSIONAL REVIEW.—

"(1) CONSULTATION.—In developing each sea grant strategic research plan, the Under Secretary shall consult with relevant Federal agencies; sea grant directors; other representatives of sea grant colleges, sea grant programs, and sea grant regional consortia; non-governmental marine scientists; and other interested parties, both public and private.

"(2) SUBMITTAL TO CONGRESS.—Upon publication of each sea grant strategic research plan under subsection (b), the Under Secretary shall submit the plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives.

"(3) RESTRICTION ON GRANTS AND CONTRACTS.—The Under Secretary shall not make a grant or enter into a contract under this section for priority area research under a strategic research plan before the 45th day after the date of receipt of the plan by the Committees referred to in paragraph (2).

Federal
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publication.

(6) may be made for any of the priority areas of research identified in the sea grant strategic research plan in effect under section 206; and

(7) may be made to recipients of terminal professional degrees, as well as doctoral degree recipients."

SEC. 3108. SEA GRANT REVIEW PANEL.

Section 209 (33 U.S.C. 1128) is amended as follows:

(1) Subsection (b) is amended—

(A) by striking the matter preceding paragraph (1) and inserting "The Panel shall advise the Secretary, the Under Secretary, and the Director concerning—"; and

(B) by inserting "and section 3 of the Sea Grant Program Improvement Act of 1976" before the semicolon at the end of subsection (b)(1).

(2) Subsection (c) is amended—

(A) by striking the second sentence of paragraph (1) and inserting in lieu thereof the following: "The Director and a director of a sea grant program who is elected by the various directors of sea grant programs shall serve as nonvoting members of the panel.";

(B) by striking "five" in paragraph (1) and inserting in lieu thereof "8";

(C) by adding at the end of paragraph (2) the following: "At least once each year, the Secretary shall publish a notice in the Federal Register soliciting nominations for membership on the panel."; and

(D) by striking "office, or until 90 days after such date, whichever is earlier." in paragraph (3) and inserting in lieu thereof "office."

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SEC. 3109. MARINE AFFAIRS AND RESOURCE MANAGEMENT IMPROVEMENT GRANTS.

Section 211 (33 U.S.C. 1130) is amended to read as follows:

"SEC. 211. MARINE AFFAIRS AND RESOURCE MANAGEMENT IMPROVEMENT GRANTS.

"(a) IN GENERAL.—The Under Secretary may provide annual grants during fiscal years 1988 through 1990 to institutions eligible under subsection (b) to assist the institutions in achieving the following objectives:

"(1) Development and improvement of curriculum offerings in marine affairs and resource management at the graduate level, and development of related educational materials.

"(2) Fostering support of graduate students, through scholarships and teaching and research fellowships, in marine affairs and resource management.

"(3) Increasing multidisciplinary research in marine resources management.

"(b) ELIGIBILITY.—An institution is eligible for grants under this section if it is a sea grant college, sea grant regional consortium, or institution of higher education having a sea grant program that—

"(1) maintains a graduate program in, or institute or center for, marine affairs and resource management;

"(2) has prepared a development plan to improve and strengthen that program, institute, or center; and

“(3) has demonstrated, to the extent consistent with State law, its intention to support such improved and strengthened education and training after financial assistance under this section has ceased.

“(c) APPLICATIONS.—Applications for grants under this section shall be made in such manner as the Under Secretary shall require.

“(d) LIMITATIONS ON GRANTS.—No grant in excess of \$400,000 may be made to an eligible institution under this section for any year, and no more than 2 annual grants may be made to any such institution.

“(e) REPORT BY GRANT RECIPIENT.—Each institution receiving a grant under this subsection shall report to the Under Secretary, in such manner as the Under Secretary may require annually, and within 90 days following the termination of the grant, regarding the activities conducted with the grant.”

SEC. 3110. AUTHORIZATION OF APPROPRIATIONS.

Section 212 (33 U.S.C. 1131) is amended to read as follows:

“SEC. 212. AUTHORIZATION OF APPROPRIATIONS.

“(a) IN GENERAL.—There is authorized to be appropriated to carry out the provisions of this Act other than sections 206 and 211, an amount—

- “(1) for fiscal year 1988, not to exceed \$41,500,000;
- “(2) for fiscal year 1989, not to exceed \$50,500,000; and
- “(3) for fiscal year 1990, not to exceed \$51,000,000.

“(b) STRATEGIC MARINE RESEARCH.—There is authorized to be appropriated to carry out section 206 and section 208(c), an amount—

- “(1) for fiscal year 1988, not to exceed \$500,000;
- “(2) for fiscal year 1989, not to exceed \$5,000,000; and
- “(3) for fiscal year 1990, not to exceed \$10,000,000.

“(c) MARINE AFFAIRS AND RESOURCE MANAGEMENT GRANTS.—There is authorized to be appropriated to carry out section 211, an amount—

- “(1) for fiscal year 1988, not to exceed \$2,000,000;
- “(2) for fiscal year 1989, not to exceed \$2,500,000; and
- “(3) for fiscal year 1990, not to exceed \$3,000,000.

“(d) AVAILABILITY OF SUMS.—Sums appropriated pursuant to this section shall remain available until expended.

“(e) REVERSION OF UNOBLIGATED AMOUNTS.—The amount of any grant, or portion of a grant, made to a person under any section of this Act that is not obligated by that person during the first fiscal year for which it was authorized to be obligated or during the next fiscal year thereafter shall revert to the Secretary. The Secretary shall add that reverted amount to the funds available for grants under the section for which the reverted amount was originally made available.”

SEC. 3111. SEA GRANT INTERNATIONAL PROGRAM.

Section 3 of the Sea Grant Program Improvement Act of 1976 (33 U.S.C. 1124a) is amended to read as follows:

“SEC. 3. SEA GRANT INTERNATIONAL PROGRAM.

“(a) IN GENERAL.—The Under Secretary of Commerce for Oceans and Atmosphere may enter into contracts and make grants under this section to—

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SEC. 3202. GREAT

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Commerce for Oceans and make grants under

"(1) enhance cooperative international research and educational activities on ocean, coastal and Great Lakes resources;

"(2) promote shared marine activities with universities in countries with which the United States has sustained mutual interest in ocean, coastal, and Great Lakes resources;

"(3) encourage technology transfer that enhances wise use of ocean, coastal, and Great Lakes resources in other countries and in the United States;

"(4) promote the exchange among the United States and foreign nations of information and data with respect to the assessment, development, utilization, and conservation of such resources;

"(5) use the national sea grant college program as a resource in other Federal civilian agency international initiatives whose purposes are fundamentally related to research, education, technology transfer and public service programs concerning the understanding and wise use of ocean, coastal, and Great Lakes resources; and

"(6) enhance regional collaboration between foreign nations and the United States with respect to marine scientific research, including activities which improve understanding of global oceanic and atmospheric processes, undersea minerals resources within the exclusive economic zone, and productivity and enhancement of living marine resources in—

"(A) the Caribbean and Latin American regions;

"(B) the Pacific Islands region;

"(C) the Arctic and Antarctic regions;

"(D) the Atlantic and Pacific Oceans; and

"(E) the Great Lakes.

"(b) ELIGIBILITY, PROCEDURES, AND REQUIREMENTS.—Any sea grant college, sea grant program, or sea grant regional consortium, and any institution of higher education, laboratory, or institute (if the institution, laboratory, or institute is located within a State, as defined in section 203(14) of the National Sea Grant College Program Act (33 U.S.C. 1122(14)), may apply for and receive financial assistance under this section. The Under Secretary shall prescribe rules and regulations, in consultation with the Secretary of State, to carry out this section. Before approving an application for a grant or contract under this section, the Under Secretary shall consult with the Secretary of State. A grant made, or contract entered into, under this section is subject to section 205(d) (2) and (4) of the National Sea Grant College Program Act (33 U.S.C. 1124(d) (2) and (4)) and to any other requirements that the Under Secretary considers necessary and appropriate."

Subtitle B—Great Lakes Mapping

SEC. 3201. SHORT TITLE.

This subtitle may be cited as the "Great Lakes Shoreline Mapping Act of 1987".

SEC. 3202. GREAT LAKES SHORELINE MAPPING PLAN.

(a) PREPARATION OF PLAN.—Not later than nine months after the date of the enactment of this subtitle, the Director, in consultation with the Director of the United States Geological Survey, shall

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submit to the Congress a plan for preparing maps of the shoreline of the Great Lakes under section 3203.

(b) **CONTENT OF PLAN.**—A plan prepared under paragraph (1) shall include—

- (1) a work proposal and a division of responsibilities between the National Oceanic and Atmospheric Administration and the United States Geological Survey;
- (2) a time schedule for completion of maps;
- (3) recommendation of funding needed for preparing the maps; and
- (4) an area mapping schedule, with first priority given to shoreline areas subject to a high risk of erosion or flooding.

SEC. 3203. PREPARATION OF GREAT LAKES SHORELINE MAPS.

(a) **IN GENERAL.**—The following completion of a shoreline mapping plan under section 3202 and subject to authorization and appropriation of funds, the Director, in consultation with the Director of the United States Geological Survey, shall prepare maps of the shoreline areas of the Great Lakes.

(b) **CONTENT OF MAPS.**—Maps prepared under this section—

(1) shall include—

(A) bathymetry of the nearshore area, to the extent that this area will affect coastal erosion and flooding;

(B) topography of the adjacent shoreline, to the extent that this area will directly affect or be affected by coastal erosion and flooding;

(C) the geological conditions of the nearshore area and shoreline to the extent that these areas will directly affect or be affected by coastal erosion and flooding;

(D) information on the recent geological past of the nearshore area and shoreline areas described in paragraph (3); and

(E) appropriate information for use in predicting and preventing damage caused by erosion and flooding in the Great Lakes;

(2) shall be of appropriate scale and detail and take into account the greater informational needs of areas subject to a high risk of erosion or flooding; and

(3) to the maximum extent practicable, shall be consistent with similar shoreline maps prepared by, or for the use of, the Government of Canada.

(c) **CONSULTATION.**—In preparing maps under this section, the Director shall consult with, and take into consideration, the informational needs of—

(1) the Army Corps of Engineers;

(2) the Federal Emergency Management Agency;

(3) other appropriate Federal agencies;

(4) the States of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin;

(5) appropriate local government units; and

(6) the general public.

(d) **AVAILABILITY OF MAPS.**—The Director shall make maps prepared under this section available to—

(1) Federal agencies;

(2) State governments;

(3) local government units;

(4) the Government of Canada; and

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(e) **RECOVERY OF COSTS.**—The costs of reproducing and distributing maps prepared under this section may be recovered under section 9701 of title 31, United States Code, or another law.

SEC. 3204. CONTRACT AUTHORITY.

The Director may, subject to appropriations, enter into contracts and agreements on a reimbursable or cost-sharing basis with other Federal agencies, State governments, local governments, and private entities, to carry out this subtitle.

State and local governments.

SEC. 3205. DEFINITIONS.

For purposes of this subtitle—

(1) The term "Director" means the Director of Charting and Geodetic Services of the National Ocean Service, within the National Oceanic and Atmospheric Administration.

(2) The term "Great Lakes" means Lake Erie, Lake Huron, Lake Michigan, Lake Ontario, Lake St. Clair, Lake Superior, the Saint Mary's River, the Saint Clair River, the Detroit River, the Niagara River, the Saint Lawrence River to the Canadian border, to the extent such lakes and rivers are subject to the jurisdiction of the United States.

(3) The term "high risk of erosion" means subject to erosion at a rate greater than 1 foot per year.

SEC. 3206. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out section 3202 not more than \$100,000 for fiscal year 1988. Amounts appropriated pursuant to this section shall remain available until expended.

TITLE IV—DRIFTNET IMPACT MONITORING, ASSESSMENT, AND CONTROL

Driftnet Impact Monitoring, Assessment, and Control Act of 1987. North Pacific Ocean. 16 USC 1822 note.

SEC. 4001. SHORT TITLE.

This title may be cited as the "Driftnet Impact Monitoring, Assessment, and Control Act of 1987".

SEC. 4002. FINDINGS.

The Congress finds that—

(1) the use of long plastic driftnets is a fishing technique that may result in the entanglement and death of enormous numbers of target and nontarget marine resources in the waters of the North Pacific Ocean, including the Bering Sea;

(2) there is a pressing need for detailed and reliable information on the number of marine resources that become entangled and die in actively fished driftnets and in driftnets that are lost, abandoned, or discarded; and

(3) increased efforts are necessary to monitor, assess, and reduce the adverse impacts of driftnets.

SEC. 4003. DEFINITIONS.

As used in this title—

(1) **DRIFTNET.**—The term "driftnet" means a gillnet composed of a panel of plastic webbing one and one-half miles or more in length.

(2) **DRIFTNET FISHING.**—The term “driftnet fishing” means a fish-harvesting method in which a driftnet is placed in water and allowed to drift with the currents and winds for the purpose of entangling fish in the webbing.

(3) **EXCLUSIVE ECONOMIC ZONE OF THE UNITED STATES.**—The term “exclusive economic zone of the United States” means the zone defined in section 3(6) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802(b)).

(4) **MARINE RESOURCES.**—The term “marine resources” includes fish, shellfish, marine mammals, seabirds, and other forms of marine life or waterfowl.

(5) **MARINE RESOURCES OF THE UNITED STATES.**—The term “marine resources of the United States” means—

(A) marine resources found in, or which breed within, areas subject to the jurisdiction of the United States, including the exclusive economic zone of the United States; and

(B) species of fish, wherever found, that spawn in the fresh or estuarine waters of the United States.

(6) **SECRETARY.**—The term “Secretary” means the Secretary of Commerce.

SEC. 4004. MONITORING AGREEMENTS.

(a) **NEGOTIATIONS.**—The Secretary, through the Secretary of State and in consultation with the Secretary of the Interior, shall immediately initiate, negotiations with each foreign government that conducts, or authorizes its nationals to conduct, driftnet fishing that results in the taking of marine resources of the United States in waters of the North Pacific Ocean outside of the exclusive economic zone and territorial sea of any nation, for the purpose of entering into agreements for statistically reliable cooperative monitoring and assessment of the numbers of marine resources of the United States killed and retrieved, discarded, or lost by the foreign government’s driftnet fishing vessels. Such agreements shall provide for—

(1) the use of a sufficient number of vessels from which scientists of the United States and the foreign governments may observe and gather statistically reliable information; and

(2) appropriate methods for sharing equally the costs associated with such activities.

(b) **REPORT.**—The Secretary, in consultation with the Secretary of State, shall provide to the Congress not later than 1 year after the date of enactment of this Act a full report on the results of negotiations under this section.

SEC. 4005. IMPACT REPORT.

(a) **IN GENERAL.**—The Secretary shall provide to the Congress within 1 year after the date of the enactment of this Act, and at such other times thereafter as the Secretary considers appropriate, a report identifying the nature, extent, and effects of driftnet fishing in waters of the North Pacific Ocean on marine resources of the United States. The report shall include the best available information on—

- (1) the number and flag state of vessels involved;
- (2) the areas fished;
- (3) the length, width, and mesh size of driftnets used;
- (4) the number of marine resources of the United States killed by such fishing;

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“driftnet fishing” means a fishing operation in which driftnets are placed in water and used for the purpose of catching fish.

“United States” means the United States, its territories, possessions, and other areas under its jurisdiction.

“marine resources” includes fish, shellfish, and other marine life.

“Secretary” means the Secretary of the Department of the Interior.

“United States” means the United States, its territories, possessions, and other areas under its jurisdiction.

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(5) the effect of seabird mortality, as determined by the Secretary of the Interior, on seabird populations; and

(6) any other information the Secretary considers appropriate.

(b) INFORMATION FROM FOREIGN GOVERNMENTS.—The Secretary, through the Secretary of State, shall—

(1) request relevant foreign governments to provide the information described in subsection (a), and

(2) include in a report under this section the information so provided and an evaluation of the adequacy and reliability of such information.

Reports.

SEC. 4006. ENFORCEMENT AGREEMENTS.

International agreements.

(a) NEGOTIATIONS.—The Secretary shall immediately initiate, through the Secretary of State and in consultation with the Secretary of the Department in which the Coast Guard is operating negotiations with each foreign government that conducts, or authorizes its nationals to conduct, driftnet fishing that results in the taking of marine resources of the United States in waters of the North Pacific Ocean outside of the exclusive economic zone and territorial sea of any nation, for the purpose of entering into agreements for effective enforcement of laws, regulations, and agreements applicable to the location, season, and other aspects of the operations of the foreign government's driftnet fishing vessels. Such agreements shall include measures for—

(1) the effective monitoring and detection of violations;

(2) the collection and presentation of such evidence of violations as may be necessary for the successful prosecution of such violations by the responsible authorities;

(3) reporting to the United States of penalties imposed by the foreign governments for violations; and

(4) appropriate methods for sharing equally the costs associated with such activities.

(b) CERTIFICATION FOR PURPOSES OF FISHERMEN'S PROTECTIVE ACT OF 1967.—If the Secretary, in consultation with the Secretary of State, determines that a foreign government has failed, within 18 months after the date of the enactment of this Act, to enter into and implement an agreement under subsection (a) or section 4004(a) that is adequate, the Secretary shall certify such fact to the President, which certification shall be deemed to be a certification for the purposes of section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)).

SEC. 4007. EVALUATIONS AND RECOMMENDATIONS.

(a) MARKING, REGISTRY, AND IDENTIFICATION SYSTEM.—The Secretary shall evaluate, in consultation with officials of other Federal agencies and such other persons as may be appropriate, the feasibility of and develop recommendations for the establishment of a driftnet marking, registry, and identification system to provide a reliable method for the determination of the origin by vessel, of lost, discarded, or abandoned driftnets and fragments of driftnets. In conducting such evaluation, the Secretary shall consider the adequacy of existing driftnet identification systems of foreign nations and the extent to which these systems achieve the objectives of this title.

(b) ALTERNATIVE DRIFTNET MATERIALS.—The Secretary, in consultation with such other persons as may be appropriate, shall evaluate the feasibility of, and develop appropriate recommenda-

tions for, the use of alternative materials in driftnets for the purpose of increasing the rate of decomposition of driftnets that are discarded or lost at sea.

(c) **DRIFTNET BOUNTY SYSTEM.**—The Secretary, in consultation with such other persons as may be appropriate, shall evaluate the feasibility of and develop appropriate recommendations for the implementation of a driftnet bounty system to pay persons who retrieve from the exclusive economic zone and deposit with the Secretary lost, abandoned, and discarded driftnet and other plastic fishing material.

(d) **DRIFTNET FISHING VESSEL TRACKING SYSTEM.**—The Secretary, in consultation with such other persons as may be appropriate, shall evaluate the feasibility of, and develop appropriate recommendations for, the establishment of a cooperative driftnet fishing vessel tracking system to facilitate efforts to monitor the location of driftnet fishing vessels.

(e) **REPORT.**—The Secretary shall transmit to the Congress not later than 18 months after the date of the enactment of this Act a report setting forth—

- (1) the evaluations and recommendations developed under subsections (a), (b), (c), and (d);
- (2) the most effective and appropriate means of implementing such recommendations;
- (3) any need for further research and development efforts and the estimated cost and time required for completion of such efforts; and
- (4) any need for legislation to provide authority to carry out such recommendations.

SEC. 4008. CONSTRUCTION WITH OTHER LAWS.

This title shall not serve or be construed to expand or diminish the sovereign rights of the United States, as stated by Presidential Proclamation Numbered 5030, dated March 10, 1983, and reflected in existing law on the date of the enactment of this Act.

SEC. 4009. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of Commerce and the Department of State, such sums as may be necessary to carry out the purposes of this title.

North Carolina.

TITLE V—RED TIDE CONTAMINATION

SEC. 5001. DECLARATION OF DISASTER.

Notwithstanding any other provision of law, rule, or regulation, upon the date of the enactment of this Act, the Administrator of the Small Business Administration shall declare the recent North Carolina coast red tide contamination a disaster for purposes of section 7(b) of the Small Business Act (15 U.S.C. 636(b)).

SEC. 5002. PROVISION OF ASSISTANCE.

Notwithstanding any other provision of law, rule, or regulation, for purposes of providing assistance under paragraph (2) of section 7(b) of the Small Business Act (15 U.S.C. 636(b)(2)) for a disaster declared under section 1 of this Act, eligibility of individual applicants for assistance shall not in any way be dependent on—

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- (1) the number of disaster victims in any county or other political subdivision; or
- (2) whether or not an applicant who normally conducts operations in the area of the recent North Carolina coast red tide contamination is otherwise situated or located in such area; or
- (3) the type of business or industry in which the applicant is engaged.

SEC. 5003. RECENT NORTH CAROLINA COAST RED TIDE CONTAMINATION DEFINED.

For purposes of this Act, the term "recent North Carolina coast red tide contamination" means contamination of waters under the jurisdiction of the State of North Carolina by unusually high concentrations of the algae known as *Ptychodiscus brevis* (commonly referred to as "red tide"), with respect to which the Director of the Division of Marine Fisheries of the North Carolina Department of Natural Resources issues a shell fishing closure proclamation on or after November 2, 1987.

Approved December 29, 1987.

LEGISLATIVE HISTORY—H.R. 3674:

HOUSE REPORTS: No. 100-489 (Comm. on Merchant Marine and Fisheries).

CONGRESSIONAL RECORD, Vol. 133 (1987):

Dec. 18, considered and passed House.

Dec. 19, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 23 (1987):

Dec. 29, Presidential statement.