MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT OF 1972

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[As Amended Through P.L. 106–580, Dec. 29, 2000]

AN ACT To regulate the transportation for dumping, and the dumping, of material into ocean waters, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [33 U.S.C. 1401 nt] That this Act may be cited as the "Marine Protection, Research, and Sanctuaries Act of 1972".

FINDING, POLICY, AND PURPOSE

SEC. 2. [33 U.S.C. 1401] (a) Unregulated dumping of material into ocean waters endangers human health, welfare, and amenities, and the marine environment, ecological systems, and economic potentialities.

(b) The Congress declares that it is the policy of the United States to regulate the dumping of all types of materials into ocean waters and to prevent or strictly limit the dumping into ocean waters of any material which would adversely affect human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities.

(c) It is the purpose of this Act to regulate (1) the transportation by any person of material from the United States and, in the case of United States vessels, aircraft, or agencies, the transportation of material from a location outside the United States, when in either case the transportation is for the purpose of dumping the material into ocean waters, and (2) the dumping of material transported by any person from a location outside the United States, if the dumping occurs in the territorial sea or the contiguous zone of the United States.

DEFINITIONS

SEC. 3. [33 U.S.C. 1402] For the purposes of this Act the term—

(a) "Administrator" means the Administrator of the Environmental Protection Agency.

(b) "Ocean waters" means those waters of the open seas lying seaward of the base line from which the territorial sea is measured, as provided for in the Convention on the Territorial Sea and the Contiguous Zone (15 UST 1606; TIAS 5639).

(c) "Material" means matter of any kind or description, including, but not limited to, dredged material, solid waste, incinerator residue, garbage, sewage, sewage sludge, munitions, radiological, chemical, and biological warfare agents, radioactive materials, chemicals, biological and laboratory waste, wreck or discarded equipment, rock, sand, excavation debris, and industrial, munic-

ipal, agricultural, and other waste; but such term does not mean sewage from vessels within the meaning of section 312 of the Federal Water Pollution Control Act, as amended 33 U.S.C. 1322). Oil within the meaning of section 311 of the Federal Water Pollution Control Act, as amended 33 U.S.C. 1321), shall be included only to the extent that such oil is taken on board a vessel or aircraft for the purpose of dumping.

(d) "United States" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, the territories and possessions of the United States, and the Trust Territory of the Pacific Islands.

(e) "Person" means any private person or entity, or any officer, employee, agent, department, agency, or instrumentality of the Federal Government, of any State or local unit of government, or of any foreign government.

(f) "Dumping" means a disposition of material: *Provided,* That it does not mean a disposition of any effluent from any outfall structure to the extent that such disposition is regulated under the provisions of the Federal Water Pollution Control Act, as amended 33 U.S.C. 1251–1376), under the provisions of section 13 of the Rivers and Harbors Act of 1899, as amended 33 U.S.C. 407), or under the provisions of the atomic Energy Act of 1954, as amended (42 U.S.C. 2011, et seq.), nor does it mean a routine discharge of effluent incidental to the propulsion of, or operation of motor-driven equipment on, vessels: *Provided further,* That it does not mean the construction of any fixed structure or artificial island nor the intentional placement of any device in ocean waters or on or in the submerged land benefit such waters, for a purpose other than disposal, when such construction or such placement is otherwise regulated by Federal or State law or occurs pursuant to an authorized Federal or State program: *And provided further,* That it does not include the deposit of oyster shells, or other materials when such deposit is made for the purpose of developing, maintaining, or harvesting fisheries resources and is otherwise regulated by Federal or State law or occurs pursuant to an authorized Federal or State program.

(g) "District court of the United States" includes the District Court of Guam, the District Court of the Virgin Islands, the District Court of Puerto Rico, the District Court of the Canal Zone, and in the case of American Samoa and the Trust Territory of the Pacific Islands, the District Court of the United States for the District of Hawaii, which court shall have jurisdiction over actions arising therein.

(h) "Secretary" means the Secretary of the Army.

(i) "Dredged material" means any material excavated or dredged from the navigable waters of the United States.

(j) "High-level radioactive waste" means the aqueous waste resulting from the operation of the first cycle solvent extraction system, or equivalent, and the concentrated waste from subsequent extraction cycles, or equivalent, in a facility for reprocessing irradiated reactor fuels, or irradiated fuel from nuclear power reactors.

(k) "Medical waste" means isolation wastes; infectious agents; human blood and blood products; pathological wastes; sharps; body parts; contaminated bedding; surgical wastes and potentially con-

taminated laboratory wastes; dialysis wastes; and such additional medical items as the Administrator shall prescribe by regulation.

(l) "Transport" or "transportation" refers to the carriage and related handling of any material by a vessel, or by any other vehicle, including aircraft.

(m) "Convention" means the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter.

TITLE I—OCEAN DUMPING

PROHIBITED ACTS

SEC. 101. [33 U.S.C. 1411] (a) Except as may be authorized by a permit issued pursuant to section 102 or section 103 of this title, and subject to regulations issued pursuant to section 108 of this title.

(1) no person shall transport from the United States, and

(2) in the case of a vessel or aircraft registered in the United States or flying the United States flag or in the case of a United States department, agency, or instrumentality, no person shall transport from any location

any material for the purpose of dumping it into ocean waters.

(b) Except as may be authorized by a permit issued pursuant to section 102 of this title, and subject to regulations issued pursuant to section 108 of this title, no person shall dump any material transported from a location outside the United States (1) into the territorial sea of the United States, or (2) into zone contiguous to the territorial sea of the United States, extending to a line twelve nautical miles seaward from the base line from which the breadth of the territorial sea is measured, to the extent that it may affect the territorial sea or the territory of the United States.

ENVIRONMENTAL PROTECTION AGENCY PERMITS

SEC. 102. [33 U.S.C. 1412] (a) Except in relation to dredged material, as provided for in section 103 of this title, and in relation to radiological, chemical, and biological warfare agents, high-level radioactive waste, and medical waste, for which no permit may be issued, the Administrator may issue permits, after notice and opportunity for public hearings, for the transportation from the United States or, in the case of an agency or instrumentality of the United States, or in the case of a vessel or aircraft registered in the United States or flying the United States flag, for the transportation from a location outside the United States, of material for the purpose of dumping it into ocean waters, or for the dumping of material into the waters described in section 101(b), where the Administrator determines that such dumping will not unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities. The Administrator shall establish and apply criteria for reviewing and evaluating such permit applications, and, in establishing or revising such criteria, shall consider, but not be limited in his consideration to, the following:

(A) The need for the proposed dumping.

(B) The effect of such dumping on human health and welfare, including economic, esthetic, and recreational values.

(C) The effect of such dumping on fisheries resources, plankton, fish, shellfish, wildlife, shore lines and beaches.

(D) The effect of such dumping on marine ecosystems, particularly with respect to—

(i) the transfer, concentration, and dispersion of such material and its byproducts through biological, physical, and chemical processes,

(ii) potential changes in marine ecosystem diversity, productivity, and stability, and

(iii) species and community population dynamics.

(E) The persistence and permanence of the effects of the dumping.

(F) The effect of dumping particular volumes and concentrations of such materials.

(G) Appropriate locations and methods of disposal or recycling, including land-based alternatives and the probable impact of requiring use of such alternate locations or methods upon considerations affecting the public interest.

(H) The effect on alternate uses of oceans, such as scientific study, fishing, and other living resource exploitation, and nonliving resource exploitation.

(I) In designating recommended sites, the Administrator shall utilize wherever feasible locations beyond the edge of the Continental Shelf.

In establishing or revising such criteria, the Administrator shall consult with Federal, State, and local officials, and interested members of the general public, as may appear appropriate to the Administrator. With respect to such criteria as may affect the civil works program of the Department of the Army, the Administrator shall also consult with the Secretary. In reviewing applications for permits, the Administrator shall make such provision for consultation with interested Federal and State agencies as he deems useful or necessary. No permit shall be issued for a dumping of material which will violate applicable water quality standards. To the extent that he may do so without relaxing the requirements of this title, the Administrator, is establishing or revising such criteria, shall apply the standards and criteria binding upon the United States under the Convention, including its Annexes.

(b) The Administrator may establish and issue various categories of permits, including the general permits described in section 104(c).

(c) DESIGNATION OF SITES.—

(1) IN GENERAL.—The Administrator shall, in a manner consistent with the criteria established pursuant to subsection (a), designate sites or time periods for dumping. The Administrator shall designate sites or time periods for dumping that will mitigate adverse impact on the environment to the greatest extent practicable.

(2) PROHIBITIONS REGARDING SITE OR TIME PERIOD.—In any case where the Administrator determines that, with respect to certain materials, it is necessary to prohibit dumping at a site or during a time period, the Administrator shall prohibit the dumping of such materials in such site or during such time period. This prohibition shall apply to any dumping at the site

or during such time period. This prohibition shall apply to any dumping at the site or during the time period, including any dumping under section 103(e).

(3) DREDGED MATERIAL DISPOSAL SITES.—In the case of dredged material disposal sites, the Administrator, in conjunction with the Secretary, shall develop a site management plan for each site designated pursuant to this section. In developing such plans, the Administrator and the Secretary shall provide opportunity for public comment. Such plans shall include, but not be limited to—

(A) a baseline assessment of conditions at the site;

(B) a program for monitoring the site;

(C) special management conditions or practices to be implemented at each site that are necessary for protection of the environment;

(D) consideration of the quantity of the material to be disposed of at the site, and the presence, nature, and bioavailability of the contaminants in the material;

(E) consideration of the anticipated use of the site over the long term, including the anticipated closure date for the site, if applicable, and any need for management of the site after the closure of the site; and

(F) a schedule for review and revision of the plan (which shall not be reviewed and revised less frequently than 10 years after adoption of the plan, and every 10 years thereafter).

(4) GENERAL SITE MANAGEMENT PLAN REQUIREMENT; PROHIBITIONS.—After January 1, 1995, no site shall receive a final designation unless a management plan has been developed pursuant to this section. Beginning on January 1, 1997, no permit for dumping pursuant to this Act or authorization for dumping under section 103(e) of this Act shall be issued for a site (other than the site located off the coast of Newport Beach, California, which is known as "LA–3") unless such site has received a final designation pursuant to this subsection or an alternative site has been selected pursuant to section 103(b). Beginning January 1, 2003, no permit for dumping pursuant to this Act or authorization for dumping under section 103(e) shall be issued for the site located off the coast of Newport Beach, California, which is known as "LA–3", unless such site has received a final designation pursuant to this subsection or an alternative site has been selected pursuant to section 103(b).

(5) MANAGEMENT PLANS FOR PREVIOUSLY DESIGNATED SITES.—The Administrator shall develop a site management plan for any site designated prior to January 1, 1995, as expeditiously as practicable, but not later than January 1, 1997, giving priority consideration to management plans for designated sites that are considered to have the greatest impact on the environment.

(d) No permit is required under this title for the transportation for dumping or the dumping of fish wastes, except when deposited in harbors or other protected or enclosed coastal waters, or where the Administrator finds that such deposits could endanger health,

the environment, or ecological systems in a specific location. Where the Administrator makes such a finding, such material may be deposited only as authorized by a permit issued by the Administrator under this section.

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

CORPS OF ENGINEERS PERMITS

SEC. 103. [33 U.S.C. 1413] (a) Subject to the provisions of subsections (b), (c), and (d) of this section, the Secretary may issue permits, after notice and opportunity for public hearings, for the transportation of dredged material for the purpose of dumping it into ocean waters, where the Secretary determines that the dumping will not unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities.

(b) In making the determination required by subsection (a), the Secretary shall apply those criteria, established pursuant to section 102(a), relating to the effects of the dumping. Based upon an evaluation of the potential effect of a permit denial on navigation, economic and industrial development, and foreign and domestic commerce of the United States, the Secretary shall make an independent determination as to the need for the dumping. The Secretary shall also make an independent determination as to other possible methods of disposal and as to appropriate locations for the dumping. In considering appropriate locations, he shall, to the maximum extent feasible, utilize the recommended sites designated by the Administrator pursuant to section 102(c). In any case in which the use of a designated site is not feasible, the Secretary may, with the concurrence of the Administrator, select an alternative site. The criteria and factors established in section 102(a) relating to site selection shall be used in selecting the alternative site in a manner consistent with the application of such factors and criteria pursuant to section 102(c). Disposal at or in the vicinity of an alternative site shall be limited to a period of not greater than 5 years unless the site is subsequently designated pursuant to section 102(c); except that an alternative site may continue to be used for an additional period of time that shall not exceed 5 years if—

(1) no feasible disposal site has been designated by the Administrator;

(2) the continued use of the alternative site is necessary to maintain navigation and facilitate interstate or international commerce; and

(3) the Administrator determines that the continued use of the site does not pose an unacceptable risk to human health, aquatic resources, or the environment.

(c) CONCURRENCE BY THE ADMINISTRATOR.—

(1) NOTIFICATION.—Prior to issuing a permit to any person under this section, the Secretary shall first notify the Administrator of the Secretary's intention to do so and provide necessary and appropriate information concerning the permit to the Administrator. Within 30 days of receiving such information, the Administrator shall review the information and request any additional information the Administrator deems necessary to evaluate the proposed permit.

(2) CONCURRENCE BY ADMINISTRATOR.—Within 45 days after receiving from the Secretary all information the Administrator considers to be necessary to evaluate the proposed permit, the Administrator shall, in writing, concur with (either entirely or with conditions) or decline to concur with the determination of the Secretary as to compliance with the criteria, conditions, and restrictions established pursuant to sections 102(a) and 102(c) relating to the environmental impact of the permit. The Administrator may request one 45-day extension in writing and the Secretary shall grant such request on receipt of the request.

(3) EFFECT OF CONCURRENCE.—In any case where the Administrator makes a determination to concur (with or without conditions) or to decline to concur within the time period specified in paragraph (2) the determination shall prevail. If the Administrator declines to concur in the determination of the Secretary no permit shall be issued. If the Administrator concurs with conditions the permit shall include such conditions. The Administrator shall state in writing the reasons for declining to concur or for the conditions of the concurrence.

(4) FAILURE TO ACT.—If no written documentation is made by the Administrator within the time period provided for in paragraph (2), the Secretary may issue the permit.

(5) COMPLIANCE WITH CRITERIA AND RESTRICTIONS.—Unless the Administrator grants a waiver pursuant to subsection (d), any permit issued by the Secretary shall require compliance with such criteria and restrictions.

(d) If, in any case, the Secretary finds that, in the disposition of dredged material, there is no economically feasible method or site available other than a dumping site the utilization of which would result in non-compliance with the criteria established pursuant to section 102(a) relating to the effects of dumping or with the restrictions established pursuant to section 102(c) relating to critical areas, he shall so certify and request a waiver from the Administrator of the specific requirements involved. Within thirty days of the receipt of the waiver request, unless the Administrator finds that the dumping of the material will result in an unacceptably adverse impact on municipal water supplies, shell-fish beds, wildlife, fisheries (including spawning and breeding areas), or recreational areas, he shall grant the waiver.

(e) In connection with Federal projects involving dredged material, the Secretary may, in lieu of the permit procedure, issue regu-

lations which will require the application to such projects of the same criteria, other factors to be evaluated, the same procedures, and the same requirements which apply to the issuance of permits under subsections (a), (b), (c), and (d) of this section and section 104(a) and (d).

PERMIT CONDITIONS

SEC. 104. [33 U.S.C. 1414] (a) Permits issued under this title shall designate and include (1) the type of material authorized to be transported for dumping or to be dumped; (2) the amount of material authorized to be transported for dumping or to be dumped; (3) the location where such transport for dumping will be terminated or where such dumping will occur; (4) such requirements, limitations, or conditions as are necessary to assure consistency with any site management plan approved pursuant to section 102(c); (5) any special provisions deemed necessary by the Administrator or the Secretary, as the case may be, after consultation with the Secretary of the Department in which the Coast Guard is operating, for the monitoring and surveillance of the transportation or dumping; and (6) such other matters as the Administrator or the Secretary, as the case may be, deems appropriate. Permits issued under this title shall be issued for a period of not to exceed 7 years.

(b) The Administrator or the Secretary, as the case may be, may prescribe such processing fees for permits and such reporting requirements for actions taken pursuant to permits issued by him under this title as he deems appropriate.

(c) Consistent with the requirements of sections 102 and 103, but in lieu of a requirement for specific permits in such case, the Administrator or the Secretary, as the case may be, may issue general permits for the transportation for dumping, or dumping, or both, of specified materials or classes of materials for which he may issue permits, which he determines will have a minimal adverse environmental impact.

(d) Any permit issued under this title shall be reviewed periodically and, if appropriate, revised. The Administrator or the Secretary, as the case may be, may limit or deny the issuance of permits, or he may alter or revoke partially or entirely the terms of permits issued by him under this title, for the transportation for dumping, or for the dumping, or both, of specified materials or classes of materials, where he finds, based upon monitoring data from the dump site and surrounding area, that such materials cannot be dumped consistently with the criteria and other factors required to be applied in evaluating the permit application. No action shall be taken under this subsection unless the affected person or permittee shall have been given notice and opportunity for a hearing on such action as proposed.

(e) The Administrator or the Secretary, as the case may be, shall require an applicant for a permit under this title to provide such information as he may consider necessary to review and evaluate such application.

(f) Information received by the Administrator or the Secretary, as the case may be, as a part of any application or in connection with any permit granted under this title shall be available to the public as a matter of public record, at every stage of the pro-

ceeding. The final determination of the Administrator or the Secretary, as the case may be, shall be likewise available.

(g) A copy of any permit issued under this title shall be placed in a conspicuous place in the vessel which will be used for the transportation or dumping authorized by such permit, and an additional copy shall be furnished by the issuing official to the Secretary of the department in which the Coast Guard is operating, or its designee.

(h) Notwithstanding any provision of title I of the Marine Protection, Research, and Sanctuaries Act of 1972 to the contrary, during the two-year period beginning on the date of enactment of this subsection, no permit may be issued under such title I that authorizes the dumping of any low-level radioactive waste unless the Administrator of the Environmental Protection Agency determines—

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

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

(B) to determine the degree to which the dumping of such substance will degrade the marine environment;

(2) that the scale of the proposed dumping is limited to the smallest amount of such material and the shortest duration of time that is necessary to fulfill the purposes of the research, such that the dumping will have minimal adverse impact upon human health, welfare, and amenities, and the marine environment, ecological sysem, economic potentialities and other legitimate uses;

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

(4) that the proposed dumping will be preceded by appropriate baseline monitoring studies of the proposed dump site and its surrounding environment.

Each permit issued pursuant to this subsection shall be subject to such conditions and restrictions as the Administrator determines to be necessary to minimize possible adverse impacts of such dumping.

(i)(1) Two years after the date of enactment of this subsection, the Administrator may not issue a permit under this title for the disposal of radioactive waste material until the applicant, in addition to complying with all other requirements of this title, prepares, with respect to the site at which the disposal is proposed, a Radioactive Material Disposal Impact Assessment which shall include—

(A) a listing of all radioactive materials in each container to be disposed, the number of containers to be dumped, the structural diagrams of each container, the number of curies of each material in each container, and the exposure levels in rems at the inside and outside of each container;

(B) an analysis of the environmental impact of the proposed action, at the site at which the applicant desires to dispose of the material, upon human health and welfare and marine life;

(C) any adverse environmental effects at the site which cannot be avoided should the proposal be implemented;

(D) an analysis of the resulting environmental and economic conditions if the containers fail to contain the radioactive waste material when initially deposited at the specific site;

(E) a plan for the removal or containment of the disposed nuclear material if the container leaks or decomposes;

(F) a determination by each affected State whether the proposed action is consistent with its approved Coastal Zone Management Program;

(G) an analysis of the economic impact upon other users of marine resources;

(H) alternatives to the proposed action;

(I) comments and results of consultation with State officials and public hearings held in the coastal States that are nearest to the affected areas;

(J) a comprehensive monitoring plan to be carried out by the applicant to determine the full effect of the disposal on the marine environment, living resources, or human health, which plan shall include, but not be limited to, the monitoring of exterior container radiation samples, the taking of water and sediment samples, and fish and benthic animal samples, adjacent to the containers, and the acquisition of such other information as the Administrator may require; and

(K) such other information which the Administrator may require in order to determine the full effects of such disposal.

(2) The Administrator, shall include, in any permit to which paragraph (1) applies, such terms and conditions as may be necessary to ensure that the monitoring plan required under paragraph (1)(J) is fully implemented, including the analysis by the Administrator of the samples required to be taken under the plan.

(3) The Administrator shall submit a copy of the assessment prepared under paragraph (1) with respect to any permit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Environment and Public Works of the Senate.

(4)(A) Upon a determination by the Administrator that a permit to which the subsection applies should be issued, the Administrator shall transmit such a recommendation to the House of Representatives and the Senate.

(B) No permit may be issued by the Administrator under this Act for the disposal of radioactive materials in the ocean unless the Congress, by approval of a resolution described in paragraph (D) within 90 days of continuous session of the Congress beginning on the date after the date of receipt by the Senate and the House of Representatives of such recommendation, authorizes the Administrator to grant a permit to dispose of radioactive material under this Act.

(C) For purposes of this subsection—

(1) continuity of session of the Congress is broken only by an adjournment since die;

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the 90 day calendar period.

(D) For the purposes of this subsection, the term "resolution" means a joint resolution, the resolving clause of which is as follows: That the House of Representatives and the Senate approve and authorize the Administrator of the Environmental Protection Agency to grant a permit to _____ under the marine Protection, Research, and Sanctuaries Act of 1972 to dispose of radioactive materials in the ocean as recommended by the Administrator to the Congress on _____, 19_____; the first blank space therein to be filled with the appropriate applicant to dispose of nuclear material and the second blank therein to be filled with the date on which the Administrator submits the recommendation to the House of Representatives and the Senate.

SPECIAL PROVISIONS REGARDING CERTAIN DUMPING SITES

SEC. 104A. [33 U.S.C. 1414a] (a) NEW YORK BIGHT APEX.—(1) For purposes of this subsection:

(A) The term "Apex" means the New York Bight Apex consisting of the ocean waters of the Atlantic Ocean westward of 73 degrees 30 minutes west longitude and northward of 40 degrees 10 minutes north latitude.

(B) The term "Apex site" means that site within the Apex at which the dumping of municipal sludge occurred before October 1, 1983.

(C) The term "eligible authority" means any sewerage authority or other unit of State or local government that on November 2, 1983, was authorized under court order to dump municipal sludge at the Apex site.

(2) No person may apply for a permit under this title in relation to the dumping of, or the transportation for purposes of dumping, municipal sludge within the Apex unless that person is an eligible authority.

(3) The Administrator may not issue, or renew, any permit under this title that authorizes the dumping of, or the transportation for purposes of dumping, municipal sludge within the Apex after the earlier of—

(A) December 15, 1987; or

(B) the day determined by the Administrator to be the first day on which municipal sludge generated by eligible authorities can reasonably be dumped at a site designated under section 102 other than a site within the Apex.

(b) RESTRICTION ON USE OF THE 106-MILE SITE.—The Administrator may not issue or renew any permit under this title which authorizes any person, other than a person that is an eligible authority within the meaning of subsection (a)(1)(C), to dump, or to transport for the purposes of dumping, municipal sludge within the site designated under section 102(c) by the Administrator and known as the "106-Mile Ocean Waste Dump Site" (as described in 49 F.R. 19005).

SEC. 104B. [33 U.S.C. 1414a] OCEAN DUMPING OF SEWAGE SLUDGE AND INDUSTRIAL WASTE.

(a) TERMINATION OF DUMPING.—

(1) PROHIBITIONS ON DUMPING.—Notwithstanding any other provision of law—

(A) on and after the 270th day after the date of the enactment of this section, no person (including a person described in section 104A(a)(1)(C)) shall dump into ocean waters, or transport for the purpose of dumping into ocean waters, sewage sludge or industrial waste, unless such person—

(i) has entered into a compliance agreement or enforcement agreement which meets the requirements of subsection (c) (2) or (3), as applicable; and

(ii) has obtained a permit issued under section 102 which authorizes such transportation and dumping; and

(B) after December 31, 1991, it shall be unlawful for any person to dump into ocean waters, or to transport for the purposes of dumping into ocean waters, sewage sludge or industrial waste.

(2) PROHIBITION ON NEW ENTRANTS.—The Administrator shall not issue any permit under this Act which authorizes a person to dump into ocean waters, or to transport for the purposes of dumping into ocean waters, sewage sludge or industrial waste, unless that person was authorized by a permit issued under section 102 or by a court order to dump into ocean waters, or to transport for the purpose of dumping into ocean waters, sewage sludge or industrial waste on September 1, 1988.

(b) SPECIAL DUMPING FEES.—

(1) IN GENERAL.—Subject to paragraph (4), any person who dumps into ocean waters, or transports for the purpose of dumping into ocean waters, sewage sludge or industrial waste shall be liable for a fee equal to—

(A) $100 for each dry ton (or equivalent) of sewage sludge or industrial waste transported or dumped by the person on or after the 270th day after the date of the enactment of this section and before January 1, 1990;

(B) $150 for each dry ton (or equivalent) of sewage sludge or industrial waste transported or dumped by the person on or after January 1, 1990, and before January 1, 1991; and

(C) $200 for each dry ton (or equivalent) of sewage sludge or industrial waste transported or dumped by the person on or after January 1, 1991, and before January 1, 1992.

(2) PAYMENT OF FEES.—Of the amount of fees under paragraph (1) for which a person is liable, such person—

(A) shall pay into a trust account established by the person in accordance with subsection (e) a sum equal to 85 percent of such amount;

(B) shall pay to the Administrator a sum equal to $15 per dry ton (or equivalent) of sewage sludge and industrial waste transported or dumped by such person, for use for agency activities as provided in subsection (f)(1);

(C) subject to paragraph (5), shall pay into the Clean Oceans Fund established by the State in which the person is located a sum equal to 50 percent of the balance of such

amount after application of subparagraphs (A) and (B); and

(D) subject to paragraph (5), shall pay to the State in which the person is located a sum equal to the balance of such amount after application of subparagraphs (A), (B), and (C), for deposit into the water pollution control revolving fund established by the State under title VI of the Federal Water Pollution Control Act, as provided in subsection (f)(2).

(3) SCHEDULE FOR PAYMENT.—Fees under this subsection shall be paid on a quarterly basis.

(4) WAIVER OF FEES.—(A) The Administrator shall waive all fees under this subsection, other than the portion of fees required to be paid to the Administrator under paragraph (2)(B) for agency activities, for any person who has entered into a compliance agreement which meets the requirements of subsection (c)(2).

(B) The Administrator shall reimpose fees under this subsection for a person for whom such fees are waived under subparagraph (A) if the Administrator determines that—

(i) the person has failed to comply with the terms of a compliance agreement which the person entered into under subsection (c)(2); and

(ii) such failure is likely to result in the person not being able to terminate by December 31, 1991, dumping of sewage sludge or industrial waste into ocean waters.

(C) The Administrator may waive fees reimposed for a person under subparagraph (B) if the Administrator determines that the person has returned to compliance with a compliance agreement which the person entered into under subsection (c)(2).

(5) PAYMENTS PRIOR TO ESTABLISHMENT OF ACCOUNT.—(A) In any case in which a State has not established a Clean Oceans Fund or a water pollution control revolving fund under title VI of the Federal Water Pollution Control Act, fees required to be paid by a person in that State under paragraph (2) (C) or (D), as applicable, shall be paid to the Administrator.

(B) Amounts paid to the Administrator pursuant to this paragraph shall be held by the Administrator in escrow until the establishment of the fund into which such amounts are required to be paid under paragraph (2), or until the last day of the 1-year period beginning on the date of such payment, whichever is earlier, and thereafter—

(i) if such fund has been established, shall be paid by the Administrator into the fund; or

(ii) if such fund has not been established, shall revert to the general fund of the Treasury.

(c) COMPLIANCE AGREEMENTS AND ENFORCEMENT AGREEMENTS.—

(1) IN GENERAL.—As a condition of issuing a permit under section 102 which authorizes a person to transport or dump sewage sludge or industrial waste, the Administrator shall require that, before the issuance of such permit, the person and

the State in which the person is located enter into with the Administrator—

(A) a compliance agreement which meets the requirements of paragraph (2); or

(B) an enforcement agreement which meets the requirements of paragraph (3).

(2) COMPLIANCE AGREEMENTS.—An agreement shall be a compliance agreement for purposes of this section only if—

(A) it includes a plan negotiated by the person, the State in which the person is located, and the Administrator that will, in the opinion of the Administrator, if adhered to by the person in good faith, result in the phasing out and termination of ocean dumping, and transportation for the purpose of ocean dumping, of sewage sludge and industrial waste by such person by not later than December 31, 1991, through the design, construction, and full implementation of an alternative system for the management of sewage sludge and industrial waste transported or dumped by the person;

(B) it includes a schedule which—

(i) in the opinion of the Administrator, specifies reasonable dates by which the person shall complete the various activities that are necessary for the timely implementation of the alternative system referred to in subparagraph (A); and

(ii) meets the requirements of paragraph (4);

(C) it requires the person to notify in a timely manner the Administrator and the Governor of the State of any problems the person has in complying with the schedule referred to in subparagraph (B);

(D) it requires the Administrator and the Governor of the State to evaluate on an ongoing basis the compliance of the person with the schedule referred to in subparagraph (B);

(E) it requires the person to pay in accordance with this section all fees and penalties the person is liable for under this section; and

(F) it authorizes the person to use interim measures before completion of the alternative system referred to in subparagraph (A).

(3) ENFORCEMENT AGREEMENTS.—An agreement shall be an enforcement agreement for purposes of this section only if—

(A) it includes a plan negotiated by the person, the State in which the person is located, and the Administrator that will, in the opinion of the Administrator, if adhered to by the person in good faith, result in the phasing out and termination of ocean dumping, and transportation for the purpose of ocean dumping, of sewage sludge and industrial waste by such person through the design, construction, and full implementation of an alternative system for the management of sewage sludge and industrial waste transported or dumped by the person;

(B) it includes a schedule which—

(i) in the opinion of the Administrator, specifies reasonable dates by which the person shall complete the various activities that are necessary for the timely implementation of the alternative system referred to in subparagraph (A); and

(ii) meets the requirements of paragraph (4);

(C) it requires the person to notify in a timely manner the Administrator and the Governor of the State of any problems the person has in complying with the schedule referred to in subparagraph (B);

(D) it requires the Administrator and the Governor of the State to evaluate on an ongoing basis the compliance of the person with the schedule referred to in subparagraph (B);

(E) it requires the person to pay in accordance with this section all fees and penalties the person is liable for under this section; and

(F) it authorizes the person to use interim measures before completion of the alternative system referred to in subparagraph (A).

(4) SCHEDULES.—A schedule included in a compliance agreement pursuant to paragraph (2)(B) or an enforcement agreement pursuant to paragraph (3)(B) shall establish deadlines for—

(A) preparation of engineering designs and related specifications for the alternative system referred to in paragraph (2)(A) or paragraph (3)(A), as applicable;

(B) compliance with appropriate Federal, State, and local statutes, regulations, and ordinances;

(C) site and equipment acquisitions for such alternative system;

(D) construction and testing of such alternative system;

(E) operation of such alternative system at full capacity; and

(F) any other activities, including interim measures, that the Administrator considers necessary or appropriate.

(5) CLEAN OCEANS FUNDS.—(A) Each State that is a party to a compliance agreement or an enforcement agreement under this subsection shall establish an interest bearing account, to be known as a Clean Oceans Fund, into which a person shall pay fees and penalties in accordance with subsections (b)(2)(C) and (d)(2)(C)(i), respectively.

(B) A State which establishes a Clean Oceans Fund pursuant to this paragraph shall allocate and pay from the fund each year, to each person in the State which has entered into a compliance agreement or enforcement agreement under this subsection, a portion of amounts in the fund on the last day of that year which is equal to the sum of—

(i) amounts paid by the person into the fund in that year as fees pursuant to subsection (b)(2)(C) and as penalties pursuant to subsection (d)(2)(C)(i);2

(ii) amounts paid by the Administrator into the fund in that year as fees held in escrow for the person pursuant to subsection (b)(5)(B); and

(iii) interest on such amounts.

(C) Amounts allocated and paid to a person pursuant to subparagraph (B)—

(i) shall be used for the purposes described in subsection (e)(2)(B); and

(ii) may be used for matching Federal grants.

(D) A Clean Oceans Fund established by a State pursuant to this paragraph shall be subject to such accounting, reporting, and other requirements as may be established by the Administrator to assure accountability of payments into and out of the fund.

(6) PUBLIC PARTICIPATION.—The Administrator shall provide an opportunity for public comment regarding the establishment and implementation of compliance agreements and enforcement agreements entered into pursuant to this section.

(d) PENALTIES.—

(1) IN GENERAL.—In lieu of any other civil penalty under this Act, any person who has entered into a compliance agreement or enforcement agreement under subsection (c) and who dumps or transports sewage sludge or industrial waste in violation of subsection (a)(1)(B) shall be liable for a civil penalty, to be assessed by the Administrator, as follows:

(A) For each dry ton (or equivalent) of sewage sludge or industrial waste dumped or transported by the person in violation of this subsection in calendar year 1992, $600.

(B) For each dry ton (or equivalent) of sewage sludge or industrial waste dumped or transported by the person in violation of this subsection in any year after calendar year 1992, a sum equal to—

(i) the amount of penalty per dry ton (or equivalent) for a violation occurring in the preceding calendar year, plus

(ii) a percentage of such amount equal to 10 percent of such amount, plus an additional 1 percent of such amount for each full calendar year since December 31, 1991.

(2) PAYMENT OF PENALTY.—Of the amount of penalties under paragraph (1) for which a person is liable, such person—

(A) shall pay into a trust account established by the person in accordance with subsection (e) a sum which is a percentage of such amount equal to—

(i) 90 percent of such amount, reduced by

(ii) 5 percent of such amount for each full calendar year since December 31, 1991;

(B) shall pay to the Administrator a sum equal to $15 per dry ton (or equivalent) of sewage sludge and industrial waste transported or dumped by such person in that year, for use for agency activities as provided in subsection (f)(1);

(C) for violations in any year before calendar year 1995—

(i) subject to paragraph (4), shall pay into the Clean Oceans Fund established by the State in which the person is located a sum equal to 50 percent of the balance of such amount; and

(ii) subject to paragraph (4), shall pay to the State in which the person is located a sum equal to the portion of such amount which is not paid as provided in subparagraphs (A), (B), and (C), for deposit into the water pollution control revolving fund established by the State under title VI of the Federal Water Pollution Control Act, as provided in subsection (f)(2); and

(D) for violations in any year after calendar year 1994, shall pay to the State in which the person is located a sum equal to the balance of such amount, for use by the State for providing assistance under subsection (f)(3).

(3) SCHEDULE FOR PAYMENT.—Penalties under this subsection shall be paid on a quarterly basis.

(4) PAYMENTS PRIOR TO ESTABLISHMENT OF ACCOUNT.—In any case in which a State has not established a Clean Oceans Fund or a water pollution control revolving fund under title VI of the Federal Water Pollution Control Act, penalties required to be paid by a person in that State under paragraph (2)(C) (i) or (ii), as applicable, shall be paid to the Administrator for holding and payment or reversion, as applicable, in the same manner as fees are held and paid or revert under subsection (b)(5).

(e) TRUST ACCOUNT.—

(1) IN GENERAL.—A person who enters into a compliance agreement or an enforcement agreement under subsection (c) shall establish a trust account for the payment and use of fees and penalties under this section.

(2) TRUST ACCOUNT REQUIREMENTS.—An account shall be a trust account for purposes of this subsection only if it meets, to the satisfaction of the Administrator, the following requirements:

(A) Amounts in the account may be used only with the concurrence of the person who establishes the account and the Administrator; except that the person may use amounts in the account for a purpose authorized by subparagraph (B) after 60 days after notification of the Administrator if the Administrator does not disapprove such use before the end of such 60-day period.

(B) Amounts in the account may be used only for projects which will identify, develop, and implement—

(i) an alternative system, and any interim measures, for the management of sewage sludge and industrial waste, including but not limited to any such system or measures utilizing resource recovery, recycling, thermal reduction, or composting techniques; or

(ii) improvements in pretreatment, treatment, and storage techniques for sewage sludge and industrial waste to facilitate the implementation of such alternative system or interim measures.

(C) Upon a finding by the Administrator that a person did not pay fees or penalties into an account as required by this section, or did not use amounts in the account in accordance with this subsection, the balance of the amounts in the account shall be paid to the State in which the person is located, for deposit into the water pollution control revolving fund established by the State under title VI of the Federal Water Pollution Control Act, as provided in subsection (f)(2).

(3) USE OF UNEXPENDED AMOUNTS.—Upon a determination by the Administrator that a person has terminated ocean dumping of sewage sludge or industrial waste, the balance of amounts in an account established by the person under this subsection shall be paid to the person for use—

(A) for debts incurred by the person in complying with this Act or the Federal Water Pollution Control Act;

(B) in meeting the requirements of the Federal Water Pollution Control Act 33 U.S.C. 1251 et seq.) which apply to the person, including operations and maintenance; and

(C) for matching Federal grants.

(4) USE FOR MATCHING FEDERAL GRANTS.—Amounts in a trust account under this subsection may be used for matching Federal grants.

(f) USE OF FEES AND PENALTIES.—

(1) AGENCY ACTIVITIES.—Of the total amount of fees and penalties paid to the Administrator in a fiscal year pursuant to subsections (b)(2)(B) and (d)(2)(B), respectively—

(A) not to exceed one-third of such total amount shall be used by the Administrator for—

(i) costs incurred or expected to be incurred in undertaking activities directly associated with the issuance under this Act of permits for the transportation or dumping of sewage sludge and industrial waste, including the costs of any environmental assessment of the direct effects of dumping under the permits;

(ii) preparation of reports under subsection (i); and

(iii) such other research, studies, and projects the Administrator considers necessary for, and consistent with, the development and implementation of alternative systems for the management of sewage sludge and industrial waste;

(B) not to exceed one-third of such total amount shall be transferred to the Secretary of the department in which the Coast Guard is operating for use for—

(i) Coast Guard surveillance of transportation and dumping of sewage sludge and industrial waste subject to this Act; and

(ii) such enforcement activities conducted by the Coast Guard with respect to such transportation and dumping as may be necessary to ensure to the maximum extent practicable complete compliance with the requirements of this Act; and

(C) not to exceed one-third of such total amount shall be transferred to the Under Secretary of Commerce for Oceans and Atmosphere for use for—

(i) monitoring, research, and related activities consistent with the program developed pursuant to subsection (j)(1); and

(ii) preparing annual reports to the Congress pursuant to subsection (j)(4) which describe the results of such monitoring, research, and activities.

(2) DEPOSITS INTO STATE WATER POLLUTION CONTROL REVOLVING FUND.—(A) Amounts paid to a State pursuant to subsection (b)(2)(D), (d)(2)(C)(ii), or (e)(2)(C) shall be deposited into the water pollution control revolving fund established by the State pursuant to title VI of the Federal Water Pollution Control Act.

(B) Amounts deposited into a State water pollution control revolving fund pursuant to this paragraph—

(i) shall not be used by the State to provide assistance to the person who paid such amounts for development or implementation of any alternative system;

(ii) shall not be considered to be State matching amounts under title VI of the Federal Water Pollution Control Act; and

(iii) shall not be subject to State matching requirements under such title.

(3) PENALTY PAYMENTS TO STATES AFTER 1994.—(A) Amounts paid to a State as penalties pursuant to subsection (d)(2)(D) may be used by the State—

(i) for providing assistance to any person in the State—

(I) for implementing a management program under section 319 of the Federal Water Pollution Control Act;

(II) for developing and implementing a conservation and management plan under section 320 of such Act; or

(III) for implementing technologies and management practices necessary for controlling pollutant inputs adversely affecting the New York Bight, as such inputs are identified in the New York Bight Restoration Plan prepared under section 2301 of the Marine Plastic Pollution Research and Control Act of 1987; and

(ii) for providing assistance to any person in the State who was not required to pay such penalties for construction of treatment works (as defined in section 212 of the Federal Water Pollution Control Act) which are publicly owned.

(B) Amounts paid to a State as penalties pursuant to subsection (d)(2)(D) which are not used in accordance with subparagraph (A) shall be deposited into the water pollution control revolving fund established by the State under title VI of the Federal Water Pollution Control Act. Amounts deposited into such a fund pursuant to this subparagraph—2

(i) shall not be used by the State to provide assistance to the person who paid such amounts;

(ii) shall not be considered to be State matching amounts under title VI of the Federal Water Pollution Control Act; and

(iii) shall not be subject to State matching requirements under such title.

(4) DEPOSITS INTO TREASURY AS OFFSETTING COLLECTIONS.—Amounts of fees and penalties paid to the Administrator pursuant to subsection (b)(2)(B) or (d)(2)(B) which are used by an agency in accordance with paragraph (1) shall be deposited into the Treasury as offsetting collections of the agency.

(g) ENFORCEMENT.—

(1) IN GENERAL.—Whenever, on the basis of any information available, the Administrator finds that a person is dumping or transporting sewage sludge or industrial waste in violation of subsection (a)(1), the Administrator shall issue an order requiring such person to terminate such dumping or transporting (as applicable) until such person—

(A) enters into a compliance agreement or an enforcement agreement under subsection (c); and

(B) obtains a permit under section 102 which authorizes such dumping or transporting.

(2) REQUIREMENTS OF ORDER.—Any order issued by the Administrator under this subsection—

(A) shall be delivered by personal service to the person named in the order;

(B) shall state with reasonable specificity the nature of the violation for which the order is issued; and

(C) shall require that the person named in the order, as a condition of dumping into ocean waters, or transporting for the purpose of dumping into ocean waters, sewage sludge or industrial waste—

(i) shall enter into a compliance agreement or an enforcement agreement under subsection (c); and

(ii) shall obtain a permit under section 102 which authorizes such dumping or transporting.

(3) ACTIONS.—The Administrator may request the Attorney General to commence a civil action for appropriate relief, including a temporary or permanent injunction and the imposition of civil penalties authorized by subsection (d)(1), for any violation of subsection (a)(1) or of an order issued by the Administrator under this section. Such an action may be brought in the district court of the United States for the district in which the defendant is located, resides, or is doing business, and such court shall have jurisdiction to restrain such violation and require compliance with subsection (a)(1) and any such order.

(h) STATE PROGRESS REPORTS.—

(1) IN GENERAL.—The Governor of each State that is a party to a compliance agreement or an enforcement agreement under subsection (c) shall submit to the Administrator on September 30 of 1989 and of every year thereafter until the Ad-

ministrator determines that ocean dumping of sewage sludge and industrial waste by persons located in that State has terminated, a report which describes—

(A) the efforts of each person located in the State to comply with a compliance agreement or enforcement agreement entered into by the person pursuant to subsection (c), including the extent to which such person has complied with deadlines established by the schedule included in such agreement;

(B) activity of the State regarding permits for the construction and operation of each alternative system; and

(C) an accounting of amounts paid into and withdrawn from a Clean Oceans Fund established by the State.

(2) FAILURE TO SUBMIT REPORT.—If a State fails to submit a report in accordance with this subsection, the Administrator shall withhold funds reserved for such State under section 205(g) of the Federal Water Pollution Control Act 33 U.S.C. 1285(g)). Funds withheld pursuant to this paragraph may, at the discretion of the Administrator, be restored to a State upon compliance with this subsection.

(i) EPA PROGRESS REPORTS.—

(1) IN GENERAL.—Not later than December 31 of 1989 and of each year thereafter until the Administrator determines that ocean dumping of sewage sludge and industrial waste has terminated, the Administrator shall prepare and submit to the Congress a report on—

(A) progress being made by persons issued permits under section 102 for transportation or dumping of sewage sludge or industrial waste in developing alternative systems for managing sewage sludge and industrial waste;

(B) the efforts of each such person to comply with a compliance agreement or enforcement agreement entered into by the person pursuant to subsection (c), including the extent to which such person has complied with deadlines established by the schedule included in such agreement;

(C) progress being made by the Administrator and others in identifying and implementing alternative systems for the management of sewage sludge and industrial waste; and

(D) progress being made toward the termination of ocean dumping of sewage sludge and industrial waste.

(2) REFERRAL TO CONGRESSIONAL COMMITTEES.—Each report submitted to the Congress under this subsection shall be referred to each standing committee of the House of Representatives and of the Senate having jurisdiction over any part of the subject matter of the report.

(j) ENVIRONMENTAL MONITORING.—

(1) IN GENERAL.—The Administrator, in cooperation with the Under Secretary of Commerce for Oceans and Atmosphere, shall design a program for monitoring environmental conditions—

(A) at the Apex site (as that term is defined in section 104A);

(B) at the site designated by the Administrator under section 102(c) and known as the "106-Mile Ocean Waste Dump Site" (as described in 49 F.R. 19005);

(C) at the site at which industrial waste is dumped; and

(D) within the potential area of influence of the sewage sludge and industrial waste dumped at those sites.

(2) PROGRAM REQUIREMENTS.—The program designed under paragraph (1) shall include, but is not limited to—

(A) sampling of an appropriate number of fish and shellfish species and other organisms to assess the effects of environmental conditions on living marine organisms in these areas; and

(B) use of satellite and other advanced technologies in conducting the program.

(3) MONITORING ACTIVITIES.—The Administrator and the Under Secretary of Commerce for Oceans and Atmosphere shall each conduct monitoring activities consistent with the program designed under paragraph (1).

(4) REPORTS.—(A) Not later than 1 year after the date of the enactment of this section, the Administrator, in cooperation with the Under Secretary of Commerce for Oceans and Atmosphere, shall submit to the Congress a report describing the program designed pursuant to paragraph (1).

(B) Not later than December 31 of each year after the submission of a report under subparagraph (A), the Administrator and the Under Secretary of Commerce for Oceans and Atmosphere shall report to the Congress the results of monitoring activities conducted during the previous year under the program designed pursuant to paragraph (1).

(k) DEFINITIONS.—For purposes of this section—

(1) the term "alternative system" means any method for the management of sewage sludge or industrial waste which does not require a permit under this Act;

(2) the term "Clean Oceans Fund" means such a fund established by a State in accordance with subsection (c)(5);

(3) the term "excluded material" means—

(A) any dredged material discharged by the United States Army Corps of Engineers or discharged pursuant to a permit issued by the Secretary in accordance with section 103; and

(B) any waste from a tuna cannery operation located in American Samoa or Puerto Rico discharged pursuant to a permit issued by the Administrator under section 102;

(4) the term "industrial waste" means any solid, semisolid, or liquid waste generated by a manufacturing or processing plant, other than an excluded material;

(5) the term "interim measure" means any short-term method for the management of sewage sludge or industrial waste, which—

(A) is used before implementation of an alternative system; and

(B) does not require a permit under this Act; and

(6) the term "sewage sludge" means any solid, semisolid, or liquid waste generated by a wastewater treatment plant, other than an excluded material.

SEC. 104C. [33 U.S.C. 1414c] PROHIBITION ON DISPOSAL OF SEWAGE SLUDGE AT LANDFILLS ON STATEN ISLAND.

(a) IN GENERAL.—No person shall dispose of sewage sludge at any landfill located on Staten Island, New York.

(b) EXCLUSION FROM PENALTIES.—

(1) IN GENERAL.—Subject to paragraph (2), a person who violates this section shall not be subject to any penalty under this Act.

(2) INJUNCTION.—Paragraph (1) shall not prohibit the bringing of an action for, or the granting of, an injunction under section 105 with respect to a violation of this section.

(c) DEFINITION.—For purposes of this section, the term "sewage sludge" has the meaning such term has in section 104B.

PENALTIES

SEC. 105. [33 U.S.C. 1415] (a) Any person who violates any provision of this title, or of the regulations promulgated under this title, or a permit issued under this title shall be liable to a civil penalty of not more than $50,000 for each violation to be assessed by the Administrator. In addition, any person who violates this title or any regulation issued under this title by engaging in activity involving the dumping of medical waste shall be liable for a civil penalty of not more than $125,000 for each violation, to be assessed by the Administrator after written notice and an opportunity for a hearing. No penalty shall be assessed until the person charged shall have been given notice and an opportunity for a hearing of such violation. In determining the amount of the penalty, the gravity of the violation, prior violations, and the demonstrated good faith of the person charged in attempting to achieve rapid compliance after notification of a violation shall be considered by said Administrator. For good cause shown, the Administrator may remit or mitigate such penalty. Upon failure of the offending party to pay the penalty, the Administrator may request the Attorney General to commence an action in the appropriate district court of the United States for such relief as may be appropriate.

(b) CRIMINAL PENALTIES.—In addition to any action that may be brought under subsection (a)—

(1) any person who knowingly violates any provision of this title, any regulation promulgated under this title, or a permit issued under this title, shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both; and

(2) any person who is convicted of such a violation pursuant to paragraph (1) shall forfeit to the United States—

(A) any property constituting or derived from any proceeds that the person obtained, directly or indirectly, as a result of such violation; and

(B) any of the property of the person which was used, or intended to be used in any manner or part, to commit or to facilitate the commission of the violation.

(c) For the purpose of imposing civil penalties and criminal fines under this section, each day of a continuing violation shall constitute a separate offense as shall the dumping from each of several vessels, or other sources.

(d) The Attorney General or his delegate may bring actions for equitable relief to enjoin an imminent or continuing violation of this title, of regulations promulgated under this title, or of permits issued under this title, and the district courts of the United States shall have jurisdiction to grant such relief as the equities of the case may require.

(e) A vessel, except a public vessel within the meaning of section 13 of the Federal Water Pollution Control Act, as amended 33 U.S.C. 1163), used in a violation, shall be liable in rem for any civil penalty assessed or criminal fine imposed and may be proceeded against in any district court of the United States having jurisdiction thereof; but no vessel shall be liable unless it shall appear that one or more of the owners, or bareboat charterers, was at the time of the violation a consenting party or privy to such violation.

(f) If the provisions of any permit issued under section 102 or 103 are violated, the Administrator or the Secretary, as the case may be, may revoke the permit or may suspend the permit for a specified period of time. No permit shall be revoked or suspended unless the permittee shall have been given notice and opportunity for a hearing on such violation and proposed suspension or revocation.

(g)(1) Except as provided in paragraph (2) of this subsection any person may commence a civil suit on his own behalf to enjoin any person, including the United States and any other governmental instrumentality or agency (to the extent permitted by the eleventh amendment to the Constitution), who is alleged to be in violation of any prohibition, limitation, criterion, or permit established or issued by or under this title. The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such prohibition, limitation, criterion, or permit, as the case may be.

(2) No action may be commenced—

(A) prior to sixty days after notice of the violation has been given to the Administrator or to the Secretary, and to any alleged violator of the prohibition, limitation, criterion, or permit; or

(B) if the Attorney General has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with the prohibition, limitation, criterion, or permit; or

(C) if the Administrator has commenced action to impose a penalty pursuant to subsection (a) of this section, or if the Administrator, or the Secretary, has initiated permit revocation or suspension proceedings under subsection (f) of this section; or

(D) if the United States has commenced and is diligently prosecuting a criminal action in a court of the United States or a State to redress a violation of this title.

(3)(A) Any suit under this subsection may be brought in the judicial district in which the violation occurs.

(B) In any such suit under this subsection in which the United States is not a party, the Attorney General, at the request of the Administrator or Secretary, may intervene on behalf of the United States as a matter of right.

(4) The court, in issuing any final order in any suit brought pursuant to paragraph (1) of this subsection may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate.

(5) The injunctive relief provided by this subsection shall not restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any standard or limitation or to seek any other relief (including relief against the Administrator, the Secretary, or a State agency).

(h) No person shall be subject to a civil penalty or to a criminal fine or imprisonment for dumping materials from a vessel if such materials are dumped in an emergency to safeguard life at sea. Any such emergency dumping shall be reported to the Administrator under such conditions as he may prescribe.

(i) SEIZURE AND FORFEITURE.—

(1) IN GENERAL.—Any vessel used to commit an act for which a penalty is imposed under section 105(b) shall be subject to seizure and forfeiture to the United States under procedures established for seizure and forfeiture of conveyances under sections 413 and 511 of the Controlled Substances Act (21 U.S.C. 853, 881).

(2) LIMITATION ON APPLICATION.—This subsection does not apply to an act committed substantially in accordance with a compliance agreement or enforcement agreement entered into by the Administrator under section 104B(c).

(b)(1) In addition to any action which may be brought under subsection (a) of this section, a person who knowingly violates this title, regulations promulgated under this title, or a permit issued under this title shall be fined not more than $50,000, or imprisoned for not ore than one year, or both.

(2) In addition to any action which may be brought under subsection (a), any person—

(A) who knowingly violates any provision of this title by engaging in activity involving the dumping into ocean waters of medical waste shall upon conviction be fined not more than $250,000, or imprisoned for not more than 5 years, or both; and

(B) convicted of a violation involving such activity shall forfeit to the United States any property constituting or derived from any proceeds the person obtained, directly or indirectly, as a result of such violation, and any of the property of the person which was used, or intended to be used in any manner or part, to commit or to facilitate the commission of the violation.

RELATIONSHIP TO OTHER LAWS

SEC. 106. [33 U.S.C. 1416] (a) After the effective date of this title, all licenses, permits, and authorizations other than those issued pursuant to this title shall be void and of no legal effect, to

the extent that they purport to authorize any activity regulated by this title, and whether issued before or after the effective date of this title.

(b) The provisions of subsection (a) shall not apply to actions taken before the effective date of this title under the authority of the Rivers and Harbors Act of 1899 (30 Stat. 1151), as amended 33 U.S.C. 401 et. seq.).

(c) Prior to issuing any permit under this title, if it appears to the Administrator that the disposition of material, other than dredged material, may adversely affect navigation in the territorial sea of the United States, or in the approaches to any harbor of the United States, or may create an artificial island on the Outer Continental Shelf, the Administrator shall consult with the Secretary and no permit shall be issued if the Secretary determines that navigation will be unreasonably impaired.

(d) STATE PROGRAMS.—

(1) STATE RIGHTS PRESERVED.—Except as expressly provided in this subsection, nothing in this title shall preclude or deny the right of any State to adopt or enforce any requirements respecting dumping of materials into ocean waters within the jurisdiction of the State.

(2) FEDERAL PROJECTS.—In the case of a Federal project, a State may not adopt or enforce a requirement that is more stringent than a requirement under this title if the Administrator finds that such requirement—

(A) is not supported by relevant scientific evidence showing the requirement to be protective of human health, aquatic resources, or the environment;

(B) is arbitrary or capricious; or

(C) is not applicable or is not being applied to all projects without regard to Federal, State, or private participation and the Secretary of the Army concurs in such finding.

(3) EXEMPTION FROM STATE REQUIREMENTS.—The President may exempt a Federal project from any State requirement respecting dumping of materials into ocean waters if it is in the paramount interest of the United States to do so.

(4) CONSIDERATION OF SITE OF ORIGIN PROHIBITED.—Any requirement respecting dumping of materials into ocean waters applied by a State shall be applied without regard to the site of origin of the material to be dumped.

(e) Nothing in this title shall be deemed to affect in any manner or to any extent any provision of the Fish and Wildlife Coordination Act as amended (16 U.S.C. 661–666c).

(f) In addition to other provisions of law and not withstanding the specific exclusion relating to dredged material in the first sentence in section 102(a) of this Act, the dumping of dredged material in Long Island Sound from any Federal project (or pursuant to Federal authorization) or from a dredging project by a non-Federal applicant exceeding 25,000 cubic yards shall comply with the requirements of this title. [1]

[1] The amendment made by section 203 of Pub. L. 101–596, which strikes all after "shall comply with" and inserts "the requirements of this title." in "subsection 116(g) of the Marine Protec-

(g) SAVINGS CLAUSE.—Nothing in this Act shall restrict, affect or modify the rights of any person (1) to seek damages or enforcement of any standard or limitation under State law, including State common law, or (2) to seek damages under other Federal law, including maritime tort law, resulting from noncompliance with any requirement of this Act or any permit under this Act.

ENFORCEMENT

SEC. 107. [33 U.S.C. 1417] (a) The Administrator or the Secretary, as the case may be, may, whenever appropriate, utilize by agreement, the personnel, services and facilities of other Federal departments, agencies, and instrumentalities, or State agencies or instrumentalities, whether on a reimbursable or a nonreimbursable basis, in carrying out his responsibilities under this title.

(b) The Administrator or the Secretary may delegate responsibility and authority for reviewing and evaluating permit applications, including the decision as to whether a permit will be issued, to an officer of his agency, or he may delegate, by agreement, such responsibility and authority to the heads of other Federal departments or agencies, whether on a reimbursable or nonreimbursable basis.

(c) The Secretary of the department in which the Coast Guard is operating shall conduct surveillance and other appropriate enforcement activity to prevent unlawful transportation of material for dumping, or unlawful dumping. Such enforcement activity shall include, but not be limited to, enforcement of regulations issued by him pursuant to section 108, relating to safe transportation, handling, carriage, storage, and stowage. The Secretary of the Department in which the Coast Guard is operating shall supply to the Administrator and to the Attorney General, as appropriate, such information of enforcement activities and such evidentiary material assembled as they may require in carrying out their duties relative to penalty assessments, criminal prosecutions, or other actions involving litigation pursuant to the provisions of this title.

REGULATIONS

SEC. 108. [33 U.S.C. 1418] In carrying out the responsibilities and authority conferred by this title, the Administrator, the Secretary, and the Secretary of the department in which the Coast Guard is operating are authorized to issue such regulations as they may deem appropriate.

INTERNATIONAL COOPERATION

SEC. 109. [33 U.S.C. 1419] The Secretary of State, in consultation with the Administrator, shall seek effective international action and cooperation to insure protection of the marine environment, and may, for this purpose, formulate, present, or support specific proposals in the United Nations and other competent international organizations for the development of appropriate international rules and regulations in support of the policy of this Act.

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tion Research and Sanctuaries Act (33 U.S.C. 1416(g))", was executed in this subsection to reflect the probable intent of Congress.

EFFECTIVE DATE AND SAVINGS PROVISIONS

SEC. 110. [33 U.S.C. 1411 note] (a) This title shall take effect six months after the date of the enactment of this Act.

(b) No legal action begun, or right of action accrued, prior to the effective date of this title shall be affected by any provision of this title.

AUTHORIZATION OF APPROPRIATIONS

SEC. 111. [33 U.S.C. 1420] There are authorized to be appropriated, for purposes of carrying out this title, not to exceed $12,000,000 for fiscal year 1993 and not to exceed $14,000,000 for each of the fiscal years 1994, 1995, 1996, and 1997, to remain available until expended.

SEC. 112. [33 U.S.C. 1421] The Administrator shall on or before February 1 of each year report to the Congress on the administration of this title during the preceding fiscal year, including recommendations for additional legislation if deemed necessary. Such report shall include a description of the number of permits issued under this title (including the number of permits issued by the Secretary with the concurrence of the Administrator), any actions taken under subsections (c) and (d) of section 103, and for each permit, the site receiving the material, the volume and characteristics of material dumped (including the extent and nature of pollutants in such material), and the management practices implemented in connection with each disposal activity.

TITLE II—COMPREHENSIVE RESEARCH ON OCEAN DUMPING

SEC. 201. [33 U.S.C. 1441] The Secretary of Commerce, in coordination with the Secretary of the Department in which the Coast Guard is operating and with the Administrator shall, within six months of the enactment of this Act, initiate a comprehensive and continuing program of monitoring and research regarding the effects of the dumping of material into ocean waters or other coastal waters where the tide ebbs and flows or into the Great Lakes or their connecting waters.

SEC. 202. [33 U.S.C. 1442] (a)(1) The Secretary of Commerce, in close consultation with other appropriate Federal departments, agencies, and instrumentalities shall, within six months of the enactment of this Act, initiate a comprehensive and continuing program of research with respect to the possible long-range effects of pollution, overfishing, and man-induced changes of ocean ecosystems. These responsibilities shall include the scientific assessment of damages to the natural resources from spills of petroleum or petroleum products. In carrying out such research, the Secretary of Commerce shall take into account such factors as existing and proposed international policies affecting oceanic problems, economic considerations involved in both the protection and the use of the oceans, possible alternatives to existing programs, and ways in which the health of the oceans may best be preserved for the benefit of succeeding generations of mankind.

(2) The Secretary of Commerce shall ensure that the program under this section complements, when appropriate, the activities

undertaken by other Federal agencies pursuant to title I and section 203. That program shall include but not be limited to—

(A) the development and assessment of scientific techniques to define and quantify the degradation of the marine environment;

(B) the assessment of the capacity of the marine environment to receive materials without degradation;

(C) continuing monitoring programs to assess the health of the marine environment, including but not limited to the monitoring of bottom oxygen concentrations, contaminant levels in biota, sediments, and the water column, diseases in fish and shellfish, and changes in types and abundance of indicator species;

(D) the development of methodologies, techniques, and equipment for disposal of waste materials to minimize degradation of the marine environment.

(3) The Secretary of Commerce shall ensure that the comprehensive and continuing research program conducted under this subsection is consistent with the comprehensive plan for ocean pollution research and development and monitoring prepared under section 4 of the National Ocean Pollution Planning Act of 1978 33 U.S.C. 1703).

(b) In carrying out his responsibilities under this section, the Secretary of Commerce, under the foreign policy guidance of the President and pursuant to international agreements and treaties made by the President with the advice and consent of the Senate, may act alone or in conjunction with any other nation or group of nations, and shall make known the results of his activities by such channels of communication as may appear appropriate.

(c) Each department, agency, and independent instrumentality of the Federal Government is authorized and directed to cooperate with the Secretary of Commerce in carrying out the purposes of this section and, to the extent permitted by law, to furnish such information as may be requested.

(d) The Secretary of Commerce, in carrying out his responsibilities under this section, shall, to the extent feasible utilize the personnel, services, and facilities of other Federal departments, agencies, and instrumentalities (including those of the Coast Guard for monitoring purposes), and is authorized to enter into appropriate inter-agency agreements to accomplish this action.

SEC. 203. [33 U.S.C. 1443] (a) The Administrator of the Environmental Protection Agency shall—

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

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

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

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

(b) Nothing in this section shall be construed to affect in any way the December 31, 1981, termination date, established in section 4 of the Act of November 4, 1977 (Public Law 95–153; 33 U.S.C. 1412a), for the ocean dumping or sewage sludge.

(c) The Administrator, in cooperation with the Secretary, the Secretary of Commerce, and other officials of appropriate Federal, State, and local agencies, shall assess the feasibility in coastal areas of regional management plans for the disposal of waste materials. Such plans should integrate where appropriate Federal, State, regional, and local waste disposal activities into a comprehensive regional disposal strategy. These plans should address, among other things—

(1) the sources, quantities, and types of materials that require and will require disposal;

(2) the environmental, economic, social, and human health factors (and the methods used to assess these factors) associated with disposal alternatives;

(3) the improvements in production processes, methods of disposal, and recycling to reduce the adverse effects associated with such disposal alternatives;

(4) the applicable laws and regulations governing waste disposal; and

(5) improvements in permitting processes to reduce administrative burdens.

(d) The Administrator, in cooperation with the Secretary of Commerce, shall submit to the Congress and the President, not later than one year after the date of enactment of this provision, a report on sewage sludge disposal in the New York City metropolitan region. The report shall—

(1) consider the factors listed in subsection (c) as they relate to landfilling, incineration, ocean dumping, or any other feasible disposal or reuse/recycling option;

(2) include an assessment of the cost of these alternatives; and

(3) recommend such regulatory or legislative changes as may be necessary to reduce the adverse impacts associated with sewage sludge disposal.

ANNUAL REPORT

SEC. 204. **[**33 U.S.C. 1444**]** (a) In March of each year, the Secretary of Commerce shall report to the Congress on his activities under this title during the previous fiscal year. The report shall include—

(1) the Secretary's findings made under section 201, including an evaluation of the short-term ecological effects and the social and economic factors involved with the dumping;

(2) the results of activities undertaken pursuant to section 202;

(3) with the concurrence of the Administrator and after consulting with officials of other appropriate Federal agencies, an identification of the short- and long-term research requirements associated with activities under title I, and a description of how Federal research under titles I and II will meet those requirements; and

(4) activities of the Department of Commerce under section 5 of the Act of March 10, 1934 (48 Stat. 401; 16 U.S.C. 665).

(b) In March of each year, the Administrator shall report to the Congress on his activities during the previous fiscal year under section 203.

(c) On October 31 of each year, the Under Secretary shall report to the Congress the specific programs that the National Oceanic and Atmospheric Administration and the Environmental Protection Agency carried out pursuant to this title in the previous fiscal year, specifically listing the amount of funds allocated to those specific programs in the previous fiscal year.

SEC. 205. [33 U.S.C. 1445] There are authorized to be appropriated for the first fiscal year after this Act is enacted and for the next two fiscal years thereafter such sums as may be necessary to carry out this title, but the sums appropriated for any such fiscal year may not exceed $6,000,000. There are authorized to be appropriated not to exceed $1,500,000 for the transition period (July 1 through September 30, 1976), not to exceed $5,600,000 for fiscal year 1977, not to exceed $6,500,000 for fiscal year 1978, not to exceed $11,396,000 for fiscal year 1981, and not to exceed $12,000,000 for fiscal year 1982, not to exceed $10,635,000 for fiscal year 1986, not to exceed $11,114,000 for fiscal year 1987, not to exceed $13,500,000 for fiscal year 1989, and not to exceed $14,500,000 for fiscal year 1990.

TITLE III—NATIONAL MARINE SANCTUARIES

SEC. 301. [16 U.S.C. 1431] FINDINGS, PURPOSES, AND POLICIES; ESTABLISHMENT OF SYSTEM.

(a) FINDINGS.—The Congress finds that—

(1) this Nation historically has recognized the importance of protecting special areas of its public domain, but these efforts have been directed almost exclusively to land areas above the high-water mark;

(2) certain areas of the marine environment possess conservation, recreational, ecological, historical, scientific, educational, cultural, archeological, or esthetic qualities which give them special national, and in some cases international, significance;

(3) while the need to control the effects of particular activities has led to enactment of resource-specific legislation, these laws cannot in all cases provide a coordinated and comprehensive approach to the conservation and management of special areas of the marine environment; and

(4) a Federal program which establishes areas of the marine environment which have special conservation, recreational, ecological, historical, cultural, archeological, scientific, educational, or esthetic qualities as national marine

sanctuaries managed as the National Marine Sanctuary System will—

(A) improve the conservation, understanding, management, and wise and sustainable use of marine resources;

(B) enhance public awareness, understanding, and appreciation of the marine environment; and

(C) maintain for future generations the habitat, and ecological services, of the natural assemblage of living resources that inhabit these areas.

(b) PURPOSES AND POLICIES.—The purposes and policies of this title are—

(1) to identify and designate as national marine sanctuaries areas of the marine environment which are of special national significance and to manage these areas as the National Marine Sanctuary System;

(2) to provide authority for comprehensive and coordinated conservation and management of these marine areas, and activities affecting them, in a manner which complements existing regulatory authorities;

(3) to maintain the natural biological communities in the national marine sanctuaries, and to protect, and, where appropriate, restore and enhance natural habitats, populations, and ecological processes;

(4) to enhance public awareness, understanding, appreciation, and wise and sustainable use of the marine environment, and the natural, historical, cultural, and archeological resources of the National Marine Sanctuary System;

(5) to support, promote, and coordinate scientific research on, and long-term monitoring of, the resources of these marine areas;

(6) to facilitate to the extent compatible with the primary objective of resource protection, all public and private uses of the resources of these marine areas not prohibited pursuant to other authorities;

(7) to develop and implement coordinated plans for the protection and management of these areas with appropriate Federal agencies, State and local governments, Native American tribes and organizations, international organizations, and other public and private interests concerned with the continuing health and resilience of these marine areas;

(8) to create models of, and incentives for, ways to conserve and manage these areas, including the application of innovative management techniques; and

(9) to cooperate with global programs encouraging conservation of marine resources.

(c) ESTABLISHMENT OF SYSTEM.—There is established the National Marine Sanctuary System, which shall consist of national marine sanctuaries designated by the Secretary in accordance with this title.

SEC. 302. [16 U.S.C. 1432] DEFINITIONS.

As used in this title, the term—

(1) "draft management plan" means the plan described in section 304(a)(1)(C)(v);

(2) "Magnuson-Stevens Act" means the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.);

(3) "marine environment" means those areas of coastal and ocean waters, the Great Lakes and their connecting waters, and submerged lands over which the United States exercises jurisdiction including the exclusive economic zone, consistent with international law;

(4) "Secretary" means the Secretary of Commerce;

(5) "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, the Virgin Islands, Guam, and any other commonwealth, territory, or possession of the United States;

(6) "damages" includes—

(A) compensation for—

(i)(I) the cost of replacing, restoring, or acquiring the equivalent of a sanctuary resources; and

(II) the value of the lost use of a sanctuary resource pending its restoration or replacement or the acquisition of an equivalent sanctuary resource; or

(ii) the value of a sanctuary resource if the sanctuary resource cannot be restored or replaced or if the equivalent of such resource cannot be acquired;

(B) the cost of damage assessments under section 312(b)(2);

(C) the reasonable cost of monitoring appropriate to the injured, restored, or replaced resources;

(D) the cost of curation and conservation of archeological, historical, and cultural sanctuary resources; and

(E) the cost of enforcement actions undertaken by the Secretary in response to the destruction or loss of, or injury to, a sanctuary resource;

(7) "response costs" means the costs of actions taken or authorized by the Secretary to minimize destruction or loss of, or injury to, sanctuary resources, or to minimize the imminent risks of such destruction, loss, or injury, including costs related to seizure, forfeiture, storage, or disposal arising from liability under section 312;

(8) "sanctuary resource" means any living or nonliving resource of a national marine sanctuary that contributes to the conservation, recreational, ecological, historical, educational, cultural, archeological, scientific, or aesthetic value of the sanctuary;

(9) "exclusive economic zone" means the exclusive economic zone as defined in the Magnuson-Stevens Act; and

(10) "System" means the National Marine Sanctuary System established by section 301.

SEC. 303. [16 U.S.C. 1433] SANCTUARY DESIGNATION STANDARDS.

(a) STANDARDS.—The Secretary may designate any discrete area of the marine environment as a national marine sanctuary and promulgate regulations implementing the designation the Secretary determines that—

(1) the designation will fulfill the purposes and policies of this title;

(2) the area is of special national significance due to—

(A) its conservation, recreational, ecological, historical, scientific, cultural, archaeological, educational, or esthetic qualities;

(B) the communities of living marine resources it harbors; or

(C) its resource or human-use values;

(3) existing State and Federal authorities are inadequate or should be supplemented to ensure coordinated and comprehensive conservation and management of the area, including resource protection, scientific research, and public education;

(4) designation of the area as a national marine sanctuary will facilitate the objectives stated in paragraph (3); and

(5) the area is of a size and nature that will permit comprehensive and coordinated conservation and management.

(b) FACTORS AND CONSULTATIONS REQUIRED IN MAKING DETERMINATIONS AND FINDINGS.—

(1) FACTORS.—For purposes of determining if an area of the marine environment meets the standards set forth in subsection (a), the Secretary shall consider—

(A) the area's natural resource and ecological qualities, including its contribution to biological productivity, maintenance of ecosystem structure, maintenance of ecologically or commercially important or threatened species or species assemblages, maintenance of critical habitat of endangered species, and the biogeographic representation of the site;

(B) the area's historical, cultural, archaeological, or paleontological significance;

(C) the present and potential uses of the area that depend on maintenance of the area's resources, including commercial and recreational fishing, subsistence uses, other commercial and recreational activities, and research and education;

(D) the present and potential activities that may adversely affect the factors identified in subparagraphs (A), (B), and (C);

(E) the existing State and Federal regulatory and management authorities applicable to the area and the adequacy of those authorities to fulfill the purposes and policies of this title;

(F) the manageability of the area, including such factors as its size, its ability to be identified as a discrete ecological unit with definable boundaries, its accessibility, and its suitability for monitoring and enforcement activities;

(G) the public benefits to be derived from sanctuary status, with emphasis on the benefits of long-term protection of nationally significant resources, vital habitats, and resources which generate tourism;

(H) the negative impacts produced by management restrictions on income-generating activities such as living and nonliving resources development;

(I) the socioeconomic effects of sanctuary designation;

(J) the area's scientific value and value for monitoring the resources and natural processes that occur there;

(K) the feasibility, where appropriate, of employing innovative management approaches to protect sanctuary resources or to manage compatible uses; and

(L) the value of the area as an addition to the System.

(2) CONSULTATION.—In making determinations and findings, the Secretary shall consult with—

(A) the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate;

(B) the Secretaries of State, Defense, Transportation, and the Interior, the Administrator, and the heads of other interested Federal agencies;

(C) the responsible officials or relevant agency heads of the appropriate State and local government entities, including coastal zone management agencies, that will or are likely to be affected by the establishment of the area as a national marine sanctuary;

(D) the appropriate officials of any Regional Fishery Management Council established by section 302 of the Magnuson-Stevens Act (16 U.S.C. 1852) that may be affected by the proposed designation; and

(E) other interested persons.

SEC. 304. [16 U.S.C. 1434] PROCEDURES FOR DESIGNATION AND IMPLEMENTATION.

(a) SANCTUARY PROPOSAL.—

(1) NOTICE.—In proposing to designate a national marine sanctuary, the Secretary shall—

(A) issue, in the Federal Register, a notice of the proposal, proposed regulations that may be necessary and reasonable to implement the proposal, and a summary of the draft management plan;

(B) provide notice of the proposal in newspapers of general circulation or electronic media in the communities that may be affected by the proposal; and

(C) no later than the day on which the notice required under subparagraph (A) is submitted to the Office of the Federal Register, submit a copy of that notice and the draft sanctuary designation documents prepared pursuant to section 304(a)(2), including an executive summary, to the Committee on Resources of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Governor of each State in which any part of the proposed sanctuary would be located.

(2) SANCTUARY DESIGNATION DOCUMENTS.—The Secretary shall prepare and make available to the public sanctuary designation documents on the proposal that include the following:

(A) A draft environmental impact statement pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(B) A resource assessment that documents—

(i) present and potential uses of the area, including commercial and recreational fishing, research and education, minerals and energy development, subsistence uses, and other commercial, governmental, or recreational uses;

(ii) after consultation with the Secretary of the Interior, any commercial, governmental, or recreational resource uses in the areas that are subject to the primary jurisdiction of the Department of the Interior; and

(iii) information prepared in consultation with the Secretary of Defense, the Secretary of Energy, and the Administrator of the Environmental Protection Agency, on any past, present, or proposed future disposal or discharge of materials in the vicinity of the proposed sanctuary.

Public disclosure by the Secretary of such information shall be consistent with national security regulations.

(C) A draft management plan for the proposed national marine sanctuary that includes the following:

(i) The terms of the proposed designation.

(ii) Proposed mechanisms to coordinate existing regulatory and management authorities within the area.

(iii) The proposed goals and objectives, management responsibilities, resource studies, and appropriate strategies for managing sanctuary resources of the proposed sanctuary, including interpretation and education, innovative management strategies, research, monitoring and assessment, resource protection, restoration, enforcement, and surveillance activities.

(iv) An evaluation of the advantages of cooperative State and Federal management if all or part of the proposed sanctuary is within the territorial limits of any State or is superjacent to the subsoil and seabed within the seaward boundary of a State, as that boundary is established under the Submerged Lands Act (43 U.S.C. 1301 et seq.).

(v) An estimate of the annual cost to the Federal Government of the proposed designation, including costs of personnel, equipment and facilities, enforcement, research, and public education.

(vi) The proposed regulations referred to in paragraph (1)(A).

(D) Maps depicting the boundaries of the proposed sanctuary.

(E) The basis for the determinations made under section 303(a) with respect to the area.

(F) An assessment of the considerations under section 303(b)(1).

(3) PUBLIC HEARING.—No sooner than thirty days after issuing a notice under this subsection, the Secretary shall hold at least one public hearing in the coastal area or areas that

will be most affected by the proposed designation of the area as a national marine sanctuary for the purpose of receiving the views of interested parties.

(4) TERMS OF DESIGNATION.—The terms of designation of a sanctuary shall include the geographic area proposed to be included within the sanctuary, the characteristics of the area that give it conservation, recreational, ecological, historical, research, educational, or esthetic value, and the types of activities that will be subject to regulation by the Secretary to protect those characteristics. The terms of designation may be modified only by the same procedures by which the original designation is made.

(5) FISHING REGULATIONS.—The Secretary shall provide the appropriate Regional Fishery Management Council with the opportunity to prepare draft regulations for fishing within the Exclusive Economic Zone as the Council may deem necessary to implement the proposed designation. Draft regulations prepared by the Council, or a Council determination that regulations are not necessary pursuant to this paragraph, shall be accepted and issued as proposed regulations by the Secretary unless the Secretary finds that the Council's action fails to fulfill the purposes and policies of this title and the goals and objectives of the proposed designation. In preparing the draft regulations, a Regional Fishery Management Council shall use as guidance the national standards of section 301(a) of the Magnuson-Stevens Act (16 U.S.C. 1851) to the extent that the standards are consistent and compatible with the goals and objectives of the proposed designation. The Secretary shall prepare the fishing regulations, if the Council declines to make a determination with respect to the need for regulations, makes a determination which is rejected by the Secretary, or fails to prepare the draft regulations in a timely manner. Any amendments to the fishing regulations shall be drafted, approved, and issued in the same manner as the original regulations. The Secretary shall also cooperate with other appropriate fishery management authorities with rights or responsibilities within a proposed sanctuary at the earliest practicable stage in drafting any sanctuary fishing regulations.

(6) COMMITTEE ACTION.—After receiving the documents under subsection (a)(1)(C), the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate may each hold hearings on the proposed designation and on the matters set forth in the documents. If within the forty-five day period of continuous session of Congress beginning on the date of submission of the documents, either Committee issues a report concerning matters addressed in the documents, the Secretary shall consider this report before publishing a notice to designate the national marine sanctuary.

(b) TAKING EFFECT OF DESIGNATIONS.—

(1) NOTICE.—In designating a national marine sanctuary, the Secretary shall publish in the Federal Register notice of the designation together with final regulations to implement the designation and any other matters required by law, and

submit such notice to the Congress. The Secretary shall advise the public of the availability of the final management plan and the final environmental impact statement with respect to such sanctuary. The Secretary shall issue a notice of designation with respect to a proposed national marine sanctuary site not later than 30 months after the date a notice declaring the site to be an active candidate for sanctuary designation is published in the Federal Register under regulations issued under this Act, or shall publish not later than such date in the Federal Register findings regarding why such notice has not been published. No notice of designation may occur until the expiration of the period for Committee action under subsection (a)(6). The designation (and any of its terms not disapproved under this subsection) and regulations shall take effect and become final after the close of a review period of forty-five days of continuous session of Congress beginning on the day on which such notice is published unless, in the case of a national marine sanctuary that is located partially or entirely within the seaward boundary of any State, the Governor affected certifies to the Secretary that the designation or any of its terms is unacceptable, in which case the designation or the unacceptable term shall not take effect in the area of the sanctuary lying within the seaward boundary of the State.

(2) WITHDRAWAL OF DESIGNATION.—If the Secretary considers that actions taken under paragraph (1) will affect the designation of a national marine sanctuary in a manner that the goals and objectives of the sanctuary or System cannot be fulfilled, the Secretary may withdraw the entire designation. If the Secretary does not withdraw the designation, only those terms of the designation not certified under paragraph (1) shall take effect.

(3) PROCEDURES.—In computing the forty-five-day periods of continuous session of Congress pursuant to subsection (a)(6) and paragraph (1) of this subsection—

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

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

(c) ACCESS AND VALID RIGHTS.—

(1) Nothing in this title shall be construed as terminating or granting to the Secretary the right to terminate any valid lease, permit, license, or right of subsistence use or of access that is in existence on the date of designation of any national marine sanctuary.

(2) The exercise of a lease, permit, license, or right is subject to regulation by the Secretary consistent with the purposes for which the sanctuary is designated.

(d) INTERAGENCY COOPERATION.—

(1) REVIEW OF AGENCY ACTIONS.—

(A) IN GENERAL.—Federal agency actions internal or external to a national marine sanctuary, including private activities authorized by licenses, leases, or permits, that are likely to destroy, cause the loss of, or injure any sanc-

tuary resource are subject to consultation with the Secretary.

(B) AGENCY STATEMENTS REQUIRED.—Subject to any regulations the Secretary may establish each Federal agency proposing an action described in subparagraph (A) shall provide the Secretary with a written statement describing the action and its potential effects on sanctuary resources at the earliest practicable time, but in no case later than 45 days before the final approval of the action unless such Federal agency and the Secretary agree to a different schedule.

(2) SECRETARY'S RECOMMENDED ALTERNATIVES.—If the Secretary finds that a Federal agency action is likely to destroy, cause the loss of, or injure a sanctuary resource, the Secretary shall (within 45 days of receipt of complete information on the proposed agency action) recommend reasonable and prudent alternatives, which may include conduct of the action elsewhere, which can be taken by the Federal agency in implementing the agency action that will protect sanctuary resources.

(3) RESPONSE TO RECOMMENDATIONS.—The agency head who receives the Secretary's recommended alternatives under paragraph (2) shall promptly consult with the Secretary on the alternatives. If the agency head decides not to follow the alternatives, the agency head shall provide the Secretary with a written statement explaining the reasons for that decision.

(4) FAILURE TO FOLLOW ALTERNATIVE.—If the head of a Federal agency takes an action other than an alternative recommended by the Secretary and such action results in the destruction of, loss of, or injury to a sanctuary resource, the head of the agency shall promptly prevent and mitigate further damage and restore or replace the sanctuary resource in a manner approved by the Secretary.

(e) REVIEW OF MANAGEMENT PLANS.—Not more than five years after the date of designation of any national marine sanctuary, and thereafter at intervals not exceeding five years, the Secretary shall evaluate the substantive progress toward implementing the management plan and goals for the sanctuary, especially the effectiveness of site-specific management techniques and strategies, and shall revise the management plan and regulations as necessary to fulfill the purposes and policies of this title. This review shall include a prioritization of management objectives.

(f) LIMITATION ON DESIGNATION OF NEW SANCTUARIES.—

(1) FINDING REQUIRED.—The Secretary may not publish in the Federal Register any sanctuary designation notice or regulations proposing to designate a new sanctuary, unless the Secretary has published a finding that—

(A) the addition of a new sanctuary will not have a negative impact on the System; and

(B) sufficient resources were available in the fiscal year in which the finding is made to—

(i) effectively implement sanctuary management plans for each sanctuary in the System; and

(ii) complete site characterization studies and inventory known sanctuary resources, including cultural

resources, for each sanctuary in the System within 10 years after the date that the finding is made if the resources available for those activities are maintained at the same level for each fiscal year in that 10 year period.

(2) DEADLINE.—If the Secretary does not submit the findings required by paragraph (1) before February 1, 2004, the Secretary shall submit to the Congress before October 1, 2004, a finding with respect to whether the requirements of subparagraphs (A) and (B) of paragraph (1) have been met by all existing sanctuaries.

(3) LIMITATION ON APPLICATION.—Paragraph (1) does not apply to any sanctuary designation documents for—

(A) a Thunder Bay National Marine Sanctuary; or

(B) a Northwestern Hawaiian Islands National Marine Sanctuary.

SEC. 305. [16 U.S.C. 1435] APPLICATION OF REGULATIONS, INTERNATIONAL NEGOTIATIONS AND COOPERATION.

(a) REGULATIONS.—This title and the regulations issued under section 304 shall be applied in accordance with generally recognized principles of international law, and in accordance with treaties, conventions, and other agreements to which the United States is a party. No regulation shall apply to or be enforced against a person who is not a citizen, national, or resident alien of the United States, unless in accordance with—

(1) generally recognized principles of international law;

(2) an agreement between the United States and the foreign state of which the person is a citizen; or

(3) an agreement between the United States and the flag state of a foreign vessel, if the person is a crewmember of the vessel.

(b) NEGOTIATIONS.—The Secretary of State, in consultation with the Secretary, shall take appropriate action to enter into negotiations with other governments to make necessary arrangements for the protection of any national marine sanctuary and to promote the purposes for which the sanctuary is established.

(c) INTERNATIONAL COOPERATION.—The Secretary, in consultation with the Secretary of State and other appropriate Federal agencies, shall cooperate with other governments and international organizations in furtherance of the purposes and policies of this title and consistent with applicable regional and mutilateral arrangements for the protection and management of special marine areas.

SEC. 306. [16 U.S.C. 1436] PROHIBITED ACTIVITIES.

It is unlawful for any person to—

(1) destroy, cause the loss of, or injure any sanctuary resource managed under law or regulations for that sanctuary;

(2) possess, sell, offer for sale, purchase, import, export, deliver, carry, transport, or ship by any means any sanctuary resource taken in violation of this section;

(3) interfere with the enforcement of this title by—

(A) refusing to permit any officer authorized to enforce this title to board a vessel, other than a vessel operated by

the Department of Defense or United States Coast Guard, subject to such person's control for the purposes of conducting any search or inspection in connection with the enforcement of this title;

(B) resisting, opposing, impeding, intimidating, harassing, bribing, interfering with, or forcibly assaulting any person authorized by the Secretary to implement this title or any such authorized officer in the conduct of any search or inspection performed under this title; or

(C) knowingly and willfully submitting false information to the Secretary or any officer authorized to enforce this title in connection with any search or inspection conducted under this title; or

(4) violate any provision of this title or any regulation or permit issued pursuant to this title.

SEC. 307. [16 U.S.C. 1437] ENFORCEMENT.

(a) IN GENERAL.—The Secretary shall conduct such enforcement activities as are necessary and reasonable to carry out this title.

(b) POWERS OF AUTHORIZED OFFICERS.—Any person who is authorized to enforce this title may—

(1) board, search, inspect, and seize any vessel suspected of being used to violate this title or any regulation or permit issued under this title and any equipment, stores, and cargo of such vessel;

(2) seize wherever found any sanctuary resource taken or retained in violation of this title or any regulation or permit issued under this title;

(3) seize any evidence of a violation of this title or of any regulation or permit issued under this title;

(4) execute any warrant or other process issued by any court of competent jurisdiction;

(5) exercise any other lawful authority; and

(6) arrest any person, if there is reasonable cause to believe that such person has committed an act prohibited by section 306(3).

(c) CRIMINAL OFFENSES.—

(1) OFFENSES.—A person is guilty of an offense under this subsection if the person commits any act prohibited by section 306(3).

(2) PUNISHMENT.—Any person that is guilty of an offense under this subsection—

(A) except as provided in subparagraph (B), shall be fined under title 18, United States Code, imprisoned for not more than 6 months, or both; or

(B) in the case of a person who in the commission of such an offense uses a dangerous weapon, engages in conduct that causes bodily injury to any person authorized to enforce this title or any person authorized to implement the provisions of this title, or places any such person in fear of imminent bodily injury, shall be fined under title 18, United States Code, imprisoned for not more than 10 years, or both.

(d) CIVIL PENALTIES.—

(1) CIVIL PENALTY.—Any person subject to the jurisdiction of the United States who violates this title or any regulation or permit issued under this title shall be liable to the United States for a civil penalty of not more than $100,000 for each such violation, to be assessed by the Secretary. Each day of a continuing violation shall constitute a separate violation.

(2) NOTICE.—No penalty shall be assessed under this subsection until after the person charged has been given notice and an opportunity for a hearing.

(3) IN REM JURISDICTION.—A vessel used in violating this title or any regulation or permit issued under this title shall be liable in rem for any civil penalty assessed for such violation. Such penalty shall constitute a maritime lien on the vessel and may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.

(4) REVIEW OF CIVIL PENALTY.—Any person against whom a civil penalty is assessed under this subsection may obtain review in the United States district court for the appropriate district by filing a complaint in such court not later than 30 days after the date of such order.

(5) COLLECTION OF PENALTIES.—If any person fails to pay an assessment of a civil penalty under this section after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(6) COMPROMISE OR OTHER ACTION BY SECRETARY.—The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is or may be imposed under this section.

(e) FORFEITURE.—

(1) IN GENERAL.—Any vessel (including the vessel's equipment, stores, and cargo) and other item used, and any sanctuary resource taken or retained, in any manner, in connection with or as a result of any violation of this title or of any regulation or permit issued under this title shall be subject to forfeiture to the United States pursuant to a civil proceeding under this subsection. The proceeds from forfeiture actions under this subsection shall constitute a separate recovery in addition to any amounts recovered as civil penalties under this section or as civil damages under section 312. None of those proceeds shall be subject to set-off.

(2) APPLICATION OF THE CUSTOMS LAWS.—The Secretary may exercise the authority of any United States official granted by any relevant customs law relating to the seizure, forfeiture, condemnation, disposition, remission, and mitigation of property in enforcing this title.

(3) DISPOSAL OF SANCTUARY RESOURCES.—Any sanctuary resource seized pursuant to this title may be disposed of pursuant to an order of the appropriate court, or, if perishable, in

a manner prescribed by regulations promulgated by the Secretary. Any proceeds from the sale of such sanctuary resource shall for all purposes represent the sanctuary resource so disposed of in any subsequent legal proceedings.

(4) PRESUMPTION.—For the purposes of this section there is a rebuttable presumption that all sanctuary resources found on board a vessel that is used or seized in connection with a violation of this title or of any regulation or permit issued under this title were taken or retained in violation of this title or of a regulation or permit issued under this title.

(f) PAYMENT OF STORAGE, CARE, AND OTHER COSTS.—

(1) EXPENDITURES.—

(A) Notwithstanding any other law, amounts received by the United States as civil penalties, forfeitures of property, and costs imposed under paragraph (2) shall be retained by the Secretary in the manner provided for in section 107(f)(1) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980.

(B) Amounts received under this section for forfeitures and costs imposed under paragraph (2) shall be used to pay the reasonable and necessary costs incurred by the Secretary to provide temporary storage, care, maintenance, and disposal of any sanctuary resource or other property seized in connection with a violation of this title or any regulation or permit issued under this title.

(C) Amounts received under this section as civil penalties and any amounts remaining after the operation of subparagraph (B) shall be used, in order of priority, to—

(i) manage and improve the national marine sanctuary with respect to which the violation occurred that resulted in the penalty or forfeiture;

(ii) pay a reward to any person who furnishes information leading to an assessment of a civil penalty, or to a forfeiture of property, for a violation of this title or any regulation or permit issued under this title; and

(iii) manage and improve any other national marine sanctuary.

(2) LIABILITY FOR COSTS.—Any person assessed a civil penalty for a violation of this title or of any regulation or permit issued under this title, and any claimant in a forfeiture action brought for such a violation, shall be liable for the reasonable costs incurred by the Secretary in storage, care, and maintenance of any sanctuary resource or other property seized in connection with the violation.

(g) SUBPOENAS.—In the case of any hearing under this section which is determined on the record in accordance with the procedures provided for under section 554 of title 5, United States Code, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, electronic files, and documents, and may administer oaths.

(h) USE OF RESOURCES OF STATE AND OTHER FEDERAL AGENCIES.—The Secretary shall, whenever appropriate, use by agreement the personnel, services, and facilities of State and other Fed-

eral departments, agencies, and instrumentalities, on a reimbursable or nonreimbursable basis, to carry out the Secretary's responsibilities under this section.

(i) COAST GUARD AUTHORITY NOT LIMITED.—Nothing in this section shall be considered to limit the authority of the Coast Guard to enforce this or any other Federal law under section 89 of title 14, United States Code.

(j) INJUNCTIVE RELIEF.—If the Secretary determines that there is an imminent risk of destruction or loss of or injury to a sanctuary resource, or that there has been actual destruction or loss of, or injury to, a sanctuary resource which may give rise to liability under section 312, the Attorney General, upon request of the Secretary, shall seek to obtain such relief as may be necessary to abate such risk or actual destruction, loss, or injury, or to restore or replace the sanctuary resource, or both. The district courts of the United States shall have jurisdiction in such a case to order such relief as the public interest and the equities of the case may require.

(k) AREA OF APPLICATION AND ENFORCEABILITY.—The area of application and enforceability of this title includes the territorial sea of the United States, as described in Presidential Proclamation 5928 of December 27, 1988, which is subject to the sovereignty of the United States, and the United States exclusive economic zone, consistent with international law.

(l) NATIONWIDE SERVICE OF PROCESS.—In any action by the United States under this title, process may be served in any district where the defendant is found, resides, transacts business, or has appointed an agent for the service of process.

SEC. 308. [16 U.S.C. 1439] REGULATIONS.

The Secretary may issue such regulations as may be necessary to carry out this title.

SEC. 309. [16 U.S.C. 1440] RESEARCH, MONITORING, AND EDUCATION.

(a) IN GENERAL.—The Secretary shall conduct, support, or coordinate research, monitoring, evaluation, and education programs consistent with subsections (b) and (c) and the purposes and policies of this title.

(b) RESEARCH AND MONITORING.—

(1) IN GENERAL.—The Secretary may—

(A) support, promote, and coordinate research on, and long-term monitoring of, sanctuary resources and natural processes that occur in national marine sanctuaries, including exploration, mapping, and environmental and socioeconomic assessment;

(B) develop and test methods to enhance degraded habitats or restore damaged, injured, or lost sanctuary resources; and

(C) support, promote, and coordinate research on, and the conservation, curation, and public display of, the cultural, archeological, and historical resources of national marine sanctuaries.

(2) AVAILABILITY OF RESULTS.—The results of research and monitoring conducted, supported, or permitted by the Sec-

retary under this subsection shall be made available to the public.

(c) EDUCATION.—

(1) IN GENERAL.—The Secretary may support, promote, and coordinate efforts to enhance public awareness, understanding, and appreciation of national marine sanctuaries and the System. Efforts supported, promoted, or coordinated under this subsection must emphasize the conservation goals and sustainable public uses of national marine sanctuaries and the System.

(2) EDUCATIONAL ACTIVITIES.—Activities under this subsection may include education of the general public, teachers, students, national marine sanctuary users, and ocean and coastal resource managers.

(d) INTERPRETIVE FACILITIES.—

(1) IN GENERAL.—The Secretary may develop interpretive facilities near any national marine sanctuary.

(2) FACILITY REQUIREMENT.—Any facility developed under this subsection must emphasize the conservation goals and sustainable public uses of national marine sanctuaries by providing the public with information about the conservation, recreational, ecological, historical, cultural, archeological, scientific, educational, or esthetic qualities of the national marine sanctuary.

(e) CONSULTATION AND COORDINATION.—In conducting, supporting, and coordinating research, monitoring, evaluation, and education programs under subsection (a) and developing interpretive facilities under subsection (d), the Secretary may consult or coordinate with Federal, interstate, or regional agencies, States or local governments.

SEC. 310. [16 U.S.C. 1441] SPECIAL USE PERMITS.

(a) ISSUANCE OF PERMITS.—The Secretary may issue special use permits which authorize the conduct of specific activities in a national marine sanctuary if the Secretary determines such authorization is necessary—

(1) to establish conditions of access to and use of any sanctuary resource; or

(2) to promote public use and understanding of a sanctuary resource.

(b) PUBLIC NOTICE REQUIRED.—The Secretary shall provide appropriate public notice before identifying any category of activity subject to a special use permit under subsection (a).

(c) PERMIT TERMS.—A permit issued under this section—

(1) shall authorize the conduct of an activity only if that activity is compatible with the purposes for which the sanctuary is designated and with protection of sanctuary resources;

(2) shall not authorize the conduct of any activity for a period of more than 5 years unless renewed by the Secretary;

(3) shall require that activities carried out under the permit be conducted in a manner that does not destroy, cause the loss of, or injure sanctuary resources; and

(4) shall require the permittee to purchase and maintain comprehensive general liability insurance, or post an equiva-

lent bond, against claims arising out of activities conducted under the permit and to agree to hold the United States harmless against such claims.

(d) FEES.—

(1) ASSESSMENT AND COLLECTION.—The Secretary may assess and collect fees for the conduct of any activity under a permit issued under this section.

(2) AMOUNT.—The amount of a fee under this subsection shall be equal to the sum of—

(A) costs incurred, or expected to be incurred, by the Secretary in issuing the permit;

(B) costs incurred, or expected to be incurred, by the Secretary as a direct result of the conduct of the activity for which the permit is issued, including costs of monitoring the conduct of the activity; and

(C) an amount which represents the fair market value of the use of the sanctuary resource.

(3) USE OF FEES.—Amounts collected by the Secretary in the form of fees under this section may be used by the Secretary—

(A) for issuing and administering permits under this section; and

(B) for expenses of managing national marine sanctuaries.

(4) WAIVER OR REDUCTION OF FEES.—The Secretary may accept in-kind contributions in lieu of a fee under paragraph (2)(C), or waive or reduce any fee assessed under this subsection for any activity that does not derive profit from the access to or use of sanctuary resources.

(e) VIOLATIONS.—Upon violation of a term or condition of a permit issued under this section, the Secretary may—

(1) suspend or revoke the permit without compensation to the permittee and without liability to the United States;

(2) assess a civil penalty in accordance with section 307; or

(3) both.

(f) REPORTS.—Each person issued a permit under this section shall submit an annual report to the Secretary not later than December 31 of each year which describes activities conducted under that permit and revenues derived from such activities during the year.

(g) FISHING.—Nothing in this section shall be considered to require a person to obtain a permit under this section for the conduct of any fishing activities in a national marine sanctuary.

SEC. 311. [16 U.S.C. 1442] COOPERATIVE AGREEMENTS, DONATIONS, AND ACQUISITIONS.

(a) AGREEMENTS AND GRANTS.—The Secretary may enter into cooperative agreements, contracts, or other agreements with, or make grants to, States, local governments, regional agencies, interstate agencies, or other persons to carry out the purposes and policies of this title.

(b) AUTHORIZATION TO SOLICIT DONATIONS.—The Secretary may enter into such agreements with any nonprofit organization authorizing the organization to solicit private donations to carry out the purposes and policies of this title.

(c) DONATIONS.—The Secretary may accept donations of funds, property, and services for use in designating and administering national marine sanctuaries under this title. Donations accepted under this section shall be considered as a gift or bequest to or for the use of the United States.

(d) ACQUISITIONS.—The Secretary may acquire by purchase, lease, or exchange, any land, facilities, or other property necessary and appropriate to carry out the purposes and policies of this title.

(e) USE OF RESOURCES OF OTHER GOVERNMENT AGENCIES.—The Secretary may, whenever appropriate, enter into an agreement with a State or other Federal agency to use the personnel, services, or facilities of such agency on a reimbursable or nonreimbursable basis, to assist in carrying out the purposes and policies of this title.

(f) AUTHORITY TO OBTAIN GRANTS.—Notwithstanding any other provision of law that prohibits a Federal agency from receiving assistance, the Secretary may apply for, accept, and use grants from other Federal agencies, States, local governments, regional agencies, interstate agencies, foundations, or other persons, to carry out the purposes and policies of this title.

SEC. 312. [16 U.S.C. 1443] DESTRUCTION OR LOSS OF, OR INJURY TO, SANCTUARY RESOURCES.

(a) LIABILITY.—

(1) LIABILITY TO UNITED STATES.—Any person who destroys, causes the loss of, or injures any sanctuary resource is liable to the United States for an amount equal to the sum of—

(A) the amount of response costs and damages resulting from the destruction, loss, or injury; and

(B) interest on that amount calculated in the manner described under section 1005 of the Oil Pollution Act of 1990.

(2) LIABILITY IN REM.—Any vessel used to destroy, cause the loss of, or injure any sanctuary resource shall be liable in rem to the United States for response costs and damages resulting from such destruction, loss, or injury. The amount of that liability shall constitute a maritime lien on the vessel and may be recovered in an action in rem in any district court of the United States that has jurisdiction over the vessel.

(3) DEFENSES.—A person is not liable under this subsection if that person establishes that—

(A) the destruction or loss of, or injury to, the sanctuary resource was caused solely by an act of God, an act of war, or an act or omission of a third party, and the person acted with due care;

(B) the destruction, loss, or injury was caused by an activity authorized by Federal or State law; or

(C) the destruction, loss, or injury was negligible.

(4) LIMITS TO LIABILITY.—Nothing in sections 4281–4289 of the Revised Statutes of the United States or section 3 of the Act of February 13, 1893, shall limit the liability of any person under this title.

(b) RESPONSE ACTIONS AND DAMAGE ASSESSMENT.—

(1) RESPONSE ACTIONS.—The Secretary may undertake or authorize all necessary actions to prevent or minimize the de-

struction or loss of, or injury to, sanctuary resources, or to minimize the imminent risk of such destruction, loss, or injury.

(2) DAMAGE ASSESSMENT.—The Secretary shall assess damages to sanctuary resources in accordance with section 302(6).

(c) CIVIL ACTIONS FOR RESPONSE COSTS AND DAMAGES.—(1) The Attorney General, upon request of the Secretary, may commence a civil action against any person or vessel who may be liable under subsection (a) for response costs and damages. The Secretary, acting as trustee for sanctuary resources for the United States, shall submit a request for such an action to the Attorney General whenever a person may be liable for such costs or damages.

(2) An action under this subsection may be brought in the United States district court for any district in which—

(A) the defendant is located, resides, or is doing business, in the case of an action against a person;

(B) the vessel is located, in the case of an action against a vessel; or

(C) the destruction of, loss of, or injury to a sanctuary resource occurred.

(d) USE OF RECOVERED AMOUNTS.—Response costs and damages recovered by the Secretary under this section shall be retained by the Secretary in the manner provided for in section 107(f)(1) of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9607(f)(1)), and used as follows:

(1) RESPONSE COSTS.—Amounts recovered by the United States for costs of response actions and damage assessments under this section shall be used, as the Secretary considers appropriate—

(A) to reimburse the Secretary or any other Federal or State agency that conducted those activities; and

(B) after reimbursement of such costs, to restore, replace, or acquire the equivalent of any sanctuary resource.

(2) OTHER AMOUNTS.—All other amounts recovered shall be used, in order of priority—

(A) to restore, replace, or acquire the equivalent of the sanctuary resources that were the subject of the action, including for costs of monitoring and the costs of curation and conservation of archeological, historical, and cultural sanctuary resources;

(B) to restore degraded sanctuary resources of the national marine sanctuary that was the subject of the action, giving priority to sanctuary resources and habitats that are comparable to the sanctuary resources that were the subject of the action; and

(C) to restore degraded sanctuary resources of other national marine sanctuaries.

(3) FEDERAL-STATE COORDINATION.—Amounts recovered under this section with respect to sanctuary resources lying within the jurisdiction of a State shall be used under paragraphs (2) (A) and (B) in accordance with an agreement entered into by the Secretary and the Governor of that State.

(e) STATUTE OF LIMITATIONS.—An action for response costs or damages under subsection (c) shall be barred unless the complaint

is filed within 3 years after the date on which the Secretary completes a damage assessment and restoration plan for the sanctuary resources to which the action relates.

SEC. 313. [16 U.S.C. 1444] AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary—

(1) to carry out this title—

(A) $32,000,000 for fiscal year 2001;

(B) $34,000,000 for fiscal year 2002;

(C) $36,000,000 for fiscal year 2003;

(D) $38,000,000 for fiscal year 2004;

(E) $40,000,000 for fiscal year 2005; and

(2) for construction projects at national marine sanctuaries, $6,000,000 for each of fiscal years 2001, 2002, 2003, 2004, and 2005.

SEC. 314. [16 U.S.C. 1445] U.S.S. MONITOR ARTIFACTS AND MATERIALS.

(a) CONGRESSIONAL POLICY.—In recognition of the historical significance of the wreck of the United States ship Monitor to coastal North Carolina and to the area off the coast of North Carolina known as the Graveyard of the Atlantic, the Congress directs that a suitable display of artifacts and materials from the United States ship Monitor be maintained permanently at an appropriate site in coastal North Carolina.

(b) DISCLAIMER.—This section shall not affect the following:

(1) RESPONSIBILITIES OF SECRETARY.—The responsibilities of the Secretary to provide for the protection, conservation, and display of artifacts and materials from the United States ship Monitor.

(2) AUTHORITY OF SECRETARY.—The authority of the Secretary to designate the Mariner's Museum, located at Newport News, Virginia, as the principal museum for coordination of activities referred to in paragraph (1).

SEC. 315. [16 U.S.C. 1445a] ADVISORY COUNCILS.

(a) ESTABLISHMENT.—The Secretary may establish one or more advisory councils (in this section referred to as an "Advisory Council") to advise and make recommendations to the Secretary regarding the designation and management of national marine sanctuaries. The Advisory Councils shall be exempt from the Federal Advisory Committee Act.

(b) MEMBERSHIP.—Members of the Advisory Councils may be appointed from among—

(1) persons employed by Federal or State agencies with expertise in management of natural resources;

(2) members of relevant Regional Fishery Management Councils established under section 302 of the Magnuson-Stevens Act; and

(3) representatives of local user groups, conservation and other public interest organizations, scientific organizations, educational organizations, or others interested in the protection and multiple use management of sanctuary resources.

(c) LIMITS ON MEMBERSHIP.—For sanctuaries designated after the date of enactment of the National Marine Sanctuaries Program Amendments Act of 1992, the membership of Advisory Councils shall be limited to no more than 15 members.

(d) STAFFING AND ASSISTANCE.—The Secretary may make available to an Advisory Council any staff, information, administrative services, or assistance the Secretary determines are reasonably required to enable the Advisory Council to carry out its functions.

(e) PUBLIC PARTICIPATION AND PROCEDURAL MATTERS.—The following guidelines apply with respect to the conduct of business meetings of an Advisory Council:

(1) Each meeting shall be open to the public, and interested persons shall be permitted to present oral or written statements on items on the agenda.

(2) Emergency meetings may be held at the call of the chairman or presiding officer.

(3) Timely notice of each meeting, including the time, place, and agenda of the meeting, shall be published locally and in the Federal Register, except that in the case of a meeting of an Advisory Council established to provide assistance regarding any individual national marine sanctuary the notice is not required to be published in the Federal Register.

(4) Minutes of each meeting shall be kept and contain a summary of the attendees and matters discussed.

SEC. 316. [16 U.S.C. 1445b] ENHANCING SUPPORT FOR NATIONAL MARINE SANCTUARIES.

(a) AUTHORITY.—The Secretary may establish a program consisting of—

(1) the creation, adoption, and publication in the Federal Register by the Secretary of a symbol for the national marine sanctuary program, or for individual national marine sanctuaries or the System;

(2) the solicitation of persons to be designated as official sponsors of the national marine sanctuary program or of individual national marine sanctuaries;

(3) the designation of persons by the Secretary as official sponsors of the national marine sanctuary program or of individual sanctuaries;

(4) the authorization by the Secretary of the manufacture, reproduction, or other use of any symbol published under paragraph (1), including the sale of items bearing such a symbol, by official sponsors of the national marine sanctuary program or of individual national marine sanctuaries;

(5) the creation, marketing, and selling of products to promote the national marine sanctuary program, and entering into exclusive or nonexclusive agreements authorizing entities to create, market or sell on the Secretary's behalf;

(6) the solicitation and collection by the Secretary of monetary or in-kind contributions from official sponsors for the manufacture, reproduction or use of the symbols published under paragraph (1);

(7) the retention of any monetary or in-kind contributions collected under paragraphs (5) and (6) by the Secretary; and

(8) the expenditure and use of any monetary and in-kind contributions, without appropriation, by the Secretary to designate and manage national marine sanctuaries.

Monetary and in-kind contributions raised through the sale, marketing, or use of symbols and products related to an individual national marine sanctuary shall be used to support that sanctuary.

(b) CONTRACT AUTHORITY.—The Secretary may contract with any person for the creation of symbols or the solicitation of official sponsors under subsection (a).

(c) RESTRICTIONS.—The Secretary may restrict the use of the symbols published under subsection (a), and the designation of official sponsors of the national marine sanctuary program or of individual national marine sanctuaries to ensure compatibility with the goals of the national marine sanctuary program.

(d) PROPERTY OF UNITED STATES.—Any symbol which is adopted by the Secretary and published in the Federal Register under subsection (a) is deemed to be the property of the United States.

(e) PROHIBITED ACTIVITIES.—It is unlawful for any person—

(1) designated as an official sponsor to influence or seek to influence any decision by the Secretary or any other Federal official related to the designation or management of a national marine sanctuary, except to the extent that a person who is not so designated may do so;

(2) to represent himself or herself to be an official sponsor absent a designation by the Secretary;

(3) to manufacture, reproduce, or otherwise use any symbol adopted by the Secretary under subsection (a)(1), including to sell any item bearing such a symbol, unless authorized by the Secretary under subsection (a)(4) or subsection (f); or

(4) to violate any regulation promulgated by the Secretary under this section.

(f) COLLABORATIONS.—The Secretary may authorize the use of a symbol adopted by the Secretary under subsection (a)(1) by any person engaged in a collaborative effort with the Secretary to carry out the purposes and policies of this title and to benefit a national marine sanctuary or the System.

(g) AUTHORIZATION FOR NON-PROFIT PARTNER ORGANIZATION TO SOLICIT SPONSORS.—

(1) IN GENERAL.—The Secretary may enter into an agreement with a non-profit partner organization authorizing it to assist in the administration of the sponsorship program established under this section. Under an agreement entered into under this paragraph, the Secretary may authorize the non-profit partner organization to solicit persons to be official sponsors of the national marine sanctuary system or of individual national marine sanctuaries, upon such terms as the Secretary deems reasonable and will contribute to the successful administration of the sanctuary system. The Secretary may also authorize the non-profit partner organization to collect the statutory contribution from the sponsor, and, subject to paragraph (2), transfer the contribution to the Secretary.

(2) REIMBURSEMENT FOR ADMINISTRATIVE COSTS.—Under the agreement entered into under paragraph (1), the Secretary may authorize the non-profit partner organization to retain not more than 5 percent of the amount of monetary contributions it receives from official sponsors under the agreement to offset

the administrative costs of the organization in soliciting sponsors.

(3) PARTNER ORGANIZATION DEFINED.—In this subsection, the term "partner organization" means an organization that—

(A) draws its membership from individuals, private organizations, corporations, academic institutions, or State and local governments; and

(B) is established to promote the understanding of, education relating to, and the conservation of the resources of a particular sanctuary or 2 or more related sanctuaries.

SEC. 317. [16 U.S.C. 1445 nt] SHORT TITLE.[1]

This title may be cited as the "National Marine Sanctuaries Act".

SEC. 318. [16 U.S.C. 1445c] DR. NANCY FOSTER SCHOLARSHIP PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish and administer through the National Ocean Service the Dr. Nancy Foster Scholarship Program. Under the program, the Secretary shall award graduate education scholarships in oceanography, marine biology or maritime archeology, to be known as Dr. Nancy Foster Scholarships.

(b) PURPOSES.—The purposes of the Dr. Nancy Foster Scholarship Program are—

(1) to recognize outstanding scholarship in oceanography, marine biology, or maritime archeology, particularly by women and members of minority groups; and

(2) to encourage independent graduate level research in oceanography, marine biology, or maritime archeology.

(c) AWARD.—Each Dr. Nancy Foster Scholarship—

(1) shall be used to support graduate studies in oceanography, marine biology, or maritime archeology at a graduate level institution of higher education; and

(2) shall be awarded in accordance with guidelines issued by the Secretary.

(d) DISTRIBUTION OF FUNDS.—The amount of each Dr. Nancy Foster Scholarship shall be provided directly to a recipient selected by the Secretary upon receipt of certification that the recipient will adhere to a specific and detailed plan of study and research approved by a graduate level institution of higher education.

(e) FUNDING.—Of the amount available each fiscal year to carry out this title, the Secretary shall award 1 percent as Dr. Nancy Foster Scholarships.

(f) SCHOLARSHIP REPAYMENT REQUIREMENT.—The Secretary shall require an individual receiving a scholarship under this section to repay the full amount of the scholarship to the Secretary if the Secretary determines that the individual, in obtaining or using the scholarship, engaged in fraudulent conduct or failed to comply with any term or condition of the scholarship.

(g) MARITIME ARCHEOLOGY DEFINED.—In this section the term "maritime archeology" includes the curation, preservation, and display of maritime artifacts.

[1] So in law. This section probably should appear at the end of this title.

TITLE IV—REGIONAL MARINE RESEARCH PROGRAMS

PURPOSES

SEC. 401. [16 U.S.C. 1447] The purpose of this title is to establish regional research programs, under effective Federal oversight, to—

(1) set priorities for regional marine and coastal research in support of efforts to safeguard the water quality and ecosystem health of each region; and

(2) carry out such research through grants and improved coordination.

DEFINITIONS

SEC. 402. [16 U.S.C. 1447a] As used in this title, the term—

(1) "Board" means any Regional Marine Research board established pursuant to section 403(a);

(2) "Federal agency" means any department, agency, or other instrumentality of the Federal Government, including any independent agency or establishment of the Federal Government and any government corporation;

(3) "local government" means any city, town, borough, county, parish, district, or other public body which is a political subdivision of a State and which is created pursuant to State law;

(4) "marine and coastal waters" means estuaries, waters of the estuarine zone, including wetlands, any other waters seaward of the historic height of tidal influence, the territorial seas, the contiguous zone, and the ocean;

(5) "nonprofit organization" means any organization, association, or institution described in section 501(c)(3) of the Internal Revenue Code of 1954 which is exempt from taxation pursuant to section 501(a) of such Code;

(6) "region" means 1 of the 9 regions described in section 403(a); and

(7) "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

REGIONAL MARINE RESEARCH BOARDS

SEC. 403. [16 U.S.C. 1447b] (a) ESTABLISHMENT.—A Regional Marine Research board shall be established for each of the following regions:

(1) the Gulf of Maine region, comprised of the marine and coastal waters off the State of Maine, New Hampshire, and Massachusetts (north of Cape Cod);

(2) the greater New York bight region, comprised of the marine and coastal waters off the States of Massachusetts (south of Cape Cod), Rhode Island, Connecticut, New York, and New Jersey, from Cape Cod to Cape May;

(3) the mid-Atlantic region, comprised of the marine and coastal waters off the States of New Jersey, Delaware, Mary-

land, Virginia, and North Carolina, from Cape May to Cape Fear;

(4) the South Atlantic region, comprised of the marine and coastal waters off the States of North Carolina, South Carolina, Georgia, and Florida, from Cape Fear to the Florida Keys, including the marine and coastal waters off Puerto Rico and the United States Virgin Islands;

(5) the Gulf of Mexico region, comprised of the marine and coastal waters off the States of Florida, Alabama, Mississippi, Louisiana, and Texas, along the Gulf coast from the Florida Keys to the Mexican border;

(6) the California region, comprised of the marine and coastal waters off the State of California, from Point Reyes to the Mexican border;

(7) the North Pacific region, comprised of the marine and coastal waters off the States of California, Oregon, and Washington, from Point Reyes to the Canadian border;

(8) the Alaska region, comprised of the marine and coastal waters off the State of Alaska; and

(9) insular Pacific region, comprised of the marine and coastal waters off the State of Hawaii, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

The Great Lakes Research Office authorized under section 118(d) of the Federal Water Pollution Control Act (33 U.S.C. 1268(d)) shall be responsible for research in the Great Lakes region and shall be considered the Great Lakes counterpart to the research program established pursuant to this title.

(b) MEMBERSHIP.—

(1) COMPOSITION.—Each Board shall be comprised of 11 members of which—

(A) 3 members shall be appointed by the Administrator of the National Oceanic and Atmospheric Administration, including 1 member who shall be a Sea Grant Program Director from a State within such region, who shall serve as chairman of the board;

(B) 2 members shall be appointed by the Administrator of the Environmental Protection Agency; and

(C) 6 members shall be appointed by Governors of States located within the region.

(2) QUALIFICATIONS.—Each individual appointed as a member of a Board shall possess expertise, pertinent to the region concerned, in scientific research, coastal zone management, fishery management, water quality management, State and local government, or any other area which is directly relevant to the functions of the Board. A majority of the members of each Board shall be trained in a field of marine or aquatic science and shall be currently engaged in research or research administration.

(3) TERMS.—Each appointed member of a Board shall serve for a term of 4 years.

(4) VACANCIES.—In the event of a vacancy, a replacement member shall be appointed in the same manner and in accordance with the same requirements as the member being re-

placed and shall serve the remainder of the term of the replaced member.

(5) REIMBURSEMENT OF EXPENSES.—Each appointed member of a Board may be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from the member's usual place of residence, in accordance with section 5703 of title 5, United States Code, when engaged in the actual performance of Board duties.

(c) FUNCTIONS.—Each Board shall, in accordance with the provisions of this title—

(1) develop and submit to the Administrators of the National Oceanic and Atmospheric Administration and the Environmental Protection Agency a marine research plan, including periodic amendments thereto, that meets the requirements of section 404;

(2) provide a forum for coordinating research among research institutions and agencies;

(3) provide for review and comment on research plans by affected users and interests, such as the commercial and recreational fishing industries, other marine industries, State and local government entities, and environmental organizations;

(4) ensure that the highest quality of research projects will be conducted to carry out the comprehensive plan; and

(5) prepare, for submission to Congress, a periodic report on the marine environmental research issues and activities within the region in accordance with section 406 of this title.

(d) POWERS.—Each Board shall be authorized to—

(1) cooperate with Federal agencies, with States and with local government entities, interstate and regional agencies, other public agencies and authorities, nonprofit institutions, laboratories, and organizations, or other appropriate persons, in the preparation and support of marine research in the region;

(2) enter into contracts, cooperative agreements or grants to State and local governmental entities, other public agencies or institutions, and non-profit institutions and organizations for purposes of carrying out the provisions of this title;

(3) collect and make available through publications and other appropriate means, the results of, and other information pertaining to, the research conducted in the region;

(4) call conferences on regional marine research and assessment issues, giving opportunity for interested persons to be heard and present papers at such conferences;

(5) develop and stimulate, in consultation with the Department of State, joint marine research projects with foreign nations;

(6) utilize facilities and personnel of existing Federal agencies, including scientific laboratories and research facilities;

(7) accept, and for all general purposes of this Act, utilize funds from other sources, including but not limited to State and local funds, university funds, and donations; and

(8) acquire secret processes, inventions, patent applications, patents, licenses, and property rights, by purchase, license, lease, or donation.

(e) ADMINISTRATION.—

(1) PRACTICES AND PROCEDURES.—Each Board shall determine its organization, and prescribe its practices and procedures for carrying out its functions under this title. Each Board should use existing research administrative capability to the extent practicable.

(2) COMMITTEES AND SUBCOMMITTEES.—Each Board shall establish such committees and subcommittees as are appropriate in the performance of its functions.

(3) STAFF AND SUPPORT.—Each Board is authorized to hire such staff as are necessary to carry out the functions of the Board.

(f) TERMINATION.—Each Board shall cease to exist on October 1, 1999, unless extended by Congress.

REGIONAL RESEARCH PLANS

SEC. 404. [16 U.S.C. 1447c] (a) DEVELOPMENT AND AMENDMENT OF REGIONAL PLANS.—

(1) IN GENERAL.—Each Board shall develop a comprehensive 4-year marine research plan for the region for which the Board is responsible, and shall amend the plan at such times as the Board considers necessary to reflect changing conditions, but no less frequently than once every 4 years.

(2) REVIEW AND CONSIDERATION OF NATIONAL PLAN.—In the development and amendment of its research plan, the Board shall consider findings and recommendations of the national plan developed pursuant to the National Ocean Pollution Planning Act of 1978 33 U.S.C. 1701 et seq.).

(b) CONTENTS OF PLAN.—Such marine research plan shall include—

(1) an overview of the environmental quality conditions in the coastal and marine waters of the region and expected trends in these conditions;

(2) a comprehensive inventory and description of all marine research related to water quality and ecosystem health expected to be conducted in the region during the 4-year term of the research plan;

(3) a statement and explanation of the marine research needs and priorities applicable to the marine and coastal waters of the region over the upcoming 10-year period with emphasis on the upcoming 3-to-5 year period;

(4) an assessment of how the plan will incorporate existing marine, coastal, and estuarine research and management in the region, including activities pursuant to section 320 of the Federal Water Pollution Control Act 33 U.S.C. 1330) and section 315 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1461); and

(5) a general description of marine research and monitoring objectives and timetables for achievement through the funding of projects under this title during the 4-year period covered by the plan so as to meet the priorities specified in the plan in accordance with paragraph (3).

(c) PLAN REVIEW AND APPROVAL.—

(1) IN GENERAL.—When a Board has developed a marine research plan, including amendments thereto, the Board shall submit the plan to the Administrator of the National Oceanic and Atmospheric Administration and the Administration of the Environmental Protection Agency, who shall jointly determine whether the plan meets the requirements of subsection (b).

(2) TIME FOR APPROVAL OR DISAPPROVAL.—The Administrator of the National Oceanic and Atmospheric Administration and the Administrator of the Environmental Protection Agency, shall jointly approve or disapprove such research plan within 120 days after receiving the plan.

(3) ACTION AFTER DISAPPROVAL.—In the case of disapproval of such research plan, the Administrator of the National Oceanic and Atmospheric Administration and the Administrator of the Environmental Protection Agency shall jointly notify the appropriate Board in writing, stating in detail the revisions necessary to obtain approval of the plan. Such Administrators shall approve or disapprove the revised plan within 90 days after receiving the revised plan from the Board.

RESEARCH GRANT PROGRAM

SEC. 405. [(16 U.S.C. 1447d] (a) PROGRAM ADMINISTRATION.—The Administrator of the National Oceanic and Atmospheric Administration shall administer a grant program to support the administrative functions of each Board.

(b) RESEARCH GRANTS.—(1) Each Board may annually submit a grant application to the Administrator of the National Oceanic and Atmospheric Administration to fund projects aimed at achieving the research priorities set forth in each research plan, including amendments thereto, developed and approved pursuant to section 404.

(2) Projects eligible for funding under this section shall include research, investigations, studies, surveys, or demonstrations with respect to—

(A) baseline assessment of marine environmental quality, including chemical, physical, and biological indicators of environmental quality;

(B) effects or potential effects of contaminants, including nutrients, toxic chemicals and heavy metals, on the environment, including marine and aquatic organisms;

(C) effects of modification of habitats, including coastal wetlands, seagrass beds and reefs, on the environment, including marine organisms;

(D) assessment of impacts of pollutant sources and pollutant discharges into the coastal environment;

(E) transport, dispersion, transformation, and fate and effect of contaminants in the marine environment;

(F) marine and estuarine habitat assessment and restoration;

(G) methods and techniques for modeling environmental quality conditions and trends;

(H) methods and techniques for sampling of water, sediment, marine and aquatic organisms, and demonstration of such methods and techniques;

(I) the effects on human health and the environment of contaminants or combinations of contaminants at various levels, whether natural or anthropogenic, that are found in the marine environment;

(J) environmental assessment of potential effects of major coastal and offshore development projects in the region;

(K) assessment of the effects of climate change on marine resources in the region; and

(L) analysis and interpretation of research data for the benefit of State and local environmental protection and resource management agencies in the region.

(3) Grant applications submitted pursuant to this subsection shall include—

(A) a description of the specific research projects to be conducted;

(B) identification of the organization responsible for each project and the principal investigator directing the project;

(C) a budget statement for each project;

(D) a schedule of milestones and interim products for each research project;

(E) a description of the relationship of the proposed project to the goals, objectives, and priorities of the research plan for the region and to other research projects; and

(F) any other information which may be required by the Administrator.

(c) REVIEW AND APPROVAL OF PROJECT PROPOSALS.—(1) The Administrator of the National Oceanic and Atmospheric Administration shall review the annual grant application and, with the concurrence of the Administrator of the Environmental Protection Agency, approve such grant application with such conditions as are determined to be appropriate based on peer reviews conducted pursuant to paragraph (2).

(2) The Administrator of the National Oceanic and Atmospheric Administration shall develop a system of peer review of grant applications which shall ensure that only the highest quality research is approved for funding and that each project is reviewed by research scientists outside the region concerned.

(d) REPORTING.—Any recipient of a grant under this section shall report to the appropriate Board, not later than 18 months after award of the grant, on the activities of such recipient conducted pursuant to this subsection. Such report shall include narrative summaries and technical data in such form as the Administrator of the National Oceanic and Atmospheric Administration may require.

REPORT ON RESEARCH PROGRAM

SEC. 406. [16 U.S.C. 1447e] (a) PREPARATION AND SUBMISSION OF REPORT.—Each Board receiving a grant under section 405 shall, not later than 2 years after the approval of its comprehensive plan under section 405 and at 2-year intervals thereafter, prepare and submit to the Administrator of the National Oceanic and Atmospheric Administration and the Administrator of the Environmental Protection Agency a report describing—

(1) the findings and conclusions of research projects conducted in the region;

(2) recommendations for improvements in the design or implementation of programs for the protection of the marine environment; and

(3) available data and information concerning ecosystem health within the region.

(b) TRANSMITTAL TO CONGRESS.—Upon receipt of a report prepared by a Board under subsection (a), the Administrator of the National Oceanic and Atmospheric Administration and the Administrator of the Environmental Protection Agency shall transmit a copy of such report to the Committees on Commerce, Science, and Transportation and on Environment and Public Works of the Senate and to the Committee on Merchant Marine and Fisheries of the House of Representatives.

AUTHORIZATION OF APPROPRIATIONS

SEC. 407. [16 U.S.C. 1447f] (a) IN GENERAL.—For purposes of carrying out the provisions of this title, there are authorized to be appropriated $18,000,000 for each of the fiscal years 1992 through 1996.

(b) ALLOCATION.—(1) Of funds appropriated in any fiscal year, not more than $500,000 shall be reserved for administration of this title by the National Oceanic and Atmospheric Administration and the Environmental Protection Agency.

(2) Funds appropriated in a fiscal year which are available after allocation pursuant to paragraph (1), shall be used to support the administrative costs of Boards established pursuant to subsection 403(a), provided that such funding does not exceed $300,000 for each research Board in each fiscal year.

(3) Seventy-five percent of funds appropriated in a fiscal year available after allocation pursuant to paragraphs (1) and (2), shall be allocated equally among Boards located in regions submitting research project grant applications pursuant to section 405(b).

(4) Twenty-five percent of funds appropriated in a fiscal year available after allocation pursuant to paragraphs (1) and (2), shall be allocated among Boards located in regions submitting research project grant applications pursuant to section 405(b) which, in the judgment of the Administrator of the National Oceanic and Atmospheric Administration, in consultation with the Administrator of the Environmental Protection Agency, propose the most needed and highest quality research.

TITLE V—NATIONAL COASTAL MONITORING ACT

SEC. 501. [33 U.S.C. 2801] PURPOSES.

The purposes of this title are to—

(1) establish a comprehensive national program for consistent monitoring of the Nation's coastal ecosystems;

(2) establish long-term water quality assessment and monitoring programs for high priority coastal waters that will enhance the ability of Federal, State, and local authorities to develop and implement effective remedial programs for those waters;

(3) establish a system for reviewing and evaluating the scientific, analytical, and technological means that are available for monitoring the environmental quality of coastal ecosystems;

(4) establish methods for identifying uniform indicators of coastal ecosystem quality;

(5) provide for periodic, comprehensive reports to Congress concerning the quality of the Nation's coastal ecosystems;

(6) establish a coastal environment information program to distribute coastal monitoring information;

(7) provide state programs authorized under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) with information necessary to design land use plans and coastal zone regulations that will contribute to the protection of coastal ecosystems; and

(8) provide certain water pollution control programs authorized under the Federal Water Pollution Control Act 33 U.S.C. 1251 et seq.) with information necessary to design and implement effective coastal water pollution controls.

SEC. 502. [33 U.S.C. 2802] DEFINITIONS.

For the purposes of this title, the term—

(1) "Administrator" means the Administrator of the Environmental Protection Agency;

(2) "coastal ecosystem" means a system of interacting biological, chemical, and physical components throughout the water column, water surface, and benthic environment of coastal waters;

(3) "coastal water quality" means the physical, chemical and biological parameters that relate to the health and integrity of coastal ecosystems;

(4) "coastal water quality monitoring" means a continuing program of measurement, analysis, and synthesis to identify and quantify coastal water quality conditions and trends to provide a technical basis for decisionmaking;

(5) "coastal waters" means waters of the Great Lakes, including their connecting waters and those portions of rivers, streams, and other bodies of water having unimpaired connection with the open sea up to the head of tidal influence, including wetlands, intertidal areas, bays, harbors, and lagoons, including waters of the territorial sea of the United States and the contiguous zone; and

(6) "Under Secretary" means Under Secretary of Commerce for Oceans and Atmosphere.

SEC. 503. [33 U.S.C. 2803] COMPREHENSIVE COASTAL WATER QUALITY MONITORING PROGRAM.

(a) AUTHORITY; JOINT IMPLEMENTATION.—(1) The Administrator and the Under Secretary, in conjunction with other Federal, State, and local authorities, shall jointly develop and implement a program for the long-term collection, assimilation, and analysis of scientific data designed to measure the environmental quality of the Nation's coastal ecosystems pursuant to this section. Monitoring conducted pursuant to this section shall be coordinated with relevant monitoring programs conducted by the Administrator, Under Secretary, and other Federal, State, and local authorities.

(2) Primary leadership for the monitoring program activities conducted by the Environmental Protection Agency pursuant to this section shall be located at the Environmental Research Laboratory in Narragansett, Rhode Island.

(b) PROGRAM ELEMENTS.—The Comprehensive Coastal Water Quality Monitoring Program shall include, but not be limited to—

(1) identification and analysis of the status of environmental quality in the Nation's coastal ecosystems, including but not limited to, assessment of—

(A) ambient water quality, including contaminant levels in relation to criteria and standards issued pursuant to title III or the Federal Water Pollution Control Act 33 U.S.C. 1311 et seq.);

(B) benthic environmental quality, including analysis of contaminant levels in sediments in relation to criteria and standards issued pursuant to title III of the Federal Water Pollution Control Act 33 U.S.C. 1311 et seq.); and

(C) health and quality of living resources.

(2) identification of sources of environmental degradation affecting the Nation's coastal ecosystems;

(3) assessment of the impact of governmental programs and management strategies and measures designed to abate or prevent the environmental degradation of the Nation's coastal ecosystems;

(4) assessment of the accumulation of floatables along coastal shorelines;

(5) analysis of expected short-term and long-term trends in the environmental quality of the Nation's coastal ecosystems; and

(6) the development and implementation of intensive coastal water quality monitoring programs in accordance with subsection (d).

(c) MONITORING GUIDELINES AND PROTOCOLS.—

(1) GUIDELINES.—Not later than 18 months after the date of the enactment of this title, the Administrator and the Under Secretary shall jointly issue coastal water quality monitoring guidelines to assist in the development and implementation of coastal water quality monitoring programs. The guidelines shall—

(A) provide an appropriate degree of uniformity among the coastal water quality monitoring methods and data while preserving the flexibility of monitoring programs to address specific needs;

(B) establish scientifically valid monitoring methods that will—

(i) provide simplified methods to survey and assess the water quality and ecological health of coastal waters;

(ii) identify and quantify through more intensive efforts the severity of existing or anticipated problems in selected coastal waters;

(iii) identify and quantify sources of pollution that cause or contribute to those problems, including point and nonpoint sources; and

(iv) evaluate over time the effectiveness of efforts to reduce or eliminate pollution from those sources;

(C) provide for data compatibility to enable data to be efficiently stored and shared by various users; and

(D) identify appropriate physical, chemical, and biological indicators of the health and quality of coastal ecosystems.

(2) TECHNICAL PROTOCOLS.—Guidelines issued under paragraph (1) shall include protocols for—

(A) designing statistically valid coastal water quality monitoring networks and monitoring surveys, including assessment of the accumulation of floatables.

(B) sampling and analysis, including appropriate physical and chemical parameters, living resource parameters, and sediment analysis techniques; and

(C) quality control, quality assessment, and data consistency and management.

(3) PERIODIC REVIEW.—The Administrator and the Under Secretary shall periodically review the guidelines and protocols issued under this subsection to evaluate their effectiveness, the degree to which they continue to answer program objectives and provide an appropriate degree of uniformity while taking local conditions into account, and any need to modify or supplement them with new guidelines and protocols, as needed.

(4) DISCHARGE PERMIT DATA.—The Administrator or a State permitting authority shall ensure that compliance monitoring conducted pursuant to section 402(a)(2) of the Federal Water Pollution Control Act 33 U.S.C. 1342(a)(2)) for permits for discharges to coastal waters is consistent with the guidelines issued under this subsection. Any modifications of discharge permits necessary to implement this subsection shall be deemed to be minor modifications of such permit. Nothing in this subsection requires dischargers to conduct monitoring other than compliance monitoring pursuant to permits under section 402(a)(2) of the Federal Water Pollution Control Act 33 U.S.C. 1342(a)(2)).

(d) INTENSIVE COASTAL WATER QUALITY MONITORING PROGRAMS.—

(1) IN GENERAL.—The Comprehensive Coastal Water Quality Monitoring Program established pursuant to this section shall include intensive coastal water quality monitoring programs developed under this subsection.

(2) DESIGNATION OF INTENSIVE MONITORING AREAS.—Not later than 24 months after the date of enactment of this title and periodically thereafter, the Administrator and the Under Secretary shall, based on recommendations by the National Research Council, jointly designate coastal areas to be intensively monitored.

(3) IDENTIFICATION OF SUITABLE COASTAL AREAS.—(A) The Administrator and the Under Secretary shall contract with the National Research Council to conduct a study to identify coastal areas suitable for the establishment of intensive coastal monitoring programs. In identifying these coastal areas, the National Research Council shall consider areas that—

(i) are representatives of coastal ecosystems throughout the United States;

(ii) will provide information to assess the status and trends of coastal water quality nation-wide; and

(iii) would benefit from intensive water quality monitoring because of local management needs.

(B) In making recommendations under this paragraph, the National Research Council shall consult with Regional Research Boards established pursuant to title IV of this Act.

(C) The National Research Council shall, within 18 months of the date of enactment of this title, submit a report to the Administrator and the Under Secretary listing areas suitable for intensive monitoring.

(D) The Administrator and the Under Secretary, in conjunction with other Federal, State, and local authorities, shall develop and implement multi-year programs of intensive monitoring for Massachusetts and Cape Cod Bays, the Gulf of Maine, the Chesapeake Bay, the Hudson-Raritan Estuary, and each area jointly designated by the Administrator and the Under Secretary pursuant to paragraph (2).

(4) INTENSIVE COASTAL WATER QUALITY MONITORING PROGRAMS.—Each intensive coastal water quality monitoring program developed pursuant to this subsection shall—

(A) identify water quality conditions and problems and provide information to assist in improving coastal water quality;

(B) clearly state the goals and objectives of the monitoring program and their relationship to the water quality objectives for coastal waters covered by the program;

(C) identify the water quality and biological parameters of the monitoring program and their relationship to these goals and objectives;

(D) describe the types of monitoring networks, surveys and other activities to be used to achieve these goals and objectives, using where appropriate the guidelines issued under subsection (c);

(E) survey existing Federal, State, and local coastal monitoring activities and private compliance monitoring activities in or on the coastal waters covered by the program, describe the relationship of the program to those other monitoring activities, and integrate them, as appropriate, into the intensive monitoring program;

(F) describe the data management and quality control components of the program;

(G) specify the implementation requirements for the program, including—

(i) the lead Federal, State, or regional authority that will administer the program;

(ii) the public and private parties that will implement the program;

(iii) a detailed schedule for program implementation;

(iv) all Federal and State responsibilities for implementing the program; and

(v) the changes in Federal, State, and local monitoring programs necessary to implement the program;

(H) estimate the costs to Federal and State governments, and other participants, of implementing the monitoring program; and

(I) describe the methods to assess periodically the success of the monitoring program in meeting its goals and objectives, and the manner in which the program may be modified from time-to-time.

(5) CRITERIA FOR MONITORING MASSACHUSETTS AND CAPE COD BAYS.—In addition to the criteria listed in paragraph (4), the intensive monitoring program for Massachusetts and Cape Cod Bays shall establish baseline data on environmental phenomena (such as quantity of bacteria and quality of indigenous species, and swimmability) and determine the ecological impacts resulting from major point source discharges.

(6) MEMORANDUM OF UNDERSTANDING.—Prior to implementing any intensive coastal water quality monitoring program under this subsection, the Administrator and the Under Secretary shall enter into a Memorandum of Understanding to implement the intensive coastal water quality monitoring programs and may extend the memorandum of Understanding to include other appropriate Federal agencies. The Memorandum of Understanding shall identify the monitoring and reporting responsibilities of each agency and shall encourage the coordination of monitoring activities.

(7) IMPLEMENTATION.—(A) The Administrator, the Under Secretary, and the Governor of each State having waters subject to an intensive coastal water quality monitoring program developed pursuant to this subsection shall ensure compliance with that program.

(B)[1] The Administrator and the Under Secretary are authorized to enter into cooperative agreements to provide financial assistance to non-Federal agencies and institutions to support implementation of intensive monitoring programs under this subsection. Federal financial assistance may only be provided on the condition that not less than fifty percent of the costs of the monitoring to be conducted by a non-Federal agency or institution is provided from non-Federal funds.

(e) COMPREHENSIVE IMPLEMENTATION STRATEGY.—

(1) IN GENERAL.—Within 1 year after the date of enactment of this title, the Administrator and the Under Secretary shall jointly submit to Congress a Comprehensive Implementation Strategy identifying the current and planned activities to implement the Comprehensive Coastal Monitoring Program pursuant to this section.

(2) CONSULTATION.—The Administrator and the Under Secretary shall consult with the National Academy of Sciences, the Director of the United States Fish and Wildlife Service, the Director of the Minerals Management Service, the Commandant of the Coast Guard, the Secretary of the Navy, the

[1] Margin is incorrect.

Secretary of Agriculture, the heads of any other relevant Federal or regional agencies, and the Governors of coastal States in developing the Strategy.

(3) PUBLIC COMMENT.—Not less than 3 months before submitting the Strategy to Congress, the Administrator and the Under Secretary shall jointly publish a draft version of the Strategy in the Federal Register and shall solicit public comments regarding the Strategy.

(4) MEMORANDUM OF UNDERSTANDING.—Within 1 year after submission of the Strategy under paragraph (1), the Administrator and the Under Secretary shall enter into a Memorandum of Understanding with appropriate Federal agencies necessary to effect the coordination of Federal coastal monitoring programs. The Memorandum of Understanding shall identify the monitoring and reporting responsibilities of each agency and shall encourage the coordination of monitoring activities where possible.

SEC. 504. [33 U.S.C. 2804] REPORT TO CONGRESS.

On September 30 of each other year beginning in 1993, the Administrator and the Under Secretary shall jointly submit to the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works of the Senate and the Committee on Merchant Marine and Fisheries and the Committee on Public Works and Transportation of the House of Representatives a report describing the condition of the Nation's coastal ecosystems, including the following:

(1) an assessment of the status and health of the Nation's coastal ecosystems;

(2) an evaluation of environmental trends in coastal ecosystems;

(3) identification of sources of enironmental degradation affecting coastal ecosystems;

(4) an assessment of the extent to which floatables degrade coastal ecosystems, including trends in the accumulation of floatables and the threat posed by floatables to aquatic life;

(5) an assessment of the impact of government programs designed to abate the degradation of coastal ecosystems:

(6) an evaluation of the adequacy of monitoring programs and identification of any additional program elements which may be needed; and

(7) a summary of monitoring results in areas monitored under subsection 503(d).

SEC. 505. [33 U.S.C. 2805] AUTHORIZATION OF APPROPRIATIONS.

(a) NOAA AUTHORIZATION.—For development and implementation of programs under this title, including financial assistance to non-Federal agencies and institutions to support implementation of intensive monitoring programs under section 503(d), there is authorized to be appropriated to the Under Secretary amounts not to exceed $5,000,000 for fiscal year 1993, $8,000,000 for fiscal year 1994, $10,000,000 for fiscal year 1995, and $12,000,000 for fiscal year 1996.

(b) EPA AUTHORIZATION.—For development and implementation of programs under this title, including financial assistance to

non-Federal agencies and institutions to support implementation of intensive monitoring programs under section 503(d), there is authorized to be appropriated to the Administrator amounts not to exceed $5,000,000 for fiscal year 1993, $8,000,000 for fiscal year 1994, and $10,000,000 for fiscal year 1995, and $12,000,000 for fiscal year 1996.