

A BILL

To amend the Marine Protection, Research, and Sanctuaries Act to implement obligations of the United States under the international protocol known as the 1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972.

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

SEC. 1. SHORT TITLE.

This Act may be cited as the “1996 Protocol Implementation Act”.

SEC. 2. CONGRESSIONAL FINDING, POLICY, AND DECLARATION OF PURPOSE.

Section 2 of the Marine Protection, Research, and Sanctuaries Act (33 U.S.C. 1401) is amended—

(1) in subsection (a), by striking “ocean waters” and inserting “the ocean”;

(2) in subsection (b), by replacing all instances of “ocean waters” with “the ocean”; and

(3) in subsection (c)—

(A) in paragraph (1)—

(i) by striking “and,” after “the transportation by any person of material from the United States” and by inserting “for the purpose of dumping the material into the ocean or the ocean dumping by any person of material transported from the United States, (2)”;

(ii) by striking “a” before “location” and inserting “any”;

(iii) by striking “outside the United States, when in either case the transportation is”; and

(iv) by striking “ocean waters” and inserting “the ocean or the ocean dumping of material transported from any location”; and

(B) in paragraph (2)—

(i) by striking “2” and inserting “3”; and

(ii) by striking “contiguous zone” and inserting “Exclusive Economic Zone or continental shelf”.

SEC. 3. DEFINITIONS.

Section 3 of the Marine Protection, Research, and Sanctuaries Act (33 U.S.C. 1402) is amended—

(1) in subsection (b)—

(A) by striking “Ocean waters” and inserting “Ocean”; and

(B) by striking the period and inserting at the end the following:

“, as well as the seabed and subsoil thereof; it does not include sub-seabed repositories accessed only from land.”;

(2) in subsection (c)—

(A) by striking “Material” and inserting “Waste or other material”; and

(B) by inserting “, form,” after “matter of any kind”;

(3) in subsection (d)—

(A) by striking “the Canal Zone, ”; and

(B) by striking "Trust Territory of the Pacific Islands" and inserting "Commonwealth of the Northern Mariana Islands";

(4) by striking subsection (f) and inserting the following:

"(f)

"(1) Subject to the exclusions in paragraph (2) of this subsection, "dumping" means:

"(A) Any deliberate disposal of wastes or other material from vessels, aircraft, platforms or other man-made structures at sea.

"(B) Any deliberate disposal of vessels, aircraft, platforms or other man-made structures at sea.

"(C) Any storage of wastes or other material in the seabed and the subsoil thereof from vessels, aircraft, platforms or other man-made structures at sea.

"(D) Any abandonment or toppling at site of platforms or other man-made structures at sea, for the sole purpose of deliberate disposal.

"(2) "Dumping" does not mean:

"(A) 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.A. § 1251 et seq.] under the provisions of section 407 of this title, or under the provisions of the Atomic Energy Act of 1954, as amended [42 U.S.C.A. § 2011 et seq.].

"(B) The disposal of wastes or other material, including the routine discharge of effluent, incidental to or derived from the normal operations of vessels, aircraft, platforms or other man-made structures at sea and their equipment, whether or not such wastes or other material are treated before disposal, other than wastes or other material:

“(i) transported by or to vessels, aircraft, platforms or other man-made structures at sea operating for the purpose of disposal of such wastes or other material; or

“(ii) derived from the treatment of wastes or other material transported by or to vessels, aircraft, platforms or other man-made structures at sea operating for the purpose of disposal of such wastes or other material, on such vessels, aircraft, platforms or other man-made structures at sea.

“(C) The intentional placement of any material, including the construction of any fixed structure or artificial island, for a purpose other than disposal, when such placement or construction is not contrary to the policy of this Act and is otherwise regulated by Federal or State law or occurs pursuant to an authorized Federal or State program.

“(D) Notwithstanding (1)(D) above, the abandonment of material placed for a purpose other than disposal; examples of materials that could be abandoned without a permit under this Act include cables; pipelines; parts of mineral resource production platforms or structures remaining in place after removal of the platform or structure provided that the removal complies with Federal and State law; marine research devices; incidental deposits of debris or other material from military activities.

“(E) The disposal or storage in the seabed and the subsoil thereof of wastes or other material directly arising from or related to the exploration, exploitation and associated off-shore processing of seabed mineral resources (e.g., wastes or other material directly arising from or related to offshore oil and gas operations).

“(F) 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.”;

(5) in subsection (g)—

(A) by inserting "for the District" before "of Puerto Rico";

(B) by striking "of the Canal Zone" and inserting "for the Northern Mariana Islands"; and

(C) by striking "and the Trust Territory of the Pacific Islands";

(6) by striking subsection (j) and inserting the following:

"(j) "High-level radioactive waste" means high-level radioactive waste as defined in the Nuclear Waste Policy Act of 1982 (Pub.L. 97-425)."; and

(7) by inserting at the end the following:

"(n) "Protocol" means the 1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter.

"(o) "Incineration at sea" means the combustion on board a vessel, platform or other man-made structure at sea of wastes or other material for the purpose of their deliberate disposal by thermal destruction. Incineration at sea does not include the incineration of wastes or other material on board a vessel, platform, or other man-made structure at sea if such wastes or other material were generated during the normal operation of that vessel, platform or other man-made structure at sea.

"(p) "Territorial sea" means the maritime zone established by Presidential Proclamation numbered 5928, dated December 27, 1988, including the seabed and subsoil thereof.

"(q) "Exclusive Economic Zone" means the maritime zone established by Presidential Proclamation numbered 5030, dated March 10, 1983.

"(r) "Continental shelf" means the seabed and subsoil of the submarine areas that extend beyond the territorial sea throughout the natural prolongation of United States land territory to the outer edge of the continental margin, or to a distance of 200 nautical miles from the base line from which the breadth of the territorial sea is measured where the outer edge of the continental margin does not extend up to that distance.

"(s) "At sea" means in or on the ocean.

“(t) “Industrial waste” means any solid, semisolid, or liquid waste generated by a manufacturing or processing plant.”.

SEC. 4. PROHIBITED ACTS.

Section 101 of the Marine Protection, Research, and Sanctuaries Act (33 U.S.C. 1411) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by inserting “, section 1412a,” after “section 1412”;

(B) in paragraph (1)—

(i) by inserting “(A)” after “no person shall”; and

(ii) by inserting “any material for the purpose of dumping it into the ocean or (B) dump into the ocean any material transported from the United States” before the comma; and

(C) in paragraph (2)—

(i) by inserting “(A)” after “no person shall”; and

(ii) by striking “any material for the purpose of dumping it into ocean waters” and inserting “any material for the purpose of dumping it into the ocean or (B) dump into the ocean any material transported from any location”;

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by inserting “ or section 1412a” after “section 1412”; and

(B) in paragraph (2), by striking “a 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” and inserting “the Exclusive Economic Zone or the continental shelf of the United States”; and

(3) by inserting at the end the following:

“(c) Except as provided in section 1412a of this title, no permit shall be issued pursuant to this title for any material other than (1) dredged material; (2) fish waste or material resulting from industrial fish processing operations, including any waste from a tuna cannery operation located in American Samoa or Puerto Rico; (3) vessels and platforms or other man-made structures at sea; (4) inert, inorganic geological material; (5) organic material of natural origin; (6) bulky items primarily comprising iron, steel, concrete and similarly unharmed materials for which the concern is physical impact, and limited to those circumstances where such wastes are generated at locations, such as small islands with isolated communities, having no practicable access to disposal options other than dumping; and (7) carbon dioxide streams from carbon dioxide capture processes for sequestration if—(A) disposal is into a sub-seabed geological formation; (B) the carbon dioxide streams consist overwhelmingly of carbon dioxide; they may contain incidental associated substances derived from the source material and the capture and sequestration processes used; and (C) no wastes or other matter are added for the purpose of disposing of those wastes or other matter.

“(d) Except as provided in section 1412a of this title, no permit shall be issued pursuant to this title for incineration at sea of wastes or other material.

“(e) Except as provided in section 1412a of this title, no permit shall be issued pursuant to this title for any material containing levels of radioactivity greater than *de minimis* concentrations.

“(f) Except as may be authorized by a permit issued pursuant to section 1412 or section 1412a of this title, and subject to regulations issued pursuant to section 1418 of this title, no person shall abandon or topple at site a platform or other man-made structure at sea for the sole purpose of deliberate disposal. Notwithstanding this provision, abandonment of material placed for a purpose other than disposal does not require a permit under this Act. Examples of material that could be abandoned without a permit under this Act include cables; pipelines; parts of mineral resource production platforms or structures remaining in place after removal of the platform or structure provided that the removal complies with Federal and State law; marine research devices; incidental deposits of debris or other material from military activities.

“(g) No person shall export wastes or other material from the United States to another country for dumping into the ocean or incineration at sea.”.

SEC. 5. DUMPING PERMIT PROGRAM.

Section 102 of the Marine Protection, Research, and Sanctuaries Act (33 U.S.C. 1412) is amended—

(1) in subsection (a)—

(A) by inserting “(1)” after “after notice and opportunity for public hearings,”;

(B) by inserting “of material for the purpose of dumping it into the ocean or for the dumping into the ocean of material transported from the United States,” after “for the transportation from the United States”;

(C) by striking the comma before “in the case of an agency or instrumentality of the United States” and inserting “(2)”;

(D) by striking “a location outside the Unites States,” and inserting “any location”;

(E) by striking “ocean waters, or” and inserting “the ocean, or for the dumping into the ocean of material transported from any location, or (3)”;

(F) by striking “of material into the waters described in section 1411(b) of this title” and inserting “by any person of material transported from a location outside the United States into the waters described in section 1411(b) of this title”; and

(G) in the matter following paragraph (I), by striking “Convention” and inserting “Protocol”;

(2) by striking subsection (d) and inserting the following:

“(d) Fish wastes

“(1) Notwithstanding any other provision of this subchapter, any person subject to this subchapter who is engaged in fishing from a vessel and produces fish wastes from such fishing is hereby authorized under this subchapter to dump such fish wastes in the ocean without a permit from the Administrator under this subchapter, except as provided in paragraph (2) of this subsection.

“(2) Fish wastes described in paragraph (1) of this subsection may be transported for dumping or dumped only as authorized by a permit issued by the Administrator under this subchapter when such wastes are deposited in harbors or other protected or enclosed coastal waters, or when the Administrator finds that such deposits could endanger health, the environment, or ecological systems in a specific location or that appropriate opportunities exist to re-use, recycle or treat such fish wastes without undue risks to human health or the environment or disproportionate costs, except that no such permit shall be required if the disposal of such fish wastes is authorized by a permit issued under section 402 of the Clean Water Act.

“(3) Notwithstanding any other provision of this subchapter, fish wastes other than those described in paragraphs (1) or (2) of this subsection may be transported for dumping or dumped only as authorized by a permit issued by the Administrator under this subchapter, except that no such permit shall be required if the disposal of such fish wastes is authorized by a permit issued under section 402 of the Clean Water Act.”;

(3) in subsection (e)—

(A) by inserting “or the Protocol” after “from a location in a foreign State Party to the Convention”;

(B) by inserting “or Protocol” after “in accordance with Convention”; and

(C) by inserting “or the Protocol” after “issued pursuant to the authority of a foreign State Party to the Convention”; and

(4) by inserting at the end the following:

“(f) The President may exempt any warship, naval auxiliary, or other vessel or aircraft owned or operated by the United States and used, for the time being, only on

government non-commercial service from compliance with one or more requirements of this subchapter if the President determines it to be in the paramount interest of the United States to do so.”.

SEC. 6. EMERGENCY DUMPING OF INDUSTRIAL WASTE.

Section 1412a of the Marine Protection, Research, and Sanctuaries Act (33 U.S.C. 1412a) is amended—

(1) by inserting “OR OTHER MATERIAL” at the end of the heading for the section;

(2) in subsection (a)—

(A) by inserting “or other material” after “Emergency permits for dumping of industrial waste” in the heading of this subsection;

(B) by inserting “or other material” after “for the dumping of industrial waste”;

(C) by deleting “ocean waters” and inserting “the ocean”;

(D) by inserting “or other material” after “requiring the dumping of such waste”; and

(E) by inserting “, safety, or the marine environment,” after “human health”; and

(3) by inserting at the end the following:

“(c) Other emergency dumping

This title shall not apply to, and no permit shall be required for, the dumping into the ocean or incineration at sea of waste or other material when it is necessary to secure the safety of human life or of vessels, aircraft, platforms or other man-made structures at sea in cases of *force majeure* caused by stress of weather, or in any case which constitutes a danger to human life or a real threat to vessels, aircraft, platforms or other man-made structures at sea, if dumping or incineration at sea appears to be the only way of averting the threat and if there is every probability that the damage consequent upon such dumping or incineration at sea will be less than would otherwise occur. Such dumping or incineration at sea shall be conducted so

as to minimize the likelihood of damage to human or marine life and shall be reported forthwith to the Administrator.”.

SEC. 7. DUMPING PERMIT PROGRAM FOR DREDGED MATERIAL.

Section 103 of the Marine Protection, Research, and Sanctuaries Act (33 U.S.C. 1413) is amended—

(1) in subsection (a), by striking “ocean waters” and inserting “the ocean or for the dumping into the ocean of dredged material transported from the United States”; and

(2) in subsection (d), by striking “disposition” and inserting “dumping”.

SEC. 8. PERMIT CONDITIONS.

Section 104 of the Marine Protection, Research, and Sanctuaries Act (33 U.S.C. 1414) is amended by deleting subsections (h) and (i).

SEC. 9. OCEAN DUMPING OF SEWAGE SLUDGE AND INDUSTRIAL WASTE.

Section 104B of the Marine Protection, Research, and Sanctuaries Act (33 U.S.C. 1414b) is amended by replacing all instances of “ocean waters” with “the ocean”.

SEC. 10. PENALTIES.

Section 105 of the Marine Protection, Research, and Sanctuaries Act (33 U.S.C. 1415) is amended in subsection (a)—

(1) by striking “50,000” and inserting “160,000”; and

(2) by striking “125,000” and inserting “160,000”.

SEC. 11. RELATIONSHIP TO OTHER LAWS.

Section 106 of the Marine Protection, Research, and Sanctuaries Act (33 U.S.C. 1416) is amended—

(1) in subsection (c), by striking “disposition” and inserting “dumping”;
and

(2) in subsection (d), by replacing all instances of "ocean waters" with "the ocean".