

103^D CONGRESS
1ST SESSION

H. R. 1066

To implement the Protocol on Environmental Protection to the Antarctic Treaty, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 23, 1993

Mr. STUDDS introduced the following bill; which was referred jointly to the Committees on Merchant Marine and Fisheries, Science, Space, and Technology, and Foreign Affairs

A BILL

To implement the Protocol on Environmental Protection to the Antarctic Treaty, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Antarctic Environ-
5 mental Protocol Act of 1993”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—The Congress finds the following:

8 (1) The Protocol on Environmental Protection
9 to the Antarctic Treaty establishes international
10 mechanisms and creates legal obligations necessary

1 for the establishment of Antarctica as a natural re-
2 serve, devoted to peace and science.

3 (2) The Protocol serves important United
4 States environmental and resource management in-
5 terests, while at the same time preserving the free-
6 dom of scientific investigation in Antarctica.

7 (3) The Protocol represents an important con-
8 tribution to United States long-term legal and politi-
9 cal objectives of maintenance of Antarctica as an
10 area of peaceful international cooperation.

11 (4) The United States needs to establish new
12 legal arrangements to fulfill its obligations under the
13 Protocol, and to provide comprehensive environ-
14 mental protection for Antarctica that will maintain
15 Antarctica as a platform for the conduct of research
16 essential to understanding the global environment.

17 (b) PURPOSE.—The purpose of this Act is to provide
18 the legislative authority necessary to implement, with re-
19 spect to the United States, the Protocol on Environmental
20 Protection to the Antarctic Treaty.

21 **SEC. 3. DEFINITIONS.**

22 For purposes of this Act—

23 (1) “Administrator” means the Administrator
24 of the Environmental Protection Agency.

25 (2) “Antarctica”—

1 (A) means the area south of 60 degrees
2 south latitude, except that with respect to min-
3 eral resource activity and living marine re-
4 sources, the term means the area south of the
5 Antarctic Convergence as defined in section
6 303(1) of the Antarctic Marine Living Re-
7 sources Convention Act of 1984 (16 U.S.C.
8 2432(1)); and

9 (B) includes all ice shelves in that area.

10 (3) “Antarctic mineral resource activity”—

11 (A) means prospecting, exploration, or de-
12 velopment in Antarctica; and

13 (B) does not include scientific research
14 within the meaning of article III of the Ant-
15 arctic Treaty.

16 (4) “Antarctic Treaty” means the Antarctic
17 Treaty signed in Washington, D.C., on December 1,
18 1959.

19 (5) “Development”—

20 (A) means any activity, including logistic
21 support, which takes place following explo-
22 ration, the purpose of which is exploitation of
23 specific Antarctic mineral resource deposits;
24 and

1 (B) includes processing, storage, and
2 transport activities.

3 (6) “Director” means the Director of the Na-
4 tional Science Foundation.

5 (7) “Exploration”—

6 (A) means any activity, including logistic
7 support, the purpose of which is the identifica-
8 tion or evaluation of specific Antarctic mineral
9 resource deposits; and

10 (B) includes exploratory drilling, dredging,
11 and other surface or subsurface excavations un-
12 dertaken to determine the nature and size of
13 mineral resource deposits and the feasibility of
14 their development.

15 (8) “Harm” means to engage or attempt to en-
16 gage in any of the following:

17 (A) Flying or landing helicopters or other
18 aircraft in a manner that disturbs concentra-
19 tions of native mammals or native birds.

20 (B) Using vehicles or vessels, including
21 hovercraft and small boats, in a manner that
22 disturbs concentrations of native mammals or
23 native birds.

1 (C) Using explosives or firearms in a man-
2 ner that disturbs concentrations of native mam-
3 mals or native birds.

4 (D) Willfully disturbing breeding or
5 molting native birds or concentrations of native
6 mammals and native birds by persons on foot.

7 (E) Significantly damaging concentrations
8 of native plants, by—

9 (i) landing aircraft, driving vehicles,
10 or walking on native plants, or

11 (ii) similar means.

12 (F) Any activity in Antarctica that results
13 in the significant adverse modification of the
14 habitat of any species or population of native
15 mammal, native bird, native plant, or native in-
16 vertebrate.

17 (G) Similar practices designated by the
18 Secretary as such by regulation under section 9.

19 (9) “Mineral resource”—

20 (A) means any nonliving natural
21 nonrenewable resource (or part or product
22 thereof) found in or recovered from Antarctica;

23 (B) includes fossil fuels and minerals,
24 whether metallic or nonmetallic; and

25 (C) does not include ice, water, or snow.

1 (10) “Native bird” means any member, at any
2 stage of its life cycle (including eggs), of any species
3 of the class Aves which is indigenous to Antarctica
4 or that occurs there seasonally through natural mi-
5 gration, including any part of any such member.

6 (11) “Native invertebrate” means any terres-
7 trial, freshwater, or marine invertebrate, at any
8 stage of its life cycle, that is indigenous to Antarc-
9 tica.

10 (12) “Native mammal” means any member, at
11 any stage of its life cycle, of any species of the class
12 Mammalia, that is indigenous to Antarctica or that
13 occurs there seasonally through natural migration,
14 including any part of any such member.

15 (13) “Native plant” means any terrestrial,
16 freshwater, or marine vegetation (including
17 bryophytes, lichens, fungi, and algae) at any stage of
18 its life cycle (including seeds and other propagules)
19 that is indigenous to Antarctica.

20 (14) “Person” means—

21 (A) any individual, corporation, partner-
22 ship, trust, association, or other entity existing
23 or organized under the laws of the United
24 States;

1 (B) any officer, employee, agent, depart-
2 ment, or other instrumentality of the Federal
3 Government or of any State or political subdivi-
4 sion thereof; and

5 (C) any foreign individual, corporation,
6 legal entity, or department of any foreign na-
7 tion, that is subject to the jurisdiction of the
8 United States.

9 (15) “Prohibited product” means—

10 (A) any polychlorinated biphenyl;

11 (B) nonsterile soil;

12 (C) any polystyrene bead, chip, or similar
13 form of packaging;

14 (D) any pesticide (other than a pesticide
15 required for scientific, medical, or hygiene pur-
16 poses); and

17 (E) any product designated as such by the
18 Secretary by regulation under section 9.

19 (16) “Prospecting” means any activity, includ-
20 ing logistic support, the purpose of which is the
21 identification of mineral resource potential for pos-
22 sible exploration and development.

23 (17) “Protocol” means the Protocol on Envi-
24 ronmental Protection to the Antarctic Treaty, done

1 at Madrid on October 4, 1991, and all annexes
2 thereto.

3 (18) “Secretary” means the Secretary of Com-
4 merce, acting through the Under Secretary of Com-
5 merce for Oceans and Atmosphere.

6 (19) “Specially managed area” means any area
7 within Antarctica, including any marine area, that is
8 designated in accordance with the Antarctic Treaty
9 as an area within which activities are planned and
10 coordinated so as to avoid use conflicts, improve co-
11 operation, or minimize environmental impacts.

12 (20) “Specially protected area” means any area
13 within Antarctica, including any marine area, that is
14 designated in accordance with the Antarctic Treaty
15 as an area for the protection of its outstanding envi-
16 ronmental, scientific, historic, aesthetic, or wilder-
17 ness values, any combination of these values, or on-
18 going or planned scientific research.

19 (21) “Specially protected species” means—

20 (A) all species of the genus *Arctocephalus*
21 (fur seal) and all species of the genus
22 *Ommatophoca rossii* (ross seal); and

23 (B) all other species of native mammal, na-
24 tive bird, or native plant designated as a spe-

1 cially protected species by the Secretary pursu-
2 ant to regulation under section 9.

3 (22) “Take” and “taking” means—

4 (A) to harass, harm, molest, pursue, hunt,
5 shoot, wound, kill, trap, capture, or collect a
6 native mammal or native bird;

7 (B) to remove or damage such quantities
8 of native plants that their local distribution or
9 abundance would be significantly affected; or

10 (C) to attempt to engage in any such con-
11 duct.

12 (23) “Vessel of the United States” has the
13 meaning provided in section 2101(46) of title 46,
14 United States Code.

15 (24) “Vessel subject to the jurisdiction of the
16 United States” means a foreign vessel—

17 (A) that is used to provide logistic support
18 to United States facilities in Antarctica, or

19 (B) that transports passengers to, from, or
20 in Antarctica, if—

21 (i) there is an agreement between the
22 United States and the flag state of the for-
23 eign vessel;

1 (ii) the flag state of the foreign vessel
2 is a party to the Protocol and has referred
3 the matter to the United States; or

4 (iii) the United States may exercise
5 jurisdiction over the vessel in accordance
6 with generally recognized principles of
7 international law.

8 **SEC. 4. REPRESENTATIVE, ARBITRATORS, AND INSPEC-**
9 **TORS.**

10 (a) REPRESENTATIVE TO COMMITTEE FOR ENVIRON-
11 MENTAL PROTECTION.—

12 (1) The Secretary of State, in consultation with
13 the Secretary and the Administrator, shall appoint
14 an officer or employee of the United States as the
15 United States representative to the Committee for
16 Environmental Protection under the Protocol.

17 (2) The officer or employee shall have the tech-
18 nical qualifications required to serve in this capacity.

19 (b) ARBITRATORS.—

20 (1) The Secretary of State shall designate up to
21 3 arbitrators to serve on the Arbitral Tribunal to be
22 established under the Protocol.

23 (2) Each arbitrator shall be experienced in Ant-
24 arctic affairs, have thorough knowledge of inter-

1 national law, and have the highest reputation for
2 fairness, competence, and integrity.

3 (c) INSPECTORS.—The Secretary of State shall des-
4 ignate persons to serve as inspectors under Article 14 of
5 the Protocol.

6 (d) COMPENSATION.—The United States representa-
7 tive to the Committee for Environmental Protection shall
8 receive no additional compensation by reason of that per-
9 son's service as such representative.

10 **SEC. 5. UNLAWFUL ACTIVITIES.**

11 (a) IN GENERAL.—It is unlawful for any person—

12 (1) to conduct an activity within Antarctica, in-
13 cluding scientific research, expeditions, and logistical
14 support to United States facilities and bases, in a
15 manner inconsistent with the Protocol;

16 (2) to engage in, finance, or otherwise know-
17 ingly provide assistance (including logistic support)
18 to any Antarctic mineral resource activity;

19 (3) to introduce into Antarctica any prohibited
20 product;

21 (4) within Antarctica, to conduct open burning,
22 or to operate a landfill at a United States coastal fa-
23 cility;

24 (5) to bring any dog into Antarctica;

1 (6) to use leaded fuel within Antarctica at a
2 United States facility or in any aircraft or vessel of
3 the United States or any aircraft or vessel subject
4 to the jurisdiction of the United States;

5 (7) to transport passengers to, from, or within
6 Antarctica by any vessel of the United States or any
7 vessel subject to the jurisdiction of the United
8 States, unless the person has an agreement with the
9 vessel owner or operator under which the owner or
10 operator is required to comply with the Act to Pre-
11 vent Pollution from Ships (33 U.S.C. 1901 et seq.),
12 as amended by this Act;

13 (8) except as authorized by a permit issued
14 under section 6—

15 (A) to take within Antarctica any native
16 mammal or native bird, or any native plant in
17 such quantities that their local distribution or
18 abundance would be significantly affected;

19 (B) to take within Antarctica any specially
20 protected species;

21 (C) to introduce into Antarctica any ani-
22 mal or any plant that is not indigenous to Ant-
23 arctica;

24 (D) to enter any specially protected area;

1 (E) to discharge untreated sewage into the
2 waters or onto the ice shelves of Antarctica; or

3 (F) to operate an incinerator;

4 (9) to violate any provision of this Act, any reg-
5 ulation promulgated under this Act, or the terms of
6 any permit issued under this Act;

7 (10) to ship, transport, offer for sale, sell, pur-
8 chase, import, export, or have custody, control or
9 possession of, any native bird, native mammal, na-
10 tive plant, native invertebrate, or mineral resource
11 which the person knows, or reasonably should have
12 known, was taken in violation of this Act;

13 (11) to refuse to permit any authorized officer
14 or employee of the United States to board a vessel
15 of the United States or a vessel subject to the juris-
16 diction of the United States for the purpose of con-
17 ducting any search or inspection in connection with
18 the enforcement of this Act;

19 (12) to forcibly assault, resist, oppose, impede,
20 intimidate, or interfere with any authorized officer
21 or employee of the United States in the conduct of
22 any search or inspection described in paragraph
23 (11);

24 (13) to resist a lawful arrest or detention for
25 any act prohibited by this section;

1 (14) to interfere with, delay, or prevent, by any
2 means, the apprehension, arrest, or detention of an-
3 other person, knowing that such other person has
4 committed any act prohibited by this section; or

5 (15) to attempt to commit any act prohibited
6 by this section.

7 (b) EXCEPTION FOR EMERGENCIES.—An activity de-
8 scribed in subsection (a)(8) shall not be unlawful if it is
9 committed under extreme emergency circumstances speci-
10 fied by the Secretary under section (9)(b)(9), to prevent
11 the loss of human life or involving the safety of a ship
12 or aircraft.

13 **SEC. 6. PERMITS.**

14 (a) ACTIVITIES REQUIRING PERMITS.—The following
15 activities shall not be conducted by any person in Antarc-
16 tica, except in accordance with a permit issued by the Sec-
17 retary in accordance with this section:

18 (1) The conduct or support by any person of an
19 expedition by vessel of more than 10 passengers to,
20 from, or within Antarctica.

21 (2) The operation of United States facilities
22 within Antarctica, including the construction or de-
23 commissioning of any United States base, building,
24 or airfield.

1 (3) Any activity specified under section 5(a)(8)
2 as requiring a permit.

3 (b) CRITERIA FOR PERMITS.—The Secretary may
4 issue a permit which authorizes the conduct within Ant-
5 arctica of an activity specified in subsection (a), only if
6 the activity is consistent with this Act and the Protocol,
7 including the principles in Article 3 of the Protocol.

8 (c) GENERAL PERMITS.—The Secretary may, by reg-
9 ulation issued under section 9, issue general permits for
10 any category of activity referred to in subsection (a) in
11 Antarctica if the Secretary determines that the activities
12 in the category are similar in nature and will cause no
13 more than a minor or transitory impact on the environ-
14 ment of Antarctica when performed cumulatively. Any
15 general permit issued under this subsection shall meet the
16 criteria for the issuance of permits under subsection (b)
17 and any applicable terms and conditions under subsection
18 (g).

19 (d) APPLICATIONS.—

20 (1) Applications for permits under this section
21 shall be made in such manner and form, and shall
22 contain such information, as the Secretary shall pre-
23 scribe by regulation.

24 (2) The Secretary shall publish notice in the
25 Federal Register of each application which is made

1 for a permit under this section. The notice shall in-
2 vite the submission by interested parties, within 30
3 days after the date of publication of the notice, of
4 written data, comments, or views with respect to the
5 application. Information received by the Secretary as
6 a part of any application shall be available to the
7 public as a matter of public record.

8 (e) ACTION ON CERTAIN PERMIT APPLICATIONS.—

9 (1)(A) The Secretary shall refer to the appro-
10 priate official any application received by the Sec-
11 retary for a permit under this section requesting au-
12 thority to undertake an action with respect to—

13 (i) any native mammal which is a marine
14 mammal within the meaning of section 3 of the
15 Marine Mammal Protection Act of 1972 (16
16 U.S.C. 1362);

17 (ii) any native animal, native bird, native
18 plant, or native invertebrate which is an endan-
19 gered species or threatened species under the
20 Endangered Species Act of 1973 (16 U.S.C.
21 1531 et seq.);

22 (iii) any native bird which is protected
23 under the Migratory Bird Treaty Act (16
24 U.S.C. 701 et seq.); or

1 (iv) the discharge of any untreated sewage
2 into the waters or onto the ice shelves of Ant-
3 arctica other than by a vessel.

4 (B) For purposes of this subsection, the term
5 “appropriate official” means—

6 (i) the Administrator, in the case of an ap-
7 plication for a permit to undertake an action
8 with respect to the discharge of untreated sew-
9 age, and

10 (ii) in any other case the Secretary of the
11 Interior or the head of the appropriate office in
12 the Department of Commerce, as determined by
13 the Secretary of Commerce based on statutory
14 responsibilities with respect to the action to be
15 undertaken under a permit.

16 (2) After receiving a copy of any application
17 from the Secretary under paragraph (1), the appro-
18 priate official shall promptly determine and notify
19 the Secretary whether or not any action proposed in
20 the application would be prohibited by any law ad-
21 ministered by the appropriate official or otherwise
22 requires a permit or other authorization under any
23 law administered by the appropriate official.

24 (3) If the appropriate official notifies the Sec-
25 retary that any action proposed in the application

1 would be prohibited by any law administered by the
2 appropriate official, the Secretary may not issue a
3 permit under this section with respect to the pro-
4 posed action.

5 (4) If the appropriate official notifies the Sec-
6 retary that any action proposed in the application
7 requires a permit or other authorization under any
8 law administered by the appropriate official, the Sec-
9 retary may not issue a permit under this section
10 with respect to the proposed action unless the other
11 required permit or authorization is issued by the ap-
12 propriate official and a copy thereof is submitted to
13 the Secretary.

14 (5) The issuance of any permit or other author-
15 ization by the appropriate official for the carrying
16 out of any action with respect to an activity listed
17 in paragraph (1) shall not be considered to entitle
18 the applicant concerned to the issuance by the Sec-
19 retary of a permit under this section.

20 (f) ISSUANCE OF PERMITS.—As soon as practicable
21 after receiving any application for a permit under this sec-
22 tion, or, in the case of any application to which subsection
23 (e) applies, as soon as practicable after the applicable re-
24 quirements of that subsection are compiled with, the Sec-
25 retary shall issue, or deny the issuance of, the permit.

1 Within 10 days after the date of the issuance or denial,
2 the Secretary shall publish notice of the issuance or denial
3 in the Federal Register, including a description of any per-
4 mit terms and conditions.

5 (g) TERMS AND CONDITIONS OF PERMITS.—

6 (1) A permit may not be issued under this sec-
7 tion for an activity unless—

8 (A) the application for the permit contains
9 sufficient information to allow the Secretary to
10 make a prior assessment of, and informed judg-
11 ment about, the possible impacts of the pro-
12 posed activity on Antarctica, including cumu-
13 lative impacts, and on the value of Antarctica
14 for the conduct of scientific research; and

15 (B) if required by section 7, an environ-
16 mental impact statement has been prepared and
17 circulated by the Secretary of State to the par-
18 ties to the Antarctic Treaty and to the Commit-
19 tee for Environmental Protection in accordance
20 with the Protocol.

21 (2) Each permit issued under this section shall
22 specify—

23 (A) if applicable—

24 (i) the number and species of native
25 mammals, native birds, native plants, or

1 native invertebrates to which the permit
2 applies;

3 (ii) the amount of sewage which may
4 be discharged in Antarctica under the per-
5 mit and the conditions for that discharge;

6 (iii) if any native mammal or native
7 bird is authorized to be taken, transported,
8 carried, or shipped under the permit, the
9 manner (which manner must be deter-
10 mined by the Secretary to be humane) in
11 which such action shall be accomplished,
12 and the area in which any such taking
13 shall occur;

14 (iv) if any plants are authorized to be
15 taken under the permit, the location and
16 manner in which they shall be taken; and

17 (v) if any United States facility, build-
18 ing, or airfield is to be constructed or de-
19 commissioned within Antarctica under the
20 permit, the conditions for minimizing the
21 impact of the construction or decommis-
22 sioning on the environment of Antarctica;

23 (B) the period during which the permit is
24 valid; and

1 (C) other terms and conditions as the Sec-
2 retary or appropriate official considers nec-
3 essary and appropriate to ensure that any ac-
4 tion authorized under the permit is carried out
5 in a manner consistent with the Protocol, this
6 Act, and the regulations issued under this Act.

7 (3) A permit which authorizes any taking (other
8 than of a specially protected species)—

9 (A) may be issued only for the purpose of
10 providing—

11 (i) specimens for scientific study or
12 scientific information;

13 (ii) specimens for museums, zoological
14 or botanical gardens, or other educational
15 or cultural institutions; or

16 (iii) for the unavoidable consequences
17 of scientific research activities; and

18 (B) shall ensure that—

19 (i) no more native mammals, native
20 birds, and native plants are taken than are
21 strictly necessary to carry out the activities
22 authorized under subparagraph (A);

23 (ii) only small numbers (as deter-
24 mined by the Secretary) of native mam-
25 mals, native birds, and native plants are

1 taken, and in no case more native mam-
2 mals or native birds than can, in combina-
3 tion with other permitted takings, normally
4 be replaced by natural reproduction in the
5 following season;

6 (iii) the variety of species and the bal-
7 ance of the natural ecological systems
8 within Antarctica are maintained; and

9 (iv) the taking is determined, after
10 peer review, to further a bona fide sci-
11 entific purpose.

12 (4) A permit which authorizes the taking of a
13 specially protected species may be issued only if—

14 (A) there is a compelling scientific purpose
15 for the taking as determined by peer review of
16 the proposed permit;

17 (B) the actions authorized under the per-
18 mit will not jeopardize any existing natural eco-
19 logical system or the survival or recovery of
20 that species; and

21 (C) nonlethal techniques are used, if ap-
22 propriate.

23 (5) A permit which authorizes the introduction
24 of any nonindigenous animal or plant into Antarc-
25 tica—

1 (A) may only be issued for animals and
2 plants to be used in a laboratory; and

3 (B) shall require that, prior to the expira-
4 tion of the permit, the animal or plant shall be
5 removed from Antarctica, unless the Secretary
6 determines that it poses no risk to native mam-
7 mals, native birds, or native plants.

8 (6) A permit which authorizes the entry into
9 any specially protected area may be issued only if—

10 (A) there is a compelling scientific purpose
11 for the entry as determined by peer review;

12 (B) the actions allowed under any permit
13 will not jeopardize the natural ecological system
14 existing in the area; and

15 (C) the actions allowed under the permit
16 are in accordance with any management plan
17 applicable to that area.

18 (7) A permit which authorizes the operation of
19 United States facilities within Antarctica, including
20 the construction or decommissioning of any United
21 States base, building, or airfield within Antarctica,
22 may be issued for a 5-year period, beginning with
23 the austral season following the enactment of this
24 Act, if the Secretary determines that such operation
25 will take place in a manner consistent with the Pro-

1 tocol and the provisions of this Act. The Secretary
2 shall conduct annual inspections of the operation of
3 United States facilities in Antarctica under the per-
4 mit. The Secretary may renew the permit for addi-
5 tional 5-year periods, if the Secretary makes the de-
6 termination required by the first sentence of this
7 paragraph.

8 (8) A permit which authorizes the construction
9 or operation of any incinerator within Antarctica—

10 (A) shall contain terms and conditions rec-
11 ommended by the Administrator to ensure that
12 emissions from the incinerator are reduced to
13 the maximum extent practicable;

14 (B) shall restrict the material which may
15 be incinerated under the permit to food and
16 food-contaminated waste; and

17 (C) shall not allow an incinerator to be op-
18 erated in Antarctica after December 31, 1994,
19 unless the Secretary, in consultation with the
20 Director and Administrator, finds and reports
21 to the Congress 6 months prior to this date
22 that there is no feasible and practicable alter-
23 native for the disposal of food and food-con-
24 taminated waste.

1 (9) A permit which authorizes the disposal of
2 sewage within Antarctica, other than from a vessel,
3 shall contain terms and conditions recommended by
4 the Administrator to minimize the impact of the dis-
5 posal on the Antarctic environment.

6 (10) A permit which authorizes a person to con-
7 duct one or more expeditions of 10 or more pas-
8 sengers by vessel to, from, or within Antarctica—

9 (A) may be effective for a period of not
10 more than 3 years; and

11 (B) may be issued only if—

12 (i) the Secretary determines that the
13 expeditions under the permit will be con-
14 ducted consistent with the Protocol and
15 the provisions of this Act, and

16 (ii) the permit authorizes the Sec-
17 retary to place observers on vessels to
18 monitor compliance with the permit.

19 (h) JUDICIAL REVIEW.—

20 (1) Any applicant for a permit may obtain judi-
21 cial review pursuant to chapter 7 of title 5, United
22 States Code, of—

23 (A) the terms and conditions of any permit
24 issued by the Secretary under this section; or

1 (B) refusal of the Secretary to issue a per-
2 mit.

3 (2) Review under this subsection may be initi-
4 ated by filing a petition for review in the United
5 States district court for the district wherein the ap-
6 plicant for a permit resides or that is the principal
7 place of business of the applicant, or in the United
8 States District Court for the District of Columbia,
9 within 60 days after the date on which the permit
10 is issued or denied.

11 (i) MODIFICATION, SUSPENSION, AND REVOCA-
12 TION.—

13 (1) The Secretary may modify, suspend, or re-
14 voke, in whole or in part, any permit issued under
15 this section—

16 (A) if there is any change in conditions
17 which makes the permit inconsistent with this
18 Act or the provisions of the Protocol, including
19 Article 3;

20 (B) in order to make the permit consistent
21 with any change made after the date of issu-
22 ance of the permit to any regulation prescribed
23 under section 9; or

24 (C) in any case in which there has been
25 any violation of any term or condition of the

1 permit, or of any regulation prescribed under
2 this Act or any provision of this Act relating to
3 that permit.

4 (2) If the Secretary proposes any modification,
5 suspension, or revocation of a permit under this sub-
6 section, the permittee shall be afforded opportunity,
7 after due notice, for a hearing by the Secretary with
8 respect to the proposed modification, suspension, or
9 revocation. If a hearing is requested, the action pro-
10 posed by the Secretary shall not take effect before
11 a decision is issued after the hearing, unless the pro-
12 posed action is taken by the Secretary to protect the
13 Antarctic environment, and its dependent and asso-
14 ciated ecosystems, or to prevent the loss of human
15 life.

16 (3) The Secretary shall publish notice of the
17 modification, suspension, or revocation of any permit
18 in the Federal Register within 10 days after the
19 date of the Secretary's decision, including the rea-
20 sons for the action.

21 (j) PERMIT FEES.—The Secretary shall establish and
22 charge fees for processing applications for permits under
23 this section. The amount of the fees shall be commensu-
24 rate with the administrative costs incurred by the Sec-
25 retary in processing the application, but shall not include

1 the costs to the Secretary of preparing an environmental
2 impact statement that is required under section 7.

3 **SEC. 7. ENVIRONMENTAL ASSESSMENT OF ACTIVITIES**

4 **WITHIN ANTARCTICA.**

5 (a) FEDERAL ACTIVITIES.—

6 (1) Each Federal agency which plans to con-
7 duct an activity in Antarctica, including the conduct
8 of scientific research and the provision of logistical
9 support to United States facilities, shall review the
10 activity to determine whether it will have a minor or
11 transitory impact on the environment of Antarctica.
12 If a Federal agency determines, through the prepa-
13 ration of an environmental assessment or otherwise,
14 that the proposed activity will have no more than a
15 minor or transitory impact on the environment of
16 Antarctica, the activity may proceed if the agency
17 monitors the activity to assess and verify the minor
18 or transitory impact of the activity.

19 (2) If a Federal agency determines, through the
20 preparation of an environmental assessment or oth-
21 erwise, that a proposed activity will have more than
22 a minor or transitory impact on the environment of
23 Antarctica, the agency shall prepare an environ-
24 mental impact statement on the proposed activity
25 pursuant to section 102(2)(C) of the National Envi-

1 ronmental Policy Act of 1969 (42 U.S.C.
2 4332(2)(C)).

3 (3) The Council on Environmental Quality shall
4 issue regulations necessary to implement subsection
5 (a).

6 (b) NONGOVERNMENTAL ACTIVITIES.—The Sec-
7 retary, in consultation with the Chairman of the Council
8 on Environmental Quality, shall issue regulations estab-
9 lishing procedures for the environmental assessment of
10 nongovernmental activities conducted by any person with-
11 in Antarctica, consistent with the National Environmental
12 Policy Act of 1969 and the Protocol.

13 (c) REVIEW BY PARTIES TO THE ANTARCTIC TREA-
14 TY.—No decision shall be taken to proceed with or permit
15 an activity for which an environmental impact statement
16 is prepared under this section until—

17 (1) the draft statement has been made publicly
18 available for at least 90 days and circulated by the
19 Secretary of State to all parties to the Antarctic
20 Treaty and the Committee for Environmental Pro-
21 tection at least 120 days before the next meeting of
22 the Antarctic Treaty Consultative Parties;

23 (2) there has been an opportunity for consider-
24 ation of the draft statement at a meeting of the Ant-
25 arctic Treaty Consultative Parties, except that no

1 decision to proceed with a proposed activity shall be
2 delayed through the operation of this paragraph for
3 more than 15 months from the circulation of the
4 draft statement;

5 (3) a final statement has been made publicly
6 available at least 60 days before the commencement
7 of the proposed activity; and

8 (4) monitoring procedures have been established
9 to assess and verify the impacts of the activity.

10 (d) EXCEPTION.—This section shall not apply in
11 cases of extreme emergency relating to the prevention of
12 the loss of human life or involving the safety of a ship
13 or aircraft.

14 **SEC. 8. MONITORING, INSPECTIONS, PLANS, REPORTS.**

15 (a) MONITORING.—

16 (1) The Secretary, in consultation with the Di-
17 rector and the Administrator, shall develop and im-
18 plement a plan for the monitoring of activities within
19 Antarctica, including the operation of United States
20 facilities, scientific research, and expeditions, that
21 have more than a minor or transitory impact on the
22 environment of Antarctica.

23 (2) The Secretary may conduct a program for
24 monitoring the health of the waters of Antarctica

1 and the Southern Ocean as part of a global ocean
2 observing system.

3 (b) INSPECTIONS.—The Secretary of State may agree
4 on behalf of the United States to a system of observation
5 and inspection and to interim arrangements pending the
6 establishment of such a system pursuant to Article 14 of
7 the Protocol.

8 (c) LAND-BASED CONTINGENCY PLANS.—The Sec-
9 retary, in consultation with the Administrator and the
10 Secretary of the department in which the Coast Guard is
11 operating, shall develop requirements for contingency
12 plans for response to incidents caused by persons within
13 Antarctica with potential adverse effects on the environ-
14 ment of Antarctica in accordance with Article 15 of the
15 Protocol.

16 (d) REPORTS.—The Secretary of State shall—

17 (1) circulate to all parties to the Antarctic
18 Treaty, after notice and public comment, all inspec-
19 tion and compliance reports and all actions taken to
20 ensure compliance with the Protocol, including no-
21 tice of activities undertaken in cases of emergency;
22 and

23 (2) bring promptly to the attention of other
24 parties to the Antarctic Treaty all known incidents

1 of noncompliance with the Protocol by the nationals
2 of those parties.

3 **SEC. 9. REGULATIONS.**

4 (a) IN GENERAL.—The Secretary and the Secretary
5 of the department in which the Coast Guard is operating,
6 after consultation with appropriate officials, shall promul-
7 gate such regulations as are necessary and appropriate to
8 implement this Act, taking into account the Antarctic
9 Treaty, any measures adopted thereunder, the Protocol,
10 and any awards issued thereunder by a competent tribu-
11 nal.

12 (b) SPECIFIC REGULATIONS.—The Secretary shall
13 issue regulations which—

14 (1) designate, as native species—

15 (A) each species of the class Aves,

16 (B) each species of the class Mammalia,

17 and

18 (C) each species of plant,

19 which is indigenous to Antarctica or occurs in Ant-
20 arctica through natural dispersal or migration;

21 (2) specify those actions which shall, and those
22 actions which shall not, be taken within Antarctica
23 to protect, in accordance with the applicable provi-
24 sions of the Protocol, members of each native species
25 designated under paragraph (1);

1 (3) identify each area designated by the parties
2 to the Antarctic Treaty as a specially protected area
3 or specially managed area, and implement the provi-
4 sions of the management plan applicable to such
5 area;

6 (4) designate, as a specially protected species,
7 any species of native mammal, native bird, native
8 plant, or native invertebrate which is approved by
9 the United States for special protection in addition
10 to those listed in Annex II to the Protocol;

11 (5) designate, in consultation with the Adminis-
12 trator, as a prohibited product for purposes of sec-
13 tion 3(15)(E) any substance which the Secretary
14 finds liable, if the substance is introduced into Ant-
15 arctica, to create hazards to human health, to harm
16 living resources or marine life, to damage amenities,
17 or to interfere with other legitimate uses of Antarc-
18 tica;

19 (6) specify, in consultation with the Director,
20 the Administrator, and the Secretary of the depart-
21 ment in which the Coast Guard is operating, those
22 actions which shall, and those actions which shall
23 not, be taken to prevent or control the discharge or
24 other disposal of prohibited products from any
25 source within Antarctica;

1 (7) designate, in consultation with the Director,
2 those animals and plants that are not indigenous to
3 Antarctica, which either may, or may not, be intro-
4 duced into Antarctica, and specify those control
5 measures which shall be observed with respect to
6 any such animals or plants which are allowed to be
7 introduced;

8 (8) specify, in consultation with the Director
9 and the Administrator, those actions which shall be
10 taken for the cleanup of United States facilities in
11 Antarctica in accordance with Annex III to the Pro-
12 tocol;

13 (9) specify, in consultation with the Chairman
14 of the Council on Environmental Quality, the emer-
15 gency circumstances with respect to which section
16 5(b) and section 7(d) apply;

17 (10) issue general permits in accordance with
18 section 6(c);

19 (11) set forth the form, content, and manner of
20 filing, if applicable, of all notices, reports, declara-
21 tions, or other documentation which may be required
22 with respect to the carrying out of any act for which
23 a permit is required under section 6;

24 (12) establish, in consultation with interested
25 persons, including scientific researchers, guidelines

1 that distinguish Antarctic mineral resource activities
2 from scientific research within the meaning of Arti-
3 cle III of the Antarctic Treaty; and

4 (13) specify those actions which shall, and those
5 actions which shall not, be taken to ensure compli-
6 ance by persons whose activities are permitted under
7 section 6 with the principles of Article 3 of the Pro-
8 tocol.

9 (c) SCHEDULE FOR REGULATIONS.—The regulations
10 required by this section shall be issued within 2 years after
11 the date of enactment of this Act.

12 **SEC. 10. CIVIL PENALTIES.**

13 (a) ASSESSMENT OF PENALTIES.—

14 (1) Any person who is found by the Secretary,
15 after notice and opportunity for a hearing in accord-
16 ance with subsection (b), to have committed any act
17 prohibited by section 5 shall be liable to the United
18 States for a civil penalty. The amount of the civil
19 penalty shall not exceed \$25,000 for each violation.
20 Each day of a continuing violation shall constitute a
21 separate offense. The amount of any civil penalty
22 shall be assessed by the Secretary by written notice.
23 In determining the amount of the penalty, the Sec-
24 retary shall take into account the nature, cir-
25 cumstances, extent, and gravity of the prohibited

1 acts committed, and, with respect to the violator, the
2 degree of culpability, any history of prior offenses,
3 ability to pay, and such other matters as justice may
4 require, to the extent that the information is reason-
5 ably available to the Secretary.

6 (2) The Secretary may compromise, modify, or
7 remit, with or without conditions, any civil penalty
8 which may be imposed under this section.

9 (b) HEARINGS.—Hearings for the assessment of civil
10 penalties under subsection (a) shall be conducted in ac-
11 cordance with section 554 of title 5, United States Code.
12 For the purposes of conducting any such hearing, the Sec-
13 retary may issue subpoenas for the attendance and testi-
14 mony of witnesses and the production of relevant papers,
15 books, and documents, and may administer oaths. Wit-
16 nesses summoned shall be paid the same fees and mileage
17 that are paid to witnesses in the courts of the United
18 States. In case of contempt or refusal to obey a subpoena
19 served upon any person pursuant to this subsection, the
20 district court of the United States for any district in which
21 the person is found, resides, or transacts business, upon
22 application by the United States and after notice to the
23 person, shall have jurisdiction to issue an order requiring
24 the person to appear and give testimony before the Sec-
25 retary or to appear and produce documents before the Sec-

1 retary, or both, and any failure to obey such order of the
2 court may be punished by the court as a contempt thereof.

3 (c) REVIEW OF CIVIL PENALTY.—Any person against
4 whom a civil penalty is assessed under subsection (a) may
5 obtain review thereof in the appropriate district court of
6 the United States by filing a complaint in the court within
7 30 days after the date of the order and by simultaneously
8 sending a copy of the complaint by certified mail to the
9 Secretary, the Attorney General, and the appropriate
10 United States Attorney. The Secretary shall promptly file
11 in the court a certified copy of the record upon which the
12 violation was found or the penalty imposed, as provided
13 in section 2112 of title 28, United States Code. The court
14 shall set aside the findings and order of the Secretary if
15 the findings and order are found to be unsupported by
16 substantial evidence, as provided in section 706(2)(E) of
17 title 5, United States Code.

18 (d) RECOVERY OF CIVIL PENALTIES.—The Attorney
19 General may seek to recover in any appropriate district
20 court of the United States (1) any civil penalty imposed
21 under this section that has become a final and
22 unappealable order and has been referred to the Attorney
23 General by the Secretary, or (2) any final judgment ren-
24 dered under this section in favor of the United States by
25 an appropriate court. In such action, the validity and ap-

1 propriateness of the final order imposing the civil penalty
2 shall not be subject to review.

3 (e) PENALTIES UNDER OTHER LAWS.—The assess-
4 ment of a civil penalty under subsection (a) for any act
5 shall not be considered to preclude the assessment of a
6 civil penalty for the act under any other law.

7 **SEC. 11. CRIMINAL OFFENSES.**

8 (a) OFFENSES.—A person is guilty of an offense if
9 that person knowingly commits any act prohibited by sec-
10 tion 5.

11 (b) PUNISHMENT.—Any offense under subsection (a)
12 is punishable by imprisonment for not more than one year,
13 or a fine under title 18, United States Code, or both.

14 (c) OFFENSES UNDER OTHER LAWS.—A conviction
15 under subsection (a) for any act shall not be considered
16 to preclude a conviction for the act under any other law.

17 **SEC. 12. ENFORCEMENT.**

18 (a) RESPONSIBILITY.—The provisions of this Act
19 shall be enforced by the Secretary and the Secretary of
20 the department in which the Coast Guard is operating.
21 The Secretaries may utilize by agreement, on a reimburs-
22 able basis or otherwise, the personnel, services, and facili-
23 ties (including aircraft and vessels) of any other depart-
24 ment or agency of the United States in the performance
25 of such duties.

1 (b) POWERS OF AUTHORIZED OFFICERS AND EM-
2 PLOYEES.—Any officer or employee of the United States
3 who is authorized by the Secretary, the Secretary of the
4 department in which the Coast Guard is operating, or the
5 head of any department or agency of the United States
6 which has entered into an agreement with either Secretary
7 under subsection (a), to enforce the provisions of this Act,
8 any regulation promulgated under this Act, or any permit
9 issued under this Act may, in enforcing such provision—

10 (1) secure, execute, and serve any order, war-
11 rant, subpoena, or other process, which is issued
12 under the authority of the United States or by any
13 court of competent jurisdiction;

14 (2) search without warrant any person, place,
15 vehicle, or aircraft subject to the jurisdiction of the
16 United States if there are reasonable grounds to be-
17 lieve that a person has committed an act prohibited
18 by section 5;

19 (3) with or without a warrant board and search
20 or inspect any vessel of the United States or vessel
21 subject to the jurisdiction of the United States;

22 (4) seize without warrant—

23 (A) any evidentiary item if there are rea-
24 sonable grounds to believe that a person has
25 committed an act prohibited by section 5,

1 (B) any native mammal, native bird, native
2 plant, native invertebrate, or mineral resource
3 (or part of product thereof) with respect to
4 which such an act is committed,

5 (C) any vessel of the United States (in-
6 cluding its gear, furniture, appurtenances,
7 stores, and cargo), any vessel subject to the ju-
8 risdiction of the United States (including its
9 gear, furniture, appurtenances, stores, and
10 cargo), any vehicle, aircraft, or other means of
11 transportation that is subject to the jurisdiction
12 of the United States used in connection with
13 such an act, and

14 (D) any guns, traps, nets, or equipment
15 used in connection with such an act;

16 (5) offer and pay rewards for information which
17 may lead to the apprehension of persons violating
18 such provisions;

19 (6) make inquiries, and administer to or take
20 from, any person an oath, affirmation, or affidavit,
21 concerning any matter which is related to the en-
22 forcement of such provisions;

23 (7) in coordination with the Secretary of the
24 Treasury, detain for inspection and inspect any
25 package, crate, or other container, including its con-

1 tents and all accompanying documents, upon impor-
2 tation into or exportation from the United States;

3 (8) make an arrest with or without a warrant
4 with respect to any act prohibited by section 5, if
5 such officer or employee has reasonable grounds to
6 believe that the person to be arrested is committing
7 such act in his or her presence or view or has com-
8 mitted such act;

9 (9) exercise enforcement powers conferred on
10 the officer or employee under a system of observa-
11 tion and inspection, or interim arrangements pend-
12 ing the establishment of such a system, which the
13 President has agreed to on behalf of the United
14 States; and

15 (10) exercise any other authority which the offi-
16 cer or employee is permitted by law to exercise.

17 (c) SEIZURE.—Any property or item seized pursuant
18 to subsection (b) shall be held by any officer or employee
19 of the United States who is authorized by the Secretary
20 or the Secretary of the department in which the Coast
21 Guard is operating, pending the disposition of civil or
22 criminal proceedings concerning the violation relating to
23 the property or item or the institution of an action in rem
24 for the forfeiture of such property or item. Such author-
25 ized officer or employee may, upon the order of a court

1 of competent jurisdiction, either release the seized prop-
2 erty or item to the wild or destroy the property or item
3 if the cost of maintenance of the property or item pending
4 the disposition of the case is greater than the legitimate
5 market value of the property or item. The authorized offi-
6 cer or employee and all officers or employees acting by
7 or under his or her direction shall be indemnified from
8 any penalties or actions for damages for so releasing or
9 destroying the property or item, unless the actions of the
10 officer or employee are grossly negligent or constitute will-
11 ful misconduct. The authorized officer or employee may,
12 in lieu of holding such property or item, permit the owner
13 or consignee thereof to post a bond or other satisfactory
14 surety.

15 (d) FORFEITURE.—

16 (1) Any native mammal, native bird, native
17 plant, native invertebrate, or mineral resource with
18 respect to which an act prohibited by section 5 is
19 committed, any vessel of the United States (includ-
20 ing its gear, furniture, appurtenances, stoves, and
21 cargo), any vessel, vehicle, or aircraft or other means
22 of transportation subject to the jurisdiction of the
23 United States which is used in connection with an
24 act prohibited by section 5, and all guns, traps, nets,
25 and other equipment used in connection with such

1 act, shall be subject to forfeiture to the United
2 States.

3 (2) Upon the forfeiture to the United States of
4 any item described in paragraph (1), or upon the
5 abandonment or waiver of any claim to any such
6 item, it shall be disposed of by the Secretary, or the
7 Secretary of the department in which the Coast
8 Guard is operating, as the case may be, in such a
9 manner, consistent with the purposes of this Act, as
10 may be prescribed by regulation.

11 (e) APPLICATION OF LAWS.—All provisions of law re-
12 lating to the seizure, forfeiture, and condemnation of prop-
13 erty (including vessels) for violation of the customs laws,
14 the disposition of the property or the proceeds from the
15 sale thereof, and the remission or mitigation of the forfeit-
16 ure, shall apply to the seizures and forfeitures incurred,
17 or alleged to have been incurred, and the compromise of
18 claims, under the provisions of this Act, insofar as such
19 provisions of law are applicable and not inconsistent with
20 the provisions of this Act; except that all powers, rights,
21 and duties conferred or imposed by the customs laws may,
22 for the purposes of this Act, also be exercised or performed
23 by the Secretary, or the Secretary of the department in
24 which the Coast Guard is operating, or by such officers
25 or employees of the United States as the Secretary or the

1 Secretary of the department in which the Coast Guard is
2 operating may designate.

3 (f) EMERGENCY POWERS.—Notwithstanding any
4 other provision of this Act, the Secretary or the Secretary
5 of the department in which the Coast Guard is operating,
6 upon receipt of evidence that an activity by any person
7 is presenting, or is threatening to present, an imminent
8 and substantial endangerment to the environment of Ant-
9 arctica or to the health and safety of persons residing
10 therein, may bring suit on behalf of the United States in
11 the appropriate district court of the United States to im-
12 mediately restrain that person causing the activity to stop
13 the activity or to take such other action as may be nec-
14 essary.

15 (g) INSPECTION FEES.—The Secretary and the Sec-
16 retary of the department in which the Coast Guard is op-
17 erating may charge reasonable fees for the expenses of the
18 United States incurred in carrying out inspections and in
19 transferring, boarding, handling, or storing native mam-
20 mals, native birds, native plants, native invertebrates, ani-
21 mals and plants not indigenous to Antarctica, mineral re-
22 sources, and other evidentiary items seized or forfeited
23 under this Act.

1 **SEC. 13. IN REM LIABILITY; JURISDICTION OF COURTS.**

2 (a) IN REM LIABILITY.—A vessel of the United
3 States, or a vessel subject to the jurisdiction of the United
4 States, that is operated in violation of the Protocol, this
5 Act, or the regulations issued under this Act is liable in
6 rem for any civil penalty assessed under section 10 or any
7 fine imposed under section 11, and may be proceeded
8 against in any district court of the United States having
9 jurisdiction. The penalty or fine shall constitute a lien on
10 the vessel which may be recovered in an action in rem in
11 the district court of the United States having jurisdiction.

12 (b) JURISDICTION OF COURTS.—The district courts
13 of the United States shall have jurisdiction over any case
14 or controversy arising under the provisions of this Act or
15 of any regulation or permit issued under this Act.

16 **SEC. 14. MARINE POLLUTION.**

17 (a) REFERENCES.—Whenever in this section an
18 amendment or repeal is expressed in terms of an amend-
19 ment to or repeal of a section, subsection, or other provi-
20 sion, the reference shall be considered to be made to a
21 section, subsection, or other provision of the Act to Pre-
22 vent Pollution from Ships (33 U.S.C. 1901 et seq.).

23 (b) DEFINITIONS.—Section 2(a) (33 U.S.C. 1901(a))
24 is amended—

25 (1) in paragraph (8) by striking “and” after
26 the semicolon;

1 (2) in paragraph (9) by striking the period and
2 inserting “; and”; and

3 (3) by adding at the end the following:

4 “(10) ‘Antarctica’ means the area south of 60
5 degrees south latitude, including all ice shelves; and

6 “(11) ‘Antarctic Protocol’ means the Protocol
7 on Environmental Protection to the Antarctic Trea-
8 ty, done at Madrid on October 4, 1991, and all an-
9 nexes thereto.”.

10 (c) APPLICATION OF ANNEX IV.—Section 2 (33
11 U.S.C. 1901) is further amended by adding at the end
12 the following:

13 “(c) The requirements of Annex IV to the Antarctic
14 Protocol shall apply in Antarctica—

15 “(1) to all ships described in section 3(a)(1);

16 and

17 “(2) to all other ships over which the United
18 States has jurisdiction, including all ships engaged
19 in or supporting United States Antarctic oper-
20 ations.”.

21 (d) APPLICATION IN ANTARCTICA OF ACT TO PRE-
22 VENT POLLUTION FROM SHIPS.—Section 3 (33 U.S.C.
23 1902) is amended—

24 (1) in subsection (a) by striking “and” after the
25 semicolon at the end of paragraph (3), by striking

1 the period at the end of paragraph (4) and inserting
2 “; and”, and by adding at the end the following:

3 “(5) with respect to Annex IV to the Antarctic
4 Protocol, to all ships described in paragraph (1) and
5 to all other ships over which the United States has
6 jurisdiction, including all ships engaged in or sup-
7 porting United States Antarctic operations.”; and

8 (2) in subsection (b)(2)—

9 (A) in subparagraph (A) by striking “sub-
10 subparagraph (B)” and inserting “subparagraph
11 (C)”;

12 (B) by redesignating subparagraph (B) as
13 subparagraph (C); and

14 (C) by inserting after subparagraph (A)
15 the following:

16 “(B) Notwithstanding any provision of the Ant-
17 arctic Protocol and subject to subparagraph (C), the
18 requirements of Annex IV to that Protocol shall
19 apply to a ship referred to in paragraph (1)(A) oper-
20 ating in Antarctica.”.

21 (e) ADMINISTRATION.—Section 4(a) (33 U.S.C.
22 1903(a)) is amended in the first sentence by inserting “,
23 Annex IV to the Antarctic Protocol,” after “MARPOL
24 Protocol”.

1 (f) REGULATIONS.—Section 4 (33 U.S.C. 1903) is
2 amended—

3 (1) in subsection (b)(1) by inserting “, Annex
4 IV to the Antarctic Protocol,” after “MARPOL Pro-
5 tocol”; and

6 (2) by adding at the end of subsection (b) the
7 following:

8 “(3) The Secretary shall prescribe, within 2 years
9 after the effective date of the Antarctic Environmental
10 Protection Protocol Act of 1992, regulations to implement
11 Annex IV to the Antarctic Protocol, including regulations
12 to ensure that all ships described in section 3(a)(1) and
13 all other ships over which the United States has jurisdic-
14 tion have contingency plans for marine pollution incidents
15 in Antarctica.”.

16 (g) RETENTION OF POLLUTION IN ANTARCTICA.—
17 Section 6 (33 U.S.C. 1905) is amended by adding at the
18 end the following:

19 “(g) The Secretary shall ensure that all ships de-
20 scribed in section 3(a)(1) and all other ships over which
21 the United States has jurisdiction, before entering Antarc-
22 tica—

23 “(1) have sufficient capacity in accordance with
24 Annex IV to the Antarctic Protocol to retain on

1 board, all oil, noxious liquid substances, and gar-
2 bage; and

3 “(2) have concluded arrangements to discharge
4 oil, noxious liquid substances, and garbage at recep-
5 tion facilities outside of Antarctica.”.

6 (h) VIOLATIONS AND ENFORCEMENT.—Section 8 (33
7 U.S.C. 1907) is amended—

8 (1) in subsection (a)—

9 (A) in the first sentence by inserting
10 “Annex IV to the Antarctic Protocol,” after
11 “MARPOL Protocol,”; and

12 (B) by inserting after the second sentence
13 the following: “The Secretary shall cooperate
14 with other parties to the Antarctic Protocol in
15 the detection of violations of Annex IV to that
16 Protocol and in its enforcement.”;

17 (2) in subsection (b)—

18 (A) in the fourth sentence by inserting “or
19 Annex IV to the Antarctic Protocol as applica-
20 ble,” after “MARPOL Protocol”; and

21 (B) in the fifth sentence by inserting “or
22 a party to the Antarctic Protocol” after
23 “MARPOL Protocol”; and

24 (3) in subsection (e)—

1 (A) by redesignating paragraph (2) as
2 paragraph (3); and

3 (B) by inserting after paragraph (1) the
4 following:

5 “(2) The Secretary may inspect at any time a
6 ship described in section 3(a)(1) or any other ship
7 over which the United States has jurisdiction, to ver-
8 ify whether that ship has discharged oil, a noxious
9 liquid substance, garbage, or sewage in violation of
10 Annex IV to the Antarctic Protocol or in violation of
11 any provision of this Act that implements that Pro-
12 tocol.”.

13 (i) PENALTIES.—Section 9 (33 U.S.C. 1908) is
14 amended—

15 (1) in subsection (a) by inserting “Annex IV to
16 the Antarctic Protocol,” after “MARPOL Proto-
17 col,”;

18 (2) in subsection (b) by inserting “Annex IV to
19 the Antarctic Protocol,” after “MARPOL Protocol,”
20 each place it appears;

21 (3) in subsection (d) by inserting “Annex IV to
22 the Antarctic Protocol,” after “MARPOL Proto-
23 col,”;

1 (4) in subsection (e) by inserting “, Annex IV
2 to the Antarctic Protocol,” after “MARPOL Proto-
3 col”; and

4 (5) in subsection (f) by inserting “or to the
5 Antarctic Protocol” after “MARPOL Protocol” each
6 place it appears.

7 **SEC. 15. RELATION TO EXISTING TREATIES, STATUTES,**
8 **REGULATIONS, AND PERMITS.**

9 (a) **IN GENERAL.**—Except as provided in subsection
10 (b) and section 14, nothing in this Act shall be construed
11 as contravening or superseding—

12 (1) any international treaty, convention, or
13 agreement, if such treaty, convention, or agreement
14 is in force with respect to the United States on the
15 date of enactment of this Act; or

16 (2) any statute which implements any such
17 treaty, convention, or agreement.

18 (b) **REPEAL OF STATUTES.**—The Antarctic Con-
19 servation Act of 1978 (16 U.S.C. 2401 et seq.) and the
20 Antarctic Protection Act of 1990 (16 U.S.C. 2461 et seq.)
21 are repealed.

22 (c) **SAVINGS PROVISIONS.**—

23 (1) Nothing in this Act shall affect the author-
24 ity of the Director—

1 (A) to support basic research investiga-
2 tions of the Antarctic environment to under-
3 stand globally important processes; and

4 (B) to operate, in accordance with this
5 Act, United States facilities, bases, and stations
6 in Antarctica.

7 (2) All regulations issued under the Antarctic
8 Conservation Act of 1978 (16 U.S.C. 2401 et seq.)
9 shall remain in effect until the Secretary or the Sec-
10 retary of the department in which the Coast Guard
11 is operating, as the case may be, promulgates new
12 regulations under section 9 or section 14 of this Act,
13 except that if the regulations issued under that Act
14 are inconsistent with the Protocol or have been su-
15 perseded by the provisions of this Act, the Protocol
16 and this Act shall control.

17 (3) All permits issued under the Antarctic Con-
18 servation Act of 1978 (16 U.S.C. 2401 et seq.) shall
19 remain in effect until they expire in accordance with
20 the terms of those permits.

21 **SEC. 16. AMENDMENTS.**

22 (a) ACCEPTANCE OF CERTAIN AMENDMENTS.—A
23 proposed amendment to the Protocol may be accepted on
24 behalf of the United States by the President following the

1 advice and consent of the Senate, except as provided for
2 in subsection (b).

3 (b) ACTION ON CERTAIN AMENDMENTS BY PRESI-
4 DENT.—A proposed amendment to Annex I, II, III, IV,
5 or V of the Protocol may be the subject of appropriate
6 action on behalf of the United States by the Secretary of
7 State following notification to the Congress.

8 **SEC. 17. SENSE OF CONGRESS.**

9 It is the sense of Congress that—

10 (1) the prohibition on Antarctic mineral re-
11 source activities in Article 7 of the Protocol should
12 remain in effect permanently or indefinitely;

13 (2) the Secretary of State should promptly
14 enter into negotiations with other parties to the Ant-
15 arctic Treaty to conclude an agreement on rules and
16 procedures relating to liability for damage arising
17 from activities in Antarctica and covered by the Pro-
18 tocol; and

19 (3) the Secretary should ensure that the results
20 of all scientific investigations relating to geological
21 processes and structures are made openly available
22 to the public and scientific community.

23 **SEC. 18. AUTHORIZATION OF APPROPRIATIONS.**

24 There are authorized to be appropriated—

1 (1) to the Secretary \$25,000,000 for each of
2 fiscal years 1994, 1995, and 1996 to carry out this
3 Act;

4 (2) to the Secretary of the department in which
5 the Coast Guard is operating \$5,000,000 for each of
6 fiscal years 1994, 1995, and 1996 to carry out sec-
7 tion 14; and

8 (3) to the Secretary of State \$500,000 for each
9 of fiscal years 1994, 1995, and 1996 to carry out
10 this Act.

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