

1 ment, rock, sand, excavation debris, and industrial waste; but
2 such term does not mean oil within the meaning of section 44
3 of the Federal Water Pollution Control Act, as amended (33
4 U.S.C. 4464) and does not mean sewage from vessels within
5 the meaning of section 43 of such Act (33 U.S.C. 4463).

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

10 (e) "Person" means any private person or entity, or
11 any officer, employee, agent, department, agency, or in-
12 strumentality of the Federal Government, of any State or
13 local unit of government, or of any foreign government.

14 (f) "Dumping" means a disposition of material: *Pro-*
15 *vided*, That it does not mean a disposition of any effluent
16 from any outfall structure where such disposition is regulated
17 under the provisions of the Federal Water Pollution Control
18 Act, as amended (33 U.S.C. 1151-1175), or under the pro-
19 visions of section 43 of the Rivers and Harbors Act of 1899,
20 as amended (33 U.S.C. 407), nor does it mean a routine dis-
21 charge of effluent incidental to the propulsion of, or operation
22 of motor-driven equipment on, vessels: *Provided further*,
23 That it does not mean the construction of any fixed structure
24 or artificial island nor the intentional placement of any device
25 in the oceans, coastal, and other waters or on or in the sub-

1 merged land beneath such waters, for a purpose other than
2 disposal, when such construction or such placement is other-
3 wise regulated by Federal or State law or occurs pursuant to
4 an authorized Federal or State program: *And provided fur-*
5 *ther,* That it does not include the deposit of oyster shells or
6 other materials when such deposit is made for the purpose of
7 developing, maintaining, or harvesting fisheries resources and
8 is otherwise regulated by Federal or State law or occurs pur-
9 suant to an authorized Federal or State program.

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

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

18 ~~(i)~~ "Dredged or fill material" means any material
19 excavated or dredged from the navigable waters of the
20 United States or any material deposited into such waters
21 for the purpose of bulkheading, or building up or extending
22 land areas.

23 ~~(j)~~ "High-level radioactive waste" means the aqueous
24 waste resulting from the operation of the first cycle solvent
25 extraction system, or equivalent, and the concentrated waste

1 from subsequent extraction cycles, or equivalent, in a facility
2 for reprocessing irradiated reactor fuels, or irradiated fuel
3 from nuclear power reactors.

4 TITLE I—OCEAN DUMPING

5 PROHIBITED ACTS

6 SEC. 101. (a) No person shall transport any radio-
7 logical, chemical, or biological warfare agent or high-level
8 radioactive waste, or, except as may be authorized in a
9 permit issued under this title, any other material from the
10 United States for the purpose of dumping it into the oceans,
11 coastal, and other waters.

12 (b) No person shall dump any radiological, chemical,
13 or biological warfare agent or high-level radioactive waste,
14 or, except as may be authorized in a permit issued under
15 this title, any other material in ~~(1)~~ that part of the oceans,
16 coastal and other waters which is within the territorial juris-
17 diction of the United States, or ~~(2)~~ a zone contiguous to the
18 territorial sea of the United States, extending to a line twelve
19 nautical miles seaward from the base line from which the
20 breadth of the territorial sea is measured, to the extent that
21 it may affect the territorial sea or the territory of the United
22 States.

23 (c) No officer, employee, agent, department, agency, or
24 instrumentality of the United States shall transport any
25 radiological, chemical, or biological warfare agent or high-

1 level radioactive waste, or, except as may be authorized in
2 a permit issued under this title, any other material from any
3 location outside the territory of the United States for the
4 purpose of dumping it into the oceans, coastal, and other
5 waters.

6 ENVIRONMENTAL PROTECTION AGENCY PERMITS

7 SEC. 402. (a) Except in relation to dredged or fill mate-
8 rial, as provided for in section 403 of this title, and in rela-
9 tion to radiological, chemical, and biological warfare agents
10 and high level radioactive waste, as provided for in section
11 404 of this title, the Administrator may issue permits, after
12 notice and opportunity for public hearings, for the transporta-
13 tion of material for dumping into the oceans, coastal, and other
14 waters, or for the dumping of material into the waters de-
15 scribed in section 401(b), where the Administrator deter-
16 mines that such transportation, or dumping, or both, will not
17 unreasonably degrade or endanger human health, welfare, or
18 amenities, or the marine environment, ecological systems, or
19 economic potentialities. The Administrator shall establish and
20 apply criteria for reviewing and evaluating such permit appli-
21 cations, and, in establishing or revising such criteria, shall
22 consider, but not be limited in his consideration to, the
23 following:

24 (A) The need for the proposed dumping.

25 (B) The effect of such dumping on human health

1 and welfare, including economic, esthetic, and recreen-
2 tional values.

3 ~~(C)~~ The effect of such dumping on fisheries re-
4 sources.

5 ~~(D)~~ The effect of such dumping on marine eco-
6 systems, particularly with respect to—

7 ~~(i)~~ the transfer, concentration, and dispersion
8 of such material and its byproducts through bio-
9 logical, physical, and chemical pathways;

10 ~~(ii)~~ potential changes in marine ecosystem di-
11 versity and stability; and

12 ~~(iii)~~ species and community population dy-
13 namics.

14 ~~(E)~~ The persistence and permanence of the effects
15 of the dumping;

16 ~~(F)~~ The effect of dumping particular volumes and
17 concentrations of such materials;

18 ~~(G)~~ Appropriate locations and methods of disposal,
19 including land-based alternatives;

20 In establishing or revising such criteria, the Administrator
21 shall consult with the Secretaries of Commerce, Interior,
22 State, Defense, Agriculture, Health, Education, and Wel-
23 fare, and Transportation, the Atomic Energy Commission,
24 other appropriate Federal, State, and local officials, and in-
25 terested members of the general public. With respect to such

1 criteria as may affect the civil works program of the Depart-
2 ment of the Army, the Administrator shall also consult with
3 the Secretary. In reviewing applications for permits, the
4 Administrator shall make such provision for consultation
5 with interested Federal and State agencies as he deems use-
6 ful or necessary. No permit shall be issued for a dumping
7 of material which will violate applicable water quality
8 standards.

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

12 (c) The Administrator may, considering the criteria
13 established pursuant to subsection (a) of this section, desig-
14 nate recommended sites or times for dumping and, when he
15 finds it necessary to protect critical areas, shall, after consul-
16 tation with the Secretary, also designate sites or times within
17 which certain materials may not be dumped.

18 CORPS OF ENGINEERS PERMITS

19 Sec. 103: (a) The Secretary may issue permits, after
20 notice and opportunity for public hearing, for the trans-
21 portation of dredged or fill material for dumping into the
22 oceans, coastal, and other waters, or for the dumping of
23 dredged or fill materials into the waters described in sec-
24 tion 101(b), or both, where the Secretary determines that
25 such transportation, or dumping, or both, will not unrea-

1 sensibly degrade or endanger human health, welfare, or
2 amenities, or the marine environment, ecological systems,
3 or economic potentialities.

4 (b) In making the determination required by subsec-
5 tion (a) of this section as to whether a permit may be
6 issued, the Secretary shall apply the criteria established by
7 the Administrator pursuant to section 402, together with
8 an evaluation by the Secretary of the effect on navigation,
9 economic and industrial development, and foreign and do-
10 mestic commerce of the United States: *Provided*, That in
11 applying the criteria established by the Administrator, the
12 Secretary shall consult with the Administrator and shall
13 give due consideration to the views and recommendations
14 of the Administrator in that regard and also in regard to
15 the designations of the Administrator of recommended sites
16 or times for dumping: *Provided further*, That the Secre-
17 tary may issue no permit for dumping which would violate
18 the designation of the Administrator, found necessary to
19 protect critical areas, of a site within which certain material
20 may not be dumped: *And provided further*, That in regard
21 to the designation of recommended sites or sites where cer-
22 tain material may not be dumped, the Secretary, after con-
23 sultation with the Administrator, need not follow the desig-
24 nation of the Administrator where the Secretary certifies

1 such reporting requirements for actions taken pursuant to
2 permits issued by him under this title as he deems appropriate.

3 (c) Notwithstanding any other provision of this title,
4 the Administrator or the Secretary, as the case may be, may
5 issue general permits for the transportation for dumping, or
6 dumping, or both, of specified material for which he may issue
7 permits, which he determines will have a minimal adverse
8 environmental impact.

9 (d) The Administrator or the Secretary, as the case may
10 be, may limit or deny the issuance of permits, or may alter or
11 revoke partially or entirely the terms of permits issued by him
12 under this title, for the transportation for dumping, or the
13 dumping, or both, of specified material, where he finds that
14 such material cannot be dumped consistently with the criteria
15 and other factors required to be applied in evaluating the
16 permit application. No action shall be taken under this sub-
17 section unless the affected person or permittee shall have been
18 given notice and opportunity for hearing on such action as
19 proposed.

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

24 (f) Information received by the Administrator or the
25 Secretary, as the case may be, as a part of any application

1 of in connection with any permit granted under this title shall
2 be available to the public as a matter of public record, at
3 every stage of the proceeding. The final determination of the
4 Administrator or the Secretary, as the case may be, shall be
5 likewise available.

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

12 PENALTIES

13 Sec. 405. (a) Any person who violates any provision
14 of this title, or of the regulations promulgated under this
15 title, or a permit issued under this title shall be liable to a
16 civil penalty of not more than \$50,000 for each violation
17 to be assessed by the Administrator. No penalty shall be
18 assessed until the person charged shall have been given
19 notice and an opportunity for a hearing on such violation.
20 In determining the amount of the penalty, the gravity of
21 the violation and the demonstrated good faith of the person
22 charged in attempting to achieve rapid compliance after
23 notification of a violation shall be considered by said Ad-
24 ministrator. For good cause shown, the Administrator may
25 remit or mitigate such penalty. Upon failure of the offend-

1 ing party to pay the penalty, the Administrator may re-
2 quest the Attorney General to commence an action in the
3 appropriate district court of the United States for such re-
4 lief as may be appropriate.

5 (b) In addition to any action which may be brought
6 under subsection (a) of this section, a person who know-
7 ingly violates this title, regulations promulgated under this
8 title, or a permit issued under this title shall be fined not
9 more than \$50,000 or imprisoned for not more than one year,
10 or both, one-half of said fine, but not to exceed \$2,500, to be
11 paid to the person or persons giving information which shall
12 lead to conviction.

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

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

23 (e) A vessel, except a public vessel within the meaning
24 of section 13 of the Federal Water Pollution Control Act,
25 as amended (33 U.S.C. 1163), used in a violation, shall

1 be liable in rem for any civil penalty assessed or criminal
2 fine imposed and may be proceeded against in any district
3 court of the United States having jurisdiction thereof; but
4 no vessel shall be liable unless it shall appear that one or
5 more of the owners, or bareboat charterers, was at the time
6 of the violation a consenting party or privy to such violation.

7 (f) If the provisions of any permit issued under section
8 402 or 403 are violated, the Administrator or the Secre-
9 tary, as the case may be, may revoke the permit or may
10 suspend the permit for a specified period of time. No permit
11 shall be revoked or suspended unless the permittee shall
12 have been given notice and opportunity for a hearing on
13 such violation and proposed suspension or revocation.

14 (g)(1) Except as provided in paragraph (2) of this
15 subsection any person may commence a civil suit on his
16 own behalf to enjoin any person, including the United States
17 and any other governmental instrumentality or agency (to
18 the extent permitted by the eleventh amendment to the
19 Constitution), who is alleged to be in violation of any pro-
20 hibition, limitation, criterion, or permit, established or issued
21 by or under this title. The district courts shall have juris-
22 diction, without regard to the amount in controversy or the
23 citizenship of the parties, to enforce such prohibition, limita-
24 tion, criterion, or permit, as the case may be.

25 (2) No action may be commenced—

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

5 (B) if the Attorney General has commenced and is
6 diligently prosecuting a civil action in a court of the
7 United States to require compliance with the prohibi-
8 tion, limitation, criterion, or permit; or

9 (C) if the Administrator or the Secretary has com-
10 menced action to impose a penalty pursuant to sub-
11 section (a) of this section, or has initiated permit
12 revocation or suspension proceedings under subsection
13 (f) of this section; or

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

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

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

24 (4) The court, in issuing any final order in any suit
25 brought pursuant to paragraph (1) of this subsection may

1 award costs of litigation (including reasonable attorney and
2 expert witness fees) to any party, whenever the court deter-
3 mines such award is appropriate.

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

10 (h) No person shall be subject to a civil penalty or
11 to a criminal fine or imprisonment for dumping materials
12 from a vessel if necessary in an emergency, to safeguard
13 life. Any such dumping shall be reported to the Adminis-
14 trator under such conditions as he may prescribe.

15 RELATIONSHIP TO OTHER LAWS

16 SEC. 406. (a) After the effective date of this title, all
17 licenses, permits, and authorizations other than those issued
18 pursuant to this title shall be void and of no legal effect,
19 to the extent that they purport to authorize any activity
20 regulated by this title, and whether issued before or after
21 the effective date of this title.

22 (b) The provisions of subsection (a) shall not apply
23 to actions taken before the effective date of this title under
24 the authority of the Rivers and Harbors Act of 1899 (30
25 Stat. 1451), as amended (33 U.S.C. 401 et seq.).

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

8 (c) The Secretary of the department in which the Coast
9 Guard is operating shall conduct surveillance and other
10 appropriate enforcement activity to prevent unlawful trans-
11 portation of material for dumping, or unlawful dumping.

12 REGULATIONS

13 Sec. 408. In carrying out the responsibilities and au-
14 thority conferred by this title, the Administrator and the
15 Secretary are authorized to issue such regulations as they
16 may deem appropriate.

17 INTERNATIONAL COOPERATION

18 Sec. 409. The Secretary of State, in consultation with
19 the Administrator, shall seek effective international action
20 and cooperation to insure protection of the marine environ-
21 ment, and may, for this purpose, formulate, present, or sup-
22 port specific proposals in the United Nations and other
23 competent international organizations for the development
24 of appropriate international rules and regulations in support
25 of the policy of this Act.

1 within six months of the enactment of this Act, initiate a
2 comprehensive and continuing program of monitoring and
3 research regarding the effects of the dumping of material
4 pursuant to title I of this Act, and shall from time to time
5 report his findings (including an evaluation of the short-term
6 ecological effects and economic factors involved) to the
7 Congress.

8 (b) There are authorized to be appropriated for the
9 fiscal year in which this Act is enacted and for the next two
10 fiscal years thereafter such sums as may be necessary to carry
11 out this section, but the sums appropriated for any such fiscal
12 year may not exceed \$1,000,000.

13 SEC. 202. (a) The Secretary of Commerce, in con-
14 sultation with other appropriate Federal departments, agen-
15 cies, and instrumentalities shall, within six months of the
16 enactment of this Act, initiate a comprehensive and con-
17 tinuing program of research with respect to the possible
18 long-range effects of pollution, overfishing, and man-induced
19 changes of oceans ecosystems. In carrying out such research,
20 the Secretary of Commerce shall take into account such
21 factors as existing and proposed international policies affect-
22 ing oceanic problems, economic considerations involved in
23 both the protection and the use of the oceans, possible alter-
24 natives to existing programs, and ways in which the health
25 of the oceans may best be preserved for the benefit of suc-
26 ceeding generations of mankind.

1 (b) In carrying out his responsibilities under this section,
2 the Secretary of Commerce, under the foreign policy guid-
3 ance of the President and pursuant to international agree-
4 ments and treaties made by the President with the advice
5 and consent of the Senate, may act alone or in conjunction
6 with any other nation or group of nations, and shall make
7 known the results of his activities by such channels of com-
8 munication as may appear appropriate.

9 (c) In January of each year, the Secretary of Com-
10 merce shall report to the Congress on the results of activities
11 undertaken by him pursuant to this section during the pre-
12 vious year.

13 (d) Each department, agency, and independent instru-
14 mentality of the Federal Government is authorized and
15 directed to cooperate with the Secretary of Commerce in
16 carrying out the purposes of this section and, to the extent
17 permitted by law, to furnish such information as may be
18 requested.

19 (e) The Secretary of Commerce, in carrying out his re-
20 sponsibilities under this section, shall, to the extent feasible,
21 by contract or other agreement, utilize the personnel, serv-
22 ices, and facilities of other Federal departments, agencies,
23 and instrumentalities.

24 (f) There are authorized to be appropriated for the fiscal
25 year in which this Act is enacted and for the next two fiscal

1 years thereafter such sums as may be necessary to carry out
2 this section; but the sums appropriated for any such fiscal
3 year may not exceed \$1,000,000.

4 TITLE III—MARINE SANCTUARIES

5 SEC. 301. Notwithstanding the provisions of subsection
6 (h) of section 3 of this Act, the term "Secretary", when used
7 in this title, means Secretary of Commerce.

8 SEC. 302. (a) The Secretary, after consultation with
9 the Secretaries of State, Defense, Interior, and Transporta-
10 tion and the Administrator, may designate as marine sanctu-
11 aries those areas of the oceans, coastal, and other waters, as
12 far seaward as the outer edge of the Continental Shelf, as
13 defined in the Convention on the Continental Shelf (15
14 U.S.T. 741; TIAS 5578), which he determines necessary
15 for the purpose of preserving or restoring such areas for
16 their conservation, recreational, ecological, or esthetic values.

17 (b) Prior to designating a marine sanctuary which in-
18 cludes waters lying within the territorial limits of any State
19 or superjacent to the subsoil and seabed within the seaward
20 boundary of a coastal State, as that boundary is defined in
21 section 2 of title 4 of the Act of May 22, 1953 (67 Stat.
22 29), the Secretary shall consult with, and give due con-
23 sideration to the views of, the responsible officials of the State
24 involved. As to such waters, a designation under this section
25 shall become effective sixty days after it is published, unless

1 the Governor of any State involved shall, before the expira-
2 tion of the sixty-day period, certify to the Secretary that the
3 designation, or a specified portion thereof, is unacceptable to
4 his State, in which case the designated sanctuary shall not
5 include the area certified as unacceptable until such time as
6 the Governor withdraws his certification of unacceptability.

7 (c) When a marine sanctuary is designated, pursuant
8 to this section, which includes an area more than twelve
9 miles from the baseline from which the breadth of the ter-
10 ritorial sea is measured, the Secretary of State shall take
11 action, as appropriate, to enter into agreements with other
12 Governments, in order to protect such sanctuary and pro-
13 mote the purposes for which it was established.

14 (d) The Secretary shall make his initial designation
15 under this section within two years following the date of
16 enactment of this title. Thereafter, he shall periodically des-
17 ignate such additional areas as he deems appropriate. The
18 Secretary shall submit a report annually to the Congress,
19 setting forth a comprehensive review of his actions under the
20 authority under this section, together with appropriate rec-
21 ommendations for legislation considered necessary for the
22 designation and protection of marine sanctuaries.

23 (e) Before a marine sanctuary is designated under this
24 section, the Secretary shall hold public hearings in the coastal
25 area which would be most directly affected by such designa-

1 tion, for the purpose of receiving and giving proper considera-
2 tion to the views of any interested party. Such hearings shall
3 be held no earlier than thirty days after the publication of a
4 public notice thereof.

5 (f) After a marine sanctuary has been designated under
6 this section, the Secretary shall issue necessary and reason-
7 able regulations to control any activities permitted within
8 the designated marine sanctuary, and no permit, license, or
9 other authorization issued pursuant to any other authority
10 shall be valid unless the Secretary shall certify that the per-
11 mitted activity is consistent with the purposes of this title
12 and can be carried out within the regulations promulgated
13 under this section. Such regulations shall be applied in
14 accordance with recognized principles of international law,
15 including treaties, conventions and other agreements
16 to which the United States is signatory.

17 SEC. 303. (a) Any person subject to the jurisdiction
18 of the United States who violates any regulation issued
19 pursuant to this title shall be liable to a civil penalty of
20 not more than \$50,000 for each such violation, to be as-
21 sessed by the Secretary. Each day of a continuing violation
22 shall constitute a separate violation.

23 (b) No penalty shall be assessed under this section until
24 the person charged has been given notice and an opportunity
25 to be heard. Upon failure of the offending party to pay an

1 assessed penalty, the Attorney General, at the request of the
2 Secretary, shall commence action in the appropriate district
3 court of the United States to collect the penalty and to seek
4 such other relief as may be appropriate.

5 (c) A vessel used in the violation of a regulation issued
6 pursuant to this title shall be liable in rem for any civil pen-
7 alty assessed for such violation and may be proceeded against
8 in any district court of the United States having jurisdiction
9 thereof.

10 (d) The district courts of the United States shall have
11 jurisdiction to restrain a violation of the regulations issued
12 pursuant to this title, and to grant such other relief as may
13 be appropriate. Actions shall be brought by the Attorney
14 General in the name of the United States, either on his own
15 initiative or at the request of the Secretary.

16 SEC. 304. There are authorized to be appropriated for
17 the fiscal year in which this Act is enacted and for the next
18 two fiscal years thereafter such sums as may be necessary to
19 carry out the provisions of this title, including sums for the
20 costs of acquisition, development, and operation of marine
21 sanctuaries designated under this title, but the sums appro-
22 priated for any such fiscal year shall not exceed \$10,000,000.
23 *That this Act may be cited as the "Marine Protection and Re-*
24 *search Act of 1971".*

1 (c) "Material" means, but is not limited to, dredged
2 material, solid waste, incinerator residue, garbage, sewage,
3 sludge, munitions, radiological, chemical, and biological war-
4 fare agents, high-level radioactive waste, chemicals, biological
5 and laboratory waste, wrecked or discarded equipment, rock,
6 sand, excavation debris, and industrial, municipal, agricul-
7 tural and other waste; but such term does not mean oil within
8 the meaning of section 11 of the Federal Water Pollution
9 Control Act, as amended (33 U.S.C. 1161), and does not
10 mean sewage from vessels within the meaning of section 13
11 of such Act (33 U.S.C. 1163).

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

16 (e) "Person" means any private person or entity, or
17 any officer, employee, agent, department, agency, or in-
18 strumentality of the Federal Government (except as to the
19 provisions of subsections (a) through (f) of section 101),
20 of any State or local unit of government, or of any foreign
21 government.

22 (f) "Dumping" means the addition of any material or
23 combination of materials to that part of the oceans, coastal
24 and other waters beyond the territorial jurisdiction of the
25 United States: Provided, That it does not mean a disposi-

1 *tion of any effluent from any outfall structure where such dis-*
2 *position is regulated under the provisions of the Federal*
3 *Water Pollution Control Act, as amended (33 U.S.C. 1151-*
4 *1175), or under the provisions of section 13 of the Rivers*
5 *and Harbors Act of 1899, as amended (33 U.S.C. 407),*
6 *nor does it mean a routine discharge of effluent incidental to*
7 *the propulsion of, or operation of motor-driven equipment on,*
8 *vessels; Provided further, That it does not mean the con-*
9 *struction of any fixed structure or artificial island nor the*
10 *intentional placement of any device in the oceans, coastal, and*
11 *other waters or on or in the submerged land beneath such*
12 *waters, for a purpose other than disposal, when such con-*
13 *struction or such placement is otherwise regulated by Fed-*
14 *eral or State law or occurs pursuant to an authorized Federal*
15 *or State program; And provided further, That it does not*
16 *include the deposit of oyster shells or other materials when*
17 *such deposit is made for the purpose of developing, main-*
18 *taining, or harvesting fisheries resources and is otherwise*
19 *regulated by Federal or State law or occurs pursuant to an*
20 *authorized Federal or State program.*

21 *(g) "District court of the United States" includes the*
22 *District Court of Guam, the District Court of the Virgin*
23 *Islands, the District Court of Puerto Rico, the District*
24 *Court of the Canal Zone, and in the case of American*
25 *Samoa and the Trust Territory of the Pacific Islands, the*

1 *District Court of the United States for the District of Hawaii,*
2 *which court shall have jurisdiction over actions arising*
3 *therein.*

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

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

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

13 (k) "Transport or transportation" means the carriage
14 by a vessel, and related handling, of any material or combi-
15 nation of materials for the purpose of adding such material
16 or combination of materials to the oceans, coastal, and other
17 waters.

18 TITLE I—OCEAN DUMPING

19 PROHIBITED ACTS

20 *SEC. 101. (a) No person shall transport any radio-*
21 *logical, chemical, or biological warfare agent or high-level*
22 *radioactive waste, or, except as may be authorized in a*
23 *permit issued under this title, and subject to regulations issued*
24 *under section 106(c) hereof by the Secretary of the depart-*
25 *ment in which the Coast Guard is operating, any other*

1 *material from the United States for the purpose of dumping*
2 *into the waters described in section 101(b).*

3 *(b) No person shall dump any radiological, chemical,*
4 *or biological warfare agent or high-level radioactive waste,*
5 *or, except as may be authorized in a permit issued under*
6 *this title, any other material (1) in a zone contiguous*
7 *to the territorial sea of the United States, extending to a line*
8 *twelve nautical miles seaward from the base line from which*
9 *the breadth of the territorial sea is measured, to the extent*
10 *that it may affect the territorial sea or the territory of the*
11 *United States, or (2) in said contiguous zone or in other*
12 *high seas areas of the oceans, coastal, and other waters, when*
13 *transported by any person subject to the jurisdiction of the*
14 *United States by the fact of removing material therefrom.*

15 *(c) No officer, employee, agent, department, agency,*
16 *or instrumentality of the United States shall transport any*
17 *radiological, chemical, or biological warfare agent or high-*
18 *level radioactive waste, or, except as may be authorized in*
19 *a permit issued under this title, any other material from any*
20 *location outside the territory of the United States for the*
21 *purpose of dumping it into the oceans, coastal, and other*
22 *waters.*

23 *ENVIRONMENTAL PROTECTION AGENCY PERMITS*

24 *SEC. 102. (a) Except in relation to radiological, chemi-*
25 *cal, and biological warfare agents and high-level radioactive*

1 waste, as provided for in section 101 of this title, the Adminis-
2 trator may issue permits, after notice and opportunity for
3 public hearing, for the transportation of material for dump-
4 ing or for the dumping of material into the waters described
5 in section 101(b), where the Administrator determines that
6 such transportation, or dumping, or both, will not degrade or
7 endanger human health, welfare, or amenities, or the marine
8 environment, ecological systems, or economic potentialities.
9 The Administrator shall establish and apply criteria for
10 reviewing and evaluating such permit applications, and, in
11 establishing or revising such criteria, shall consider, but not
12 be limited in his consideration to, the following:

13 (A) The need for the proposed dumping.

14 (B) The effect of such dumping on human health
15 and welfare, including economic, esthetic, and recrea-
16 tional values.

17 (C) The effect of such dumping on fisheries re-
18 sources, plankton, fish, shellfish, wildlife, shorelines and
19 beaches.

20 (D) The effect of such dumping on marine eco-
21 systems, particularly with respect to—

22 (i) the transfer, concentration, and dispersion
23 of such material and its byproducts through bio-
24 logical, physical, and chemical processes,

1 (ii) potential changes in marine ecosystem di-
2 versity, productivity, and stability, and

3 (iii) species and community population dy-
4 namics.

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

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

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

14 (II) The effect on alternate uses of the oceans, such
15 as scientific study, fishing, and other living resource ex-
16 ploitation, and nonliving resource exploitation.

17 In establishing or revising such criteria, the Administrator
18 shall consult with the Secretaries of Commerce, Interior,
19 State, Defense, Agriculture, Health, Education, and Wel-
20 fare, and Transportation, the Atomic Energy Commission,
21 and other appropriate Federal, State, and local officials.

22 With respect to such criteria as may affect the civil works
23 program of the Department of the Army, the Administrator
24 shall also consult with the Secretary. In reviewing applica-
25 tions for permits, the Administrator shall make such pro-

1 rision for consultation with interested Federal and State
2 agencies as he deems useful or necessary.

3 (b) The Administrator may establish and issue various
4 categories of permits, including the general permits described
5 in section 103(c).

6 (c) The Administrator may, considering the criteria
7 established pursuant to subsection (a) of this section, desig-
8 nate recommended sites or times for dumping and, when he
9 finds it necessary to protect critical areas, shall, after consul-
10 tation with the Secretary, also designate sites or times within
11 which certain materials may not be dumped.

12 (d) Any application for a permit under this section for
13 the transportation for dumping or dumping of dredged mate-
14 rial into the waters described in section 101(b) shall be
15 accompanied by a certificate from the Secretary that the area
16 chosen for dumping is the only reasonably available alterna-
17 tive and, unless the Administrator finds that the material to
18 be dumped will adversely affect municipal water supplies,
19 shellfish beds, wildlife, fisheries (including spawning and
20 breeding areas), or recreation areas, such permit shall issue.

21 PERMIT CONDITIONS

22 SEC. 103. (a) Permits issued under this title shall
23 designate and include (1) the type of material authorized to
24 be transported for dumping or to be dumped; (2) the
25 amount of material authorized to be transported for dump-

1 ing or to be dumped; (3) the location where such trans-
2 portation for dumping will be terminated or where such
3 dumping will occur; (4) the length of time for which the
4 permits are valid and their expiration date; (5) any special
5 provisions deemed necessary by the Administrator, after con-
6 sultation with the Secretary of the department in which the
7 Coast Guard is operating, for the monitoring, surveillance,
8 and enforcement of the transportation or dumping; and (6)
9 such other matters as the Administrator deems appropriate.

10 (b) The Administrator may prescribe such processing
11 fees for permits and such reporting requirements for actions
12 taken pursuant to permits issued by him under this title as he
13 deems appropriate.

14 (c) Notwithstanding any other provision of this title,
15 the Administrator may issue general permits for the trans-
16 portation for dumping, or dumping, or both, of specified
17 material or classes of materials for which he may issue
18 permits, which he determines will have a minimal adverse
19 environmental impact.

20 (d) Any permit issued under this Act shall be reviewed
21 not less frequently than every three years, and, if appropri-
22 ate, revised. The Administrator may limit or deny the issu-
23 ance of permits, or may alter or revoke partially or entirely
24 the terms of permits issued by him under this title, for the

1 *transportation for dumping, or the dumping, or both, of*
2 *specified material, or classes of material, where he finds that*
3 *such material cannot be dumped consistently with the criteria*
4 *and other factors required to be applied in evaluating the*
5 *permit application. No action shall be taken under this sub-*
6 *section unless the affected person or permittee shall have been*
7 *given notice and opportunity for hearing on such action as*
8 *proposed.*

9 *(e) The Administrator shall require an applicant for a*
10 *permit under this title to provide such information as he may*
11 *consider necessary to review and evaluate such application.*

12 *(f) Information received by the Administrator as a*
13 *part of any application or in connection with any permit*
14 *granted under this title shall be available to the public as a*
15 *matter of public record, at every stage of the proceeding sub-*
16 *ject to the provisions of section 552 of title 5 of the United*
17 *States Code. The final determination of the Administrator*
18 *shall be likewise available.*

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

P E N A L T I E S

1

2 *SEC. 104. (a) Any person who violates any provi-*
3 *sion of this title, or of the regulations promulgated under this*
4 *title, or a permit issued under this title shall be liable to a*
5 *civil penalty of not more than \$50,000 for each violation*
6 *to be assessed by the Administrator. No penalty shall be*
7 *assessed until the person charged shall have been given*
8 *notice and an opportunity for a hearing on such violation.*
9 *In determining the amount of the penalty, the gravity of*
10 *the violation, prior violations, and the demonstrated good*
11 *faith of the person charged in attempting to achieve rapid*
12 *compliance after notification of a violation shall be consid-*
13 *ered by said Administrator. For good cause shown, the*
14 *Administrator may remit or mitigate such penalty. Upon*
15 *failure of the offending party to pay the penalty, the Admin-*
16 *istrator may request the Attorney General to commence*
17 *an action in the appropriate district court of the United*
18 *States for such relief as may be appropriate.*

19

20 *(b) In addition to any action which may be brought*
21 *under subsection (a) of this section, a person who know-*
22 *ingly violates this title, regulations promulgated under this*
23 *title, or a permit issued under this title shall be fined not*
24 *more than \$50,000, or imprisoned for not more than one*
year, or both.

25

(c) Any person who knowingly makes any false state-

1 ment, representation, or certification in any application, rec-
2 ord, report, plan, or other document filed or required to be
3 maintained under this Act or who falsifies, tampers with, or
4 knowingly renders inaccurate any monitoring device or
5 method required to be maintained under this Act, shall, upon
6 conviction, be punished by a fine of not more than \$10,000,
7 or by imprisonment for not more than six months, or by both.

8 (d) For the purpose of imposing civil penalties and
9 criminal fines under this section, each day of a continuing
10 violation shall constitute a separate offense as shall the dump-
11 ing from each of several vessels, or other sources.

12 (e) The Attorney General or his delegate may bring
13 actions for equitable relief to enjoin an imminent or contin-
14 uing violation of this title, of regulations promulgated under
15 this title, or of permits issued under this title, and the district
16 courts of the United States shall have jurisdiction to grant
17 such relief as the equities of the case may require.

18 (f) A vessel, except a public vessel within the meaning
19 of section 13 of the Federal Water Pollution Control Act,
20 as amended (33 U.S.C. 1163), used in a violation, shall
21 be liable in rem for any civil penalty assessed or criminal
22 fine imposed and may be proceeded against in any district
23 court of the United States having jurisdiction thereof; but
24 no vessel shall be liable unless it shall appear that one or

1 more of the owners, or bareboat charterers, was at the time
2 of the violation a consenting party or privy to such violation.

3 (g) If the provisions of any permit issued under sec-
4 tion 102 are violated, the Administrator may revoke the per-
5 mit or may suspend the permit for a specified period of time.
6 No permit shall be revoked or suspended unless the permittee
7 shall have been given notice and opportunity for a hearing on
8 such violation and proposed suspension or revocation.

9 (h)(1) Except as provided in paragraph (2) of this
10 subsection any person may commence a civil suit on his own
11 behalf to enjoin any person, including the United States and
12 any other governmental instrumentality or agency (to the
13 extent permitted by the eleventh amendment to the Constitu-
14 tion), who is alleged to be in violation of any prohibition, lim-
15 itation, criterion, or permit, established or issued by or under
16 this title. The district courts shall have jurisdiction, without
17 regard to the amount in controversy or the citizenship of the
18 parties, to enforce such prohibition, limitation, criterion, or
19 permit, as the case may be.

20 (2) No action may be commenced—

21 (A) prior to sixty days after notice of the viola-
22 tion has been given to the Administrator and to any
23 alleged violator of the prohibition, limitation, criterion, or
24 permit; or

25 (B) if the Attorney General has commenced and is

1 *diligently prosecuting a civil action in a court of the*
2 *United States to require compliance with the prohibition,*
3 *limitation, criterion, or permit; or*

4 *(C) if the Administrator has commenced action to*
5 *impose a penalty pursuant to subsection (a) of this sec-*
6 *tion, or has initiated permit revocation or suspension pro-*
7 *ceedings under subsection (f) of this section; or*

8 *(D) if the United States has commenced and is dil-*
9 *igently prosecuting a criminal action in a court of the*
10 *United States or a State to redress a violation of this*
11 *title.*

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

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

18 *(4) The court, in issuing any final order in any suit*
19 *brought pursuant to paragraph (1) of this subsection may*
20 *award costs of litigation (including reasonable attorney and*
21 *expert witness fees) to any party, whenever the court deter-*
22 *mines such award is appropriate. The court may, if a tempo-*
23 *rary restraining order or preliminary injunction is sought,*
24 *require the filing of a bond or equivalent security in accord-*
25 *ance with the Federal Rules of Civil Procedure.*

1 shall consult with the Secretary and no permit shall be issued
2 if the Secretary determines that navigation will be unreason-
3 ably impaired.

4 (c) After the effective date of this title, no State shall
5 adopt or enforce any rule or regulation relating to any activ-
6 ity regulated by this title. Any State may, however, propose
7 to the Administrator criteria relating to the dumping of mate-
8 rials into the waters described in subsection 101(b) which
9 might affect waters within the jurisdiction of such State and,
10 if the Administrator determines, after notice and opportunity
11 for hearing, that the proposed criteria are not inconsistent
12 with the purposes of this title, he may adopt those criteria and
13 may issue regulations to implement such criteria. Such deter-
14 mination shall be made by the Administrator within one hun-
15 dred and twenty days of receipt of the proposed criteria. For
16 the purposes of this subsection, the term "State" means any
17 State, interstate, or regional authority, Federal territory or
18 Commonwealth, or the District of Columbia.

19 (d) Nothing in this title shall be deemed to affect in
20 any manner or to any extent any provision of the Fish and
21 Wildlife Coordination Act as amended (16 U.S.C. 661-
22 666e).

23 ENFORCEMENT

24 SEC. 106. (a) The Administrator may, whenever ap-
25 propriate, utilize by agreement, the personnel, services, and

1 *facilities of other Federal departments, agencies, and instru-*
2 *mentalities, or State agencies or instrumentalities, whether on*
3 *a reimbursable or a nonreimbursable basis, in carrying out*
4 *his responsibilities under this title.*

5 (b) *The Administrator may delegate responsibility and*
6 *authority for reviewing and evaluating permit applications,*
7 *including the decision as to whether a permit will be issued, to*
8 *an officer of his agency, or he may delegate, by agreement,*
9 *such responsibility and authority to the heads of other Federal*
10 *departments or agencies, whether on a reimbursable or non-*
11 *reimbursable basis.*

12 (c) *The Secretary of the department in which the Coast*
13 *Guard is operating shall conduct surveillance, monitoring as*
14 *requested by the Secretary of Commerce, and other appropri-*
15 *ate enforcement activity to prevent unlawful transportation*
16 *of material for dumping, or unlawful dumping. Such enforc-*
17 *ment activities shall include, but not be limited to, enforcement*
18 *of regulations issued by the Secretary of the department in*
19 *which the Coast Guard is operating, establishing specifications*
20 *for safe transportation, handling, carriage, storage, and*
21 *stowage. Upon request by other departments and agencies*
22 *having responsibilities under this Act, the Secretary of the*
23 *department in which the Coast Guard is operating shall*
24 *supply such information as they may require on a reim-*
25 *bursable basis.*

REGULATIONS

1
2 *SEC. 107. In carrying out the responsibilities and au-*
3 *thority conferred by this title, the Administrator and the*
4 *Secretary of the department in which the Coast Guard is*
5 *operating, are authorized to issue such regulations as they*
6 *may deem appropriate.*

INTERNATIONAL COOPERATION

7
8 *SEC. 108. The Secretary of State, in consultation with*
9 *the Administrator, shall seek effective international action and*
10 *cooperation to insure protection of the marine environment,*
11 *and may, for this purpose, formulate, present, or support*
12 *specific proposals in the United Nations and other competent*
13 *international organizations for the development of appropri-*
14 *ate international rules and regulations in support of the policy*
15 *of this Act.*

EFFECTIVE DATE AND SAVINGS PROVISION

16
17 *SEC. 109. (a) This title shall take effect six months after*
18 *the date of the enactment of this Act.*

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

AUTHORIZATION FOR APPROPRIATIONS

22
23 *SEC. 110. There are hereby authorized to be appropri-*
24 *ated not to exceed \$3,600,000 for fiscal year 1973 or*

1 \$5,500,000 for fiscal year 1974 for the purposes and admin-
2 istration of this title.

3 ANNUAL REPORTS

4 SEC. 111. The Administrator shall report annually on
5 or before June 30 of each year beginning June 30, 1972, to
6 the President and to the Congress on his administration of this
7 title, including recommendations for additional legislation if
8 deemed necessary.

9 TITLE II—COMPREHENSIVE RESEARCH ON
10 OCEAN DUMPING

11 SEC. 201. (a) The Secretary of Commerce, in coordi-
12 nation with the Secretary of the Department in which the
13 Coast Guard is operating and with the Administrator shall,
14 within six months of the enactment of this Act, initiate a
15 comprehensive and continuing program of research regard-
16 ing the effects of the dumping of material in the ocean, coastal
17 and other waters, and shall from time to time report his find-
18 ings (including an evaluation of the short-term ecological ef-
19 fects and the social and economic factors involved) to the
20 Congress.

21 (b) There are authorized to be appropriated for the
22 fiscal year in which this Act is enacted and for the next two
23 fiscal years thereafter such sums as may be necessary to
24 carry out this section, but the sums appropriated for any
25 such fiscal year may not exceed \$1,000,000.

1 *SEC. 202. (a) The Secretary of Commerce, in consulta-*
2 *tion with other appropriate Federal departments, agencies,*
3 *and instrumentalities shall, within six months of the enactment*
4 *of this Act, initiate a comprehensive and continuing program*
5 *of research with respect to the possible long-range effects of*
6 *pollution, overfishing, and man-induced changes of ocean eco-*
7 *systems. In carrying out such research, the Secretary of Com-*
8 *merce shall take into account such factors as existing and pro-*
9 *posed international policies affecting oceanic problems, eco-*
10 *nomie considerations involved in both the protection and the*
11 *use of the oceans, possible alternatives to existing programs,*
12 *and ways in which the health of the oceans, coastal and other*
13 *waters may best be preserved for the benefit of succeeding gen-*
14 *erations of mankind.*

15 *(b) In carrying out its responsibilities under this sec-*
16 *tion, the Secretary of Commerce, under the foreign policy*
17 *guidance of the President and pursuant to international*
18 *agreements and treaties made by the President with the advice*
19 *and consent of the Senate, may act alone or in conjunction*
20 *with any other nation or group of nations, and shall make*
21 *known the results of its activities by such channels of com-*
22 *munication as may appear appropriate.*

23 *(c) In January of each year, the Secretary of Com-*
24 *merce shall report to the President and to the Congress on*

1 *the results of activities undertaken by it pursuant to this title*
2 *during the previous fiscal year.*

3 *(d) Each department, agency, and independent instru-*
4 *mentality of the Federal Government is authorized and di-*
5 *rected to cooperate with the Secretary of Commerce in carry-*
6 *ing out the purposes of this title and, to the extent permitted*
7 *by law, to furnish such information as may be requested.*

8 *(e) There are authorized to be appropriated for the*
9 *fiscal year in which this Act is enacted and for the next two*
10 *fiscal years thereafter such sums as may be necessary to*
11 *carry out this section, but the sums appropriated for any*
12 *such fiscal year may not exceed \$1,000,000.*

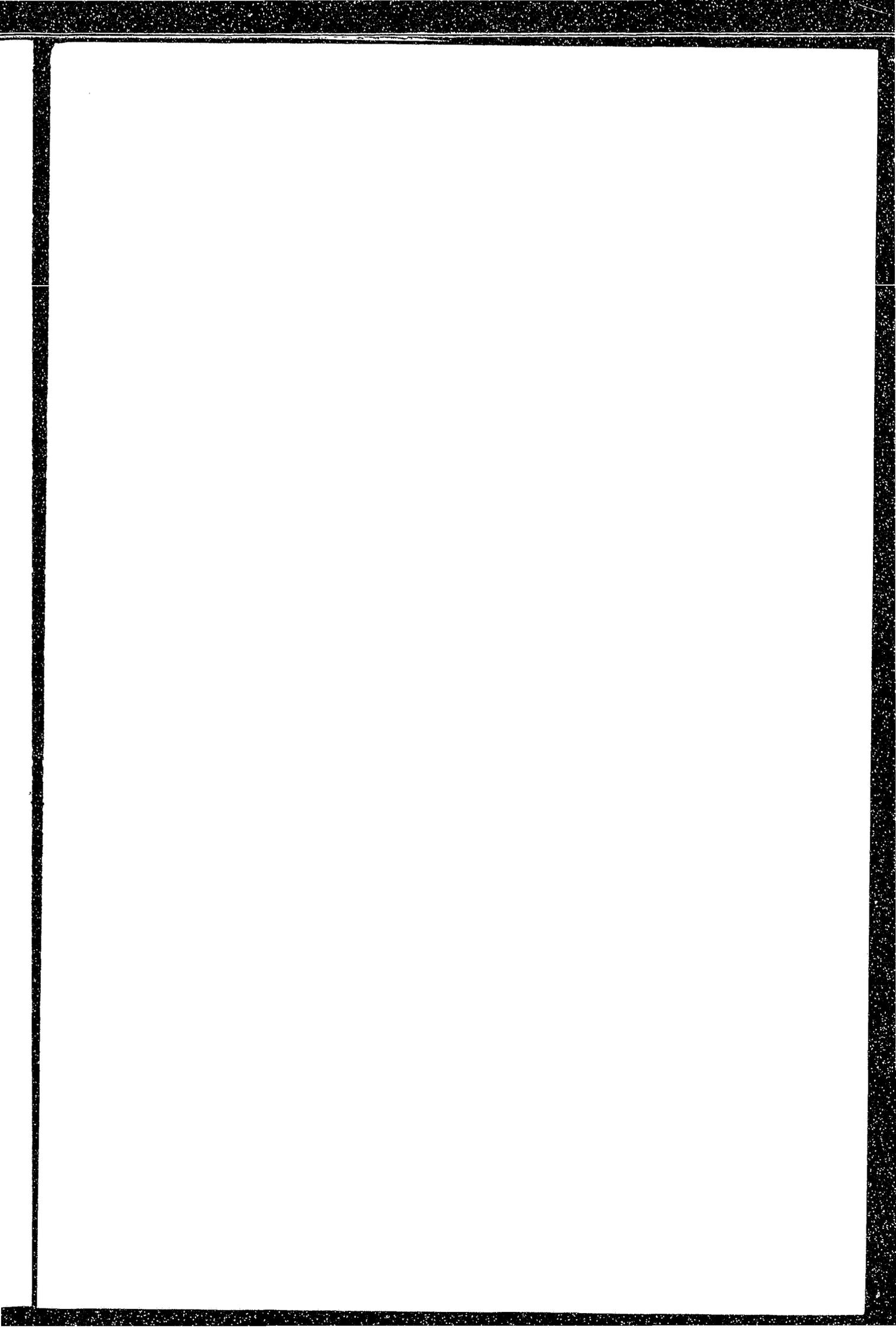
Amend the title so as to read: "An Act to regulate the transportation for dumping and dumping of material in the oceans, coastal, and other waters, and for other purposes."

Passed the House of Representatives September 9, 1971.

Attest:

W. PAT JENNINGS,

Clerk.



Calendar No. 439

92nd CONGRESS
1ST SESSION

H. R. 9727

[Report No. 92-451]

AN ACT

To regulate the dumping of material in the oceans, coastal, and other waters, and for other purposes.

SEPTEMBER 10, 1971
Received

SEPTEMBER 14, 1971
Read twice and referred jointly to the Committees on
Commerce and Public Works

NOVEMBER 12, 1971
Reported with amendments