

ANTARCTIC ENVIRONMENTAL PROTECTION ACT OF 1996

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MAY 23, 1996.—Ordered to be printed  
—————

Mr. WALKER, from the Committee on Science,  
submitted the following

R E P O R T

[To accompany H.R. 3060]

[Including cost estimate of the Congressional Budget Office]

The Committee on Science, to whom was referred the bill (H.R. 3060) to implement the Protocol on Environmental Protection to the Antarctic Treaty, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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### I. PURPOSE OF THE BILL

The purpose of the bill is to provide the necessary legislative authority for the United States to implement the 1991 Protocol on Environmental Protection to the Antarctic Treaty.

### II. BACKGROUND AND NEED FOR LEGISLATION

The 1991 Protocol on Environmental Protection to the Antarctic Treaty established specific principles and rules for protection of the Antarctic environment from human activities. Specifically, the Protocol addresses the protection of flora and fauna, imposes strict limits on the discharge of pollutants, and requires environmental impact assessments of planned governmental and non-governmental activities. The Protocol also forbids prospecting or development of Antarctic mineral resources, but excludes scientific research. In 1992, the U.S. Senate gave its consent to ratify the measure; however, implementing legislation was never enacted. In order for the Protocol to be fully effective and enforceable, all 26 of the Antarctic Treaty Consultative Parties must ratify the Protocol. Of the 26 Antarctic Treaty Consultative Parties only 20 have ratified the Protocol, leaving the United States, Russia, Japan, India, Belgium, and Finland to complete action. H.R. 3060 provides the necessary legislative authority for the United States to implement the Protocol.

### III. SUMMARY OF HEARING

On April 18, 1996, the Committee on Science held a hearing to receive testimony on H.R. 3060, the Antarctic Environmental Protection Act of 1996. H.R. 3060 implements the Environmental Protocol to the Antarctic Treaty. Witnesses included Dr. Neal Lane, Director, National Science Foundation; Ms. Eileen Claussen, Assistant Secretary of State, Oceans and International Environmental and Scientific Affairs, U.S. Department of State; Ms. Kathryn Fuller, President, World Wildlife Fund; and Dr. Robert Rutford, Program of Geosciences, University of Texas, at Dallas. The witnesses conveyed strong support for the passage of H.R. 3060, testifying that the bill comprehensively and effectively implements the Protocol.

### IV. COMMITTEE ACTIONS

On April 24, 1996, the Committee met to markup H.R. 3060, the Antarctic Environmental Protection Act of 1996. The bill was adopted, without amendment, by voice vote, and ordered reported to the full House, by voice vote, for consideration.

## V. SUMMARY OF MAJOR PROVISIONS OF THE BILL

Title I of H.R. 3060 amends the Antarctic Conservation Act of 1978 by providing definitions, prohibited acts, and an environmental impact assessment. Title II amends the Antarctic Protection Act of 1990 by prohibiting mineral resource activities in the Antarctic. Title III amends the Act to Prevent the Pollution from Ships to conform to the International Convention for the Prevention of Pollution from Ships as modified by the Protocol in 1978 (MARPOL) Protocol.

## VI. SECTION-BY-SECTION ANALYSIS

### *Sec. 1. Short Title*

Cites the Act as the “Antarctic Environmental Protection Act of 1996.”

### TITLE I—AMENDMENTS TO THE ANTARCTIC CONSERVATION ACT OF 1978

#### *Sec. 101. Findings and purpose*

Amends section 2 of the Antarctic Conservation Act of 1978 to conform with the following: (1) Congress finds that the Antarctic Treaty and the Protocol on Environmental Protection to the Antarctic Treaty establishes a firm foundation for the protection of the Antarctic environment, international cooperation and freedom from scientific investigation; and (2) the purpose of the Act is to provide legislative authority to implement the Protocol.

#### *Sec. 102. Definitions*

Amends definitions in section 3 of the Antarctic Conservation Act of 1978. Defines (1) “Administrator” as the Administrator of the Environmental Protection Agency; (2) “Antarctica” as the area south of 60 degrees south latitude; (3) “Antarctic Specially Protected Area” as an area identified as such pursuant to Annex V to the Protocol; (4) “Director” as the Director of the National Science Foundation; (5) “harmful interference” as:

- (A) flying or landing helicopters or other aircraft in a manner that disturbs concentrations of birds or seals; (B) using vehicles or vessels including hovercraft and small boats, in a manner that disturbs concentrations of birds or seals; (C) using explosives or firearms in a manner that disturbs concentrations of birds or seals; (D) willfully disturbing breeding or molting birds or concentrations of birds or seals by persons on foot; (E) significantly damaging concentrations of native terrestrial plants by landing aircraft, driving vehicles, or walking on them; and (F) any activity that results in the significant adverse modification of habitats of any species of population of native mammal, native bird, native plant, or native invertebrate;
- (6) “historic site or monument” as any site or monument listed as a historic site or monument pursuant to Annex V to the Protocol;
- (7) “impact” as an impact on the Antarctic environment and de-

pendent and associated ecosystems; (8) “import” as to land on, bring into, or introduce into, or attempt to land on, bring into or introduce into, any place subject to the jurisdiction of the U.S., including the 12-mile territorial sea of the U.S., whether or not such act constitutes an importation within the meaning of the customs laws of the U.S.; (9) “native bird” as any member of any species of the class Aves which is indigenous to Antarctica or occurs there seasonally through natural migrations; (10) “native invertebrate” as any terrestrial or freshwater invertebrate which is indigenous to Antarctica; (11) “native mammal” as any member of any species of the class Mammalia, which is indigenous to Antarctic; (12) “native plant” as any terrestrial or freshwater vegetation, which is indigenous to Antarctica; (13) “non-native species” as any species of animal or plant which is not indigenous to Antarctica; (14) “person” has the meaning given that term in section 1 of title 1, U.S. Code, and includes any person subject to the jurisdiction of the U.S. and any department, agency, or other instrumentality of the federal government or any state or local government; (15) “prohibited product” as any substance banned from introduction onto land or ice shelves or into water in Antarctica pursuant to Annex III to the Protocol; (16) “prohibited waste” as any substance which must be removed from Antarctica pursuant to Annex III to the Protocol, but does not include materials used for balloon envelopes required for scientific research and weather forecasting; (17) “Protocol” as the Protocol on Environmental Protection to the Antarctic Treaty; (18) “Secretary” as the Secretary of Commerce; (19) “Specially Protected Species” as any native species designated as a Specially Protected Species pursuant to Annex II to the Protocol; (20) “take” as to kill, injure, capture, handle, or molest a native mammal or bird, or to remove or damage such quantities of native plants that their local distribution or abundance would be significantly affected; (21) “Treaty” as the Antarctic Treaty of 1959; (22) “United States” as the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and any other commonwealth, territory, or possession of the U.S.; and (23) “vessel subject to the jurisdiction of the United States” as any “vessel of the United States” and any “vessel subject to the jurisdiction of the United States” as those terms are defined in section 303 of the Antarctic Marine Living Resources Convention Act of 1984.

*Sec. 103. Prohibited Acts*

Specifies prohibited actions associated with disposal of pollutants, harming historic sites, control of tourism, interference with enforcement officials, and violation of regulations and permits. Specifies actions which are prohibited unless authorized by a permit, including waste disposal, introduction of non-native species, entering protected areas, disturbing native species, and transporting or possessing native birds, mammals or plants. Some exceptions to these prohibitions are allowed under emergency circumstances.

*Sec. 104. Environmental Impact Assessment*

Establishes the policy that obligations under the Protocol for environmental impact assessments for federal agency activities are to

be satisfied by application of the National Environmental Policy Act. Specifies that environmental impact assessments for Antarctic joint activities (to be defined through regulations) carried out in cooperation with one or more foreign governments shall not be conducted by the United States, provided that the Secretary of State determines that a major part of the joint activity is being contributed by another nation, which is coordinating the environmental assessment and which has acceded to the Protocol. The Administrator of EPA is required to promulgate regulations to provide for the environmental impact assessment of non-governmental activities, such as tourism.

*Sec. 105. Permits*

Amends the Permits section of the Antarctic Conservation Act of 1978 to conform to the terminology and requirements of the Protocol, including specifying the need for a permit for killing or capturing native birds or mammals associated with scientific activities or the construction and operation of scientific support facilities.

*Sec. 106. Regulations*

Specifies, with two exceptions noted subsequently, that NSF shall issue all regulations to implement the Protocol and Act, including Annex II (Conservation of Antarctic Fauna and Flora), Annex V (Area Protection and Management), and Article 15 (Emergency Response Action) with respect to land areas and ice shelves. Specifies that NSF shall, with the concurrence of EPA, issue regulations to implement Annex III (Waste Disposal and Waste Management) of the Protocol. Specifies that the Coast Guard shall issue regulations to implement Annex IV (Prevention of Marine Pollution) of the Protocol and, with the concurrence of NSF, shall issue regulations to implement Article 15 of the Protocol with respect to ships.

*Sec. 107. Saving Provisions*

Amends section 14 of the Antarctic Conservation Act of 1978 to ensure that all regulations promulgated under this Act remain in effect until superseding regulations are promulgated.

TITLE II—AMENDMENTS TO ANTARCTIC PROTECTION ACT OF 1990

*Sec. 201. Finding and Purpose*

Amends section 2 of the Antarctic Protection Act of 1990 to bring it into conformity with the ban on mineral resource activities in Article 7 of the Protocol.

*Sec. 202. Prohibition of Antarctic Mineral Resource Activities*

Provides an indefinite ban on Antarctic mineral resource activities, other than for scientific purposes.

*Sec. 203. Additional Amendments*

Repeals sections five and seven of the Antarctic Protection Act of 1990 and redesignates section six as section five.

TITLE III—AMENDMENTS TO THE ACT TO PREVENT POLLUTION FROM SHIPS

*Sec. 301. Amendments*

Amends the Act to Prevent Pollution from Ships by inserting such references to Annex IV of the Protocol as necessary to implement the Protocol's provisions on prevention of marine pollution.

VII. CONGRESSIONAL BUDGET OFFICE ANALYSIS AND COST ESTIMATES

CONGRESSIONAL BUDGET OFFICE  
U.S. CONGRESS  
WASHINGTON, DC. 20515  
JUNE E. O'NEILL, DIRECTOR

May 9, 1996

Honorable Robert S. Walker,  
*Chairman, Committee on Science*  
*U.S. House of Representatives*  
*Washington, DC. 20515*

DEAR MR. CHAIRMAN:

The Congressional Budget Office has reviewed H.R. 3060, the Antarctic Environmental Protection Act of 1996, as ordered reported by the House Committee on Science on April 24, 1996. We estimate that enacting this bill would require various agencies to write new regulations regarding protection of the Antarctic environment at an estimated cost to the Federal Government of \$2 million to \$5 million over the 1997-2000 period, assuming appropriation of the necessary amounts. In addition, the bill also would increase governmental receipts and direct spending, but such changes would be less than \$500,000 for each year. Because the bill would affect direct spending and receipts, pay-as-you-go procedures would apply. The bill does not contain any intergovernmental or private sector mandates as defined in Public Law 104-4.

*Bill Purpose.* H.R. 3060 would implement the Protocol on Environmental Protection to the Antarctic Treaty by amending the Antarctic Conservation Act of 1978, the Antarctic Protection Act of 1990, and the Act to Prevent Pollution from Ships. The bill would prohibit Antarctic mineral resource activity, the introduction of specified products into the Antarctic, and certain waste disposal practices. Specifically, the legislation would require the National Science Foundation (NSF) to issue regulations on the protection of Antarctic flora and fauna, waste disposal and management, and other areas necessary to implement the Protocol. It also would require the Coast Guard to promulgate regulations prohibiting marine pollution in the Antarctic, and would establish civil and criminal penalties for violations of these regulations. H.R. 3060 would direct the Environmental Protection Agency to issue regulations within two years of enactment regarding assessments of the environmental impact of nongovernmental activities, including tourism, in the Antarctic. Finally, the bill would apply the National Environmental Policy Act of 1969 (NEPA) to proposed activities of federal agencies in Antarctica.

*Federal Budgetary Impact.* Based on information from the affected agencies, CBO estimates that issuing the regulations called for by this legislation would cost \$2 million to \$5 million over the 1997-2000 period, assuming appropriation of the necessary funds. We estimate that applying NEPA to activities of federal agencies in the Antarctic would not result in additional expenditures by such agencies because they already prepare environmental impact statements under NEPA for activities in the Antarctic. Likewise, federal agencies have already taken steps to bring their activities in the Antarctic into compliance with the terms of the Antarctic Treaty. Hence, we estimate that enacting this bill would not significantly increase the cost of government operations there.

CBO estimates that collections from new civil and criminal penalties would increase governmental receipts by less than \$500,000 annually. Payments of criminal fines would be deposited in the Crime Victims Fund and would be spent, without the need for appropriations action, in the following year. Therefore, additional direct spending from the Crime Victims Fund would also be negligible.

*Mandates Statement.* Section 4 of the Unfunded Mandates Reform Act of 1995 excludes from the application of that act any legislative provisions that are necessary

for the ratification or implementation of international treaty obligations. CBO has determined that all provisions of this bill fit within that exclusion, because they are necessary for the implementation of the Protocol on Environmental Protection to the Antarctic Treaty.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts for estimates of spending are Kim Cawley, Kathleen Gramp, Deborah Reis, and Gary Brown, who can be reached at 226-2720.

Sincerely,

JUNE E. O'NEILL, *Director*

cc: Honorable George E. Brown, Jr., Ranking Minority Member

### VIII. EFFECT OF LEGISLATION ON INFLATION

In accordance with rule XI, clause 2(1)(4) of the Rules of the House of Representatives, this legislation is assumed to have no inflationary effect on prices and costs in the operation of the national economy.

### IX. OVERSIGHT FINDINGS AND RECOMMENDATIONS

Clause 2(1)(3)(A) of rule XI requires each committee report to contain oversight findings and recommendations required pursuant to clause 2(b)(1) of rule X. The Committee has no oversight findings.

### X. OVERSIGHT FINDINGS AND RECOMMENDATIONS BY THE COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

Clause 2(1)(3)(D) of rule XI requires each committee report to contain a summary of the oversight findings and recommendations made by the Government Reform and Oversight Committee pursuant to clause 4(c)(2) of rule X, whenever such findings have been timely submitted. The Committee on Science has received no such findings or recommendations from the Committee on Government Reform and Oversight.

### XI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

### ANTARCTIC CONSERVATION ACT OF 1978

\* \* \* \* \*

#### [SEC. 2. FINDINGS AND PURPOSE.

[(a) FINDINGS.—The Congress finds that—

[(1) the Antarctic Treaty and the Agreed Measures for the Conservation of Antarctic Fauna and Flora, adopted at the Third Antarctic Treaty Consultative Meeting, have established a firm foundation for the continuation of international cooperation and the freedom of scientific investigation in Antarctica; and

[(2) the study of Antarctic fauna and flora, their adaptation to their rigorous environment, and their interrelationships with that environment has special scientific importance for all mankind.

[(b) PURPOSE.—The purpose of this Act is to provide for the conservation and protection of the fauna and flora of Antarctica, and of the ecosystem upon which such fauna and flora depend, consistent with the Antarctic Treaty, the Agreed Measures for the Conservation of Antarctic Fauna and Flora, and Recommendation VII-3 of the Eighth Antarctic Treaty Consultative Meeting.

**[SEC. 3. DEFINITIONS.**

[For purposes of this Act—

[(1) The term “Agreed Measures” means the Agreed Measures for the Conservation of Antarctic Fauna and Flora—

[(A) as recommended to the Consultative Parties for approval at the Third Antarctic Treaty Consultative Meeting; and

[(B) as amended from time to time in accordance with Article IX(1) of the Treaty.

[(2) The term “Antarctica” means the area south of 60 degrees south latitude.

[(3) The term “collect” means to cut, sever, or move, or to attempt to engage in any such conduct.

[(4) The term “Director” means the Director of the National Science Foundation or an officer or employee of the Foundation designated by the Director.

[(5) The term “foreign person” means—

[(A) any individual who is a citizen or national of a foreign nation,

[(B) any corporation, partnership, trust, association, or other legal entity existing or organized under the laws of any foreign nation, and

[(C) any department, agency, or other instrumentality of any foreign nation and any officer, employee, or agent of any such instrumentality.

[(6) The term “native bird” means any member, at any stage of its life cycle (including eggs), of any species of the class Aves which is designated as a native species by the Director under section 6(b)(1), and includes any part of any such member.

[(7) The term “native mammal” means any member, at any stage of its life cycle, of any species of the class Mammalia, other than any species regulated by the International Whaling Commission, which is designated as a native species by the Director under section 6(b)(1), and includes any part of such member.

[(8) The term “native plant” means any member of any species of plant at any stage of its life cycle (including seeds) which is designated as such by the Director under section 6(b)(1), and includes any part of any such member.

[(9) The term “pollutant” means any substance designated as such by the Director under section 6(b)(6).

[(10) The term “site of special scientific interest” means any area designated as such by the Director under section 6(b)(3).



[(11) The term “specially protected area” means any area designated as such by the Director under section 6(b)(4).

[(12) The term “specially protected species” means any species of native mammal or native bird designated as such by the Director under section 6(b)(5).

[(13) The term “take” means to harass, molest, harm, pursue, hunt, shoot, wound, kill, trap, or capture, or to attempt to engage in any such conduct.

[(14) The term “Treaty” means the Antarctic Treaty signed in Washington, D.C., on December 1, 1959.

[(15) The term “United States” means the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territory of the Pacific Islands, including the Government of the Northern Mariana Islands.

[(16) The term “United States citizen” means—

[(A) any individual who is a citizen or national of the United States;

[(B) any corporation, partnership, trust, association, or other legal entity existing or organized under the laws of any of the United States; and

[(C) any department, agency, or other instrumentality of the Federal Government or of any State, and any officer, employee, or agent of any such instrumentality.

#### **[SEC. 4. PROHIBITED ACTS.**

[(a) IN GENERAL.—It is unlawful—

[(1) for any United States citizen, unless authorized by regulation prescribed under this Act or a permit issued under section 5—

[(A) to take within Antarctica any native mammal or native bird,

[(B) to collect within any specially protected area any native plant,

[(C) to introduce into Antarctica any animal or plant that is not indigenous to Antarctica,

[(D) to enter any specially protected area or site of special scientific interest, or

[(E) to discharge, or otherwise to dispose of, any pollutant within Antarctica;

[(2) for any United States citizen wherever located, or any foreign person while within the United States, unless authorized by regulation prescribed under this Act or a permit issued under section 5—

[(A) to possess, sell, offer for sale, deliver, receive, carry, transport, or ship by any means whatsoever, or

[(B) to import into the United States, to export from the United States, or to attempt to so import or export, any native mammal or native bird taken in Antarctica or any native plant collected in any specially protected area;

[(3) for any United States citizen wherever located, or any foreign person while within the United States, to violate any regulation prescribed under this Act; or

[(4) for any person, whether or not a United States citizen, to violate any term or condition of any permit issued under section 5.

No act described in paragraphs (1) through (4) shall be unlawful if committed, under emergency circumstances, to prevent the loss of human life.

[(b) EXCEPTION.—Subsection (a) shall not apply to—

[(1) any native mammal, native bird, or native plant which is held in captivity on the date of the enactment of this Act; or

[(2) any offspring of any such mammal, bird, or plant.

With respect to any act prohibited by subsection (a) which occurs after the 180th day after such date of enactment, there shall be a rebuttable presumption that the native mammal, native bird, or native plant involved in such act was not held in captivity on such date or was not an offspring referred to in paragraph (2).]

**SEC. 2 FINDINGS AND PURPOSE.**

(a) *FINDINGS.*—*The Congress finds that the Antarctic Treaty and the Protocol on Environmental Protection to the Antarctic Treaty establish a firm foundation for the comprehensive protection of the Antarctic environment, the continuation of international cooperation, and the freedom of scientific investigation in Antarctica.*

(b) *PURPOSE.*—*The purpose of this Act is to provide legislative authority to implement, with respect to the United States, the Protocol on Environmental Protection to the Antarctic Treaty.*

**SEC. 3. DEFINITIONS.**

*For purposes of this Act—*

(1) *the term “Administrator” means the Administrator of the Environmental Protection Agency;*

(2) *the term “Antarctica” means the area south of 60 degrees south latitude;*

(3) *the term “Antarctic Specially Protected Area” means an area identified as such pursuant to Annex V to the Protocol;*

(4) *the term “Director” means the Director of the National Science Foundation;*

(5) *the term “harmful interference” means—*

(A) *flying or landing helicopter or other aircraft in a manner that disturbs concentrations of birds or seals;*

(B) *using vehicles or vessels, including hovercraft and small boats, in a manner that disturbs concentrations of birds or seals;*

(C) *using explosives or firearms in a manner that disturbs concentrations of birds or seals;*

(D) *willfully disturbing breeding or molting birds or concentrations of birds or seals by persons on foot;*

(E) *significantly damaging concentrations of native terrestrial plants by landing aircraft, driving vehicles, or walking on them, or by other means; and*

(F) *any activity that results in the significant adverse modification of habitats of any species or population of native mammal, native bird, native plant, or native invertebrate;*

(6) the term “historic site or monument” means any site or monument listed as a historic site or monument pursuant to Annex V to the Protocol;

(7) the term “impact” means impact on the Antarctic environment and dependent and associated ecosystems;

(8) the term “import” means to land on, bring into, or introduce into, or attempt to land on, bring into or introduce into, any place subject to the jurisdiction of the United States, including the 12-mile territorial sea of the United States, whether or not such act constitutes an importation within the meaning of the customs laws of the United States;

(9) the term “native bird” means any member, at any stage of its life cycle (including eggs), of any species of the class Aves which is indigenous to Antarctica or occurs there seasonally through natural migrations, and includes any part of such member;

(10) the term “native invertebrate” means any terrestrial or freshwater invertebrate, at any stage of its life cycle, which is indigenous to Antarctica, and includes any part of such invertebrate;

(11) the term “native mammal” means any member, at any stage of its life cycle, of any species of the class Mammalia, which is indigenous to Antarctica or occurs there seasonally through natural migrations, and includes any part of such member;

(12) the term “native plant” means any terrestrial or freshwater vegetation, including bryophytes, lichens, fungi, and algae, at any stage of its life cycle (including seeds and other propagules), which is indigenous to Antarctica, and includes any part of such vegetation;

(13) the term “non-native species” means any species of animal or plant which is not indigenous to Antarctica and does not occur there seasonally through natural migrations;

(14) the term “person” has the meaning given that term in section 1 of title I, United States Code, and includes any person subject to the jurisdiction of the United States and any department, agency, or other instrumentality of the Federal Government or of any State or local government;

(15) the term “prohibited product” means any substance banned from introduction onto land or ice shelves or into water in Antarctica pursuant to Annex III to the Protocol;

(16) the term “prohibited waste” means any substance which must be removed from Antarctica pursuant to Annex III to the Protocol, but does not include materials used for balloon envelopes required for scientific research and weather forecasting;

(17) the term “Protocol” means the Protocol on Environmental Protection to the Antarctic Treaty, signed October 4, 1991, in Madrid, and all annexes thereto, including any future amendments thereto to which the United States is a party;

(18) the term “Secretary” means the Secretary of Commerce;

(19) the term “Specially Protected Species” means any native species designed as a Specially Protected Species pursuant to Annex II to the Protocol;

(20) the term “take” means to kill, injure, capture, handle, or molest a native mammal or bird, or to remove or damage such quantities of native plants that their local distribution or abundance would be significantly affected;

(21) the term “Treaty” means the Antarctic Treaty signed in Washington, DC, on December 1, 1959;

(22) the term “United States” means the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and any other commonwealth, territory, or possession of the United States; and

(23) the term “vessel subject to the jurisdiction of the United States” includes any “vessel of the United States” and any “vessel subject to the jurisdiction of the United States” as those terms are defined in section 303 of the Antarctic Marine Living Resources Convention Act of 1984 (16 U.S.C. 2432).

**SEC. 4. PROHIBITED ACTS.**

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

(1) to introduce any prohibited product onto land or ice shelves or into water in Antarctica;

(2) to dispose of any waste onto ice-free land areas or into fresh water systems in Antarctica;

(3) to dispose of any prohibited waste in Antarctica;

(4) to engage in open burning of waste;

(5) to transport passengers to, from, or within Antarctica by any seagoing vessel not required to comply with the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.), unless the person has an agreement with the vessel owner or operator under which the owner or operator is required to comply with Annex IV to the Protocol;

(6) who organizes, sponsors, operates, or promotes a non-governmental expedition to Antarctica, and who does business in the United States, to fail to notify all members of the expedition of the environmental protection obligations of this Act, and of actions which members must take, or not take, in order to comply with those obligations;

(7) to damage, remove, or destroy a historic site or monument;

(8) to refuse permission to any authorized officer or employee of the United States to board a vessel, vehicle, or aircraft of the United States, or subject to the jurisdiction of the United States, for the purpose of conducting any search or inspection in connection with the enforcement of this Act or any regulation promulgated or permit issued under this Act;

(9) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any authorized officer or employee of the United States in the conduct of any search or inspection described in paragraph (8);

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

(11) to interfere with, delay, or prevent, by any means, the apprehension, arrest, or detention of another person, knowing that such other person has committed any act prohibited by this section;

(12) to violate any regulation issued under this Act, or any term or condition of any permit issued to that person under this Act; or

(13) to attempt to commit or cause to be committed any act prohibited by this section.

(b) **ACTS PROHIBITED UNLESS AUTHORIZED BY PERMIT.**—It is unlawful for any person, unless authorized by a permit issued under this Act—

(1) to dispose of any waste in Antarctica (except as otherwise authorized by the Act to Prevent Pollution from Ships) including—

(A) disposing of any waste from land into the sea in Antarctica; and

(B) incinerating any waste on land or ice shelves in Antarctica, or on board vessels at points of embarkation or debarkation, other than through the use at remote field sites of incinerator toilets for human waste;

(2) to introduce into Antarctica any member of a nonnative species;

(3) to enter or engage in activities within any Antarctic Specially Protected Area;

(4) to engage in any taking or harmful interference in Antarctica; or

(5) to receive, acquire, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any native bird, native mammal, or native plant which the person knows, or in the exercise of due care should have known, was taken in violation of this Act.

(c) **EXCEPTION FOR EMERGENCIES.**—No act described in subsection (a)(1), (2), (3), (4), (5), (7), (12), or (13) or in subsection (b) shall be unlawful if the person committing the act reasonably believed that the act was committed under emergency circumstances involving the safety of human life or of ships, aircraft, or equipment or facilities of high value, or the protection of the environment.

**SEC. 4A. ENVIRONMENTAL IMPACT ASSESSMENT.**

(a) **FEDERAL ACTIVITIES.**—(1)(A) The obligations of the United States under Article 8 of and Annex I to the Protocol shall be implemented by applying the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) to proposals for Federal agency activities in Antarctica, as specified in this section.

(B) The obligations contained in section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) shall apply to all proposals for Federal agency activities occurring in Antarctica and affecting the quality of the human environment in Antarctica or dependent or associated ecosystems, only as specified in this section. For purposes of the application of such section 102(2)(C) under this subsection, the term “significantly affecting the quality of the human environment” shall have the same meaning as the term “more than a minor or transitory impact”.

(2)(A) Unless an agency which proposes to conduct a Federal activity in Antarctica determines that the activity will have less than a minor or transitory impact, or unless a comprehensive environmental evaluation is being prepared in accordance with subpara-

graph (C), the agency shall prepare an initial environmental evaluation in accordance with Article 2 of Annex I to the Protocol.

(B) If the agency determines, through the preparation of the initial environmental evaluation, that the proposed Federal activity is likely to have no more than a minor or transitory impact, the activity may proceed if appropriate procedures are put in place to assess and verify the impact of the activity.

(C) If the agency determines, through the preparation of the initial environmental evaluation or otherwise, that a proposed Federal activity is likely to have more than a minor or transitory impact, the agency shall prepare and circulate a comprehensive environmental evaluation in accordance with Article 3 of Annex I to the Protocol, and shall make such comprehensive environmental evaluation publicly available for comment.

(3) Any agency decision under this section on whether a proposed Federal activity, to which paragraph (2)(C) applies, should proceed, and, if so, whether in its original or in a modified form, shall be based on the comprehensive environmental evaluation as well as other considerations which the agency, in the exercise of its discretion, considers relevant.

(4) For the purposes of this section, the term "Federal activity" includes all activities conducted under a Federal agency research program in Antarctica, whether or not conducted by a Federal agency.

(b) **FEDERAL ACTIVITIES CARRIED OUT JOINTLY WITH FOREIGN GOVERNMENTS.**—(1) For the purposes of this subsection, the term "Antarctic joint activity" means any Federal activity in Antarctica which is proposed to be conducted, or which is conducted, jointly or in cooperation with one or more foreign governments. Such term shall be defined in regulations promulgated by such agencies as the President may designate.

(2) Where the Secretary of State, in cooperation with the lead United States agency planning an Antarctic joint activity, determines that—

(A) the major part of the joint activity is being contributed by a government or governments other than the United States;

(B) one such government is coordinating the implementation of environmental impact assessment procedures for that activity; and

(C) such government has signed, ratified, or acceded to the Protocol,

the requirements of subsection (a) of this section shall not apply with respect to that activity.

(3) In all cases of Antarctic joint activity other than those described in paragraph (2), the requirements of subsection (a) of this section shall apply with respect to that activity, except as provided in paragraph (4).

(4) Determinations described in paragraph (2), and agency actions and decisions in connection with assessments of impacts of Antarctic joint activities, shall not be subject to judicial review.

(c) **NONGOVERNMENTAL ACTIVITIES.**—(1) The Administrator shall, within 2 years after the date of the enactment of the Antarctic Environmental Protection Act of 1996, promulgate regulations to provide for—

(A) the environmental impact assessment of nongovernmental activities, including tourism, for which the United States is required to give advance notice under paragraph 5 of Article VII of the Treaty; and

(B) coordination of the review of information regarding environmental impact assessment received from other Parties under the Protocol.

(2) Such regulations shall be consistent with Annex I of the Protocol.

(d) *DECISION TO PROCEED.*—(1) No decision shall be taken to proceed with an activity for which a comprehensive environmental evaluation is prepared under this section unless there has been an opportunity for consideration of the draft comprehensive environmental evaluation at an Antarctic Treaty Consultative Meeting, except that no decision to proceed with a proposed activity shall be delayed through the operation of this paragraph for more than 15 months from the date of circulation of the draft comprehensive environmental evaluation pursuant to Article 3(3) of Annex I to the Protocol.

(2) The Secretary of State shall circulate the final comprehensive environmental evaluation, in accordance with Article 3(6) of Annex I to the Protocol, at least 60 days before the commencement of the activity in Antarctica.

(e) *CASES OF EMERGENCY.*—The requirements of this section, and of regulations promulgated under this section, shall not apply in cases of emergency relating to the safety of human life or of ships, aircraft, or equipment and facilities of high value, or the protection of the environment, which require an activity to be undertaken without fulfilling those requirements.

(f) *EXCLUSIVE MECHANISM.*—Notwithstanding any other provision of law, the requirements of this section shall constitute the sole and exclusive statutory obligations of the Federal agencies with regard to assessing the environmental impacts of proposed Federal activities occurring in Antarctica.

(g) *DECISIONS ON PERMIT APPLICATIONS.*—The provisions of this section requiring environmental impact assessments (including initial environmental evaluations and comprehensive environmental evaluations) shall not apply to Federal actions with respect to issuing permits under section 5.

(h) *PUBLICATION OF NOTICES.*—Whenever the Secretary of State makes a determination under paragraph (2) of subsection (b) of this section, or receives a draft comprehensive environmental evaluation in accordance with Annex I, Article 3(3) to the Protocol, the Secretary of State shall cause timely notice thereof to be published in the Federal Register.

#### **SEC. 5. PERMITS.**

(A) *IN GENERAL.*—The Director may issue permits which authorize acts otherwise prohibited by section 4[a](b).

\* \* \* \* \*

(c) *ACTION BY APPROPRIATE SECRETARIES ON CERTAIN PERMIT APPLICATIONS.*—(1) If the Director receives an application for a permit under this section requesting authority to undertake any action with respect to—

(A) any native mammal which is a marine mammal within the meaning of section 3(5) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362(5));

(B) any native mammal, native bird, or native plant which is an endangered species or threatened species under the Endangered **[Special]** *Species* Act of 1973 (16 U.S.C. 1531 et seq.); or

\* \* \* \* \*

(e) TERMS AND CONDITIONS OF PERMITS.—(1) Each permit issued under this section shall—

(A) if applicable, specify—

(i) the number and species of native mammals, native birds, **[or native plants to which the permit applies,]** *native plants, or native invertebrates to which the permit applies, and*

**[(ii) if any such mammal or bird is authorized to be taken, transported, carried, or shipped, the manner (which manner must be determined by the Director to be humane) in which such action must be accomplished and the area in which such taking must occur, and**

**[(iii) if any such plant is authorized to be collected, the location and manner in which it must be collected;]**

(ii) *the manner in which the taking or harmful interference shall be conducted (which manner shall be determined by the Director to be humane) and the area in which it will be conducted;*

\* \* \* \* \*

(2) The terms and conditions imposed by the Director in any permit issued under this section that authorizes any of the following acts shall be consistent with the following criteria:

(A) Permits authorizing the taking **[within Antarctica (other than within any specially protected area)]** of any native mammal or native bird (other than a **[specially protected species]** *Specially Protected Species* of any such mammal or bird)—

(i) may be issued only for the purpose of providing—

(I) specimens for scientific study or scientific information,

(II) specimens for museums, zoological gardens, or other educational or cultural institutions or uses**;** and **]** *or harmful interference within Antarctica*

*(III) for unavoidable consequences of scientific activities or the construction and operation of scientific support facilities;*

(ii) shall ensure, as far as possible, that—

(I) no more native mammals and native birds are taken in any year than can normally be replaced by net natural reproduction in the following breeding season, and

(II) the variety of species and the balance of the natural ecological systems **[with Antarctica and]** *within Antarctica* are maintained.

(B) Permits authorizing the taking of **[specially protected species]** *Specially Protected Species* may be issued only if—



- (i) there is a compelling scientific purpose for such taking; and
  - (ii) the actions allowed under any such permit will not jeopardize any existing natural ecological system, or the survival, of such species.
- [(C) Permits authorizing the entry into any specially protected area—
- [(i) may be issued only if—
    - [(I) there is a compelling scientific purpose for such entry which cannot be served elsewhere, and
    - [(II) the actions allowed under any such permit will not jeopardize the natural ecological system existing in such area; and
  - [(ii) shall not allow the operation of any surface vehicle within such area.
- [(D) Permits authorizing the entry into any site of special scientific interest shall be consistent with the management plan prescribed under section 6(b)(3) for such site.]
- (C) A permit authorizing the entry into an Antarctic Specially Protected Area shall be issued only—*
- (i) if the entry is consistent with an approved management plan, or*
  - (ii) if a management plan relating to the area has not been approved but—*
    - (I) there is a compelling purpose for such entry which cannot be served elsewhere, and*
    - (II) the actions allowed under the permit will not jeopardize the natural ecological system existing in such area.*

\* \* \* \* \*

**[SEC. 6. REGULATIONS.**

[(a) IN GENERAL.—The Director, after consultation with the Secretary of State and other appropriate Federal officials, shall prescribe such regulations as are necessary and appropriate to implement the provisions of this Act.

[(b) SPECIFIC REGULATIONS.—The regulations required to be prescribed under subsection (a) shall include, but shall not be limited to, regulations which—

[(1) designate, as native species—

[(A) each species of the class Aves,

[(B) each species of the class Mammalia, and

[(C) each species of plant,

which is indigenous to Antarctica or occurs in Antarctica through natural agencies of dispersal;

[(2) specify those actions which must, and those actions which must not, be taken within Antarctica in order to protect, in accordance with the applicable provisions of the Agreed Measures, members of each native species designated under paragraph (1);

[(3) identify, as a site or special scientific interest, each area approved by the United States in accordance with Recommendation VIII-3 of the Eighth Antarctic Treaty Consultative Meeting as having unique value for scientific investiga-

tion and needing protection from interference, and prescribe a management plan for such site which is consistent with any management plan approved by the United States for such site in accordance with such Recommendation;

[(4) identify, as a specially protected area, each area designated for special protection under the Agreed Measures because of its outstanding scientific or ecological interest;

[(5) designate, as a specially protected species, any native species of mammal or bird which is approved by the United States for special protection under the Agreed Measures;

[(6) designate as a pollutant any substance which the Director finds liable, if the substance is introduced into Antarctica, to create hazards to human health, to harm living resources or marine life, to damage amenities, or to interfere with other legitimate uses of Antarctica;

[(7) specify those actions which must, and those actions which must not, be taken in order to prevent or control the discharge or other disposal of pollutants, from any source within Antarctica;

[(8) designate those animals and plants, not indigenous to Antarctica, which either may, or may not, be introduced into Antarctica, and specify those control measures which must be observed with respect to any such animals or plants which are allowed to be so introduced;

[(9) specify the emergency circumstances with respect to which the exclusion set forth in the last sentence of section 4(a) applies; and

[(10) set forth the form, content, and manner of filing, if applicable, of all notices, reports, declarations, or other documentation which may be required incident to the carrying out of any act for which a permit is required under section 5.

#### **SEC. 6. REGULATIONS.**

(a) *REGULATIONS TO BE ISSUED BY THE DIRECTOR.*—(1) *The Director shall issue such regulations as are necessary and appropriate to implement Annex II and Annex V to the Protocol and the provisions of this Act which implement those annexes, including section 4(b)(2), (3), (4), and (5) of this Act. The Director shall designate as native species—*

(A) *each species of the class Aves;*

(B) *each species of the class Mammalia; and*

(C) *each species of plant,*

*which is indigenous to Antarctica or which occurs there seasonally through natural migrations.*

(2) *The Director, with the concurrence of the Administrator, shall issue such regulations as are necessary and appropriate to implement Annex III to the Protocol and the provisions of this Act which implement that Annex, including section 4(a), (1), (2), (3), and (4), and section 4(b)(1) of this Act.*

(3) *The Director shall issue such regulations as are necessary and appropriate to implement Article 15 of the Protocol with respect to land areas and ice shelves in Antarctica.*

(4) *The Director shall issue such additional regulations as are necessary and appropriate to implement the Protocol and this Act, except as provided in subsection (b).*

*(b) REGULATIONS TO BE ISSUED BY THE SECRETARY OF THE DEPARTMENT IN WHICH THE COAST GUARD IS OPERATING.—The Secretary of the Department in which the Coast Guard is operating shall issue such regulations as are necessary and appropriate, in addition to regulations issued under the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.), to implement Annex IV to the Protocol and the provisions of this Act which implement that Annex, and, with the concurrence of the Director, such regulations as are necessary and appropriate to implement Article 15 of the Protocol with respect to vessels.*

*(c) TIME PERIOD FOR REGULATIONS.—The regulations to be issued under subsection (a)(1) and (2) of this section shall be issued within 2 years after the date of the enactment of the Antarctic Environmental Protection Act of 1996. The regulations to be issued under subsection (a)(3) of this section shall be issued within 3 years after the date of the enactment of the Antarctic Environmental Protection Act of 1996.*

\* \* \* \* \*

**[SEC. 14.**

**[(a)** The first section of the Fishermen’s Protective Act of 1967 (22 U.S.C. 1971) is amended by adding at the end thereof the following new sentence: “Notwithstanding any other law, the documentation or certification of any such vessel shall not be considered to be affected, for the purposes of this Act, in any manner or to any extent if at any time during any voyage for the purpose of fishing beyond the fishery conservation zone (as defined in section 3(8) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1802(8)), the vessel is commanded by other than a citizen of the United States.”

**[(b)** The amendment made by subsection (a) shall take effect January 1, 1978.]

**SEC. 14. SAVING PROVISIONS.**

*(a) REGULATIONS.—All regulations promulgated under this Act prior to the date of the enactment of the Antarctic Environmental Protection Act of 1996 shall remain in effect until superseding regulations are promulgated under section 6.*

*(b) PERMITS.—All permits issued under this Act shall remain in effect until they expire in accordance with the terms of those permits.*

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**ANTARCTIC PROTECTION ACT OF 1990**

\* \* \* \* \*

**[SEC. 2. FINDINGS AND PURPOSE.**

**[(a)** FINDINGS.—Congress finds that—

(1) the Antarctic continent with its associated and dependent ecosystems is a distinctive environment providing a habitat for many unique species and offering a natural laboratory from which to monitor critical aspects of stratospheric ozone depletion and global climate change;

**[(2)** Antarctica is protected by a series of international agreements, including the Antarctic Treaty and associated rec-

ommendations, the Convention on the Conservation of Antarctic Seals, and the Convention on the Conservation of Antarctic Marine Living Resources, which are intended to conserve the renewable natural resources of Antarctica and to recognize the importance of Antarctica for the conduct of scientific research;

[(3) recurring and recent developments in Antarctica, including increased siting of scientific stations, poor waste disposal practices, oil spills, increased tourism, and the over-exploitation of marine living resources, have raised serious questions about the adequacy and implementation of existing agreements and domestic law to protect the Antarctic environment and its living marine resources;

[(4) the parties to the Antarctic Treaty have negotiated a Convention on the Regulation of Antarctic Mineral Resources Activities which the United States has signed but not yet ratified;

[(5) the Convention on the Regulation of Antarctic Mineral Resources Activities does not guarantee the preservation of the fragile environment of Antarctica and could actually stimulate movement toward Antarctic mineral resource activity;

[(6) the exploitation of mineral resources in Antarctica could lead to additional degradation of the Antarctic environment, including increased risk of oil spills;

[(7) the Antarctic Treaty Consultative Parties have agreed to a voluntary ban on Antarctic mineral resource activities which needs to be made legally binding;

[(8) the level of scientific study, including necessary support facilities, has increased to the point that some scientific programs may be degrading the Antarctic environment; and

[(9) the planned special consultative meeting of parties to the Antarctic Treaty and the imminence of the thirtieth anniversary of the Antarctic Treaty provide opportunities for the United States to exercise leadership toward protection and sound management of Antarctica.

[(b) PURPOSE.—The purpose of this Act is to—

[(1) strengthen substantially overall environmental protection of Antarctica;

[(2) prohibit prospecting, exploration, and development of Antarctic mineral resources by United States citizens and other persons subject to the jurisdiction of the United States;

[(3) urge other nations to join the United States in immediately negotiating one or more new agreements to provide an indefinite ban on all Antarctic mineral resource activities and comprehensive protection for Antarctica and its associated and dependent ecosystems; and

[(4) urge all nations to consider a permanent ban on Antarctic mineral resource activities.]

**SEC. 2. FINDING AND PURPOSE.**

(a) *FINDING.*—*The Congress finds that the Protocol on Environmental Protection to the Antarctic Treaty prohibits indefinitely Antarctic mineral resource activities.*

(b) *PURPOSE.*—*The purpose of this Act is to provide legislative authority to implement, with respect to the United States, Article 7 of the Protocol on Environmental Protection to the Antarctic Treaty.*

\* \* \* \* \*

**SEC. 4. PROHIBITION OF ANTARCTIC MINERAL RESOURCE ACTIVITIES.**

【Pending a new agreement among the Antarctic Treaty Consultative Parties in force for the United States, to which the Senate has given advice and consent or which is authorized by further legislation by the Congress, which provides an indefinite ban on Antarctic mineral resource activities, it】 *It is unlawful for any person to engage in, finance, or otherwise knowingly provide assistance to any Antarctic mineral resource activity.*

**【SEC. 5. INTERNATIONAL AGREEMENT.**

【(a) It is the sense of Congress that the Secretary of State should enter into negotiations with the Antarctic Treaty Consultative Parties to conclude one or more new international agreements to—

【(1) conserve and protect permanently the natural environment of Antarctica and its associated and dependent ecosystems;

【(2) prohibit or ban indefinitely Antarctic mineral resource activities by all parties to the Antarctic Treaty;

【(3) grant Antarctica special protective status as a land of science dedicated to wilderness protection, international cooperation, and scientific research;

【(4) ensure that the results of all scientific investigations relating to geological processes and structures be made openly available to the international scientific community, as required by the Antarctic Treaty; and

【(5) include other comprehensive measures for the protection of the Antarctic environment.

【(b) It is the sense of Congress that any treaty or other international agreement submitted by the President to the Senate for its advice and consent to ratification relating to mineral resources or activities in Antarctica should be consistent with the purpose and provisions of this Act.】

**SEC. [6] 5. ENFORCEMENT.**

(a) **IN GENERAL.**—A violation of this Act or any regulation promulgated under this Act is deemed to be a violation of the Antarctic Marine Living Resources Convention Act (16 U.S.C. 2431–2444) and shall be enforced under that Act by the Under Secretary or another Federal official to whom the Under Secretary has delegated this responsibility.

(b) **PENALTY.**—If the Under Secretary determines that a person has violated section 4—

(1) that person shall be ineligible to locate a mining claim under the mining laws of the United States; and

(2) the Secretary of the Interior shall refuse to issue a patent under the mining laws of the United States, or a lease under the laws of the United States related to mineral or geothermal leasing, to any such person who attempts to perfect such pat-

ent or lease application after the Under Secretary has made such determination.

**[SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

**[There are authorized to be appropriated—**

**[(1) to the Under Secretary not more than \$1,000,000 for each of fiscal years 1991 and 1992 to carry out the purposes of this Act; and**

**[(2) to the Secretary of State not more than \$500,000 for each of fiscal years 1991 and 1992 to carry out section 5 of this Act.]**

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**ACT TO PREVENT POLLUTION FROM SHIPS**

SEC. 2. (a) Unless the context indicates otherwise, as used in this Act—

(1) “*Antarctica*” means the area south of 60 degrees south latitude;

(2) “*Antarctic Protocol*” means the Protocol on Environmental Protection to the Antarctic Treaty, signed October 4, 1991, in Madrid, and all annexes thereto, and includes any future amendments thereto which have entered into force;

**[(1)]** (3) “MARPOL Protocol” means the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973, and includes the Convention;

**[(2)]** (4) “Convention” means the International Convention for the Prevention of Pollution from Ships, 1973, including Protocols I and II and Annexes I, II, and V thereto, including any modification or amendments to the Convention, Protocols or Annexes which have entered into force for the United States;

**[(3)]** (5) “discharge” and “garbage” and “harmful substance” and “incident” shall have the meanings provided in the Convention;

**[(4)]** (6) “owner” means any person holding title to, or in the absence of title, any other indicia of ownership of, a ship or terminal, but does not include a person who, without participating in the management or operation of a ship or terminal, holds indicia of ownership primarily to protect a security interest in the ship or terminal;

**[(5)]** (7) “operator” means—

(a) in the case of a ship, a charterer by demise or any other person, except the owner, who is responsible for the operation, manning, victualing, and supplying of the vessel, or

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

**[(6)]** (8) “person” means an individual, firm, public or private corporation, partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body;

**[(7)]** (9) “Secretary” means the Secretary of the department in which the Coast Guard is operating;

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

[(9)] (11) “submersible” means a submarine, or any other vessel designed to operate under water; and

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

\* \* \* \* \*

(c) For the purposes of this Act, the requirements of Annex IV to the Antarctic Protocol shall apply in Antarctica to all vessels over which the United States has jurisdiction.

SEC. 3. (a) \* \* \*

(b)(1) Except as provided in paragraph (2), this Act shall not apply to—

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

(B) any other ship specifically excluded by the MARPOL Protocol or the Antarctic Protocol.

\* \* \* \* \*

SEC. 4. (a) Unless otherwise specified herein, the Secretary shall administer and enforce the MARPOL Protocol, *Annex IV to the Antarctic Protocol*, and this Act. In the administration and enforcement of the MARPOL Protocol and this Act, Annexes I and II of the MARPOL Protocol shall be applicable only to seagoing ships.

(b)(1) The Secretary shall prescribe any necessary or desired regulations to carry out the provisions of the MARPOL Protocol, *Annex IV to the Antarctic Protocol*, or this Act.

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

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

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

\* \* \* \* \*

SEC. 6. (a) \* \* \*

(b) In determining the adequacy of reception facilities required by the MARPOL Protocol or the *Antarctic Protocol* at a port or terminal, and in establishing regulations under subsection (a) of this section, the Secretary may consider, among other things, the number and types of ships, or seagoing ships using the port or terminal, including their principal trades.

\* \* \* \* \*

(e)(1) Except in the case of force majeure, the Secretary shall deny entry to a seagoing ship required by the Convention or the

*Antarctic Protocol* to retain onboard while at sea, residues and mixtures containing oil or noxious liquid substances, if—

(A) the port or terminal is one required by the Annexes I and II of the Convention or *Article 9 of Annex IV to the Antarctic Protocol* or regulations hereunder to have adequate reception facilities; and

\* \* \* \* \*

(f) The Secretary is authorized to conduct surveys of existing reception facilities in the United States to determine measures needed to comply with the MARPOL Protocol or *the Antarctic Protocol*.

\* \* \* \* \*

SEC. 8. (a) It is unlawful to act in violation of the MARPOL Protocol, *Annex IV to the Antarctic Protocol*, this Act, or the regulations issued thereunder. The Secretary shall cooperate with other parties to the MARPOL Protocol or *to the Antarctic Protocol* in the detection of violations and in enforcement of the MARPOL Protocol and *Annex IV to the Antarctic Protocol*. The Secretary shall use all appropriate and practical measures of detection and environmental monitoring, and shall establish adequate procedures for reporting violations and accumulating evidence.

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

(c)(1) This subsection applies to inspections relating to possible violations of Annex I or Annex II to the Convention, of *Article 3 or Article 4 of Annex IV to the Antarctic Protocol*, or of this Act by any seagoing ship referred to in section 3(a)(2) of this Act.

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

(A) to verify whether or not the ship has discharged a harmful substance in violation of the MARPOL Protocol, *Annex IV to the Antarctic Protocol*, or this Act; or

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



If an inspection under this subsection indicates that a violation has occurred, the investigating officer shall forward a report to the Secretary for appropriate action. The Secretary shall undertake to notify the master of the ship concerned and, acting in coordination with the Secretary of State, shall take any additional action required by Article 6 of the Convention.

(d)(1) The Secretary may inspect a ship referred to in section 3(a)(3) of this Act to verify whether the ship has disposed of garbage in violation of Annex V to the Convention, *Article 5 of Annex IV to the Antarctic Protocol*, or this Act.

\* \* \* \* \*

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

(2) If an inspection under this subsection indicates that a violation of the MARPOL Protocol, *of Annex IV to the Antarctic Protocol*, or of this Act has occurred the Secretary may undertake enforcement action under section 9 of this Act.

\* \* \* \* \*

SEC. 9. (a) A person who knowingly violates the MARPOL Protocol, *Annex IV to the Antarctic Protocol*, This Act, or the regulations issued thereunder commits a class D felony. In the discretion of the Court, an amount equal to not more than 1/2 of such fine may be paid to the person giving information leading to conviction.

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

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

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

Each day of a continuing violation shall constitute a separate violation. The amount of the civil penalty shall be assessed by the Secretary, or his designee, by written notice. In determining the amount of the penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other matters as justice may require. An amount equal to not more than 1/2 of such penalties may be paid by the Secretary to the person giving information leading to the assessment of such penalties.

\* \* \* \* \*

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

(e) If any ship subject to the MARPOL Protocol, *Annex IV to the Antarctic Protocol*, or this Act, its owner, operator, or person in charge is liable for a fine or civil penalty under this section, or if reasonable cause exists to believe that the ship, its owner, operator, or person in charge may be subject to a fine or civil penalty under this section, the Secretary of the Treasury, upon the request of the Secretary, shall refuse or revoke the clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91). Clearance may be granted upon the filing of a bond or other surety satisfactory to the Secretary.

(f) Notwithstanding subsection (a), (b), or (d) of this section, if the violation is by a ship registered in or of the nationality of a country party to the MARPOL Protocol or *the Antarctic Protocol*, or one operated under the authority of a country party to the MARPOL Protocol or *the Antarctic Protocol*, the Secretary, acting in coordination with the Secretary of State, may refer the matter to the government of the country of the ship's registry or nationality, or under whose authority the ship is operating for appropriate action, rather than taking the actions required or authorized by this section.

\* \* \* \* \*

## XII. COMMITTEE RECOMMENDATIONS

On April 24, 1996, a quorum being present, the Committee favorably reported H.R. 3060, the Antarctic Environmental Protection Act of 1996, by voice vote, and recommends its enactment.

XIII. PROCEEDINGS OF FULL COMMITTEE MARKUP

**FULL COMMITTEE MARKUP ON H.R. 3060—TO  
IMPLEMENT THE PROTOCOL ON ENVIRON-  
MENTAL PROTECTION TO THE ANTARCTIC  
TREATY**

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**WEDNESDAY, APRIL 24, 1996**

U.S. HOUSE OF REPRESENTATIVES,  
COMMITTEE ON SCIENCE,  
*Washington, DC.*

The Committee met at 10:10 a.m. in Room 2318 of the Rayburn House Office Building, the Honorable Robert S. Walker, Chairman of the Committee, presiding.

The CHAIRMAN. As I'm sure you know, the Committee on Science is meeting today to consider H.R. 3060, the Antarctic Environmental Protection Act of 1996, and the Omnibus Civilian Science Authorization Act of 1996.

I ask unanimous consent for authority to recess at any point.

With that, we will now consider H.R. 3060, the Antarctic Environmental Protection Act of 1996.

I ask unanimous consent that the bill be considered as read and open for amendment at any point. Without objection.

[The text of the bill and a summary of its major provisions follow:]

104TH CONGRESS  
2D SESSION

# H. R. 3060

To implement the Protocol on Environmental Protection to the Antarctic Treaty.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 12, 1996

Mr. WALKER (for himself, Mr. BROWN of California, Mrs. MORELLA, Mr. SCHIFF, Mr. ROHRABACHER, Mr. CRAMER, Mr. DAVIS, Mr. EHLERS, Mr. BOEHLERT, Mr. WELDON of Pennsylvania, Mrs. SEASTRAND, Mr. HASTINGS of Florida, Ms. LOFGREN, Mr. MCHALE, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. MINGE, Mr. OLVER, Ms. RIVERS, Ms. JACKSON-LEE of Texas, and Mr. BAKER of California) introduced the following bill; which was referred to the Committee on Science, and in addition to the Committees on International Relations and Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To implement the Protocol on Environmental Protection to the Antarctic Treaty.

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

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Antarctic Environ-  
3 mental Protection Act of 1996”.

4 **TITLE I—AMENDMENTS TO THE**  
5 **ANTARCTIC CONSERVATION**  
6 **ACT OF 1978**

7 **SEC. 101. FINDINGS AND PURPOSE.**

8       Section 2 of the Antarctic Conservation Act of 1978  
9 (16 U.S.C. 2401) is amended to read as follows:

10 **“SEC. 2. FINDINGS AND PURPOSE.**

11       “(a) FINDINGS.—The Congress finds that the Ant-  
12 arctic Treaty and the Protocol on Environmental Protec-  
13 tion to the Antarctic Treaty establish a firm foundation  
14 for the comprehensive protection of the Antarctic environ-  
15 ment, the continuation of international cooperation, and  
16 the freedom of scientific investigation in Antarctica.

17       “(b) PURPOSE.—The purpose of this Act is to pro-  
18 vide legislative authority to implement, with respect to the  
19 United States, the Protocol on Environmental Protection  
20 to the Antarctic Treaty.”.

1 **SEC. 102. DEFINITIONS.**

2 Section 3 of the Antarctic Conservation Act of 1978  
3 (16 U.S.C. 2402) is amended to read as follows:

4 **“SEC. 3. DEFINITIONS.**

5 “For purposes of this Act—

6 “(1) the term ‘Administrator’ means the Ad-  
7 ministrator of the Environmental Protection Agency;

8 “(2) the term ‘Antarctica’ means the area south  
9 of 60 degrees south latitude;

10 “(3) the term ‘Antarctic Specially Protected  
11 Area’ means an area identified as such pursuant to  
12 Annex V to the Protocol;

13 “(4) the term ‘Director’ means the Director of  
14 the National Science Foundation;

15 “(5) the term ‘harmful interference’ means—

16 “(A) flying or landing helicopters or other  
17 aircraft in a manner that disturbs concentra-  
18 tions of birds or seals;

19 “(B) using vehicles or vessels, including  
20 hovercraft and small boats, in a manner that  
21 disturbs concentrations of birds or seals;

1           “(C) using explosives or firearms in a  
2           manner that disturbs concentrations of birds or  
3           seals;

4           “(D) willfully disturbing breeding or  
5           molting birds or concentrations of birds or seals  
6           by persons on foot;

7           “(E) significantly damaging concentrations  
8           of native terrestrial plants by landing aircraft,  
9           driving vehicles, or walking on them, or by  
10          other means; and

11          “(F) any activity that results in the signifi-  
12          cant adverse modification of habitats of any  
13          species or population of native mammal, native  
14          bird, native plant, or native invertebrate;

15          “(6) the term ‘historic site or monument’  
16          means any site or monument listed as a historic site  
17          or monument pursuant to Annex V to the Protocol;

18          “(7) the term ‘impact’ means impact on the  
19          Antarctic environment and dependent and associated  
20          ecosystems;

1           “(8) the term ‘import’ means to land on, bring  
2 into, or introduce into, or attempt to land on, bring  
3 into or introduce into, any place subject to the juris-  
4 diction of the United States, including the 12-mile  
5 territorial sea of the United States, whether or not  
6 such act constitutes an importation within the mean-  
7 ing of the customs laws of the United States;

8           “(9) the term ‘native bird’ means any member,  
9 at any stage of its life cycle (including eggs), of any  
10 species of the class Aves which is indigenous to Ant-  
11 arctica or occurs there seasonally through natural  
12 migrations, and includes any part of such member;

13           “(10) the term ‘native invertebrate’ means any  
14 terrestrial or freshwater invertebrate, at any stage of  
15 its life cycle, which is indigenous to Antarctica, and  
16 includes any part of such invertebrate;

17           “(11) the term ‘native mammal’ means any  
18 member, at any stage of its life cycle, of any species  
19 of the class Mammalia, which is indigenous to Ant-  
20 arctica or occurs there seasonally through natural  
21 migrations, and includes any part of such member;



1           “(12) the term ‘native plant’ means any terres-  
2           trial or freshwater vegetation, including bryophytes,  
3           lichens, fungi, and algae, at any stage of its life  
4           cycle (including seeds and other propagules), which  
5           is indigenous to Antarctica, and includes any part of  
6           such vegetation;

7           “(13) the term ‘non-native species’ means any  
8           species of animal or plant which is not indigenous to  
9           Antarctica and does not occur there seasonally  
10          through natural migrations;

11          “(14) the term ‘person’ has the meaning given  
12          that term in section 1 of title 1, United States Code,  
13          and includes any person subject to the jurisdiction  
14          of the United States and any department, agency, or  
15          other instrumentality of the Federal Government or  
16          of any State or local government;

17          “(15) the term ‘prohibited product’ means any  
18          substance banned from introduction onto land or ice  
19          shelves or into water in Antarctica pursuant to  
20          Annex III to the Protocol;

1           “(16) the term ‘prohibited waste’ means any  
2 substance which must be removed from Antarctica  
3 pursuant to Annex III to the Protocol, but does not  
4 include materials used for balloon envelopes required  
5 for scientific research and weather forecasting;

6           “(17) the term ‘Protocol’ means the Protocol on  
7 Environmental Protection to the Antarctic Treaty,  
8 signed October 4, 1991, in Madrid, and all annexes  
9 thereto, including any future amendments thereto to  
10 which the United States is a party;

11           “(18) the term ‘Secretary’ means the Secretary  
12 of Commerce;

13           “(19) the term ‘Specially Protected Species’  
14 means any native species designated as a Specially  
15 Protected Species pursuant to Annex II to the Pro-  
16 tocol;

17           “(20) the term ‘take’ means to kill, injure, cap-  
18 ture, handle, or molest a native mammal or bird, or  
19 to remove or damage such quantities of native plants  
20 that their local distribution or abundance would be  
21 significantly affected;

1           “(21) the term ‘Treaty’ means the Antarctic  
2 Treaty signed in Washington, DC, on December 1,  
3 1959;

4           “(22) the term ‘United States’ means the sev-  
5 eral States of the Union, the District of Columbia,  
6 the Commonwealth of Puerto Rico, American  
7 Samoa, the Virgin Islands, Guam, the Common-  
8 wealth of the Northern Mariana Islands, and any  
9 other commonwealth, territory, or possession of the  
10 United States; and

11           “(23) the term ‘vessel subject to the jurisdiction  
12 of the United States’ includes any ‘vessel of the  
13 United States’ and any ‘vessel subject to the juris-  
14 diction of the United States’ as those terms are de-  
15 fined in section 303 of the Antarctic Marine Living  
16 Resources Convention Act of 1984 (16 U.S.C.  
17 2432).”.

18 **SEC. 103. PROHIBITED ACTS.**

19           Section 4 of the Antarctic Conservation Act of 1978  
20 (16 U.S.C. 2403) is amended to read as follows:

1 **“SEC. 4. PROHIBITED ACTS.**

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

3 “(1) to introduce any prohibited product onto  
4 land or ice shelves or into water in Antarctica;

5 “(2) to dispose of any waste onto ice-free land  
6 areas or into fresh water systems in Antarctica;

7 “(3) to dispose of any prohibited waste in Ant-  
8 arctica;

9 “(4) to engage in open burning of waste;

10 “(5) to transport passengers to, from, or within  
11 Antarctica by any seagoing vessel not required to  
12 comply with the Act to Prevent Pollution from Ships  
13 (33 U.S.C. 1901 et seq.), unless the person has an  
14 agreement with the vessel owner or operator under  
15 which the owner or operator is required to comply  
16 with Annex IV to the Protocol;

17 “(6) who organizes, sponsors, operates, or pro-  
18 motes a nongovernmental expedition to Antarctica,  
19 and who does business in the United States, to fail  
20 to notify all members of the expedition of the envi-  
21 ronmental protection obligations of this Act, and of

1 actions which members must take, or not take, in  
2 order to comply with those obligations;

3 “(7) to damage, remove, or destroy a historic  
4 site or monument;

5 “(8) to refuse permission to any authorized offi-  
6 cer or employee of the United States to board a ves-  
7 sel, vehicle, or aircraft of the United States, or sub-  
8 ject to the jurisdiction of the United States, for the  
9 purpose of conducting any search or inspection in  
10 connection with the enforcement of this Act or any  
11 regulation promulgated or permit issued under this  
12 Act;

13 “(9) to forcibly assault, resist, oppose, impede,  
14 intimidate, or interfere with any authorized officer  
15 or employee of the United States in the conduct of  
16 any search or inspection described in paragraph (8);

17 “(10) to resist a lawful arrest or detention for  
18 any act prohibited by this section;

19 “(11) to interfere with, delay, or prevent, by  
20 any means, the apprehension, arrest, or detention of

1 another person, knowing that such other person has  
2 committed any act prohibited by this section;

3 “(12) to violate any regulation issued under  
4 this Act, or any term or condition of any permit is-  
5 sued to that person under this Act; or

6 “(13) to attempt to commit or cause to be com-  
7 mitted any act prohibited by this section.

8 “(b) ACTS PROHIBITED UNLESS AUTHORIZED BY  
9 PERMIT.—It is unlawful for any person, unless authorized  
10 by a permit issued under this Act—

11 “(1) to dispose of any waste in Antarctica (ex-  
12 cept as otherwise authorized by the Act to Prevent  
13 Pollution from Ships) including—

14 “(A) disposing of any waste from land into  
15 the sea in Antarctica; and

16 “(B) incinerating any waste on land or ice  
17 shelves in Antarctica, or on board vessels at  
18 points of embarkation or debarkation, other  
19 than through the use at remote field sites of in-  
20 cinerator toilets for human waste;

1           “(2) to introduce into Antarctica any member  
2 of a nonnative species;

3           “(3) to enter or engage in activities within any  
4 Antarctic Specially Protected Area;

5           “(4) to engage in any taking or harmful inter-  
6 ference in Antarctica; or

7           “(5) to receive, acquire, transport, offer for  
8 sale, sell, purchase, import, export, or have custody,  
9 control, or possession of, any native bird, native  
10 mammal, or native plant which the person knows, or  
11 in the exercise of due care should have known, was  
12 taken in violation of this Act.

13       “(c) EXCEPTION FOR EMERGENCIES.—No act de-  
14 scribed in subsection (a)(1), (2), (3), (4), (5), (7), (12),  
15 or (13) or in subsection (b) shall be unlawful if the person  
16 committing the act reasonably believed that the act was  
17 committed under emergency circumstances involving the  
18 safety of human life or of ships, aircraft, or equipment  
19 or facilities of high value, or the protection of the environ-  
20 ment.”.

1 **SEC. 104. ENVIRONMENTAL IMPACT ASSESSMENT.**

2       The Antarctic Conservation Act of 1978 is amended  
3 by inserting after section 4 the following new section:

4 **“SEC. 4A. ENVIRONMENTAL IMPACT ASSESSMENT.**

5       “(a) FEDERAL ACTIVITIES.—(1)(A) The obligations  
6 of the United States under Article 8 of and Annex I to  
7 the Protocol shall be implemented by applying the Na-  
8 tional Environmental Policy Act of 1969 (42 U.S.C. 4321  
9 et seq.) to proposals for Federal agency activities in Ant-  
10 arctica, as specified in this section.

11       “(B) The obligations contained in section 102(2)(C)  
12 of the National Environmental Policy Act of 1969 (42  
13 U.S.C. 4332(2)(C)) shall apply to all proposals for Federal  
14 agency activities occurring in Antarctica and affecting the  
15 quality of the human environment in Antarctica or de-  
16 pendent or associated ecosystems, only as specified in this  
17 section. For purposes of the application of such section  
18 102(2)(C) under this subsection, the term ‘significantly  
19 affecting the quality of the human environment’ shall have  
20 the same meaning as the term ‘more than a minor or tran-  
21 sitory impact’.



1           “(2)(A) Unless an agency which proposes to conduct  
2 a Federal activity in Antarctica determines that the activ-  
3 ity will have less than a minor or transitory impact, or  
4 unless a comprehensive environmental evaluation is being  
5 prepared in accordance with subparagraph (C), the agency  
6 shall prepare an initial environmental evaluation in ac-  
7 cordance with Article 2 of Annex I to the Protocol.

8           “(B) If the agency determines, through the prepara-  
9 tion of the initial environmental evaluation, that the pro-  
10 posed Federal activity is likely to have no more than a  
11 minor or transitory impact, the activity may proceed if ap-  
12 propriate procedures are put in place to assess and verify  
13 the impact of the activity.

14           “(C) If the agency determines, through the prepara-  
15 tion of the initial environmental evaluation or otherwise,  
16 that a proposed Federal activity is likely to have more  
17 than a minor or transitory impact, the agency shall pre-  
18 pare and circulate a comprehensive environmental evalua-  
19 tion in accordance with Article 3 of Annex I to the Proto-  
20 col, and shall make such comprehensive environmental  
21 evaluation publicly available for comment.

1       “(3) Any agency decision under this section on  
2 whether a proposed Federal activity, to which paragraph  
3 (2)(C) applies, should proceed, and, if so, whether in its  
4 original or in a modified form, shall be based on the com-  
5 prehensive environmental evaluation as well as other con-  
6 siderations which the agency, in the exercise of its discre-  
7 tion, considers relevant.

8       “(4) For the purposes of this section, the term ‘Fed-  
9 eral activity’ includes all activities conducted under a Fed-  
10 eral agency research program in Antarctica, whether or  
11 not conducted by a Federal agency.

12       “(b) FEDERAL ACTIVITIES CARRIED OUT JOINTLY  
13 WITH FOREIGN GOVERNMENTS.—(1) For the purposes of  
14 this subsection, the term ‘Antarctic joint activity’ means  
15 any Federal activity in Antarctica which is proposed to  
16 be conducted, or which is conducted, jointly or in coopera-  
17 tion with one or more foreign governments. Such term  
18 shall be defined in regulations promulgated by such agen-  
19 cies as the President may designate.

1           “(2) Where the Secretary of State, in cooperation  
2 with the lead United States agency planning an Antarctic  
3 joint activity, determines that—

4           “(A) the major part of the joint activity is  
5 being contributed by a government or governments  
6 other than the United States;

7           “(B) one such government is coordinating the  
8 implementation of environmental impact assessment  
9 procedures for that activity; and

10           “(C) such government has signed, ratified, or  
11 acceded to the Protocol,

12 the requirements of subsection (a) of this section shall not  
13 apply with respect to that activity.

14           “(3) In all cases of Antarctic joint activity other than  
15 those described in paragraph (2), the requirements of sub-  
16 section (a) of this section shall apply with respect to that  
17 activity, except as provided in paragraph (4).

18           “(4) Determinations described in paragraph (2), and  
19 agency actions and decisions in connection with assess-  
20 ments of impacts of Antarctic joint activities, shall not be  
21 subject to judicial review.

1           “(c) NONGOVERNMENTAL ACTIVITIES.—(1) The Ad-  
2 ministrator shall, within 2 years after the date of the en-  
3 actment of the Antarctic Environmental Protection Act of  
4 1996, promulgate regulations to provide for—

5           “(A) the environmental impact assessment of  
6 nongovernmental activities, including tourism, for  
7 which the United States is required to give advance  
8 notice under paragraph 5 of Article VII of the Trea-  
9 ty; and

10           “(B) coordination of the review of information  
11 regarding environmental impact assessment received  
12 from other Parties under the Protocol.

13           “(2) Such regulations shall be consistent with Annex  
14 I to the Protocol.

15           “(d) DECISION TO PROCEED.—(1) No decision shall  
16 be taken to proceed with an activity for which a com-  
17 prehensive environmental evaluation is prepared under  
18 this section unless there has been an opportunity for con-  
19 sideration of the draft comprehensive environmental eval-  
20 uation at an Antarctic Treaty Consultative Meeting, ex-  
21 cept that no decision to proceed with a proposed activity

1 shall be delayed through the operation of this paragraph  
2 for more than 15 months from the date of circulation of  
3 the draft comprehensive environmental evaluation pursu-  
4 ant to Article 3(3) of Annex I to the Protocol.

5       “(2) The Secretary of State shall circulate the final  
6 comprehensive environmental evaluation, in accordance  
7 with Article 3(6) of Annex I to the Protocol, at least 60  
8 days before the commencement of the activity in Antarc-  
9 tica.

10       “(e) CASES OF EMERGENCY.—The requirements of  
11 this section, and of regulations promulgated under this  
12 section, shall not apply in cases of emergency relating to  
13 the safety of human life or of ships, aircraft, or equipment  
14 and facilities of high value, or the protection of the envi-  
15 ronment, which require an activity to be undertaken with-  
16 out fulfilling those requirements.

17       “(f) EXCLUSIVE MECHANISM.—Notwithstanding any  
18 other provision of law, the requirements of this section  
19 shall constitute the sole and exclusive statutory obligations  
20 of the Federal agencies with regard to assessing the envi-

1 ronmental impacts of proposed Federal activities occur-  
2 ring in Antarctica.

3 “(g) DECISIONS ON PERMIT APPLICATIONS.—The  
4 provisions of this section requiring environmental impact  
5 assessments (including initial environmental evaluations  
6 and comprehensive environmental evaluations) shall not  
7 apply to Federal actions with respect to issuing permits  
8 under section 5.

9 “(h) PUBLICATION OF NOTICES.—Whenever the Sec-  
10 retary of State makes a determination under paragraph  
11 (2) of subsection (b) of this section, or receives a draft  
12 comprehensive environmental evaluation in accordance  
13 with Annex I, Article 3(3) to the Protocol, the Secretary  
14 of State shall cause timely notice thereof to be published  
15 in the Federal Register.”.

16 **SEC. 105. PERMITS.**

17 Section 5 of the Antarctic Conservation Act of 1978  
18 (16 U.S.C. 2404) is amended—

19 (1) in subsection (a) by striking “section 4(a)”  
20 and inserting in lieu thereof “section 4(b)”;

1           (2) in subsection (e)(1)(B) by striking “Spe-  
2           cial” and inserting in lieu thereof “Species”; and

3           (3) in subsection (e)—

4                 (A) by striking “or native plants to which  
5           the permit applies,” in paragraph (1)(A)(i) and  
6           inserting in lieu thereof “native plants, or na-  
7           tive invertebrates to which the permit applies,  
8           and”;

9                 (B) by striking paragraph (1)(A)(ii) and  
10           (iii) and inserting in lieu thereof the following  
11           new clause:

12                     “(ii) the manner in which the taking or  
13           harmful interference shall be conducted (which  
14           manner shall be determined by the Director to  
15           be humane) and the area in which it will be  
16           conducted;”;

17                 (C) by striking “within Antarctica (other  
18           than within any specially protected area)” in  
19           paragraph (2)(A) and inserting in lieu thereof  
20           “or harmful interference within Antarctica”;

1           (D) by striking “specially protected spe-  
2           cies” in paragraph (2)(A) and (B) and insert-  
3           ing in lieu thereof “Specially Protected Spe-  
4           cies”;

5           (E) by striking “; and” at the end of para-  
6           graph (2)(A)(i)(II) and inserting in lieu thereof  
7           “; or”;

8           (F) by adding after paragraph  
9           (2)(A)(i)(II) the following new subclause:

10                   “(III) for unavoidable consequences of  
11                   scientific activities or the construction and  
12                   operation of scientific support facilities;  
13                   and”;

14           (G) by striking “with Antarctica and” in  
15           paragraph (2)(A)(ii)(II) and inserting in lieu  
16           thereof “within Antarctica are”; and

17           (H) by striking subparagraphs (C) and (D)  
18           of paragraph (2) and inserting in lieu thereof  
19           the following new subparagraph:



1           “(C) A permit authorizing the entry into an  
2           Antarctic Specially Protected Area shall be issued  
3           only—

4                   “(i) if the entry is consistent with an ap-  
5                   proved management plan, or

6                   “(ii) if a management plan relating to the  
7                   area has not been approved but—

8                           “(I) there is a compelling purpose for  
9                           such entry which cannot be served else-  
10                          where, and

11                           “(II) the actions allowed under the  
12                          permit will not jeopardize the natural eco-  
13                          logical system existing in such area.”.

14 **SEC. 106. REGULATIONS.**

15           Section 6 of the Antarctic Conservation Act of 1978  
16 (16 U.S.C. 2405) is amended to read as follows:

17 **“SEC. 6. REGULATIONS.**

18           “(a) REGULATIONS TO BE ISSUED BY THE DIREC-  
19 TOR.—(1) The Director shall issue such regulations as are  
20 necessary and appropriate to implement Annex II and  
21 Annex V to the Protocol and the provisions of this Act

1 which implement those annexes, including section 4(b)(2),  
2 (3), (4), and (5) of this Act. The Director shall designate  
3 as native species—

4           “(A) each species of the class Aves;

5           “(B) each species of the class Mammalia; and

6           “(C) each species of plant,

7 which is indigenous to Antarctica or which occurs there  
8 seasonally through natural migrations.

9           “(2) The Director, with the concurrence of the Ad-  
10 ministrator, shall issue such regulations as are necessary  
11 and appropriate to implement Annex III to the Protocol  
12 and the provisions of this Act which implement that  
13 Annex, including section 4(a) (1), (2), (3), and (4), and  
14 section 4(b)(1) of this Act.

15           “(3) The Director shall issue such regulations as are  
16 necessary and appropriate to implement Article 15 of the  
17 Protocol with respect to land areas and ice shelves in Ant-  
18 arctica.

19           “(4) The Director shall issue such additional regula-  
20 tions as are necessary and appropriate to implement the  
21 Protocol and this Act, except as provided in subsection (b).

1       “(b) REGULATIONS TO BE ISSUED BY THE SEC-  
2 RETARY OF THE DEPARTMENT IN WHICH THE COAST  
3 GUARD IS OPERATING.—The Secretary of the Depart-  
4 ment in which the Coast Guard is operating shall issue  
5 such regulations as are necessary and appropriate, in ad-  
6 dition to regulations issued under the Act to Prevent Pol-  
7 lution from Ships (33 U.S.C. 1901 et seq.), to implement  
8 Annex IV to the Protocol and the provisions of this Act  
9 which implement that Annex, and, with the concurrence  
10 of the Director, such regulations as are necessary and ap-  
11 propriate to implement Article 15 of the Protocol with re-  
12 spect to vessels.

13       “(c) TIME PERIOD FOR REGULATIONS.—The regula-  
14 tions to be issued under subsection (a) (1) and (2) of this  
15 section shall be issued within 2 years after the date of  
16 the enactment of the Antarctic Environmental Protection  
17 Act of 1996. The regulations to be issued under subsection  
18 (a)(3) of this section shall be issued within 3 years after  
19 the date of the enactment of the Antarctic Environmental  
20 Protection Act of 1996.”.

1 **SEC. 107. SAVING PROVISIONS.**

2 Section 14 of the Antarctic Conservation Act of 1978  
3 is amended to read as follows:

4 **“SEC. 14. SAVING PROVISIONS.**

5 “(a) REGULATIONS.—All regulations promulgated  
6 under this Act prior to the date of the enactment of the  
7 Antarctic Environmental Protection Act of 1996 shall re-  
8 main in effect until superseding regulations are promul-  
9 gated under section 6.

10 “(b) PERMITS.—All permits issued under this Act  
11 shall remain in effect until they expire in accordance with  
12 the terms of those permits.”.

13 **TITLE II—AMENDMENTS TO ANT-**  
14 **ARCTIC PROTECTION ACT OF**  
15 **1990**

16 **SEC. 201. FINDING AND PURPOSE.**

17 Section 2 of the Antarctic Protection Act of 1990 (16  
18 U.S.C. 2461) is amended to read as follows:

1 **“SEC. 2. FINDING AND PURPOSE.**

2       “(a) FINDING.—The Congress finds that the Protocol  
3 on Environmental Protection to the Antarctic Treaty pro-  
4 hibits indefinitely Antarctic mineral resource activities.

5       “(b) PURPOSE.—The purpose of this Act is to pro-  
6 vide legislative authority to implement, with respect to the  
7 United States, Article 7 of the Protocol on Environmental  
8 Protection to the Antarctic Treaty.”.

9 **SEC. 202. PROHIBITION OF ANTARCTIC MINERAL RE-**  
10 **SOURCE ACTIVITIES.**

11       Section 4 of the Antarctic Protection Act of 1990 (16  
12 U.S.C. 2463) is amended by striking “Pending a new  
13 agreement among the Antarctic Treaty Consultative Par-  
14 ties in force for the United States, to which the Senate  
15 has given advice and consent or which is authorized by  
16 further legislation by the Congress, which provides an in-  
17 definite ban on Antarctic mineral resource activities, it”  
18 and inserting in lieu thereof “It”.

1 **SEC. 203. ADDITIONAL AMENDMENTS.**

2 (a) REPEALS.—Sections 5 and 7 of the Antarctic  
3 Protection Act of 1990 (16 U.S.C. 2464 and 2466) are  
4 repealed.

5 (b) REDESIGNATION.—Section 6 of the Antarctic  
6 Protection Act of 1990 (16 U.S.C. 2465) is redesignated  
7 as section 5.

8 **TITLE III—AMENDMENTS TO**  
9 **THE ACT TO PREVENT POLLU-**  
10 **TION FROM SHIPS**

11 (a) DEFINITIONS.—Section 2 of the Act to Prevent  
12 Pollution from Ships (33 U.S.C. 1901) is amended—

13 (1) by redesignating paragraphs (1) through  
14 (9) of subsection (a) as paragraphs (3) through  
15 (11), respectively;

16 (2) by inserting before paragraph (3), as so re-  
17 designated by paragraph (1) of this subsection, the  
18 following new paragraphs:

19 “(1) ‘Antarctica’ means the area south of 60  
20 degrees south latitude;

1           “(2) ‘Antarctic Protocol’ means the Protocol on  
2           Environmental Protection to the Antarctic Treaty,  
3           signed October 4, 1991, in Madrid, and all annexes  
4           thereto, and includes any future amendments thereto  
5           which have entered into force;” and

6           (3) by adding at the end the following new sub-  
7           section:

8           “(c) For the purposes of this Act, the requirements  
9           of Annex IV to the Antarctic Protocol shall apply in Ant-  
10          arctica to all vessels over which the United States has ju-  
11          risdiction.”.

12          (b) APPLICATION OF ACT.—Section 3(b)(1)(B) of the  
13          Act to Prevent Pollution from Ships (33 U.S.C.  
14          1902(b)(1)(B)) is amended by inserting “or the Antarctic  
15          Protocol” after “MARPOL Protocol”.

16          (c) ADMINISTRATION.—Section 4 of the Act to Pre-  
17          vent Pollution from Ships (33 U.S.C. 1903) is amended—

18                  (1) by inserting “, Annex IV to the Antarctic  
19          Protocol,” after “the MARPOL Protocol” in the  
20          first sentence of subsection (a);

1           (2) in subsection (b)(1) by inserting “, Annex  
2           IV to the Antarctic Protocol,” after “the MARPOL  
3           Protocol”;

4           (3) in subsection (b)(2)(A) by striking “within  
5           1 year after the effective date of this paragraph,”;  
6           and

7           (4) in subsection (b)(2)(A)(i) by inserting “and  
8           of Annex IV to the Antarctic Protocol” after “the  
9           Convention”.

10          (d) POLLUTION RECEPTION FACILITIES.—Section 6  
11 of the Act to Prevent Pollution from Ships (33 U.S.C.  
12 1905) is amended—

13           (1) in subsection (b) by inserting “or the Ant-  
14           arctic Protocol” after “the MARPOL Protocol”;

15           (2) in subsection (e)(1) by inserting “or the  
16           Antarctic Protocol” after “the Convention”;

17           (3) in subsection (e)(1)(A) by inserting “or Ar-  
18           ticle 9 of Annex IV to the Antarctic Protocol” after  
19           “the Convention”; and

20           (4) in subsection (f) by inserting “or the Ant-  
21           arctic Protocol” after “the MARPOL Protocol”.



1 (e) VIOLATIONS.—Section 8 of the Act to Prevent  
2 Pollution from Ships (33 U.S.C. 1907) is amended—

3 (1) in the first sentence of subsection (a) by in-  
4 serting “Annex IV to the Antarctic Protocol,” after  
5 “MARPOL Protocol,”;

6 (2) in the second sentence of subsection (a)—

7 (A) by inserting “or to the Antarctic Pro-  
8 tocol” after “to the MARPOL Protocol”; and

9 (B) by inserting “and Annex IV to the  
10 Antarctic Protocol” after “of the MARPOL  
11 Protocol”;

12 (3) in subsection (b) by inserting “or the Ant-  
13 arctic Protocol” after “MARPOL Protocol” both  
14 places it appears;

15 (4) in subsection (c)(1) by inserting “, of Arti-  
16 cle 3 or Article 4 of Annex IV to the Antarctic Pro-  
17 tocol,” after “to the Convention”;

18 (5) in subsection (c)(2) by inserting “or the  
19 Antarctic Protocol” after “which the MARPOL Pro-  
20 tocol”;

1           (6) in subsection (c)(2)(A) by inserting “,  
2 Annex IV to the Antarctic Protocol,” after  
3 “MARPOL Protocol”;

4           (7) in subsection (c)(2)(B)—

5                 (A) by inserting “or the Antarctic Proto-  
6 col” after “to the MARPOL Protocol”; and

7                 (B) by inserting “or Annex IV to the Ant-  
8 arctic Protocol” after “of the MARPOL Proto-  
9 col”;

10           (8) in subsection (d)(1) by inserting “, Article  
11 5 of Annex IV to the Antarctic Protocol,” after  
12 “Convention”;

13           (9) in subsection (e)(1)—

14                 (A) by inserting “or the Antarctic Proto-  
15 col” after “MARPOL Protocol”; and

16                 (B) by striking “that Protocol” and insert-  
17 ing in lieu thereof “those Protocols”; and

18           (10) in subsection (e)(2) by inserting “, of  
19 Annex IV to the Antarctic Protocol,” after  
20 “MARPOL Protocol”.

1           (f) PENALTIES.—Section 9 of the Act to Prevent Pol-  
2 lution from Ships (33 U.S.C. 1908) is amended—

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

6           (2) in subsection (b)(1) by inserting “, Annex  
7 IV to the Antarctic Protocol,” after “MARPOL Proto-  
8 col,”;

9           (3) in subsection (b)(2) by inserting “, Annex  
10 IV to the Antarctic Protocol,” after “MARPOL Proto-  
11 col,”;

12           (4) in subsection (d) by inserting “, Annex IV  
13 to the Antarctic Protocol,” after “MARPOL Proto-  
14 col,”;

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

18           (6) in subsection (f) by inserting “or the Ant-  
19 arctic Protocol” after “MARPOL Protocol” both  
20 places it appears.

## H.R. 3060, THE ANTARCTIC ENVIRONMENTAL PROTECTION ACT OF 1996

## SUMMARY OF MAJOR PROVISIONS

The purpose of the bill is to implement the Protocol on Environmental Protection to the Antarctic Treaty.

Title I. Amends the Antarctic Conservation Act (ACA) of 1978.

Sec. 103. Specifies prohibited actions associated with disposal of pollutants, harming historic sites, control of tourism, interference with enforcement officials, and violation of regulations and permits. Specifies actions which are prohibited unless authorized by a permit, including waste disposal, introduction of non-native species, entering protected areas, disturbing native species, and transporting or possessing native birds, mammals or plants. Some exceptions to these prohibitions are allowed under emergency circumstances.

Sec. 104. Establishes the policy that obligations under the Protocol for environmental impact assessments for federal agency activities are to be satisfied by application of the National Environmental Policy Act. Specifies that environmental impact assessments for Antarctic joint activities (to be defined through regulations) carried out in cooperation with one or more foreign governments shall not be conducted by the United States, provided that the Secretary of State determines that a major part of the joint activity is being contributed by another nation, which is coordinating the environmental assessment and which has acceded to the Protocol. The Administrator of EPA is required to promulgate regulations to provide for the environmental impact assessment of non-governmental activities, such as tourism.

Sec. 105. Amends the Permits section of the ACA to conform to the terminology and requirements of the Protocol, including specifying the need for a permit for killing or capturing native birds or mammals associated with scientific activities or the construction and operation of scientific support facilities.

Sec. 106. Specifies, with two exceptions noted subsequently, that NSF shall issue all regulations to implement the Protocol and Act, including Annex II (Conservation of Antarctic Fauna and Flora), Annex V (Area Protection and Management), and Article 15 (Emergency Response Action) with respect to land areas and ice shelves. Specifies that NSF shall, with the concurrence of EPA, issue regulations to implement Annex III (Waste Disposal and Waste Management) of the Protocol. Specifies that the Coast Guard shall issue regulations to implement Annex IV (Prevention of Marine Pollution) of the Protocol and, with the concurrence of NSF, shall issue regulations to implement Article 15 of the Protocol with respect to ships.

Title II. Amends the Antarctic Protection Act of 1990 to bring it into conformity with the ban on mineral resource activities in Article 7 of the Protocol.

Title III. Amends the Act to Prevent Pollution from Ships by inserting such references to Annex IV of the Protocol as necessary to implement the Protocol's provisions on prevention of marine pollution.

The CHAIRMAN. This first bill before us today has over 20 sponsors. And, I want to thank, in particular, the Subcommittee Chairs, Connie Morella, Steve Schiff and Dana Rohrabacher, and the Ranking Member, Mr. Brown, for their support of this bill.

H.R. 3060 provides the legislative authority necessary for the United States to implement the 1991 Protocol on Environmental Protection to the Antarctic Treaty.

The Protocol, which resulted from a United States initiative, represents an important addition to the uniquely successful system of peaceful cooperation and scientific research that has evolved under the Antarctic Treaty. The U.S. Senate gave its advice and consent to ratification of the Protocol in 1992.

All that remains for the United States to become a party to the Protocol is to enact the necessary implementing legislation. The Protocol will activate when all 26 of the Antarctic Treaty consultative parties implement it.

So far, 20 of the consultative parties have done so. The United States' ratification will provide impetus for the remaining five to join, as well.

Implementation of the Protocol has been a priority of both Republicans and Democrats since the Protocol was negotiated in 1991. The Protocol builds upon the Antarctic Treaty to improve the Treaty's effectiveness for ensuring the protection of the Antarctic environment.

The Protocol reaffirms the Treaty's use of Antarctica exclusively for peaceful purposes and accords priority to scientific research among the permitted activities. The Protocol prohibits mineral resource activities, other than scientific research in Antarctica.

Its annexes, which form an integral part of the Protocol, set out specific rules on environmental impact assessment, conservation of Antarctic fauna and flora, waste disposal and management, the prevention of marine pollution and the area protection and management.

Last week, the Committee held a hearing on this bill. The State Department, the National Science Foundation and interested environmental groups have played an important role in supporting the legislation. Every witness before the Committee strongly endorsed this bill exactly as written; and, in particular, the World Wildlife Fund and members of the Antarctic and Southern Ocean Coalition recommended its expeditious passage.

I feel the markup of this bill is timely, in that the representatives of the United States will be attending the 20th annual Antarctic Treaty Consultative meeting later on this month in the Netherlands. Our representatives will be able to report that we are making legislative progress toward implementing the Treaty and that it reflects America's continued commitment to the protection of the Antarctic environment.

In conclusion, I believe we have crafted a good bill. I urge my colleagues to support the legislation.

[The opening statement of Chairman Walker follows:]

OPENING STATEMENT OF CHAIRMAN ROBERT S. WALKER ON H.R. 3060, THE  
ANTARCTIC ENVIRONMENTAL PROTECTION ACT OF 1996

The first bill before us today is H.R. 3060, the Antarctic Environmental Protection Act of 1996.

With over twenty co-sponsors, I want to thank in particular the Subcommittee Chairs, Connie Morella, Steve Schiff, and Dana Rohrabacher, and the ranking Member, Mr. Brown, for their support of this bill.

H.R. 3060 provides the legislative authority necessary for the United States to implement the 1991 Protocol on Environmental Protection to the Antarctic Treaty. The Protocol, which resulted from a United States initiative, represents an important addition to the uniquely successful system of peaceful cooperation and scientific research that has evolved under the Antarctic Treaty.

The U.S. Senate gave its advice and consent to ratification of the Protocol in 1992. All that remains for the United States to become a Party to the Protocol is to enact the necessary implementing legislation. The Protocol will activate when all twenty-six of the Antarctic Treaty Consultative Parties implement it. So far, twenty of the Consultative Parties have done so. The United States' ratification will provide impetus for the remaining five to join, as well.

Implementation of the Protocol has been a priority of both Republicans and Democrats since the Protocol was negotiated in 1991. The Protocol builds upon the Antarctic Treaty to improve the treaty's effectiveness for ensuring the protection of the Antarctic environment. The Protocol reaffirms the Treaty's use of Antarctica exclusively for peaceful purposes, and accords priority to scientific research among the permitted activities.

The Protocol prohibits mineral resource activities, other than scientific research, in Antarctica. Its Annexes, which form an integral part of the Protocol, set out specific rules on environmental impact assessment, conservation of Antarctic fauna and flora, waste disposal and management, the prevention of marine pollution, and area protection and management.

Last week, the Committee held a hearing on this bill. The State Department, the National Science Foundation, and interested environmental groups have played an important role in supporting this bill. Every witness before the Committee strongly endorsed this bill and, in particular, the World Wildlife Fund and members of the Antarctic and Southern Ocean Coalition recommend its expeditious passage.

I feel this mark-up is timely in that representatives of the United States will be attending the twentieth annual Antarctic Treaty Consultative Meeting later this month in the Netherlands.

Our representatives will be able to report that we are making legislative progress toward implementing the treaty, and that reflects America's continued commitment to the protection of the Antarctic environment.

In conclusion, we have crafted a good bill. I urge my colleagues to support this legislation.

The CHAIRMAN. I would now recognize Mr. Brown for any remarks he might wish to make.

Mr. BROWN. Thank you, Mr. Chairman. I'm pleased to join Chairman Walker in endorsing H.R. 3060, a bill to implement the Environmental Protocol to the Antarctic Treaty.

And, I congratulate him for bringing the bill before the Committee for its consideration today and for his excellent summary of the provisions of the bill.

And, I ask unanimous consent to put the rest of my excellent statement in the record at this point.

The CHAIRMAN. Without objection.

[The opening statement of Mr. Brown follows:]

OPENING STATEMENT OF THE HONORABLE GEORGE E. BROWN, JR. (D-CA), RANKING DEMOCRATIC MEMBER, COMMITTEE ON SCIENCE

I am pleased to join Chairman Walker in endorsing H.R. 3060, a bill to implement the Environmental Protocol to the Antarctic Treaty, and I congratulate him for bringing the bill before the Committee for its consideration today.

This is an auspicious moment. As we learned from the Committee's hearing last week, we have a bill with bipartisan congressional support and endorsements from the Administration, the major environmental advocacy groups, and the Antarctic research community. In fact, none of the witnesses at the hearing offered a single suggestion for changes to the bill.

All recognize the importance of protecting this unique world resource, while allowing valuable research to go forward, and all support H.R. 3060 as the vehicle to implement the Protocol for U.S. activities in Antarctica.

Protection of the Antarctic environment is important both because of Antarctica's intrinsic value as one of the last pristine regions of the globe and because it has enormous value as a scientific laboratory. Scientists from many nations conduct research there in a broad range of areas in the physical and biological sciences. Antarctica is especially important as a research platform for studies of world climate and global environmental change. Environmental degradation could impair much of this research.

The Protocol was developed with strong U.S. leadership and through consultation with all of the major stakeholders to provide a set of principles and procedures that will ensure that all nations institute effective environmental safeguards. Final ratification will assert continued U.S. leadership in Antarctic affairs and will help spur action by the remaining nations which have not completed ratification.

I encourage my colleagues to vote to report the bill without amendment, and I look forward to its passage by the House at the earliest possible date. I will assist the Chairman in any way I can toward achievement of that goal.

The CHAIRMAN. Are there any further statements on the bill? Mrs. Morella.

Mrs. MORELLA. Thank you. Thank you, Mr. Chairman. I commend you for your leadership in protecting the Antarctic environment.

And, I am pleased to have joined you and Mr. Brown as an original co-sponsor to ratify the Protocol on Environmental Protection to the Antarctic Treaty.

We saw and listened at last week's hearing, and there was total bipartisan support from all quarters on this very important ratification of Congress. And, I have here before me "Wildlife Conservation." It says, "Antarctic, the last best place on Earth."

And, that's what this bill is going to do. It's going to help to preserve it.

It has long been recognized as a unique scientific laboratory of enormous value to the international community. And, you and I have both had an opportunity to visit and participate in studies in Antarctic and clearly this Committee clearly understands the need to reinforce the status of Antarctic as a natural reserve devoted to peace and science.

And, so I strongly support the bill. Thank you for bringing it before us so quickly.

[The opening statement of Mrs. Morella follows:]

OPENING STATEMENT OF HON. CONSTANCE A. MORELLA

HOUSE SCIENCE COMMITTEE MARKUP ON H.R. 3060, THE ANTARCTIC ENVIRONMENTAL PROTECTION ACT OF 1996

Mr. Chairman, I commend you for your leadership in protecting the Antarctic environment and I am very pleased to have joined you as an original cosponsor of H.R. 3060, legislation to ratify the Protocol on Environmental Protection to the Antarctic Treaty.

Last week's hearing on H.R. 3060 demonstrated strong support for implementing the Protocol. Originally signed by the United States in 1981, the Protocol is not self-executing and is still awaiting Congressional ratification.

Antarctica has long been recognized as a unique scientific laboratory of enormous value to the international community. I have had the opportunity to visit and participate in studies in Antarctica. I clearly understand the need to reinforce the status of Antarctica as a natural reserve devoted to peace and science.

By establishing important and necessary principles and rules for the protection of the Antarctic environment from the effects of human activities, we can preserve this fragile and still-developing glacier ecosystem for generations to come.

I urge support for H.R. 3060.

The CHAIRMAN. Thank you, Mrs. Morella. Are there any other statements on the bill?

Mr. SCHIFF. Mr. Chairman.

The CHAIRMAN. Mr. Schiff.

Mr. SCHIFF. As Chair of the Subcommittee with jurisdiction, I want to thank you for your personal leadership in this matter. I think this is a very good bill, a very important bill.

I will support it. I yield back.

The CHAIRMAN. Thank you very much. Anybody else?

Ms. JOHNSON. I ask unanimous consent my statement be placed in the record.

[No statement was received.]

The CHAIRMAN. Without objection. Are there any amendments to the bill?

[No response.]

The CHAIRMAN. Hearing none, the question is on the bill, H.R. 3060, the Antarctic Environmental Protection Act of 1996.

Those in favor will say aye.

[A chorus of ayes.]

The CHAIRMAN. Those opposed will say no.

[A chorus of nays.]

The CHAIRMAN. In the opinion of the Chair, the ayes have it.

Mr. Brown.

Mr. BROWN. Mr. Chairman, I move that the Committee report the bill, H.R. 3060, the Antarctic Environmental Protection Act of 1996, as amended. Furthermore, I move to instruct the staff to prepare the legislative report to make technical and conforming amendments and that the Chairman take all necessary steps to bring the bill before the House for consideration.

In addition, I move that the members have three legislative days to submit supplemental, Minority or additional views.

The CHAIRMAN. The Committee has heard the motion. Those in favor will say aye.

[A chorus of ayes.]

The CHAIRMAN. Those opposed will say no.

[No response.]

The CHAIRMAN. The ayes have it. The motion is agreed to.

Without objection, the motion to reconsider is laid upon the table.  
Mr. Ehlers.

Mr. EHLERS. Mr. Chairman, I move, pursuant to Clause 1, Rule 20 of the Rules of the House of Representatives, that the Committee authorize the Chairman to offer such motions as may be necessary in the House to go to conference with the Senate on the Omnibus Civilian Science—wrong bill.

The CHAIRMAN. Wrong bill. H.R. 3060.

Mr. EHLERS. On H.R. 3060, the Antarctic Environmental Protection Act of 1996, or a similar Senate bill.

The CHAIRMAN. The Committee has heard the motion. Those in favor will say aye.

[A chorus of ayes.]

The CHAIRMAN. Those opposed will say no.

[No response.]

The CHAIRMAN. The ayes have it. This concludes the markup of H.R. 3060, the Antarctic Environmental Protection Act of 1996.

We will now suspend momentarily to allow the Reporter to change to a new tape and to prepare a separate transcript for the next measure that we take under consideration.

[Whereupon, the markup of H.R. 3060 was concluded at 10:16 a.m., Wednesday, April 24, 1996; followed by a markup of the Omnibus Civilian Science Authorization Act of 1996, commencing at 10:18 a.m., this same date.]