

(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 designated 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 2432 of this title.

(Pub. L. 95-541, §3, Oct. 28, 1978, 92 Stat. 2048; Pub. L. 104-227, title I, §102, Oct. 2, 1996, 110 Stat. 3035.)

AMENDMENTS

1996—Pub. L. 104-227 reenacted section catchline without change and amended text generally. Prior to amendment, text defined “Agreed Measures”, “Antarctica”, “collect”, “Director”, “foreign person”, “native bird”, “native mammal”, “native plant”, “pollutant”, “site of special scientific interest”, “specially protected area”, “specially protected species”, “take”, “Treaty”, “United States”, and “United States citizen”.

TERRITORIAL SEA OF UNITED STATES

For extension of territorial sea of United States, see Proc. No. 5928, set out as a note under section 1331 of Title 43, Public Lands.

§ 2403. 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 nongovernmental 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 chapter, 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 chapter or any regulation promulgated or permit issued under this chapter;

(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 chapter, or any term or condition of any permit issued to that person under this chapter; 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 chapter—

(1) to dispose of any waste in Antarctica (except as otherwise authorized by the Act to Prevent Pollution from Ships [33 U.S.C. 1901 et seq.]) 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 disembarkation, 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 chapter.

(c) Exception for emergencies

No act described in subsection (a)(1), (2), (3), (4), (5), (7), (12), or (13) of this section or in subsection (b) of this section 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.

(Pub. L. 95-541, §4, Oct. 28, 1978, 92 Stat. 2049; Pub. L. 104-227, title I, §103, Oct. 2, 1996, 110 Stat. 3036.)

REFERENCES IN TEXT

The Act to Prevent Pollution from Ships, referred to in subsecs. (a)(5) and (b)(1), is Pub. L. 96-478, Oct. 21, 1980, 94 Stat. 2297, as amended, which is classified principally to chapter 33 (§1901 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1901 of Title 33 and Tables.

AMENDMENTS

1996—Pub. L. 104-227 reenacted section catchline without change and amended text generally. Prior to amendment, text consisted of subsec. (a) “In General”, which set forth unlawful acts in pars. (1) to (4) and provided that such acts would not be unlawful if committed under emergency circumstances to prevent the loss of human life, and subsec. (b) “Exception”, which provided that subsec. (a) would not apply with respect to any native mammal, native bird, or native plant held in captivity or to any offspring of such mammal, bird, or plant.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2404, 2405, 2407, 2408, 2409 of this title.

§ 2403a. 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 subparagraph (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 October 2, 1996, promulgate regulations to provide for—