

103D CONGRESS
1ST SESSION

H. R. 964

To implement the Protocol on Environmental Protection to the Antarctic Treaty, to enact a prohibition against Antarctic mineral resource activities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 18, 1993

Mr. BOUCHER (for himself, Mr. BROWN of California, Mr. WALKER, Mr. BOEHLERT, Mr. VALENTINE, Mr. BARCIA, Ms. E.B. JOHNSON of Texas, and Mr. MINGE) introduced the following bill; which was referred jointly to the Committees on Science, Space, and Technology, Merchant Marine and Fisheries, Energy and Commerce, and Natural Resources

A BILL

To implement the Protocol on Environmental Protection to the Antarctic Treaty, to enact a prohibition against Antarctic mineral resource activities, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

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

6 **SEC. 2. FINDINGS AND POLICY.**

7 Section 2 of the Antarctic Conservation Act of 1978
8 (16 U.S.C. 2401) is amended—

1 (1) by striking “**PURPOSE**” in the section
2 head and inserting in lieu thereof “**POLICY**”;

3 (2) in subsection (a)(1)—

4 (A) by striking “Agreed Measures for the
5 Conservation of Antarctic Fauna and Flora,
6 adopted at the Third Antarctic Treaty Consult-
7 ative Meeting,” and inserting in lieu thereof
8 “Protocol on Environmental Protection to the
9 Antarctic Treaty”;

10 (B) by inserting “the comprehensive pro-
11 tection of the Antarctic environment,” after
12 “firm foundation for”;

13 (C) by inserting a comma after “inter-
14 national cooperation”; and

15 (D) by striking “and” at the end thereof;

16 (3) by amending subsection (a)(2) to read as
17 follows:

18 “(2) the protection of the Antarctic environ-
19 ment and dependent and associated ecosystems and
20 the intrinsic value of Antarctica, including its wilder-
21 ness and aesthetic values and its value as an area
22 for the conduct of scientific research, in particular
23 research essential to understanding the global envi-
24 ronment, should be fundamental considerations in

1 the planning and conduct of all activities in Antarc-
2 tica; and”;

3 (4) by inserting after subsection (a)(2) the fol-
4 lowing new paragraph:

5 “(3) the prohibition of Antarctic mineral re-
6 source activity will contribute to protection of the
7 Antarctic environment and dependent and associated
8 ecosystems by avoiding potential environmental deg-
9 radation which could result from mineral resource
10 activities.”; and

11 (5) by amending subsection (b) to read as fol-
12 lows:

13 “(b) POLICY.—(1) It is the national policy of the
14 United States that activities in Antarctica be planned and
15 conducted so as to limit adverse impacts on the Antarctic
16 environment and dependent and associated ecosystems
17 and avoid—

18 “(A) adverse effects on climate or weather pat-
19 terns;

20 “(B) significant adverse effects on air or water
21 quality;

22 “(C) significant changes in the atmospheric,
23 terrestrial (including freshwater aquatic), glacial, or
24 marine environments;

1 “(D) detrimental changes in the distribution,
2 abundance, or productivity of species or populations
3 of species of fauna and flora;

4 “(E) further jeopardy to endangered or threat-
5 ened species or populations of such species; and

6 “(F) degradation of, or substantial risk to,
7 areas of biological, scientific, historic, aesthetic, or
8 wilderness significance.

9 “(2) It is the national policy of the United States that
10 activities in Antarctica be planned and conducted on the
11 basis of information sufficient to allow prior assessments
12 of, and informed judgments about, their possible impacts
13 on the Antarctic environment and dependent and associ-
14 ated ecosystems and on the value of Antarctica for the
15 conduct of scientific research, taking full account of—

16 “(A) the scope of the activity, including its
17 area, duration, and intensity;

18 “(B) the cumulative impacts of the activity,
19 both by itself and in combination with other activi-
20 ties in Antarctica;

21 “(C) whether the activity will detrimentally af-
22 fect any other activity in Antarctica;

23 “(D) whether technology and procedures are
24 available to provide for environmentally safe oper-
25 ations;

1 “(E) whether there exists the capacity to mon-
2 itor key environmental parameters and ecosystem
3 components so as to identify and provide early warn-
4 ing of any adverse effects of the activity and to pro-
5 vide for such modification of operating procedures as
6 may be necessary in the light of the results of mon-
7 itoring or increased knowledge of the Antarctic envi-
8 ronment and dependent and associated ecosystems;
9 and

10 “(F) whether there exists the capacity to re-
11 spond promptly and effectively to accidents, particu-
12 larly those with potential environmental effects.

13 “(3) It is the national policy of the United States that
14 regular and effective monitoring take place to allow assess-
15 ment of the impacts of ongoing activities in Antarctica,
16 including the verification of predicted impacts.

17 “(4) It is the national policy of the United States that
18 regular and effective monitoring take place to facilitate
19 early detection of the possible unforeseen effects of activi-
20 ties carried out both within and outside Antarctica on the
21 Antarctic environment and dependent and associated
22 ecosystems.

23 “(5) It is the national policy of the United States that
24 activities in Antarctica be planned and conducted so as
25 to accord priority to scientific research and to preserve

1 the value of Antarctica as an area for the conduct of such
2 research, including research essential to understanding the
3 global environment, and in pursuance of these objectives
4 to provide in this Act the sole requirements for environ-
5 mental evaluations relative to United States actions in
6 Antarctica.

7 “(6) It is the national policy of the United States that
8 activities in Antarctica subject to United States jurisdic-
9 tion take place in a manner consistent with this sub-
10 section, and be modified, suspended, or canceled if they
11 result in or threaten to result in impacts upon the Ant-
12 arctic environment or dependent or associated ecosystems
13 inconsistent with this subsection.

14 “(7) It is the national policy of the United States that
15 Antarctica is a natural reserve, devoted to peace and
16 science.”.

17 **SEC. 3. DEFINITIONS.**

18 Section 3 of the Antarctic Conservation Act of 1978
19 (16 U.S.C. 2402) is amended—

20 (1) by striking paragraphs (1), (3), (5), (8),
21 (10), (13), and (16);

22 (2) by redesignating paragraphs (2), (4), (6),
23 (7), (9), (11), (12), (14), and (15) as paragraphs
24 (4), (7), (11), (13), (23), (3), (19), (21), and (22),

1 respectively, and by reordering those paragraphs ac-
2 cordingly;

3 (3) in paragraph (3), as so redesignated by
4 paragraph (2) of this section—

5 (A) by inserting “Antarctic” before “spe-
6 cially protected”; and

7 (B) by striking “(4)” and inserting in lieu
8 thereof “(3)”;

9 (4) in paragraph (11), as so redesignated by
10 paragraph (2) of this section, by striking “, and in-
11 cludes any part of any such member”;

12 (5) in paragraph (13), as so redesignated by
13 paragraph (2) of this section—

14 (A) by striking “, other than any species
15 regulated by the International Whaling Com-
16 mission,”; and

17 (B) by striking “, and includes any part of
18 such member”;

19 (6) in paragraph (19), as so redesignated by
20 paragraph (2) of this section, by striking “(5)” and
21 inserting in lieu thereof “(4)”;

22 (7) in paragraph (21), as so redesignated by
23 paragraph (2) of this section—

1 (A) by striking “term ‘Treaty’ means” and
2 inserting in lieu thereof “terms ‘treaty’ and
3 ‘Antarctic Treaty’ mean”; and

4 (B) by inserting “and any recommenda-
5 tions in effect thereunder” after “December 1,
6 1959”;

7 (8) in paragraph (22), as so redesignated by
8 paragraph (2) of this section—

9 (A) by striking “, including the Govern-
10 ment of the Northern Mariana Islands”; and

11 (B) by inserting “the Commonwealth of
12 the Northern Mariana Islands, any other com-
13 monwealth, territory, or possession of the Unit-
14 ed States,” after “Guam,”;

15 (9) by inserting before paragraph (3), as so re-
16 designating by paragraph (2) of this section, the fol-
17 lowing new paragraphs:

18 “(1) The term ‘Antarctic mineral resource’
19 means any nonliving natural nonrenewable resource
20 (or part or product thereof) found in or recovered
21 from Antarctica, including fossil fuels, rocks, and
22 minerals, whether metallic or nonmetallic, but the
23 term does not include ice, water, snow, or any min-
24 eral resource removed before the date of enactment
25 of this paragraph.

1 “(2) The term ‘Antarctic mineral resource ac-
2 tivity’ means collecting, removing or transporting, or
3 prospecting for, or exploration or development of, an
4 Antarctic mineral resource, but does not include
5 those activities that are undertaken in the course of
6 and that are directly related to—

7 “(A) scientific research;

8 “(B) construction, operation, and mainte-
9 nance of research stations, field camps, or other
10 such facilities; or

11 “(C) providing, and with the advance writ-
12 ten consent of the recipient institution, an Ant-
13 arctic mineral resource specimen to a museum
14 or other institution with a similar public func-
15 tion.”;

16 (10) by inserting after paragraph (4), as so re-
17 designated by paragraph (2) of this section, the fol-
18 lowing new paragraphs:

19 “(5) The term ‘Committee for Environmental
20 Protection’ means the Committee for Environmental
21 Protection established pursuant to Article 11 of the
22 Protocol.

23 “(6) The term ‘development’ means any activ-
24 ity, including logistic support, which takes place fol-
25 lowing exploration, the purpose of which is the ex-

1 exploitation of antarctic mineral resource deposits, in-
2 cluding processing, storage, and transport activi-
3 ties.”;

4 (11) by inserting after paragraph (7), as so re-
5 designated by paragraph (2) of this section, the fol-
6 lowing new paragraphs:

7 “(8) The term ‘exploration’ means any activity,
8 including logistic support, the purpose of which is
9 the identification or evaluation of specific Antarctic
10 mineral resource deposits for possible development,
11 including exploratory drilling, dredging, and other
12 surface or subsurface evacuations undertaken to de-
13 termine the nature and size of mineral resource de-
14 posits and the feasibility of their development.

15 “(9) 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 and seals;

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

22 “(C) using explosives or firearms in a
23 manner that disturbs concentrations of birds
24 and seals;

1 “(D) willfully disturbing breeding or
2 molting birds or concentrations of birds and
3 seals by persons on foot;

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

8 “(F) any activity that results in significant
9 adverse modification of habitats of any native
10 mammal, native bird, native plant, or native in-
11 vertebrate.

12 “(10) The term ‘import’ means to land on or
13 introduce into, or attempt to land on or introduce
14 into, any place subject to the jurisdiction of the
15 United States, including the 12-mile territorial sea
16 of the United States, whether or not such act con-
17 stitutes an importation within the meaning of the
18 customs laws of the United States.”;

19 (12) by inserting after paragraph (11), as so
20 redesignated by paragraph (2) of this section, the
21 following new paragraph:

22 “(12) The term ‘native invertebrate’ means any
23 terrestrial or freshwater invertebrate, at any stage of
24 its life cycle, which is designated as such by the Di-
25 rector under section 6(b)(1).”;

1 (13) by inserting after paragraph (13), as so
2 redesignated by paragraph (2) of this section, the
3 following new paragraphs:

4 “(14) The term ‘native plant’ means any terres-
5 trial or freshwater vegetation, including bryophytes,
6 lichens, fungi, and algae, at any stage of its life
7 cycle (including seeds and other propagules), which
8 is designated as such by the Director under section
9 6(b)(1).

10 “(15) The term ‘nonnative species’ means any
11 species of animal or plant which is not native to
12 Antarctica.

13 “(16) The term ‘person’ means an individual,
14 partnership, corporation, trust, association, or other
15 entity subject to the jurisdiction of the United
16 States; and any department, agency, or other instru-
17 mentality of the Federal Government or of any State
18 or local government, and any officer, employee, or
19 agent of any such instrumentality.

20 “(17) The term ‘prospecting’ means any activ-
21 ity, including logistic support, the purpose of which
22 is the identification of Antarctic mineral resource
23 potential for possible exploration and development.

24 “(18) The term ‘Protocol’ means the Protocol
25 on Environmental Protection to the Antarctic Trea-

1 ty, signed October 4, 1991, in Madrid, and all an-
2 nexes thereto.”;

3 (14) by inserting after paragraph (19), as so
4 redesignated by paragraph (2) of this section, the
5 following new paragraph:

6 “(20) The term ‘taking’ means to kill, injure,
7 capture, handle, or molest a native mammal or na-
8 tive bird, or to remove or damage such quantities of
9 native plants that their local distribution or abun-
10 dance would be significantly affected.”; and

11 (15) in paragraph (23), as so redesignated by
12 paragraph (2) of this section, by inserting “waste
13 or” before “pollutant”.

14 **SEC. 4. PROHIBITED ACTS.**

15 Section 4 of the Antarctic Conservation Act of 1978
16 (16 U.S.C. 2403) is amended—

17 (1) in subsection (a)(1), by striking “United
18 States citizen” and inserting in lieu thereof “per-
19 son”;

20 (2) by striking subparagraphs (A) through (E)
21 of subsection (a)(1) and inserting in lieu thereof the
22 following:

23 “(A) to engage in any taking or harmful
24 interference in Antarctica;

1 “(B) to introduce into Antarctica any
2 nonnative species;

3 “(C) to enter any Antarctic specially pro-
4 tected area; or

5 “(D) to discharge, dispose of, or otherwise
6 introduce any waste or pollutant within Antarc-
7 tica, except as otherwise permitted by the Act
8 to Prevent Pollution from Ships (33 U.S.C.
9 1901 et seq.);”;

10 (3) in subsection (a)(2) and (3), by striking
11 “United States citizen wherever located, or any for-
12 eign person while within the United States,” and in-
13 sserting in lieu thereof “person”;

14 (4) in subsection (a)(2), by striking “collected
15 in any specially” and inserting in lieu thereof “taken
16 in any Antarctic”;

17 (5) in subsection (a)(3), by striking “or” at the
18 end;

19 (6) in subsection (a)(4)—

20 (A) by striking “, whether or not a United
21 States citizen,”; and

22 (B) by striking the period at the end and
23 inserting in lieu thereof a semicolon;

24 (7) by adding after paragraph (4) the following
25 new paragraphs:

1 “(5) for any person to attempt to commit any
2 action prohibited under this subsection; or

3 “(6) for any person to—

4 “(A) engage in, provide assistance (includ-
5 ing logistic support) to, or knowingly finance
6 any Antarctic mineral resource activity;

7 “(B) ship, transport, offer for sale, sell,
8 purchase, import, export, or have custody, con-
9 trol, or possession of any Antarctic mineral re-
10 source which that person knows, or reasonably
11 should have known, was recovered or otherwise
12 possessed as a result of Antarctic mineral re-
13 source activity, without regard to the citizenship
14 of the person that engaged in, or the vessel
15 used in engaging in, the Antarctic mineral re-
16 source activity;

17 “(C) refuse to permit any authorized offi-
18 cer or employee of the United States to board
19 a vessel, vehicle, or aircraft subject to the provi-
20 sions of this Act for purposes of conducting any
21 search or inspection in connection with the en-
22 forcement of this Act or any regulations pro-
23 mulgated pursuant to this Act;

24 “(D) forcibly assault, resist, oppose, im-
25 pede, intimidate, or interfere with any author-

1 ized officer or employee of the United States in
2 the conduct of any search or inspection de-
3 scribed in subparagraph (C);

4 “(E) resist a lawful arrest or detention for
5 any act prohibited by this section; or

6 “(F) interfere with, delay, or prevent, by
7 any means, the apprehension, arrest, or deten-
8 tion of another person, knowing that such other
9 person has committed any act prohibited by this
10 section.”; and

11 (8) in the last sentence of subsection (a)—

12 (A) by striking the comma after “commit-
13 ted”; and

14 (B) by striking “to prevent the loss of
15 human life” and inserting in lieu thereof “in-
16 volving the safety of human life, of ships, of air-
17 craft, or of equipment or facilities of high value,
18 or involving the protection of the environment”.

19 **SEC. 5. PERMITS.**

20 Section 5 of the Antarctic Conservation Act of 1978
21 (16 U.S.C. 2404) is amended—

22 (1) in subsection (a), by striking “otherwise
23 prohibited by” and inserting in lieu thereof “as de-
24 scribed in”;

25 (2) in subsection (c)(1)(B)—

1 (A) by inserting “native invertebrate,”
2 after “native bird,”; and

3 (B) by striking “Endangered Special Act”
4 and inserting in lieu thereof “Endangered Spe-
5 cies Act”;

6 (3) in subsection (c)(3), by inserting “native in-
7 vertebrate,” after “native bird,”;

8 (4) in subsection (e) by inserting “FOR
9 TAKINGS, HARMFUL INTERFERENCE, AND INTRO-
10 Duction OF NONNATIVE SPECIES” after “CONDI-
11 TIONS OF PERMITS”;

12 (5) in subsection (e)(1), by striking “section
13 shall” and inserting in lieu thereof “section author-
14 izing a taking or harmful interference or the intro-
15 duction of a nonnative species shall specify”;

16 (6) in subsection (e)(1)(A), by striking “, speci-
17 fy”;

18 (7) in subsection (e)(1)(A)(i), by inserting “na-
19 tive invertebrates,” after “native birds,”;

20 (8) by amending subsection (e)(1)(A)(ii) to read
21 as follows:

22 “(ii) if a taking or harmful interference is
23 authorized, the manner in which such action
24 must be accomplished (which manner must be
25 determined by the Director to involve the least

1 degree of pain and suffering practicable), the
2 area in which it must occur, and the person
3 who will take the action,”;

4 (9) in subsection (e)(1)(A)(iii)—

5 (A) by striking “collected” both places it
6 appears and inserting in lieu thereof “taken”;
7 and

8 (B) by striking the semicolon at the end
9 and inserting in lieu thereof “, and”;

10 (10) by adding at the end of subsection
11 (e)(1)(A) the following:

12 “(iv) the species, numbers, and, if appro-
13 priate, age and sex of animals and plants of a
14 nonnative species to be introduced, and the rea-
15 sons therefor; and the precautions to be taken
16 to prevent escape or contact with native fauna
17 and flora;”;

18 (11) in subsection (e)(2)(A)—

19 (A) by striking “the taking” and inserting
20 in lieu thereof “a taking or harmful inter-
21 ference”;

22 (B) by inserting “Antarctic” after “other
23 than within any”; and

1 (C) by striking “of any native mammal or
2 native bird (other than a specially protected
3 species of any such mammal or bird”;

4 (12) at the end of subsection (e)(2)(A)(i)(I) by
5 striking “or”;

6 (13) in subsection (e)(2)(A)(i)(II)—

7 (A) by striking “zoological” and inserting
8 in lieu thereof “herbaria, zoological and botani-
9 cal”; and

10 (B) by striking “and” at the end of the
11 subclause and inserting in lieu thereof “or”;

12 (14) by inserting a new subsection
13 (e)(2)(A)(i)(III) as follows:

14 “(III) for unavoidable consequences of
15 scientific activities, or of the construction
16 and operation of scientific support facili-
17 ties; and”;

18 (15) by striking subsection (e)(2)(A)(ii) and in-
19 serting in lieu thereof the following:

20 “(ii) shall ensure that—

21 “(I) no more native mammals, native
22 birds, or native plants are taken than are
23 strictly necessary to meet the purposes set
24 forth in clause (i),

1 “(II) only small numbers of native
2 mammals or native birds are killed and in
3 no case more native mammals or native
4 birds are killed from local populations than
5 can, in combination with other permitted
6 takings, normally be replaced by natural
7 reproduction in the following season, and

8 “(III) the diversity of species, as well
9 as the habitats essential to their existence,
10 and the balance of the ecological systems
11 existing within Antarctica are main-
12 tained.”;

13 (16) at the end of subsection (e)(2)(B)(i), by
14 striking “and”;

15 (17) in subsection (e)(2)(B)(ii), by striking “of
16 such species.” and inserting in lieu thereof “or re-
17 covery of such species; and”;

18 (18) at the end of subsection (e)(2)(B), by add-
19 ing the following:

20 “(iii) the taking involves nonlethal tech-
21 niques, where appropriate.”;

22 (19) by striking subsection (e)(2)(C) and (D)
23 and inserting in lieu thereof the following:

24 “(C) Permits authorizing entry into any Ant-
25 arctic specially protected area may only be issued

1 consistent with the provisions of the management
2 plan prescribed under section 6(b)(3) for that area.

3 “(D) Permits allowing the importation of
4 nonnative species—

5 “(i) shall not be issued, unless such impor-
6 tation is allowed under the terms of the Proto-
7 col;

8 “(ii) shall require that, prior to the expira-
9 tion of the permit, all nonnative species, includ-
10 ing any progeny, shall be removed from Antarc-
11 tica or disposed of by incineration or equally ef-
12 fective means that eliminate risk to native
13 fauna and flora;

14 “(iii) shall not permit the importation of
15 dogs or live poultry or other living birds; and

16 “(iv) shall require that precautions be
17 taken to prevent the introduction of micro-orga-
18 nisms (e.g. viruses, bacteria, parasites, yeasts,
19 and fungi) not present in native fauna and
20 flora.

21 “(3) No permit shall be required for the importation
22 of food into Antarctica, except that—

23 “(A) no live animals may be imported for this
24 purpose;

1 “(B) all plants and animal parts shall be kept
2 under carefully controlled conditions and disposed of
3 in accordance with the provisions of this Act; and

4 “(C) before dressed poultry is packaged for
5 shipment to Antarctica, it shall be inspected for evi-
6 dence of disease, such as Newcastle’s disease, tuber-
7 culosis, and yeast infection.”;

8 (20) by redesignating the second subsection (e),
9 and subsections (f) and (g), as subsections (f), (g),
10 and (h), respectively;

11 (21) in subsection (g)(1)(B), as so redesignated
12 by paragraph (20) of this section, by striking “the
13 purpose of this Act” and inserting “the purposes
14 and provisions of this Act or the Protocol”; and

15 (22) in subsection (g)(1)(C), as so redesignated
16 by paragraph (20) of this section, by inserting “or
17 the Protocol” after “of this Act”.

18 **SEC. 6. REGULATIONS.**

19 Section 6 of the Antarctic Conservation Act of 1978
20 (16 U.S.C. 2405) is amended—

21 (1) in subsection (a)—

22 (A) by striking “are” and inserting in lieu
23 thereof “the Director considers”; and

24 (B) by inserting “and the Protocol” after
25 “of this Act”;

1 (2) at the end of subsection (b)(1)(B) by strik-
2 ing “and”;

3 (3) at the end of subsection (b)(1)(C) by adding
4 “and”;

5 (4) after subsection (b)(1)(C) by adding the fol-
6 lowing:

7 “(D) each species of invertebrate,”;

8 (5) in subsection (b)(1) by striking “in Antarc-
9 tica through natural agencies of dispersal” and in-
10 serting in lieu thereof “there seasonally through nat-
11 ural migrations”;

12 (6) in subsection (b)(2) by striking “Agreed
13 Measures” and inserting in lieu thereof “Protocol”;

14 (7) by striking subsection (b)(3) and (4) and
15 inserting in lieu thereof the following:

16 “(3) identify Antarctic specially protected areas
17 and Antarctic specially managed areas, as approved
18 by the United States in accordance with the Proto-
19 col, and implement the management plans associated
20 with those areas;”;

21 (8) by redesignating paragraphs (5), (6), (7),
22 (8), and (10) of subsection (b) as paragraphs (4),
23 (5), (6), (7), and (8), respectively;

1 (9) in subsection (b)(4), as so redesignated by
2 paragraph (8) of this section, by striking “Agreed
3 Measures” and inserting in lieu thereof “Protocol”;

4 (10) in subsection (b)(5), as so redesignated by
5 paragraph (8) of this section—

6 (A) by inserting “waste or” after “des-
7 ignate as a”; and

8 (B) by inserting “, or which the Director
9 finds must be regulated under the Protocol;”
10 after “uses of Antarctica”;

11 (11) in subsection (b)(6), as so redesignated by
12 paragraph (8) of this section, by inserting “waste
13 or” after “disposal of”;

14 (12) in subsection (b)(8), as so redesignated by
15 paragraph (8) of this section, by striking the period
16 at the end and inserting in lieu thereof “; and”;

17 (13) by moving subsection (b)(9) to the end of
18 subsection (b) and amending it to read as follows:

19 “(9) distinguish between prohibited Antarctic
20 mineral resource activities and scientific research.”;
21 and

22 (14) after subsection (b) by inserting the follow-
23 ing new subsection:

24 “(c) TIME PERIOD FOR REGULATIONS.—The regula-
25 tions to be prescribed under subsection (b) shall be pro-

1 mulgated within 24 months after the date of enactment
2 of the Antarctic Environmental Protection Act of 1993.”.

3 **SEC. 7. NOTIFICATION OF TRAVEL TO ANTARCTICA.**

4 Section 7 of the Antarctic Conservation Act of 1978
5 (16 U.S.C. 2406) is amended to read as follows:

6 **“SEC. 7. NOTIFICATION OF TRAVEL TO ANTARCTICA.**

7 “(a) NOTICE.—The Secretary of State shall, within
8 24 months after the date of enactment of the Antarctic
9 Environmental Protection Act of 1993, prescribe such reg-
10 ulations as are necessary and appropriate to implement,
11 with respect to any person, paragraph 5 of Article VII
12 of the Treaty pertaining to the filing of advance notifica-
13 tions of expeditions to, and within, Antarctica.

14 “(b) COMPLIANCE.—The Secretary of State, in con-
15 junction with the Director and with the Secretary of the
16 department in which the Coast Guard is operating, shall,
17 within 24 months after the date of enactment of the Ant-
18 arctic Environmental Protection Act of 1993, prescribe
19 such regulations as are necessary and appropriate to re-
20 quire nongovernmental activities in Antarctica, including
21 tourism, for which the United States is required to give
22 advance notice under paragraph 5 of Article VII of the
23 Treaty, to provide for prompt and effective response action
24 to such emergencies as might arise in Antarctica, and to
25 comply with contingency plans in effect in Antarctica.”.

1 **SEC. 8. REDESIGNATIONS.**

2 Sections 8, 9, 10, 11, 12, 13, and 14 of the Antarctic
3 Conservation Act of 1978 (16 U.S.C. 2407–2413) are re-
4 designated as sections 10, 11, 13, 14, 15, 16, and 17, re-
5 spectively.

6 **SEC. 9. ENVIRONMENTAL IMPACT ASSESSMENT.**

7 The Antarctic Conservation Act of 1978 is amended
8 by inserting after section 7 the following new section:

9 **“SEC. 8. ENVIRONMENTAL IMPACT ASSESSMENT.**

10 **“(a) GOVERNMENTAL ACTIVITIES.—**The Director
11 shall, within 24 months after the date of enactment of the
12 Antarctic Environmental Protection Act of 1993, pre-
13 scribe such regulations as are necessary and appropriate
14 to implement the environmental impact assessment provi-
15 sions of the Protocol (Article 8; Annex I) with respect to
16 governmental activities in Antarctica.

17 **“(b) NONGOVERNMENTAL ACTIVITIES.—**The Sec-
18 retary of State, in conjunction with the Chairman of the
19 Council on Environmental Quality, shall, within 24
20 months after the date of enactment of the Antarctic Envi-
21 ronmental Protection Act of 1993, prescribe such regula-
22 tions as are necessary and appropriate to implement the
23 environmental impact assessment provisions of the Proto-
24 col (Article 8; Annex I) with respect to nongovernmental
25 activities in Antarctica, including tourism, for which the

1 United States is required to give advance notice under
2 paragraph 5 of Article VII of the Treaty.

3 “(c) RELATION TO OTHER LAW.—The provisions of
4 this section shall supersede all other provisions of law re-
5 lating to the preparation of environmental evaluations or
6 documents to the extent such laws might otherwise be con-
7 strued to apply to decisions or actions affecting the Ant-
8 arctic environment.”.

9 **SEC. 10. REPRESENTATION.**

10 The Antarctic Conservation Act of 1978 is amended
11 by inserting after section 8 the following new section:

12 **“SEC. 9. REPRESENTATION.**

13 “(a) DESIGNATION.—The Secretary of State, with
14 the concurrence of other appropriate Federal officials,
15 shall designate an officer or employee of the United States
16 as the United States representative to the Committee for
17 Environmental Protection.

18 “(b) COMPENSATION.—The United States represent-
19 ative shall receive no additional compensation by reason
20 of service as such representative.”.

21 **SEC. 11. CIVIL PENALTIES.**

22 Section 10 of the Antarctic Conservation Act of 1978
23 (16 U.S.C. 2407), as redesignated by section 8 of this Act,
24 is amended—

1 (1) by inserting “or the Secretary of State, as
2 appropriate,” after “the Director” each place it ap-
3 pears;

4 (2) in subsection (a)—

5 (A) by striking “or to have violated any
6 regulation prescribed under section 7”;

7 (B) by striking “\$5,000 for each violation
8 unless the prohibited act was knowingly com-
9 mitted, in which case the amount of the civil
10 penalty shall not exceed \$10,000” and inserting
11 in lieu thereof “\$50,000”; and

12 (C) by striking the last sentence and in-
13 serting in lieu thereof the following: “In deter-
14 mining the amount of such penalty, the Direc-
15 tor or the Secretary of State, as appropriate,
16 shall take into account the nature, cir-
17 cumstances, extent, and gravity of the prohib-
18 ited acts committed, and, with respect to the vi-
19 olator, the degree of culpability, any history of
20 prior offenses, ability to pay, and such other
21 matters as justice may require, to the extent
22 such information is reasonably available to the
23 Director or the Secretary of State, as appro-
24 priate. The Director or the Secretary of State,
25 as appropriate, may compromise, modify, or

1 remit, with or without conditions, any civil pen-
2 alty which is subject to imposition or which has
3 been imposed under this section.”;

4 (3) by striking subsection (c);

5 (4) by redesignating subsection (d) as sub-
6 section (f), and in that subsection by striking “sub-
7 section (a)” and inserting in lieu thereof “sub-
8 sections (a) or (c)”;

9 (5) by inserting after subsection (b) the follow-
10 ing new subsections:

11 “(c) CIVIL ACTION.—Whenever, on the basis of any
12 information, the Director or the Secretary of State deter-
13 mines that any person has violated or is in violation of
14 any requirement of this Act or any regulation promulgated
15 hereunder, the Director or the Secretary of State may
16 commence a civil action in the appropriate United States
17 District Court, pursuant to section 14 of this Act, for ap-
18 propriate relief, including—

19 “(1) a temporary or permanent injunction; or

20 “(2) an action to assess and recover a civil pen-
21 alty not to exceed \$50,000 per day for each viola-
22 tion,

23 or both.

24 “(d) IN REM JURISDICTION.—Any vessel, vehicle, or
25 aircraft (including its gear, furniture, appurtenances,

1 stores, and cargo) used in the commission of an act pro-
2 hibited by section 4 of this Act shall be liable in rem for
3 any civil penalty assessed for such violation under this sec-
4 tion and may be proceeded against in any district court
5 of the United States having jurisdiction thereof. In the
6 case of a vessel, such penalty shall constitute a maritime
7 lien on the vessel which may be recovered in an action
8 in rem in the district court of the United States having
9 jurisdiction over the vessel.

10 “(e) ROLES OF DIRECTOR AND SECRETARY OF
11 STATE.—The Director and the Secretary of State shall
12 each carry out this section with respect to violations of
13 regulations they have prescribed.”.

14 **SEC. 12. CRIMINAL OFFENSES.**

15 Section 11 of the Antarctic Conservation Act of 1978
16 (16 U.S.C. 2408), as redesignated by section 8 of this Act,
17 is amended—

18 (1) in subsection (a), by striking “willfully” and
19 inserting in lieu thereof “knowingly”;

20 (2) in subsection (b)—

21 (A) by striking “\$10,000” and inserting in
22 lieu thereof “not less than \$5,000 nor more
23 than \$50,000 per day of violation”;

24 (B) by striking “one year” and inserting in
25 lieu thereof “five years”; and

1 (C) by adding at the end the following new
2 sentences: “If in the commission of any such of-
3 fense the person uses a dangerous weapon, en-
4 gages in conduct that causes bodily injury to
5 any officer of the United States described in
6 section 12(b) of this Act, or places any such of-
7 ficer in fear of imminent bodily injury, the of-
8 fense is punishable by a fine of not more than
9 \$100,000 per day of violation, or by imprison-
10 ment for not more than 10 years, or both. If a
11 conviction of a person is for a violation commit-
12 ted after a first conviction of such person under
13 this section, the maximum punishment shall be
14 double with respect to both fine and imprison-
15 ment.”; and

16 (3) by adding at the end the following new sub-
17 section:

18 “(d) FEDERAL JURISDICTION.—There is Federal ju-
19 risdiction over any offense described in subsection (a) of
20 this section.”.

21 **SEC. 13. CIVIL FORFEITURES.**

22 The Antarctic Conservation Act of 1978, as amended
23 by this Act, is further amended by inserting after section
24 11, as so redesignated by section 8 of this Act, the follow-
25 ing new section:

1 **“SEC. 12. CIVIL FORFEITURES.**

2 “(a) IN GENERAL.—Any vessel, vehicle, or aircraft
3 (including its gear, furniture, appurtenances, stores, and
4 cargo) used, and any Antarctic mineral resources (or the
5 fair market value thereof) recovered or possessed, in any
6 manner, in connection with or as a result of the commis-
7 sion of any act prohibited by section 4 of this Act shall
8 be subject to forfeiture to the United States. All or part
9 of such vessel, vehicle, or aircraft may, and all such Ant-
10 arctic mineral resource (or the fair market value thereof)
11 shall, be forfeited to the United States pursuant to a civil
12 proceeding under this section.

13 “(b) JURISDICTION OF DISTRICT COURTS.—Any dis-
14 trict court of the United States which has jurisdiction
15 under section 14 of this Act shall have jurisdiction, upon
16 application by the Attorney General on behalf of the Unit-
17 ed States, to order any forfeiture authorized under sub-
18 section (a) of this section and any action provided for
19 under subsection (d) of this section.

20 “(c) JUDGMENT.—If a judgment is entered for the
21 United States in a civil forfeiture proceeding under this
22 section, the Attorney General may seize any property or
23 other interest declared forfeited to the United States,
24 which has not previously been seized pursuant to this Act
25 or for which security has not previously been obtained

1 under subsection (d) of this section. The provisions of the
2 customs laws relating to—

3 “(1) the seizure, forfeiture, and condemnation
4 of property for violation of the customs law;

5 “(2) the disposition of such property or the pro-
6 ceeds from the sale thereof; and

7 “(3) the remission or mitigation of any such
8 forfeiture,

9 shall apply to seizures and forfeiture incurred, or alleged
10 to have been incurred, under the provisions of this Act,
11 unless such customs law provisions are inconsistent with
12 this Act.

13 “(d) PROCEDURE.—(1) Any officer authorized to
14 serve any process in rem which is issued by a court having
15 jurisdiction under section 14 of this Act shall—

16 “(A) stay the execution of such process; or

17 “(B) discharge any property seized pursuant to
18 such process,

19 upon the receipt of a satisfactory bond or other security
20 from any person claiming such property. Such bond or
21 other security shall be conditioned upon such person (i)
22 delivering such property to the appropriate court upon
23 order thereof, without any impairment of its value, or (ii)
24 paying the monetary value of such property pursuant to
25 an order of such court. Judgment shall be recoverable on

1 such bond or other security against both the principal and
2 any sureties in the event that any condition thereof is
3 breached, as determined by such court. Nothing in this
4 paragraph may be construed to require the Director, ex-
5 cept in the Director's discretion or pursuant to the order
6 of a court under section 14 of this Act, to release on bond
7 any seized Antarctic mineral resource or other property
8 or the proceeds from the sale thereof.

9 “(2) Any Antarctic mineral resource seized pursuant
10 to this Act may be sold, subject to the approval and direc-
11 tion of the appropriate court, for not less than the fair
12 market value thereof. The proceeds of any such sale shall
13 be deposited with such court pending the disposition of
14 the matter involved.

15 “(e) REBUTTABLE PRESUMPTION.—For purposes of
16 this section, it is a rebuttable presumption that all mineral
17 resources found on board a vessel, vehicle, or aircraft
18 which is seized in connection with an act prohibited by
19 section 4 of this Act are Antarctic mineral resources.”.

20 **SEC. 14. ENFORCEMENT.**

21 Section 13 of the Antarctic Conservation Act of 1978
22 (16 U.S.C. 2409), as so redesignated by section 8 of this
23 Act, is amended—

24 (1) in subsection (b)—

1 (A) by redesignating paragraphs (4)
2 through (7) as paragraphs (7) through (10), re-
3 spectively;

4 (B) by inserting after paragraph (3) the
5 following new paragraphs:

6 “(4) board without warrant, and search or in-
7 spect, any vessel, vehicle, or aircraft subject to the
8 provisions of this Act;

9 “(5) seize without warrant any Antarctic min-
10 eral resource (wherever found) recovered or pos-
11 sessed in violation of this Act;

12 “(6) seize without warrant any vessel, vehicle,
13 or aircraft subject to the provisions of this Act (in-
14 cluding its gear, furniture, appurtenances, stores,
15 and cargo) or other equipment used in, or that rea-
16 sonably appears to have been used in, a violation of
17 this Act;”;

18 (C) in paragraph (7), as so redesignated
19 by subparagraph (A) of this paragraph, by in-
20 serting “, or which may lead to the forfeiture
21 of property for any violation of such provisions”
22 after “of such provisions”; and

23 (D) by adding at the end the following:
24 “Subject to the direction of the Director, the Secretary
25 of the Treasury, the Secretary of Commerce, the Secretary

1 of the Interior, or the Secretary of the department in
2 which the Coast Guard is operating, a person charged with
3 law enforcement responsibilities under this Act who is per-
4 forming a duty related to enforcement of this Act may
5 make an arrest without a warrant for an offense against
6 the United States committed in his presence, or for a fel-
7 ony cognizable under the laws of the United States, if he
8 has reasonable grounds to believe that the person to be
9 arrested has committed or is committing a felony.”;

10 (2) in subsection (d)(3) by inserting “native in-
11 vertebrate,” after “native bird,”;

12 (3) in subsection (f)—

13 (A) by inserting “native invertebrates,”
14 after “native birds,”; and

15 (B) by striking “animals and plants not in-
16 digenous to Antarctica” and inserting in lieu
17 thereof “nonnative species”; and

18 (4) by adding at the end the following new sub-
19 sections:

20 “(g) LIABILITY FOR COSTS.—Any person assessed a
21 civil penalty for, or convicted of, any violation of this Act,
22 shall be liable for the cost incurred in storage, care, and
23 maintenance of any Antarctic mineral resource or other
24 property seized in connection with the violation.

1 “(h) PAYMENTS OF STORAGE AND OTHER COSTS.—
2 Notwithstanding any other provision of law, the Director
3 or the Secretary of the Treasury shall pay from sums re-
4 ceived as fines, penalties, and forfeitures of property for
5 violations of any provisions of this Act—

6 “(1) the reasonable and necessary costs in-
7 curred in connection with the seizure and forfeiture
8 of property pursuant to this Act, including in provid-
9 ing temporary storage, care, and maintenance of
10 such property pending disposition of any civil or
11 criminal proceeding alleging a violation of any provi-
12 sion of this Act;

13 “(2) any expenses directly related to investiga-
14 tions and civil or criminal enforcement proceedings,
15 including any necessary expenses for equipment,
16 training, travel, witnesses, and contracting services
17 directly related to such investigations or proceedings;
18 and

19 “(3) to a qualifying person any reward offered
20 pursuant to this section.”.

21 **SEC. 15. FEDERAL AGENCY COOPERATION.**

22 Section 15 of the Antarctic Conservation Act of 1978
23 (16 U.S.C. 2411), as redesignated by section 8 of this Act,
24 is amended by inserting “, and any department or agency
25 with expertise relevant to the conduct of United States

1 activities in Antarctica shall also so cooperate with the Di-
2 rector” after “out the purposes of this Act”.

3 **SEC. 16. REPEALER.**

4 Section 17 of the Antarctic Conservation Act of 1978,
5 as so redesignated by section 8 of this Act, and the Ant-
6 arctic Protection Act of 1990 (Public Law 101–594, 16
7 U.S.C. 2461–2466) are repealed.

8 **SEC. 17. ANTARCTIC ENVIRONMENTAL PROTECTION COM-**
9 **MISSION.**

10 (a) ESTABLISHMENT.—The President shall establish
11 an Antarctic Environmental Protection Commission (in
12 this section referred to as the “Commission”) not later
13 than six months after the date of enactment of this Act.
14 The Commission shall review the compliance of all United
15 States Antarctic Program stations, field camps, and oper-
16 ations with the provisions of the Antarctic Conservation
17 Act of 1978.

18 (b) MEMBERSHIP.—(1) The Commission shall be
19 comprised of five members to be appointed by the Presi-
20 dent from among individuals who possess demonstrated
21 expertise in one or more of the following areas:

- 22 (A) Environmental management or science.
- 23 (B) Cold regions environmental engineering.
- 24 (C) Environmental law.
- 25 (D) Antarctic science, policy, or operations.

1 (E) Environmental assessment, enforcement, or
2 compliance monitoring.

3 (2) Members of the Commission may be allowed trav-
4 el expenses, including per diem in lieu of subsistence, as
5 authorized by section 5703 of title 5, United States Code.

6 (3) Any vacancy occurring in the membership of the
7 Commission shall be filled by the President for the remain-
8 der of the unexpired term.

9 (4) A member may serve after the expiration of the
10 member's term until the President appoints a successor.

11 (5) A member may be appointed to consecutive terms.

12 (c) CHAIRMAN.—The President shall designate one
13 member of the Commission as Chairman, who shall be re-
14 sponsible for directing the work of the Commission.

15 (d) TERM OF SERVICE.—(1) Except as provided in
16 paragraph (2), the term of office of each member of the
17 Commission appointed under subsection (b) shall be four
18 years.

19 (2) Of the members of the Commission originally ap-
20 pointed under subsection (b)—

21 (A) two shall be appointed for a term of two
22 years and six months; and

23 (B) three shall be appointed for a term of four
24 years and six months.

1 (e) LOGISTICAL AND ADMINISTRATIVE SUPPORT.—

2 The National Science Foundation shall provide all trans-
3 portation and logistical support necessary to allow the
4 Commission to conduct on-site inspections of United
5 States Antarctic Program stations, field camps, and oper-
6 ations, and shall cooperate to the fullest extent possible
7 in meeting requests for documents, other information, and
8 assistance necessary for the Commission to carry out its
9 work and prepare the report required in subsection (f).

10 (f) REPORT.—(1) Not later than 18 months after the
11 date of enactment of this Act, and every two years there-
12 after, the Commission shall submit a report to the Presi-
13 dent and the Congress documenting the Commission's
14 findings on the compliance of the United States Antarctic
15 Program with the provisions of the Antarctic Conservation
16 Act of 1978, including specific reference to the activities
17 undertaken by the Director of the National Science Foun-
18 dation in implementation of the permit program required
19 under section 5 of that Act. The report shall specify any
20 examples of failures of compliance and shall make rec-
21 ommendations for corrective actions.

22 (2) The Director of the National Science Foundation
23 shall, within 90 days after the report is submitted under
24 paragraph (1) to the President, submit to the Congress
25 a plan for implementing the recommendations of the re-

- 1 port, together with an estimate of the time required and
- 2 costs projected to be incurred in implementing the plan.

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