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Ocean Dumping Act: A Summary of the Law

Claudia Copeland

Specialist in Resources and Environmental Policy

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Summary

The Marine Protection, Research, and Sanctuaries Act (MPRSA) has two basic aims: to regulate intentional ocean disposal of materials, and to authorize related research. Permit and enforcement provisions of the law are often referred to as the Ocean Dumping Act. The basic provisions of the act have remained virtually unchanged since 1972, when it was enacted to establish a comprehensive waste management system to regulate disposal or dumping of all materials into marine waters that are within U.S. jurisdiction, although a number of new authorities have been added. This report presents a summary of the law.

Four federal agencies have responsibilities under the Ocean Dumping Act: the Environmental Protection Agency (EPA), the U.S. Army Corps of Engineers, the National Oceanic and Atmospheric Administration (NOAA), and the Coast Guard. EPA has primary authority for regulating ocean disposal of all substances except dredged spoils, which are under the authority of the Corps of Engineers. NOAA is responsible for long-range research on the effects of human-induced changes to the marine environment, while EPA is authorized to carry out research and demonstration activities related to phasing out sewage sludge and industrial waste dumping. The Coast Guard is charged with maintaining surveillance of ocean dumping.

Title I of the MPRSA prohibits all ocean dumping, except that allowed by permits, in any ocean waters under U.S. jurisdiction, by any U.S. vessel, or by any vessel sailing from a U.S. port. Certain materials, such as high-level radioactive waste, chemical and biological warfare agents, medical waste, sewage sludge, and industrial waste, may not be dumped in the ocean. Permits for dumping of other materials, except dredge spoils, can be issued by the EPA after notice and opportunity for public hearings where the Administrator determines that such dumping will not unreasonably degrade or endanger human health, welfare, the marine environment, ecological systems, or economic potentialities. Permits specify the type of material to be disposed, the amount to be transported for dumping, the location of the dumpsite, the length of time the permit is valid, and special provisions for surveillance. The law regulates ocean dumping within the area extending 12 nautical miles seaward from the U.S. baseline and regulates transport of material by U.S.-flagged vessels for dumping into ocean waters. EPA designates sites for ocean dumping and specifies in each permit where the material is to be disposed.

Title II of the MPRSA authorizes two types of research: general research on ocean resources, under the jurisdiction of NOAA; and EPA research related to phasing out ocean disposal activities. NOAA is directed to carry out a comprehensive, long-term research program on the effects not only of ocean dumping, but also of pollution, overfishing, and other human-induced changes on the marine ecosystem. EPA's research role includes "research, investigations, experiments, training, demonstrations, surveys, and studies" to minimize or end the dumping of sewage sludge and industrial wastes, along with research on alternatives to ocean disposal. (Title III, concerning marine sanctuaries, is not discussed in this report.)

Title IV of the MPRSA established nine regional marine research boards for the purpose of developing comprehensive marine research plans, considering water quality and ecosystem conditions and research and monitoring priorities and objectives in each region.

Title V of the MPRSA established a national coastal water quality monitoring program. It directs EPA and NOAA jointly to implement a long-term program to collect and analyze scientific data on the environmental quality of coastal ecosystems, including ambient water quality, health and quality of living resources, sources of environmental degradation, and data on trends.

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Introduction

The Marine Protection, Research, and Sanctuaries Act of 1972 (MPRSA, P.L. 92-532) has two basic aims: to regulate intentional ocean disposal of materials, and to authorize related research. Title I of the act, which is often referred to as the Ocean Dumping Act, contains permit and enforcement provisions for ocean dumping. Research provisions are contained in Title II; Title IV authorizes a regional marine research program; and Title V addresses coastal water quality monitoring. The third title of the MPRSA, which authorizes the establishment of marine sanctuaries, is not addressed here.

This report presents a summary of the law, describing the essence of the statute. It is an excerpt from a larger document, CRS Report RL30798, *Environmental Laws: Summaries of Major Statutes Administered by the Environmental Protection Agency*. Descriptions of many details and secondary provisions are omitted here, and even some major components are only briefly mentioned. Further, this report describes the statute, but does not discuss its implementation. **Table 1** shows the original enactment and subsequent amendments. **Table 2**, at the end of this report, cites the major U.S. Code sections of the codified statute.

Table 1. Ocean Dumping Act and Amendments
(codified as 33 U.S.C. 1401-1445, 16 U.S.C. 1431-1447f, 33 U.S.C. 2801-2805)

Year	Act	Public Law Number
1972	Marine Protection, Research, and Sanctuaries Act	P.L. 92-532
1974	London Dumping Convention Implementation	P.L. 93-254
1977	Authorization of appropriations	P.L. 95-153
1980	Authorization of appropriations	P.L. 96-381
1980	Authorization of appropriations	P.L. 96-572
1982	Surface Transportation Assistance Act	P.L. 97-424
1986	Budget Reconciliation	P.L. 99-272, §§6061-6065
1986	Water Resources Development Act	P.L. 99-662, §§211, 728, 1172
1987	Water Quality Act of 1987	P.L. 100-4, §508
1988	Ocean dumping research amendments	P.L. 100-627, title I
1988	Ocean Dumping Ban Act	P.L. 100-688, title I
1988	U.S. Public Vessel Medical Waste Anti-Dumping Act of 1988	P.L. 100-688, title III
1990	Regional marine research centers	P.L. 101-593, title III
1992	National Coastal Monitoring Act	P.L. 102-567, title V
1992	Water Resources Development Act	P.L. 102-580, §§504-510

Background

The nature of marine pollution requires that it be regulated internationally, since once a pollutant enters marine waters, it knows no boundary. Thus, a series of regional treaties and conventions pertaining to local marine pollution problems and more comprehensive international conventions providing uniform standards to control worldwide marine pollution has evolved over the last 40 years.

At the same time that key international protocols were being adopted and ratified by countries worldwide (in the early 1970s), the United States enacted the MPRSA to regulate disposal of wastes in marine waters that are within U.S. jurisdiction. It implements the requirements of the London Convention, which is the international treaty governing ocean dumping.¹ The MPRSA requires the Environmental Protection Agency (EPA) Administrator, to the extent possible, to apply the standards and criteria binding upon the United States that are stated in the London Dumping Convention. This convention, signed by more than 85 countries, includes annexes that prohibit the dumping of mercury, cadmium, and other substances such as DDT and PCBs, solid wastes and persistent plastics, oil, high-level radioactive wastes, and chemical and biological warfare agents; and requires special permits for other heavy metals, cyanides and fluorides, and medium- and low-level radioactive wastes.

The MPRSA uses a comprehensive and uniform waste management system to regulate disposal or dumping of all materials into ocean waters. Prior to 1972, U.S. marine waters had been used extensively as a convenient alternative to land-based sites for the disposal of various wastes such as sewage sludge, industrial wastes, and pipeline discharges and runoff.

The basic provisions of the act have remained virtually unchanged since 1972, but many new authorities have been added. These newer parts include (1) research responsibilities for EPA; (2) specific direction that EPA phase out the disposal of “harmful” sewage sludges and industrial wastes; (3) a ban on the ocean disposal of sewage sludge and industrial wastes by December 31, 1991; (4) inclusion of Long Island Sound within the purview of the act; and (5) inclusion of medical waste provisions. Authorizations for appropriations to support provisions of the law expired at the end of FY1997 (September 30, 1997). Authorities did not lapse, however, and Congress has continued to appropriate funds to carry out the act.

Four federal agencies have responsibilities under the Ocean Dumping Act: EPA, the U.S. Army Corps of Engineers, the National Oceanic and Atmospheric Administration (NOAA), and the Coast Guard. EPA has primary authority for regulating ocean disposal of all substances except dredged spoils, which are under the authority of the Corps of Engineers. NOAA is responsible for long-range research on the effects of human-induced changes to the marine environment, while EPA is authorized to carry out research and demonstration activities related to phasing out sewage sludge and industrial waste dumping. The Coast Guard is charged with maintaining surveillance of ocean dumping.

Regulating Ocean Dumping

Title I of the MPRSA prohibits all ocean dumping, except that allowed by permits, in any ocean waters under U.S. jurisdiction, by any U.S. vessel, or by any vessel sailing from a U.S. port. Certain materials, such as high-level radioactive waste, chemical and biological warfare agents, medical waste, sewage sludge, and industrial waste, may not be dumped in the ocean. Permits for dumping of other materials, except dredge spoils, can be issued by the EPA after notice and opportunity for public hearings where the Administrator determines that such dumping will not unreasonably degrade or endanger human health, welfare, the marine environment, ecological systems, or economic potentialities. The law regulates ocean dumping within the area extending 12 nautical miles seaward from the U.S. baseline and regulates transport of material by U.S.-flagged vessels for dumping into ocean waters. EPA designates sites for ocean dumping and

¹ The 1972 Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matters (known as the London Dumping Convention).

specifies in each permit where the material is to be disposed. EPA is required to prepare an annual report of ocean dumping permits for material other than dredged material.²

In 1977, Congress amended the act to require that dumping of municipal sewage sludge or industrial wastes that unreasonably degrade the environment cease by December 1981. (However, that deadline was not achieved, and amendments passed in 1988 extended the deadline to December 1991.) In 1986, Congress directed that ocean disposal of all wastes cease at the traditional 12-mile site off the New York/New Jersey coast (that is, it barred issuance of permits at the 12-mile site) and directed that disposal be moved to a new site 106 miles offshore. In 1988, Congress enacted several laws amending the Ocean Dumping Act, with particular emphasis on phasing out sewage sludge and industrial waste disposal in the ocean, which continued despite earlier legislative efforts.

In 1992, Congress amended the act to permit states to adopt ocean dumping standards more stringent than federal standards and to require that permits conform with long-term management plans for designated dumpsites, to ensure that permitted activities are consistent with expected uses of the site.

Virtually all ocean dumping that occurs today is dredged material, sediments removed from the bottom of waterbodies in order to maintain navigation channels and port berthing areas. Other materials that are dumped include vessels, fish wastes, and human remains. The Corps of Engineers issues permits for ocean dumping of dredged material, using EPA's environmental criteria and subject to EPA's concurrence. The bulk of dredged material disposal results from maintenance dredging by the Corps itself or its contractors. According to data from the Corps, amounts of dredged material sediment that are disposed each year at designated ocean sites fluctuate, averaging in recent years about 47 million cubic yards.³ Before sediments can be permitted to be dumped in the ocean, they are evaluated to ensure that the dumping will not cause significant harmful effects to human health or the marine environment. EPA is responsible for developing criteria to ensure that the ocean disposal of dredge spoils does not cause environmental harm. Permits for ocean disposal of dredged material are to be based on the same criteria utilized by EPA under other provisions of the act, and to the extent possible, EPA-recommended dumping sites are used. Where the only feasible disposition of dredged material would violate the dumping criteria, the Corps can request an EPA waiver. Amendments to MPRSA enacted in 1992 expanded EPA's role in permitting of dredged material by authorizing EPA to impose permit conditions or even deny a permit, if necessary to prevent environmental harm to marine waters.

Permits issued under the Ocean Dumping Act specify the type of material to be disposed, the amount to be transported for dumping, the location of the dumpsite, the length of time the permit is valid, and special provisions for surveillance. The EPA Administrator can require a permit applicant to provide information necessary for the review and evaluation of the application.

In addition to issuing individual permits for non-dredged material, EPA has issued general permits under the MPRSA for several types of disposal activities, such as burial at sea of human remains, transportation and disposal of vessels, and disposal of manmade ice piers in Antarctica.

² See <http://www.epa.gov/aboutepa/history/topics/mprsa/04.html>.

³ See <http://el.erdc.usace.army.mil/odd/ODMDSDisposalbyYear.cfm>.

Enforcement

The act authorizes EPA to assess civil penalties of not more than \$50,000 for each violation of a permit or permit requirement, taking into account such factors as gravity of the violation, prior violations, and demonstrations of good faith; however, no penalty can be assessed until after notice and opportunity for a hearing. Criminal penalties (including seizure and forfeiture of vessels) for knowing violations of the act also are authorized. In addition, the act authorizes penalties for ocean dumping of medical wastes (civil penalties up to \$125,000 for each violation and criminal penalties up to \$250,000, five years in prison, or both). The Coast Guard is directed to conduct surveillance and other appropriate enforcement activities to prevent unlawful transportation of material for dumping, or unlawful dumping. Like many other federal environmental laws, the Ocean Dumping Act allows individuals to bring a citizen suit in U.S. district court against any person, including the United States, for violation of a permit or other prohibition, limitation, or criterion issued under Title I of the act.

In conjunction with the Ocean Dumping Act, the Clean Water Act (CWA) regulates all discharges into navigable waters including the territorial seas. Although these two laws overlap in their coverage of dumping from vessels within the territorial seas, any question of conflict is essentially moot because EPA has promulgated a uniform set of standards (40 CFR Parts 220-229). The Ocean Dumping Act preempts the CWA in coastal waters or open oceans, and the CWA controls in estuaries. States are permitted to regulate ocean dumping in waters within their jurisdiction under certain circumstances.

Research and Coastal Water Quality Monitoring

Title II of the MPRSA authorizes two types of research: general research on ocean resources, under the jurisdiction of NOAA; and EPA research related to phasing out ocean disposal activities.

NOAA is directed to carry out a comprehensive, long-term research program on the effects not only of ocean dumping, but also of pollution, overfishing, and other human-induced changes on the marine ecosystem. Additionally, NOAA assesses damages from spills of petroleum and petroleum products.

EPA's research role includes "research, investigations, experiments, training, demonstrations, surveys, and studies" to minimize or end the dumping of sewage sludge and industrial wastes, along with research on alternatives to ocean disposal. Amendments in 1980 required EPA to study technological options for removing heavy metals and certain organic materials from New York City's sewage sludge.

Title IV of the MPRSA established nine regional marine research boards for the purpose of developing comprehensive marine research plans, considering water quality and ecosystem conditions and research and monitoring priorities and objectives in each region. The plans, after approval by NOAA and EPA, are to guide NOAA in awarding research grant funds under this title of the act.

Title V of the MPRSA established a national coastal water quality monitoring program. It directs EPA and NOAA jointly to implement a long-term program to collect and analyze scientific data on the environmental quality of coastal ecosystems, including ambient water quality, health and quality of living resources, sources of environmental degradation, and data on trends. Results of these activities (including intensive monitoring of key coastal waters) are intended to provide

information necessary to design and implement effective programs under the Clean Water Act and Coastal Zone Management Act.

**Table 2. Major U.S. Code Sections of the Marine Protection,
Research, and Sanctuaries Act**
(codified as 33 U.S.C. 1401-1445, 16 U.S.C. 1431-1447f, 33 U.S.C. 2801-2805)

	Section Title	Ocean Dumping Act
33 U.S.C.		
1401	Congressional findings, declaration of policy	Sec. 2
1401	Definitions	Sec. 3
	Title I - Permit Program	
1411	Prohibited acts	Sec. 101
1412	Environmental Protection Agency permits	Sec. 102
1413	Corps of Engineers permits	Sec. 103
1414	Permit conditions	Sec. 104
1414a	Special provisions regarding certain dumping sites	Sec. 104A
1414b	Ocean dumping of sewage sludge and industrial waste	Sec. 104B
1414c	Prohibition on disposal of sewage sludge at landfills on Staten Island	Sec. 104C
1415	Penalties	Sec. 105
1416	Relationship to other laws	Sec. 106
1417	Enforcement	Sec. 107
1418	Regulations	Sec. 108
1419	International cooperation	Sec. 109
1420	Authorization of appropriations	Sec. 111
1421	Annual report to Congress	Sec. 112
	Title II - Research Programs	
1441	Monitoring and research programs	Sec. 201
1442	Research on long-term effects	Sec. 202
1443	Research program - ocean dumping and other methods	Sec. 203
1444	Annual reports	Sec. 204
1445	Authorization of appropriations	Sec. 205
	Title III - Marine Sanctuaries	
	Title IV - Regional Marine Research Programs	
16 U.S.C.		
1447	Purposes	Sec. 401
1447a	Definitions	Sec. 402

	Section Title	Ocean Dumping Act
1447b	Regional marine research boards	Sec. 403
1447c	Regional research plans	Sec. 404
1447d	Research grant program	Sec. 405
1447e	Report on research program	Sec. 406
1447f	Authorization of appropriations	Sec. 407
	Title V -National Coastal Monitoring System	
	33 U.S.C.	
2801	Purposes	Sec. 501
2802	Definitions	Sec. 502
2803	Comprehensive coastal water quality monitoring program	Sec. 503
2804	Report to Congress	Sec. 504
2805	Authorization of appropriations	Sec. 505

Note: This table shows the major code sections. For more detail and to determine when a section was added, the reader should consult the printed version of the U.S. Code.

Author Contact Information

Claudia Copeland
Specialist in Resources and Environmental Policy
ccopeland@crs.loc.gov, 7-7227