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OCEAN DUMPING CONTROLS

Dumping of wastes into the ocean is regulated by the federal government under the Ocean Dumping Act, properly called the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. §§ 1401-44). The Federal Water Pollution Control Act (F.W.P.C.A.) (33 U.S.C. § 1251 et seq.) overlaps slightly on control of ocean dumping (33 U.S.C. § 1343(c)1), but the Environmental Protection Agency (E.P.A.) administers both acts and has issued one basic set of criteria under both. The F.W.P.C.A. is the only authority on the regulation of outfalls (dumping on land with impact at sea), while the Ocean Dumping Act controls dumping in any ocean waters. The federal act preempts any State regulation.

The Ocean Dumping Act prohibits disposal of radiological, chemical, and biological warfare agents, and any high level radioactive wastes, into the oceans. All other dumping is regulated by issuance of permits by the E.P.A. or, for dredge spoils, permits by the Corps of Engineers. The E.P.A. permit system (38 Fed. Reg. 28609 (1973)) provides that permits be issued for limited periods, specifying the type and amount of material to be disposed of, and specifying the location of disposal. The criteria the E.P.A. uses take into account the effects on human health and marine life, and the permanence of those effects, as well as any alternatives available. Where waste exceeds E.P.A. criteria, permits have been issued if there is no feasible alternative and if the applicant prepares and carries out a plan leading to a disposal method which will comply with the criteria.

The Ocean Dumping Act is enforced by the United States Coast Guard. Violators can incur penalties of up to a \$50,000 fine, one year's imprisonment, or both. Injunctions and revocations of permits are other remedies. Citizens may seek injunctive relief against violators if sixty days' notice is given to the E.P.A. or the Corps of Engineers and if governmental enforcement action is not pending. The Act provides for civil penalties of up to \$50,000.

There are four exclusions: (1) outfalls regulated under another act (F.W.P.C.A., the Refuse Act, or the Atomic Energy Act), (2) routine effluent discharges from vessel motors, (3) deposit of oyster shells or materials to develop a fishery, pursuant to a State or federal law or program, and (4) construction of artificial islands or placement of structures in the ocean, pursuant to a federal or State law or program.

Thus the law is clear concerning ocean dumping--with a few exceptions, it can't be done without a permit; and citizens have standing to enforce the prohibition.