

HAZARDOUS WASTE

RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)

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GENERATOR

40 C.F.R. § 260.10. DEFINITIONS.

When used in parts 260 through 273 of this chapter, the following terms have the meanings given below:

...

Generator means any person, by site, whose act or process produces hazardous waste identified or listed in part 261 of this chapter or whose act first causes a hazardous waste to become subject to regulation.

HAZARDOUS WASTE

42 U.S.C. § 6903. DEFINITIONS.

As used in this chapter:

...

(5) The term “hazardous waste” means a solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may—

(A) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or

(B) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.

SOLID WASTE

42 U.S.C. § 6903. DEFINITIONS.

As used in this chapter:

...

(27) The term “solid waste” means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under [33 U.S.C. § 1342], or source, special nuclear, or byproduct material as defined by [42 U.S.C. §§ 2011 et seq.].

KNOWING ENDANGERMENT

42 U.S.C. § 6928. FEDERAL ENFORCEMENT

...

(e) **Knowing endangerment.**—Any person who knowingly transports, treats, stores, disposes of, or exports any hazardous waste identified or listed under this subtitle or used oil not identified or listed as a hazardous waste under this subtitle in violation of paragraph (1), (2), (3), (4), (5), (6), or (7) of subsection (d) of this section who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than \$250,000 or imprisonment for not more than fifteen years, or both. A defendant that is an organization shall, upon conviction of violating this subsection, be subject to a fine of not more than \$1,000,000.

CONSENT DEFENSE

42 U.S.C. § 6928. FEDERAL ENFORCEMENT

...

(f) Special rules.—For the purposes of subsection (e)—

...

(3) It is an affirmative defense to a prosecution that the conduct charged was consented to by the person endangered and that the danger and conduct charged were reasonably foreseeable hazards of—

(A) an occupation, a business, or a profession; or

(B) medical treatment or medical or scientific experimentation conducted by professionally approved methods and such other person had been made aware of the risks involved prior to giving consent.

The defendant may establish an affirmative defense under this subsection by a preponderance of the evidence.

GENERAL DEFENSES

42 U.S.C. § 6928. FEDERAL ENFORCEMENT

...

(f) Special rules.—For the purposes of subsection (e)—

...

(4) All **general defenses**, affirmative defenses, and bars to prosecution that may apply with respect to other Federal criminal offenses may apply under subsection (e) and shall be determined by the courts of the United States according to the principles of common law as they may be interpreted in the light of reason and experience. Concepts of justification and excuse applicable under this section may be developed in the light of reason and experience.

KNOWLEDGE

42 U.S.C. § 6928. FEDERAL ENFORCEMENT

...

(f) Special rules.—For the purposes of subsection (e)—

(1) A person's state of mind is **knowing** with respect to—

(A) his conduct, if he is aware of the nature of his conduct;

(B) an existing circumstance, if he is aware or believes that the circumstance exists; or

(C) a result of his conduct, if he is aware or believes that his conduct is substantially certain to cause danger of death or serious bodily injury.

(2) In determining whether a defendant who is a natural person **knew** that his conduct placed another person in imminent danger of death or serious bodily injury—

(A) the person is responsible only for actual awareness or actual belief that he possessed;
and

(B) knowledge possessed by a person other than the defendant but not by the defendant himself may not be attributed to the defendant;

Provided, That in proving the defendant's possession of actual **knowledge**, circumstantial evidence may be used, including evidence that the defendant took affirmative steps to shield himself from relevant information.

ORGANIZATION

42 U.S.C. § 6928. FEDERAL ENFORCEMENT

...

(f) Special rules.—For the purposes of subsection (e)—

...

(5) The term “organization” means a legal entity, other than a government, established or organized for any purpose, and such term includes a corporation, company, association, firm, partnership, joint stock company, foundation, institution, trust, society, union, or any other association of persons.

SERIOUS BODILY INJURY

42 U.S.C. § 6928. FEDERAL ENFORCEMENT

...

(f) Special rules.—For the purposes of subsection (e)—

...

- (6) The term “serious bodily injury” means—
- (A) bodily injury which involves a substantial risk of death;
 - (B) unconsciousness;
 - (C) extreme physical pain;
 - (D) protracted and obvious disfigurement; or
 - (E) protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

TRANSPORTATION

42 U.S.C. § 6928. FEDERAL ENFORCEMENT

...

(d) Criminal penalties.—Any person who—

(1) knowingly **transports** or causes to be transported any hazardous waste identified or listed under this subtitle to a facility which does not have a permit under this subtitle, or pursuant to title I of the Marine Protection, Research, and Sanctuaries Act [33 U.S.C. §§ 1401-1445; 16 U.S.C. §§ 1431 et seq.; 33 U.S.C. § 1271],

...

(5) knowingly **transports** without a manifest, or causes to be transported without a manifest, any hazardous waste or any used oil not identified or listed as a hazardous waste under this subtitle required by regulations promulgated under this subtitle (or by a State in the case of a State program authorized under this subtitle to be accompanied by a manifest;

...

shall, upon conviction, be subject to a fine of not more than \$50,000 for each day of violation, or imprisonment not to exceed two years (five years in the case of a violation of paragraph (1) or (2)), or both. If the conviction is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment under the respective paragraph shall be doubled with respect to both fine and imprisonment.

TREATMENT, STORAGE, OR DISPOSAL

42 U.S.C. § 6928. FEDERAL ENFORCEMENT

...

(d) Criminal penalties.—Any person who—

...

(2) knowingly **treats, stores, or disposes** of any hazardous waste identified or listed under this subtitle—

(A) without a permit under this subtitle or pursuant to title I of the Marine Protection, Research, and Sanctuaries Act (86 Stat. 1052); or

(B) in knowing violation of any material condition or requirement of such permit; or

(C) in knowing violation of any material condition or requirement of any applicable interim status regulations or standards;

...

shall, upon conviction, be subject to a fine of not more than \$50,000 for each day of violation, or imprisonment not to exceed two years (five years in the case of a violation of paragraph (1) or (2)), or both. If the conviction is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment under the respective paragraph shall be doubled with respect to both fine and imprisonment.