

WATER POLLUTION

CLEAN WATER ACT

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DISCHARGE

33 U.S.C. § 1362. DEFINITIONS.

Except as otherwise specifically provided, when used in this Act [33 USCS §§ 1251 et seq.]:

...

(12) The term “discharge of a pollutant” and the term “discharge of pollutants” each means (A) any addition of any pollutant to navigable waters from any point source, (B) any addition of any pollutant to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft.

NAVIGABLE WATERS

33 U.S.C. § 1362. DEFINITIONS.

Except as otherwise specifically provided, when used in this Act [33 USCS §§ 1251 et seq.]:

...

(7) The term “navigable waters” means the waters of the United States, including the territorial seas.

POINT SOURCE

33 U.S.C. § 1362. DEFINITIONS.

Except as otherwise specifically provided, when used in this Act [33 USCS §§ 1251 et seq.]:

...

(14) The term “point source” means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include agricultural stormwater discharges and return flows from irrigated agriculture.

POLLUTANTS

33 U.S.C. § 1362. DEFINITIONS.

Except as otherwise specifically provided, when used in this Act [33 USCS §§ 1251 et seq.]:

...

(6) The term “pollutant” means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. This term does not mean (A) “sewage from vessels or a discharge incidental to the normal operation of a vessel of the Armed Forces” within the meaning of [33 USCS § 1322]; or (B) water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil or gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the State in which the well is located, and if such State determines that such injection or disposal will not result in the degradation of ground or surface water resources.

FAILURE TO NOTIFY

33 U.S.C. § 1321. OIL AND HAZARDOUS SUBSTANCES LIABILITY.

...

(b) Congressional declaration of policy against discharges of oil or hazardous substances; designation of hazardous substances; study of higher standard of care incentives and report to Congress; liability; penalties; civil actions: penalty limitations, separate offenses, jurisdiction, mitigation of damages and costs, recovery of removal costs, alternative remedies, and withholding clearance of vessels.

...

(5) Any person in charge of a vessel or of an onshore facility or an offshore facility shall, as soon as he has knowledge of any discharge of oil or a hazardous substance from such vessel or facility in violation of paragraph (3) of this subsection, immediately **notify** the appropriate agency of the United States Government of such discharge. The Federal agency shall immediately **notify** the appropriate State agency of any State which is, or may reasonably be expected to be, affected by the discharge of oil or a hazardous substance. Any such person (A) in charge of a vessel from which oil or a hazardous substance is discharged in violation of paragraph (3)(i) of this subsection, or (B) in charge of a vessel from which oil or a hazardous substance is discharged in violation of paragraph (3)(ii) of this subsection and who is otherwise subject to the jurisdiction of the United States at the time of the discharge, or (C) in charge of an onshore facility or an offshore facility, who fails to **notify** immediately such agency of such discharge shall, upon conviction, be fined in accordance with title 18, United States Code, or imprisoned for not more than 5 years, or both. Notification received pursuant to this paragraph shall not be used against any such natural person in any criminal case, except a prosecution for perjury or for giving a false statement.

FALSE STATEMENTS

33 U.S.C. § 1319. ENFORCEMENT

...

(c) Criminal penalties.

...

(4) False statements.—Any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act or who knowingly falsifies, tampers with, or renders inaccurate any monitoring device or method required to be maintained under this Act, shall upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or by both.

KNOWING ENDANGERMENT

33 U.S.C. § 1319. ENFORCEMENT

...

(c) Criminal penalties.

...

(3) Knowing endangerment.

(A) General rule.—Any person who knowingly violates [33 U.S.C. §§ 1311, 1312, 1313, 1316, 1317, 1318, 1321(b)(3), 1328, or 1345], or any permit condition or limitation implementing any of such sections in a permit issued under [33 U.S.C. § 1342] by the Administrator or by a State, or in a permit issued under [33 U.S.C. § 1344] by the Secretary of the Army or by a State, and 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 of not more than 15 years, or both. A person which is an organization shall, upon conviction of violating this subparagraph, be subject to a fine of not more than \$1,000,000. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both fine and imprisonment.

CONSENT DEFENSE

33 U.S.C. § 1319. ENFORCEMENT

...

(c) Criminal penalties.

...

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

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

(II) 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;

and such defense may be established under this subparagraph by a preponderance of the evidence;

KNOWLEDGE

33 U.S.C. § 1319. ENFORCEMENT

...

(c) Criminal penalties.

...

(3)(B) Additional provisions.—For the purpose of sub-paragraph (A) of this paragraph—

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

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

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

except 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

33 U.S.C. § 1319. ENFORCEMENT

...

(c) Criminal penalties.

...

(3)(B) Additional provisions.—For the purpose of sub-paragraph (A) of this paragraph—

...

(iii) 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

33 U.S.C. § 1319. ENFORCEMENT

...

(c) Criminal penalties.

...

(3)(B)(iv) the term “serious bodily injury” means bodily injury which involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

KNOWING VIOLATIONS

33 U.S.C. § 1319. ENFORCEMENT

...

(c) Criminal penalties.

...

(2) **Knowing violations.**—Any person who—

(A) **knowingly violates** [33 U.S.C. §§ 1311, 1312, 1316, 1318, 1321(b)(3), 1328, or 1345], or any **permit** condition or limitation implementing any of such sections in a **permit** issued under [33 U.S.C. § 1342] by the Administrator or by a State, or any requirement imposed in a pretreatment program approved under [33 U.S.C. § 1342(a)(3) or (b)(8)] or in a permit issued under [33 U.S.C. § 1344] by the Secretary of the Army or by a State; or

(B) **knowingly** introduces into a sewer system or into a publicly owned treatment works any pollutant or hazardous substance which such person knew or reasonably should have known could cause personal injury or property damage or, other than in compliance with all applicable Federal, State, or local requirements or **permits**, which causes such treatment works to violate any effluent limitation or condition in a **permit** issued to the treatment works under [33 U.S.C. § 1342] by the Administrator or a State;

shall be punished by a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment for not more than 3 years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than \$100,000 per day of violation, or by imprisonment of not more than 6 years, or by both.

33 U.S.C. § 1342. NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

(a) **Permits** for discharge of pollutants.

(1) Except as provided in [33 U.S.C. §§ 1328, 1344], the Administrator may, after opportunity for public hearing, issue a **permit** for the discharge of any pollutant, or combination of pollutants, notwithstanding [33 U.S.C. § 1311(a)], upon condition that such discharge will meet either (A) all applicable requirements under [33 U.S.C. §§ 1311, 1312, 1316, 1317, 1318, 1343], (B) or prior to the taking of necessary implementing actions relating to all such requirements, such conditions as the Administrator determines are necessary to carry out the provisions of [33 U.S.C. §§ 1251 et seq.]. . . .

...

NEGLIGENT VIOLATIONS

33 U.S.C. § 1319. ENFORCEMENT

...

(c) Criminal penalties.

(1) **Negligent violations.**—Any person who—

(A) negligently violates [33 U.S.C. §§ 1311, 1312, 1316, 1317, 1318, 1321(b)(3), 1328, or 1345], or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act by the Administrator or by a State, or any requirement imposed in a pretreatment program approved under [33 U.S.C. §§ 1342(a)(3) or (b)(8)] or in a permit issued under [33 U.S.C. § 1344] by the Secretary of the Army or by a State; or

(B) negligently introduces into a sewer system or into a publicly owned treatment works any pollutant or hazardous substance which such person knew or reasonably should have known could cause personal injury or property damage or, other than in compliance with all applicable Federal, State, or local requirements or permits, which causes such treatment works to violate any effluent limitation or condition in any permit issued to the treatment works under [33 U.S.C. § 1342] by the Administrator or a State; shall be punished by a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment for not more than 1 year, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than \$50,000 per day of violation, or by imprisonment of not more than 2 years, or by both.

33 U.S.C. § 1342. NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

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(1) Except as provided in [33 U.S.C. §§ 1328, 1344], the Administrator may, after opportunity for public hearing, issue a permit for the discharge of any pollutant, or combination of pollutants, notwithstanding [33 U.S.C. § 1311(a)], upon condition that such discharge will meet either (A) all applicable requirements under [33 U.S.C. §§ 1311, 1312, 1316, 1317, 1318, 1343], (B) or prior to the taking of necessary implementing actions relating to all such requirements, such conditions as the Administrator determines are necessary to carry out the provisions of [33 U.S.C. §§ 1251 et seq.].

REFUSE ACT OFFENSE

33 U.S.C. § 407. DEPOSIT OF REFUSE IN NAVIGABLE WATERS GENERALLY

It shall not be lawful to throw, discharge, or deposit, or cause, suffer, or procure to be thrown, discharged, or deposited either from or out of any ship, barge, or other floating craft of any kind, or from the shore, wharf, manufacturing establishment, or mill of any kind, any refuse matter of any kind or description whatever other than that flowing from streets and sewers and passing therefrom in a liquid state, into any navigable water of the United States, or into any tributary of any navigable water from which the same shall float or be washed into such navigable water; and it shall not be lawful to deposit, or cause, suffer, or procure to be deposited material of any kind in any place on the bank of any navigable water, or on the bank of any tributary of any navigable water, where the same shall be liable to be washed into such navigable water, either by ordinary or high tides, or by storms or floods, or otherwise, whereby navigation shall or may be impeded or obstructed: Provided, That nothing herein contained shall extend to, apply to, or prohibit the operations in connection with the improvement of navigable waters or construction of public works, considered necessary and proper by the United States officers supervising such improvement or public work: And provided further, That the Secretary of War [Secretary of the Army], whenever in the judgment of the Chief of Engineers anchorage and navigation will not be injured thereby, may permit the deposit of any material above mentioned in navigable waters, within limits to be defined and under conditions to be prescribed by him, provided application is made to him prior to depositing such material; and whenever any permit is so granted the conditions thereof shall be strictly complied with, and any violation thereof shall be unlawful.