

Clean Water Act Encyclopedia Article

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The twentieth-century conflagration of Ohio's Cuyahoga River well illustrated the quandary of a nation whose water was so polluted that it burned. The modern Clean Water Act (CWA) is the result of a sequence of federal water pollution control statutes starting with the nineteenth-century enactment of the Rivers and Harbors Act (limited to navigation-impeding debris), the 1948 Federal Water Pollution Control Act (the first federal attempt to regulate water pollution), the 1965 Water Quality Improvement Act, and the 1972 Federal Water Pollution Control Act. This, as amended in 1977 and again in 1987, was the template for the present statute. Although denoted the Federal Water Pollution Prevention and Control Act in the U.S. Code, the statute's common name is the Clean Water Act.

The CWA primarily governs the pollution of surface water, such as rivers, lakes, and streams. The CWA also regulates dredge and fill operations in wetlands, establishes criteria for ocean discharges, and regulates the oil pollution of water. In addition, it provides for state funding and includes research-oriented provisions.

The crux of the CWA lies in the requirements for a national permitting scheme for the pollution of surface waters. It provides for regulatory control of water pollution primarily by two mechanisms: enforcing "water-quality standards," typically established by states, and imposing technology based "effluent limitations" by means of permitting under the National Pollutant Discharge Elimination System (NPDES). Dischargers, such as publicly owned treatment works (POTWs), are required to utilize the best available pollution control technology in minimizing pollutants before they can obtain a permit to operate. The CWA contemplates the significant delegation of enforcement authority to qualifying states and state permitting under SPDES (i.e., "state" PDES) programs. The discharge of certain pollutants, such as toxic pollutants and medical wastes, is prohibited.

The EPA (except that the U.S. Army Corps of Engineers issues wetlands permits) or state agencies under qualifying state programs enforce the CWA. Citizen plaintiffs, subject to notice requirements specified in the statute, also may sue to enforce the act, although, similar to other federal environmental "citizen suit" provisions, not for the recovery of personal damages.

Enforcement of the CWA has received wide popular support. Despite the fact that it will not be possible to fairly evaluate its real value for quite some time, the CWA is generally considered an environmental success.

Internet Resource

The Clean Water Network. Available from <http://www.cwn.org>.