

US Attorneys > USAM > Title 5 > USAM Chapter 5-11.000
prev | next | ENRD Resource Manual

5-11.000

ENVIRONMENTAL CRIMES

5-11.101	Statutes Administered
5-11.102	Other Criminal Provisions
5-11.103	Notice of Case Initiation
5-11.104	Responsibility for Case Development and Prosecution
5-11.105	Coordination of National Initiatives
5-11.106	Foreign Vessel Matters; MOTR Protocols
5-11.107	Other ECS Functions: Policy-Making; Support; Exchanging Case Information; Information and Guidance Clearinghouse
5-11.108	Notification of Case Resolutions
5-11.109	Voluntary Dismissals
5-11.110	Declinations
5-11.111	Staffing
5-11.112	Parallel Proceedings
5-11.113	Coordination with State Programs
5-11.114	Individual and Corporate Defendants
5-11.115	"Global Settlements"; Community Service
5-11.116	Protecting Federal Interests in Plea Agreements
5-11.117	Handling of Appeals
5-11.118	Notice of Appeals
5-11.119	Record on Appeal
5-11.120	Table of Notifications and Coordination

5-11.101 Statutes Administered

The provisions of this chapter apply to all prosecutions initiated pursuant to the statutes identified below. While all of them are considered environmental crimes, for user convenience they are divided into two groups, pollution crimes and wildlife crimes.

A. Pollution Crimes

Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), 7 U.S.C. § 136 et seq.

Energy Supply and Environmental Coordination Act, 15 U.S.C. § 791 et seq.

Toxic Substances Control Act (TSCA), 15 U.S.C. § 2601 et seq.

Surface Mining Control and Reclamation Act, 30 U.S.C. § 1201 et seq.

Protection of Navigable Waters and of Harbor and River Improvements Generally, Rivers and Harbors Appropriations Act, Refuse Act, 33 U.S.C. § 401 et seq.

Federal Water Pollution Control Act (also known as the Clean Water Act), 33 U.S.C. § 1251 et seq.

Marine Protection Research and Sanctuaries Act (also known as the Ocean Dumping Act), 33 U.S.C. § 1401 et seq.

Deepwater Port Act, 33 U.S.C. § 1501 et seq.

Act to Prevent Pollution From Ships, 33 U.S.C. § 1901 et seq.

Safe Drinking Water Act, 42 U.S.C. § 300f et seq.

Atomic Energy Act, 42 U.S.C. § 2011 et seq. (violations under 42 U.S.C. §§ 2272 and 2273)

Noise Control Act, 42 U.S.C. § 4901 et seq.

Solid Waste Disposal Act (including, in Subchapter III, the Resource Conservation and Recovery Act (RCRA)), 42 U.S.C. § 6901 et seq.

Clean Air Act, 42 U.S.C. § 7401 et seq.

Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. § 9601 et seq.

Emergency Planning and Community Right to Know Act (EPCRA) (also known as SARA Title III), 42 U.S.C. § 11001 et seq.

Outer Continental Shelf Lands Act, 43 U.S.C. § 1331 et seq.

Federal Hazardous Material Transportation Law, 49 U.S.C. § 5101 et seq.

B. Wildlife Crimes

Fish and Wildlife Coordination Act, 16 U.S.C. § 661 et seq.

Bald and Golden Eagle Protection Act, 16 U.S.C. § 668 et seq.

National Wildlife Refuge System Administration Act, 16 U.S.C. § 668dd et seq.

Sikes Act, 16 U.S.C. § 670a et seq.

Migratory Bird Treaty Act, 16 U.S.C. § 703 et seq.

Migratory Bird Conservation Act, 16 U.S.C. § 715 et seq.

Airborne Hunting Act, 16 U.S.C. § 742j-1

Northern Pacific Halibut Act of 1982, 16 U.S.C. § 773 et seq.

Whaling Convention Act, 16 U.S.C. § 916 et seq.

Fur Seal Act of 1966, 16 U.S.C. § 1151 et seq.

Marine Mammal Protection Act, 16 U.S.C. § 1361 et seq.

Endangered Species Act of 1973, 16 U.S.C. § 1531 et seq.

Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. § 1801 et seq.

Antarctic Conservation Act, 16 U.S.C. § 2401 et seq.
Antarctic Marine Living Resources Convention, 16 U.S.C. § 2431 et seq.
Lacey Act Amendments of 1981 ("Lacey Act"), 16 U.S.C. § 3371 et seq.,
 18 U.S.C. § 42
Atlantic Salmon Convention Act, 16 U.S.C. § 3601 et seq.
Pacific Salmon Fishing Act, 16 U.S.C. § 3631 et seq.
African Elephant Conservation Act, 16 U.S.C. § 4201 et seq.
Wild Exotic Bird Conservation Act, 16 U.S.C. § 4901 et seq.
North Pacific Anadromous Stocks Convention Act, 16 U.S.C. § 5001
 et seq.
Atlantic Coastal Fisheries Cooperative Management Act, 16 U.S.C.
 § 5101 et seq.
Rhinoceros and Tiger Conservation Act, 16 U.S.C. § 5301 et seq.
High Seas Fishing Compliance Act, 16 U.S.C. § 5501 et seq.
Northwest Atlantic Fisheries Convention Act, 16 U.S.C. § 5601 et seq.
Hunting, fishing, trapping; disturbance or injury on wildlife refuges, 18
 U.S.C. § 41

[updated November 2008] [cited in USAM 5-11.102;
 USAM 5-11.109; USAM 5-11.112; USAM 5-11.114; USAM 5-11.115]
 USAM 5-11.117] USAM 5-11.119]

5-11.102 Other Criminal Provisions

Experience has shown that cases involving violations of the federal environmental laws identified in USAM 5-11.101 also may involve violations of certain other federal statutes or criminal forfeiture. Therefore, the Environmental Crimes Section (ECS) is empowered to investigate and prosecute violations of additional criminal statutes when such violations arise in the course of environmental crimes investigations. Examples of some of the statutes that may be involved in those cases include, but are not limited to, the following:

Statute	Subject Matter
18 U.S.C. § 2	Aiding and Abetting
18 U.S.C. § 4	Misprision of Felony
18 U.S.C. § 287	False Claims
18 U.S.C. § 371	Conspiracy
18 U.S.C. § 545	Smuggling
18 U.S.C. § 641	Theft or Conversion of Public Property or Money
18 U.S.C. § 666	Federal Program Theft
18 U.S.C. § 1001	False Statement
18 U.S.C. § 1341	Mail Fraud
18 U.S.C. § 1343	Wire Fraud
18 U.S.C. §§ 1956	and 1957 Money Laundering
18 U.S.C. § 1501 et seq.	Obstruction of Justice
18 U.S.C. § 1621 et seq.	Perjury

29 U.S.C. § 666(e) Willful OSHA Violation Causing Death

[updated November 2008]

5-11.103 Notice of Case Initiation

When a United States Attorney's Office opens a file for an environmental case or matter, the Office should enter the case or matter in the Department's computerized case tracking system and identify the case type as "environmental." If the case or matter involves a potential environmental crime, but is not identified as "environmental" in the case tracking system (for example, because of data entry limitations), that office should inform the Environmental Crimes Section by telephone, by electronic mail, or in writing. This notice by the United States Attorney's Office allows ECS to better coordinate efforts nationwide (for example, by being able to alert the United States Attorney's Office that the same defendant is being prosecuted or the same issues are arising in another district) and to be prepared to provide support, if necessary, to the United States Attorney's Office. When ECS opens a file on a case or matter, the Section will notify the United States Attorney's Office for the district in which the crime is alleged to have occurred.

[updated November 2008]

5-11.104 Responsibility for Case Development and Prosecution

United States Attorneys' Offices have responsibility for the investigation and prosecution of environmental crimes within their own districts and the Environmental Crimes Section has responsibility for the investigation and prosecution of environmental crimes on a nation-wide basis. Cooperation and consultation between United States Attorneys' Offices and ECS can make the most effective use of the Department's resources. Close coordination is particularly vital in cases that present novel issues of law (including the first case under a statute, provision, or regulation), involve simultaneous investigations in multiple districts, involve international or foreign policy implications, or are of an urgent or sensitive nature. Often the United States Attorneys' Offices and ECS work jointly on cases. When a United States Attorney's Office and ECS work jointly on a case, the responsibility for that case shall be shared by those two offices, in which case the two offices shall work and act together through consultation and agreement. Neither office shall enter into a case being handled solely by the other except by mutual consent.

[updated November 2008] [cited in USAM 5-11.110]

5-11.105 Coordination of National Initiatives

Enforcement initiatives are valuable means of focusing prosecutorial resources upon particular types of violations of federal laws. With respect to environmental crimes, the expertise of ECS is especially critical during the early phases of a national initiative when the issues involved may be novel and coordination among

