

Clean Water Act of 1972

The Clean Water Act (CWA), 33 U.S.C. §§ 1251–1387, is the primary federal law in the United States governing water pollution. Its objective is to restore and maintain the chemical, physical, and biological integrity of the nation's waters; recognizing the responsibilities of the states in addressing pollution and providing assistance to states to do so, including funding for publicly owned treatment works for the improvement of wastewater treatment; and maintaining the integrity of wetlands.

The Clean Water Act was one of the United States' first and most influential modern environmental laws. Its laws and regulations are primarily administered by the U.S. Environmental Protection Agency (EPA) in coordination with state governments, though some of its provisions, such as those involving filling or dredging, are administered by the U.S. Army Corps of Engineers. Its implementing regulations are codified at 40 C.F.R. Subchapters D, N, and O (Parts 100-140, 401-471, and 501-503).

Technically, the name of the law is the Federal Water Pollution Control Act. The first FWPCA was enacted in 1948, but took on its modern form when completely rewritten in 1972 in an act entitled the Federal Water Pollution Control Act Amendments of 1972. Major changes have subsequently been introduced via amendatory legislation including the Clean Water Act of 1977 and the Water Quality Act (WQA) of 1987.

The Clean Water Act does not directly address groundwater contamination. Groundwater protection provisions are included in the Safe Drinking Water Act, Resource Conservation and Recovery Act, and the Superfund act.

National Pollutant Discharge Elimination System (NPDES)

The CWA introduced the National Pollutant Discharge Elimination System (NPDES), a permit system for regulating point sources of pollution. Point sources include:

- industrial facilities (including manufacturing, mining, shipping activities, oil and gas extraction and service industries).
- municipal governments (particularly sewage treatment plants) and other government facilities (such as military bases), and
- some agricultural facilities, such as animal feedlots.

Point sources may not discharge pollutants to surface waters without an NPDES permit. The system is managed by EPA in partnership with state environmental agencies. EPA has authorized 47 states to issue permits directly to the discharging facilities. The CWA also allows tribes to issue permits, but no tribes have been authorized by EPA. In the remaining states and territories, the permits are issued by an EPA regional office.[15] (See Titles III and IV.)

In legislation prior to 1972, Congress had authorized states to develop water quality standards, which would limit discharges from facilities based on the characteristics of individual water bodies. However, those standards were to be developed only for interstate waters, and the science to support that process (i.e. data, methodology) was in the early stages of development.

That system was not effective, and there was no permit system in place to enforce the requirements. In the 1972 CWA, Congress added the permit system and a requirement for technology-based effluent limitations.

In the 2020 Supreme Court case *County of Maui v. Hawaii Wildlife Fund*, the Court also validated that some discharges may not be point sources, but are the "functional equivalent of a direct discharge" to navigable waters, such as in this case, the injection of wastewater into groundwater injection wells. As of the time of the case's decision, this was not an area the EPA has established regulations for, and the Court instructed the EPA to work with the courts to define such functional equivalents. The Court wrote that this would likely depend most on the distance the pollutants traveled and time to reach navigable waters, with consideration for the material that the pollutants traveled through, any physical or chemical interaction of the pollutants with components in the ground, and how much of the pollutant makes it to the navigable water.

BOEM does not regulate OCS facilities for compliance with the CWA. BSEE has some provisions that limit the discharge of certain chemicals onto the OCS, however.