

\$1.9 Million Fine for Dumping Waste into the Gulf

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Photograph courtesy of Carlos Vega.

Dumping plastic from ships into the ocean is outlawed under the international MARPOL Convention. Despite the illegality, plastic pollution fouling the ocean has steadily increased. That increase has proportionally garnered the attention of the media and the environmental community. The world puts almost 19 billion pounds of plastic garbage into the ocean annually according to the World Economic Forum. That amount is anticipated to double by 2025.¹ The plastic degrades into smaller and smaller pieces, known as microplastics, and presents myriad environmental threats to aquatic species.

Efforts to control plastic pollution in the sea are not new. In fact, such pollution has been explicitly prohibited for decades. The MARPOL Convention sets international standards for discharges of wastes from ships. MARPOL is an abbreviation for marine pollution, and the Convention is a combination of two treaties. The first agreement was the 1973 International Convention for the Prevention of Pollution from Ships. The second was the Protocol of 1978 relating to the 1973 International Convention for the Prevention of Pollution. They are respectively known as “MARPOL 73” and “MARPOL 78” and are made up of

six annexes. The first of these annexes came into force in late 1983, and all were in effect by 2005.

Both conventions and the annexes were created under the International Maritime Organization, a specialized agency of the United Nations. Over 150 countries, including the United States, are parties to MARPOL, and account for 99% of the world's merchant shipping tonnage. Member countries are responsible for certifying that a ship registered in that country is in compliance with MARPOL. A country can inspect ships at its ports from other member countries to verify compliance. Countries can even detain foreign ships found to be significantly out of compliance.

MARPOL prohibits ships from dumping oil, noxious liquids, garbage, sewage, and harmful substances in transit, and regulates ships' air pollution. MARPOL's Annex V specifically deals with the regulation of garbage from ships. It requires ships to keep logs describing all disposals of bilge waste and garbage. It specifically bans ships from dumping plastic into the ocean. According to the Annex, garbage, such as incinerator ash, steel, plastic, and other non-organic waste, must be stored onboard and only disposed of via onshore facilities.

MARPOL also bans dumping fluids. Oil-contaminated bilge water must be processed with specific chemicals before it can be discharged into the sea. Oily bilge water is created when water in the bottom of a vessel mixes with oil leaking from its engines.

The Act to Prevent Pollution from Ships ("APPS") became law in the United States on October 21, 1980, and criminalized knowingly violating MARPOL. APPS substantially penalizes those caught dumping plastic in the ocean. The act gives the U.S. Coast Guard authority and responsibility to enforce MARPOL standards. Violating the act is a felony, prosecution of which is conducted by the U.S. Department of Justice. Beyond being criminally prosecuted for violating MARPOL, a violator can face civil penalties. The maximum penalty is \$25,000 per day per violation, with each day counting as a separate violation. Any false or fraudulent statements carry a maximum penalty of \$5,000 per statement.

A significant APPS prosecution was conducted in 2017 for MARPOL violations in the Gulf of Mexico. Estimated concentrations of microplastics in the Gulf of Mexico are already among the highest reported globally.²

The resulting investigation culminated in two shipping companies from Egypt and Singapore pleading guilty to dumping oily bilge water and plastic bags of garbage from their ship near the National Wildlife Refuges in East Texas. The companies also pleaded guilty to obstruction of justice because the captain of that ship attempted to cover up the dumping.

The captain ordered the crew to attach a special bypass pump to circumvent the ship's pollution prevention equipment meant to process its oily bilge water. He also ordered them to throw plastic garbage bags filled with metal and incinerator ash overboard. He then produced false documents to the Coast Guard in order to cover up the crime. The ship's records did not include either the oily bilge water discharge or the garbage jettisoning, both recordkeeping violations contrary to APPS.

Unbeknownst to the captain, however, a crewmember photographed and videotaped the illegal dumpings. The crewmember provided the evidence and a written statement to the U.S. Coast Guard once the ship was docked in Port Arthur, Texas. Whistleblowers like this crewmember are integral to enabling prosecutions under APPS. In fact, a special provision of APPS authorizes whistleblowers to receive up to half of the monetary penalty imposed on the violators.

In recent years roughly one-third of MARPOL prosecutions reportedly have resulted in awards to whistleblowers, some topping \$1 million.³ According to the Department of Justice, APPS violations "take[] place in the middle of the ocean and usually at night" meaning only the crew members are "likely to know about the conduct and the falsification of ship records..."⁴ Whistleblowers, therefore, are key to enforcing the law: "The government's success in identifying the activity and obtaining sufficient evidence to support investigations and prosecutions is dependent on the willingness of lower level crew members to step forward."

The Coast Guard investigated after receiving the incriminating evidence and discovered the special bypass pump hidden in oil in the bottom of the ship – the means of the illegal discharge. The companies ultimately pleaded guilty to illegally dumping the untreated bilge waste and the metal, ash, and plastic garbage. In addition, the companies pleaded guilty to obstruction of justice for providing false documents to the Coast Guard.

The companies must pay a \$1.9 million penalty and fulfill a four-year probation as terms of their plea bargain for violating APPS. The terms include marine and coastal restoration efforts at three National Wildlife Refuges near the locations of the dumpings and a comprehensive plan to ensure future compliance with all marine environmental regulations. The plan will be audited by an independent company and supervised by a court-appointed monitor. 🐼

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Endnotes

1. Jenna R. Jambeck, *et al.*, [Plastic Waste Inputs from Land into Ocean](#), *Science*, Vol. 347, pp. 768-771 (Feb. 2015).
2. R.D. Mauro, *et al.*, [Abundant Plankton-Sized Microplastic Particles in Shelf Waters of the Northern Gulf of Mexico](#), *Environmental Pollution*, Vol. 230, pp. 798-809 (Nov. 2017).
3. Marine Defenders, [Rewards for Whistleblowers](#).
4. United States v. Overseas Shipholding Group, Inc., No. 06-CR-10408 (D.C. Mass. 2007), [Government's Amended Motion for Whistleblower Awards](#), p. 2.

Cities in Mississippi and Alabama with Populations Greater Than 15,000 that Don't Offer Plastic Curbside Recycling



Source: Mississippi-Alabama Sea Grant Legal Program, based on information gathered by web and phone inquiries. Size of the city's name on the chart is proportionate to the size of the city's population, to the nearest 5,000, based on 2010 census data. Thirty-five percent of Alabama cities and twelve percent of Mississippi cities with populations greater than 15,000 do not offer residential curbside recycling for plastic. The three cities from Mississippi are: Brandon, Clarksdale, and Pearl. All other cities in the cloud are located in Alabama.

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