

## Calendar No. 441

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION**S. 3466**

To require restitution for victims of criminal violations of the Federal Water Pollution Control Act, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JUNE 9, 2010

Mr. LEAHY (for himself, Mr. WHITEHOUSE, Mrs. FEINSTEIN, Mr. KAUFMAN, Mr. FEINGOLD, Mr. SANDERS, and Ms. KLOBUCHAR) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

JUNE 24, 2010

Reported by Mr. LEAHY, with an amendment

[Omit the part struck through and insert the part printed in *italic*]

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**A BILL**

To require restitution for victims of criminal violations of the Federal Water Pollution Control Act, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Environmental Crimes  
5       Enforcement Act of 2010”.

1 **SEC. 2. ENVIRONMENTAL CRIMES.**

2 (a) SENTENCING GUIDELINES.—

3 (1) DIRECTIVE.—Pursuant to its authority  
4 under section 994 of title 28, United States Code,  
5 and in accordance with this subsection, the United  
6 States Sentencing Commission shall review and  
7 amend the Federal Sentencing Guidelines and policy  
8 statements applicable to persons convicted of of-  
9 fenses under the Federal Water Pollution Control  
10 Act (33 U.S.C. 1251 et seq.), in order to reflect the  
11 intent of Congress that penalties for the offenses be  
12 increased in comparison to those provided on the  
13 date of enactment of this Act under the guidelines  
14 and policy statements, and appropriately account for  
15 the actual harm to the public and the environment  
16 from the offenses.

17 (2) REQUIREMENTS.—In amending the Federal  
18 Sentencing Guidelines and policy statements under  
19 paragraph (1), the United States Sentencing Com-  
20 mission shall—

21 (A) ensure that the guidelines and policy  
22 statements, including section 2Q1.2 of the Fed-  
23 eral Sentencing Guidelines (and any successor  
24 thereto), reflect—

25 (i) the serious nature of the offenses  
26 described in paragraph (1);

1 (ii) the need for an effective deterrent  
2 and appropriate punishment to prevent the  
3 offenses; and

4 (iii) the effectiveness of incarceration  
5 in furthering the objectives described in  
6 clauses (i) and (ii);

7 (B) consider the extent to which the guide-  
8 lines appropriately account for the actual harm  
9 to public and the environment resulting from  
10 the offenses;

11 (C) ensure reasonable consistency with  
12 other relevant directives and guidelines and  
13 Federal statutes;

14 (D) make any necessary conforming  
15 changes to guidelines; and

16 (E) ensure that the guidelines relating to  
17 offenses under the Federal Water Pollution  
18 Control Act (33 U.S.C. 1251 et seq.) ade-  
19 quately meet the purposes of sentencing, as set  
20 forth in section 3553(a)(2) of title 18, United  
21 States Code.

22 (b) RESTITUTION.—Section 3663A(c)(1) of title 18,  
23 United States Code, is amended—

24 (1) in clause (ii), by striking “or” at the end;

1           (2) in clause (iii), by striking “and” at the end  
2           and inserting “or”; and

3           (3) by adding at the end the following:

4                   “(iv) an offense under ~~the Federal Water~~  
5           ~~Pollution Control Act (33 U.S.C. 1251 et~~  
6           ~~seq.)~~*section 309(c) of the Federal Water Pollu-*  
7           *tion Control Act (33 U.S.C. 1319(c)); and”.*



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