

master, of the scows or boats; and further, every scowman or other employee on board of both scows and towboats shall be deemed to have knowledge of the place of dumping specified in such permit, and the owners and masters, or persons acting in the capacity of masters, shall be liable to punishment, as aforesaid, for any unlawful dumping, within the meaning of this Act or of the said Act of June twenty-ninth, eighteen hundred and eighty-eight, which may be caused by the negligence or ignorance of such scowman or other employee; and, further, neither defect in machinery nor avoidable accidents to scows or towboats, nor unfavorable weather, nor improper handling or moving of scows or boats of any kind whatsoever, shall operate to release the owners and masters and employees of scows and towboats from the penalties hereinbefore mentioned. Every scow or boat engaged in the transportation of dredgings, earth, sand, mud, cellar dirt, garbage, or other offensive material of any description shall have its name or number and owner's name painted in letters and numbers at least fourteen inches long on both sides of the scow or boat; these names and numbers shall be kept distinctly legible at all times, and no scow or boat not so marked shall be used to transport or dump any such material. The supervisor of the harbor of New York, designated as provided in section five of the said Act of June twenty-ninth, eighteen hundred and eighty-eight [section 451 of this title], is authorized and directed to appoint inspectors and deputy inspectors, and, for the purpose of enforcing the provisions of this Act and of the Act aforesaid, and of detecting and bringing to punishment offenders against the same, the said supervisor of the harbor, and the inspectors and deputy inspectors so appointed by him, shall have power and authority: First. To arrest and take into custody, with or without process, any person or persons who may commit any of the acts or offenses prohibited by this section and by the Act of June twenty-ninth, eighteen hundred and eighty-eight, aforesaid, or who may violate any of the provisions of the same: Provided, That no person shall be arrested without process for any offense not committed in the presence of the supervisor or his inspectors or deputy inspectors, or either of them: And provided further, That whenever any such arrest is made the person or persons so arrested shall be brought forthwith before a commissioner, judge, or court of the United States for examination of the offenses alleged against him; and such commissioner, judge, or court shall proceed in respect thereto as authorized by law in case of crimes against the United States. Second. To go on board of any scow or towboat engaged in unlawful dumping of prohibited material, or in moving the same without a permit as required in this section of this Act, and to seize and hold said boats until they are discharged by action of the commissioner, judge, or court of the United States before whom the offending persons are brought. Third. To arrest and take into custody any witness or witnesses to such unlawful dumping of prohibited material, the said witnesses to be released under proper bonds. Fourth. To go on board of any towboat having in tow scows or boats loaded with such prohibited material, and accompany the same to the place of dumping whenever such action appears to be necessary to secure compliance with the requirements of this Act and of the Act aforesaid. Fifth. To enter gas and oil works and all other manufacturing works for the purpose of discovering the disposition made of sludge, acid, or other injurious material, whenever there is good reason to believe that such sludge, acid, or other injurious material is allowed to run into the tidal waters of the harbor in violation of section one of the aforesaid Act of June twenty-ninth, eighteen hundred and eighty-eight [section 441 of this title]. Every person who, directly or indirectly, gives any sum of money or other bribe, present, or reward or makes any offer of the same to any inspector, deputy inspector, or other employee of the office of the supervisor of the harbor with intent to influence such inspector, deputy inspector, or other employee to permit or overlook any violation of the

provisions of this section or of the said Act of June twenty-ninth, eighteen hundred and eighty-eight, shall, on conviction thereof, be fined not less than five hundred dollars nor more than one thousand dollars, and be imprisoned not less than six months nor more than one year. Every permit issued in accordance with the provisions of this section of this Act which may not be taken up by an inspector or deputy inspector shall be returned within forty-eight hours after issuance to the office of the supervisor of the harbor; such permit shall bear an indorsement by the master of the towboat, or the person acting in such capacity, stating whether the permit has been used, and if so the time and place of dumping. Any person violating the provisions of this section shall be liable to a fine of not more than five hundred dollars nor less than one hundred dollars."

Section 3 was further amended by act May 28, 1908, ch. 212, § 8, to read as set forth in this section and sections 444 to 448 of this title.

**§ 444. Dumping at other place than designated dumping grounds; penalty; person liable; excuses for deviation**

Any deviation from such dumping or discharging place specified in such permit shall be a misdemeanor, and the owner and master, or person acting in the capacity of master, of any scows or boats dumping or discharging such forbidden matter in any place other than that specified in such permit shall be liable to punishment therefor as provided in section 441 of this title; and the owner and master, or person acting in the capacity of master, of any tug or towboat towing such scows or boats shall be liable to equal punishment with the owner and master, or person acting in the capacity of master, of the scows or boats; and, further, every scowman or other employee on board of both scows and towboats shall be deemed to have knowledge of the place of dumping specified in such permit, and the owners and masters, or persons acting in the capacity of masters, shall be liable to punishment, as aforesaid, for any unlawful dumping, within the meaning of this Act and this subchapter, which may be caused by the negligence or ignorance of such scowman or other employee; and, further, neither defect in machinery nor avoidable accidents to scows or towboats, nor unfavorable weather, nor improper handling or moving of scows or boats of any kind whatsoever shall operate to release the owners and master and employees of scows and towboats from the penalties mentioned in section 441 of this title.

(June 29, 1888, ch. 496, § 3, 25 Stat. 209; Aug. 18, 1894, ch. 299, § 3, 28 Stat. 360; May 28, 1908, ch. 212, § 8, 35 Stat. 426.)

REFERENCES IN TEXT

This Act, referred to in text, is act Aug. 18, 1894, ch. 299, 28 Stat. 356, as amended, which enacted sections 1, 31, and 452 of this title and amended sections 443 to 448 and 499 of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was enacted as part of section 3 of act June 29, 1888. Said section 3 of act June 29, 1888, enacted sections 443 to 448 of this title. See Codification note set out under section 443 of this title.

**§ 445. Equipment and marking of boats or scows**

Every scow or boat engaged in the transportation of dredgings, earth, sand, mud, cellar

dirt, garbage, or other offensive material of any description shall have its name or number and owner's name painted in letters and numbers at least fourteen inches long on both sides of the scow or boat; these names and numbers shall be kept distinctly legible at all times, and no scow or boat not so marked shall be used to transport or dump any such material. Each such scow or boat shall be equipped at all times with a life line or rope extending at least the length of and three feet above the deck thereof, such rope to be attached to the coaming thereof, also with a life preserver and a life buoy for each person on board thereof, also with anchor to weigh not less than two hundred and seventy-five pounds, and at least one hundred feet of cable attached thereto; a list of the names of all men employed on any such scow or boat shall be kept by the owner or master thereof and the said list shall be open to the inspection of all parties. Failure to comply with any of the foregoing provisions shall render the owner of such scow or boat liable upon conviction thereof to a penalty of not more than \$500: *Provided*, That the requirements in regard to life line or rope contained in this section shall not apply to any scow or boat the deck outside the coaming or rail of which shall not exceed one foot in width: *And provided further*, That on any such scow or boat its name or number and owner's name painted in letters and numbers, at least fourteen inches long on both ends of such scow or boat, shall be a compliance with the provisions of this section in regard to name, number, and owner's name.

(June 29, 1888, ch. 496, § 3, 25 Stat. 209; Aug. 18, 1894, ch. 299, § 3, 28 Stat. 360; May 28, 1908, ch. 212, § 8, 35 Stat. 427; Feb. 16, 1909, ch. 132, 35 Stat. 623.)

#### CODIFICATION

Section was enacted as part of section 3 of act June 29, 1888. Said section 3 of act June 29, 1888, enacted sections 443 to 448 of this title. See Codification note set out under section 443 of this title.

Provisos are from act Feb. 16, 1909.

#### § 446. Inspectors; appointment, powers, and duties

Each supervisor of a harbor is authorized and directed to appoint inspectors and deputy inspectors, and for the purposes of enforcing this subchapter and the Act of August 18, 1894, entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes" (28 Stat. 338), and of detecting and bringing to punishment offenders against the same, the said supervisor of the harbor, and the inspectors and deputy inspectors so appointed by him, shall have power and authority.

First. To arrest and take into custody, with or without process, any person or persons who may commit any of the acts or offenses prohibited by this subchapter, or who may violate any of the provisions of the same: *Provided*, That no person shall be arrested without process for any offense not committed in the presence of the supervisor or his inspectors or deputy inspectors, or either of them: *And provided further*, That whenever any such arrest is made the person or persons so arrested shall be brought forthwith before a magistrate judge, judge, or court of the United

States for examination of the offenses alleged against him; and such magistrate judge, judge, or court shall proceed in respect thereto as authorized by law in case of crimes against the United States.

Second. To go on board of any scow or towboat engaged in unlawful dumping of prohibited material, or in moving the same without a permit, as required in sections 443 to 448 of this title, or otherwise violating sections 443 to 448 of this title, and to seize and hold said boats until they are discharged by action of the magistrate judge, judge, or court of the United States before whom the offending persons are brought.

Third. To arrest and take into custody any witness or witnesses to such unlawful dumping of prohibited material, the said witnesses to be released under proper bonds.

Fourth. To go on board of any towboat having in tow scows or boats loaded with such prohibited material, and accompany the same to the place of dumping, whenever such action appears to be necessary to secure compliance with the requirements of this subchapter and of the Act aforesaid.

Fifth. To enter gas and oil works and all other manufacturing works for the purpose of discovering the disposition made of sludge, acid, or other injurious material, whenever there is good reason to believe that such sludge, acid, or other injurious material is allowed to run into tidal waters of the harbor in violation of section 441 of this title.

(June 29, 1888, ch. 496, § 3, 25 Stat. 209; Aug. 18, 1894, ch. 299, § 3, 28 Stat. 360; May 28, 1908, ch. 212, § 8, 35 Stat. 427; Pub. L. 85-802, § 1(3), Aug. 28, 1958, 72 Stat. 970; Pub. L. 90-578, title IV, § 402(b)(2), Oct. 17, 1968, 82 Stat. 1118; Pub. L. 101-650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117.)

#### REFERENCES IN TEXT

Act of August 18, 1894, referred to in provision preceding First paragraph, and Act aforesaid, referred to in Fourth paragraph, mean act Aug. 18, 1894, ch. 299, 28 Stat. 356, as amended, which enacted sections 1, 31, and 452 of this title and amended sections 443 to 448 and 499 of this title. For complete classification of this Act to the Code, see Tables.

Sections 443 to 448 of this title, referred to in the Second paragraph, were in the original "this section of this Act" meaning section 3 of act June 29, 1888, which enacted sections 443 to 448 of this title. The provision of section 3 relating to issuance of permits is classified to section 443 of this title.

#### CODIFICATION

Section was enacted as part of section 3 of act June 29, 1888. Said section 3 of act June 29, 1888, enacted sections 443 to 448 of this title. See Codification note set out under section 443 of this title.

#### AMENDMENTS

1958—Pub. L. 85-802 substituted "Each supervisor of a harbor is authorized and directed to appoint inspectors and deputy inspectors, and, for the purposes of enforcing this subchapter" for "The supervisor of the harbor of New York, designated as provided in section 451 of this title, is authorized and directed to appoint inspectors and deputy inspectors, and for the purpose of enforcing sections 1, 31, and this subchapter".

#### CHANGE OF NAME

"Magistrate judge" substituted in text for "magistrate" pursuant to section 321 of Pub. L. 101-650, set