

# N.C. OIL POLLUTION AND HAZARDOUS SUBSTANCES CONTROL ACT (“OPHSCA”) PART 2

- Part 2 begins with G.S. § 143-215.83, entitled “Discharges,” first provides in subsection (a):
- Unlawful Discharges. – It shall be unlawful, except as otherwise provided in this Part, for any person to discharge, or cause to be discharged, oil or other hazardous substances into or upon any waters . . . or land within this State, or into any sewer, surface water drain or other waters that drain into waters of the State, regardless of the fault of the person having control over the oil or other hazardous substance, or regardless of whether the discharge was the result of intentional or negligent conduct, accident or other cause.

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§ 143-215.83(b)(2) d.

“Excepted Discharges” -- subsection (b). The “excepted discharge” that applies to Eagle is the “third-party” exception. The relevant language for that exception in subsection (b) reads:

Excepted Discharges. – This section shall not apply to discharges of oil or other hazardous substances in the following circumstances:

.....

(2) When any person subject to liability under [OPHSCA] proves that a discharge was caused by .....

d. An act or omission of a third party, whether any such act or omission was or was not negligent.

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- G.S. § 143-215.84- Removal of Prohibited Discharges.

The next section of OPHSCA is **G.S. § 143-215.84**, entitled “Removal of ***‘prohibited’*** discharges.” (emphasis added). It provides in relevant part that “any person having control over oil or other hazardous substances ***discharged in violation of this Article*** shall immediately undertake to collect and remove the discharge and restore the area affected ....” (emphasis added).