

Advanced Legal Research
Spring 2014
Professor Etheredge

Your Name _____

Assignment: Federal Statutes

DUE: Monday, February 17, 2014

PART ONE: SCINTILLATING STATUTES ABOUT SPUDS

You are so crazy about potatoes that you often walk around with a t-shirt that proclaims “Sex, Spuds, and Rock and Roll!” The latest issue of “Potatoes Monthly” mentions the federal “Potato Research and Promotion Act”, and you desperately want to find this Act so you can frame it and put it on the shelf next to your Mr. Potato Head.



1. Go to the **USCA** set (*i.e.*, the **United States Code Annotated**, published by West). This is in the first row of the tall rows on the left side of the top floor of the library, on the *other* side of where the USCCAN set was from the last assignment; they are dark maroon (some say brown, I say dark maroon, don't argue).

We want to find these statutes, but all we have is the “popular name” of the original Act (that is, the “Potato Research and Promotion Act”), so we go to a nifty resource called the Popular Name Table. Go to the **USCA Popular Name Table** volumes (hardbound, at the very end of the USCA set). Look up the **Potato Research and Promotion Act (PRPA)** (*the original one, not the “Amendments” Acts of 1982 or 1990*).

- a. What is the Public Law number, the Statutes at Large citation, *and* the date the PRPA became a law? (Hint: Very first line of information) (Tip: Ignore the “Title III” of the P.L. number – I know this is confusing, but that does *not* refer to the Titles of the U.S.C., it refers to parts of the Act itself, it is like saying “Part III of the Act”) (*three answers*)

- b. You are interested in Section 303 of the PRPA and want to see the statute that it became in the United States Code, so you can track it for changes. You look under the “**Current USCA classifications**” sub-section, which tells you where Section 303 of the PRPA went in the United States Code (*i.e.*, what specific statute it became). So, what USCA statute did Section 303 of the PRPA become?
2. You are really impressed by how much information the Popular Name Table gave you. You want to see the whole Potato Research and Promotion Act (**PRPA**) as passed by Congress, and before it was broken down into different statutes to be put into the United States Code, so you go to the “**United States Statutes at Large**” set (to the left of both the USCA and the government’s United States Code set; it’s a sort of light brownish, tannish, earthish, beige’ish, ochre’ish color). You remember that your professors told you that this set is published once a year and contains all of that year’s enacted and signed federal laws (*i.e.*, all the laws from that Congressional session).

Using the Public Law number or the Statutes at Large citation (from Question 1a), find the original PRPA. (**Hint:** Don’t confuse the session of Congress, *e.g.*, 107th Congress, with the volume number of the Statutes at Large book, *e.g.*, Vol. 107) (**Second Hint:** Remember, you know the year the Act was passed) (**Tip:** If you use the Statutes at Large cite, notice that the page number leads you not to the first page of the Act, but the page of the Act where the “Potatoes” section starts)

- a. Go to the very first page of the Act. In the upper left hand corner it gives you its original Senate bill number. What is it?
- b. The preamble of the Act (the first introductory paragraph, under “AN ACT”) tells us that the Act provides authority for promotion programs for three food items. What are these three food items? (*three answers*)
- c. Go to “TITLE III – POTATO RESEARCH AND PROMOTION”, *i.e.*, to the “Potato Research and Promotion Act” section. (**Note:** Remember, the use of the word “Title” here means something like “Part”, *e.g.*, “Title III” is like saying “Part III” of this particular Act; Title I is for milk, Title II is for tomatoes, and Title III is for potatoes; these “titles” do not refer to the Titles of the U.S.C.)

Under “DEFINITIONS, Sec. 303”, subsection (c) gives the definition of “potatoes”. What is it?

3. Return to the West **USCA** set and go to the statute you found in Question 1b.
 - a. What is the caption (*i.e.*, the short title) of this specific statute (*e.g.*, “Fines and Penalties”)?
 - b. What “Title” (number *and* name) is this statute in (*e.g.* “Title 26, Labor”)? In other words, what is the big subject area this Title covers, *and* it’s numerical designation? (**Hint:** The spine and the title page will tell you) (*two answers*)
 - c. You remember, because you were so alertly paying attention to your fascinating professors, that because the 51 Titles in the United States Code are so voluminous each one is usually broken down into sub-topics, called “Chapters”. What is the number *and* name of the Chapter that our particular statute falls under in this Title, *e.g.*, “Chapter 94, Organic Certification”? (**Hint:** Go back two pages from your statute, § 2612, and you will see) (**Note:** If you want to see all of the Chapters within this Title, go to pg. 1, it’s kindof interesting. No, really, I mean it.) (*two answers*)
 - d. There is a useful table of contents like this for each Chapter; it basically lists all of the statutes that are included in that Chapter, or, *i.e.*, the statutes that fit within this particular sub-topic or “statutory scheme” (this re-belabors our point that “a statute does not live in a vacuum”). Looking at the list of statutes for our Chapter, what statute would you look at if you were interested in *enforcement*?

4. Go back to the Definitions statute from Questions 1b and 3a.

a. According to this statute, what is the definition of “potatoes”

b. Is this definition different from the definition in the original Act that we looked at in the Statutes at Large set (see Question 2c)?

_____ YES

_____ NO

c. Look at the “credit” or “history” section of the statute (this immediately follows the text of the statute, and is in parentheses). Notice it gives us information for **two** Public Laws. The first one listed is the one we know, the original Public Law, which created this statute. The second one, therefore, amended the statute in some way.

What is the Public Law number *and* the Statute at Large citation for the **second** Act, *and* what is the date it became law? (**Hint:** Semi-colons are used to separate the information for the different Acts) (**Tip:** Remember, don’t worry about the “Title” thing and don’t confuse it with the Titles of the U.S.C.) (*three answers*)

d. Under the “HISTORICAL AND STATUTORY NOTES” section, look for the “Amendments” sub-section. It tells us what happened in the 1990 Amendments. So, what happened?

e. Now look in the “Revision Notes and Legislative Reports” sub-section of the “HISTORICAL AND STATUTORY NOTES” section. What are the citations for the Senate Report *and* the House Conference Report for the **1990** Act? (*two answers*)

- f. Are there any “Notes of Decisions” for this statute (*i.e.*, the summaries of cases that have litigated this statute)? (**Hint:** If there’s no “Notes of Decision” section, then there are no cases)
- _____ YES
- _____ NO
- g. Are you done with your research now?
- _____ Yes, because I’m a lazy, no-account, incompetent boob.
- _____ No, because I hear Professor Etheredge’s nagging little voice in my ear, saying “Update! Update! Update!”.
5. So now, since you are researching in **print**, you need to finish updating your research by using something called the “Pocket Part”. Yes, the Pocket Part! What is this Pocket Part? It’s a nifty little paper booklet that updates everything in the big book since its publication. Where is this Pocket Part? It’s in the back of the book! There’s a little *pocket* where the *part* goes!
- a. Has the statute been amended since the publication of the bound volume, *i.e.*, is there any new, changed, or repealed statutory text for our Definitions statute? (**Hint:** If the statute number doesn’t show up in its proper numerical order in the Pocket Part, then there is nothing new for that statute, neither new or amended text, nor even notes of decision or research references)
- _____ Yes
- _____ No
- b. Is this way more than you ever wanted to know about potatoes?
- _____ Yes, dear God, please make her stop!
- _____ Are you kidding? I live for spuds!

PART TWO: COUNTRY COUSINS AND COUNTRY CHICKEN

Your twin cousins, Billy Joe and Billie Jo, have called you with a legal problem. Seems as if they've built themselves their own little underground storage tank on their chicken farm, where they've been storing oil sludge. Uh-huh. And even though they sortof knew they were supposed to notify the federal government of this fact, they sortof didn't. Oooo-kay. Now the federal government has found out and is sending them letters about civil penalties. Super. For the sake of family harmony you've decided to help the BJs out. Well, that and their promise of a lifetime's supply of chicken.



1. Go to the **USCS** set (*i.e.*, the **United States Code Service**, from Lexis). They are in the same aisle as the **USCA** set (across from them) and are black (some say they are “very, very, very dark blue”, but we’re not going to debate this). We don’t have any exact statute, or even an Act, that we know of, so this time we’ll have to use the Index. Why? **BECAUSE THE INDEX IS YOUR FRIEND!!!** Find the “General Index” volumes (at the end of the **USCS** set, paperbound, black).
 - a. What federal statute governs the issue of civil penalties for underground storage tanks? (**MAJOR Hint:** There are lots of different ways to approach an index, different words and concepts and subjects to try, and sometimes it takes a bit of patience to find a helpful entry. However, since we’re so nice and also for the sake of time, since “Breaking Bad” is about to come on, go to the “**UNDERGROUND STORAGE TANKS**” heading and then look for the subheading of “**Civil penalties**”)
 - b. Stay in the Lexis **USCS** set and find this statute. (**Hint:** The lower cap letter is part of the actual statute number; it is *not* an internal sub-section of the statute, which would be in parentheses, *e.g.*, 10 USC 1682(e)) (**p.s.** You will ignore the little flying “WV” that some joker from a previous class placed next to the statute. Also, you will not be encouraged by this and desecrate other books. Or we will hurt you.)

What is the “caption” (*i.e.*, the short title) of this particular statute (*e.g.* “Definitions”)?

- c. What Title (number *and* name) of the United States Code is this statute in? (*two answers*)
 - d. What is the Chapter (number *and* name) that this statute is under? (**Major hint**, just because we’re so wonderful: Go to p. 479 of this same book) (*two answers*)
 - e. Find our statute in this Chapter list (*i.e.*, the table of contents for this specific Chapter of this specific Title). (**Another big hint**, because we’re feeling so magnanimous today: Go to p. 487. Notice that they have further broken this Chapter down into Sub-chapters, probably because the topic is so broad. What Sub-chapter is the statute a part of?)
2. Go back to the statute from Question 1a so you can look at the text.
- a. What is the maximum civil penalty the BJs face for knowingly failing to notify the federal government of their underground storage tank? (**Hint**: Subsection (d))
 - b. In the annotations section (all the editorial extras and good stuff that the Lexis editors have added after the actual text of the statute), notice there is a “CODE OF FEDERAL REGULATIONS” section (I didn’t mention this in class, but Lexis/USCS is much better than West/USCA at referencing CFR sections). (**Note**: We’ll be learning more about CFR regulations later. I know! Calm down! I’m excited, too!)
- (**Preliminary FYI**: When “*et. seq.*” is used in a citation it means something along the lines of “and the rest that follows”, *i.e.*, start with this

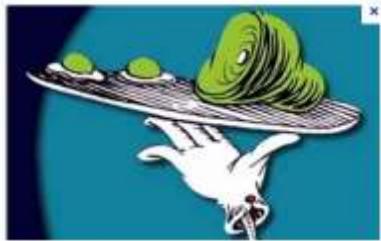
statute/regulation/section and keep going, because, hey, statutes/regulations/sections don't live in a vacuum!)

What is the CFR citation for the EPA regulations on "approved underground storage tank programs" (*e.g.*, 16 CFR 478.32)?

- c. Under the "RESEARCH GUIDE" section, there is a subsection for "Law Review Articles". What is the title and the citation for the article written by Rawson?
- d. Go to the "INTERPRETIVE NOTES AND DECISIONS" section (*i.e.*, the caselaw annotations). One annotation summarizes a case where the U.S. government was only entitled to "de minimus" additional civil penalties because the total amount involved would impose too great a financial burden on the operator. What is the citation for that case?
- e. Go to the Pocket Part and look for your statute. You see that there are some new things for the "RESEARCH GUIDE" section. Is there any new statutory text, *i.e.*, has the text of the statute in the main volume been amended or changed in any way? (**Hint:** If there is nothing there, then there isn't anything. Compare with § 6291 in the Pocket Part to see an example of when there *is* new statutory text)
- _____ Yes
- _____ No
- f. Is having to deal with the BJs' legal problems really worth a free lifetime's supply of chicken that were raised on a farm with an illegal underground storage tank that contains oil sludge?
- _____ Yes. You can choose your friends, but not your relatives!
- _____ No. The BJs are on their own, where's the nearest KFC?

PART THREE: EATING EDIBLE EGGS

You are so crazy about eggs that you often walk around with a t-shirt that proclaims “Sex, Eggs, and Rock and Roll!” Your latest issue of “Eggs Monthly” contains an article about inedible eggs, which makes you take a look inside your refrigerator. Uh oh. Dr. Seuss comes to mind. You decide that, for health reasons, it might be wise to find out exactly what the federal government’s definition of “inedible eggs” is. You go to the free Legal Information Institute (LII) website, sponsored by Cornell Law School, www.law.cornell.edu, so you can find some eggcellent information.



1. Go to the LII website. First things first – they are currently shilling for money; please click on the “remind me later” link (upper right corner) to get rid of that top ad. In the “LEGAL RESOURCES” box, click on the “U.S. Code” link. On the new page, in the upper right hand corner, you’ll find the “U.S. CODE TOOLBOX”. You note that there is a link for a Table of Popular Names (this is me, waiting for you to note that ...), but you don’t have a popular name (like you did with the “Potato Research and Promotion Act”), so you decide to do a word search.

Here’s where I get irritated. Unbeknownst to me, they have changed the searching mechanism. Instead of being able to search just within the U.S. Code, you now have to search throughout all of the LII and then do that “post-search filtering” thing that everyone is so crazy about. So, in the “Search all of LII ...” box (upper right-hand corner), run this search: **definition inedible eggs**

After you get your results, click on the “USCode” link under “FILTER BY CONTENT TYPE” (left side). You used to get 24 results, now you get 7365, so, tell me how that helps but I digress ... the third result down, “**21 USC § 1033**”, looks promising so you click on that link.

- a. What is the “caption” of the statute (*i.e.*, the short title of this particular statute, *e.g.* “Fines and Penalties”)?
- b. Go to subsection (g)(5), which defines the term “inedible”. Four kinds of “rot” are listed in the definition of “inedible”. What are they? (**four answers**)

- c. The definition of “inedible” also includes “eggs with green whites”. How does this make you feel?

_____ Just another normal breakfast for me!

_____ This shines a new light on “Green Eggs and Ham”!

2. Near the top of the screen, on the left side, you will see “U.S. Code” (in red, inside a sort of big arrow pointing to “ > Title 21 > Chapter 15 > § 1033”). You know that Title 21 is one of the 51 titles of the U.S. Code, but don’t know which one it is yet (*i.e.*, what large subject matter it covers). Hover your mouse cursor over the “Title 21” link and it will tell you what the name of Title 21 is (if it gets ornery and doesn’t, then click on the link, but then go back to our statute).

- a. What is the name of Title 21, *i.e.*, what broad subject matter does it cover?

- b. This is a “definitions” statute, which are always *very* helpful because they define words that are being used in this sub-set of statutes, or “statutory scheme”. Note that the statute begins with “For purposes of this chapter --”; that means that these definitions are for the words in this particular Chapter (15) within this particular Title (21), and not necessarily for these same words in other parts of the USC (**and that’s very important to remember**).

So let’s take a look at this Chapter. Although you can see the name of Chapter 15 by hovering your mouse cursor over the “Chapter 15” link (like we did with the Title, above, if it’s deciding to cooperate, that is), go ahead and click on the link this time. What is the name of Chapter 15?

- c. Because you clicked on the Chapter 15 link, you can now see all the statutes that fall within this specific Chapter. If you were interested in sanitary operating practices in official plants, what statute would you go to?

3. Go back to 21 USC § 1033 and click on the “Notes” tab, and then look at the “Source” section. The Source section is the same as the “credit/history” field we were talking about in the print statutes; it tells you what Public Laws have created and amended this statute. It lists two public laws (remember how semi-colons separate the information).
 - a. What are the two laws, *and* what years are they from? (*two two-part answers*)
 - b. Click on the “Authorities (CFR)” tab. (Again, we’ll be learning about CFR regulations later, but it’s neat to know that the statutes in the LII website reference them.) What are the four CFR citations it gives you, *e.g.* “20 CFR 870” (**Hint:** Two are under Title 7, Agriculture, and two are under Title 9, Animals and Animal Products). (*four answers*)
 - c. Is anybody else besides me hungry?
 No, you’ve pretty much ruined that for me!
 Yes, but only if there’s some green bacon, too!

PART FOUR: WEBSITE WOES

You are a law student who operates a web-based file-sharing site called MountaineerMegaupload.com, where there are DVDs, CDs, e-books, and everything else digital about the great state of West “By God” Virginia. You make a lot of money from advertisers and think you’re pretty clever. One day you go to your inspiration website, Megaupload.com, to get some new ideas and you find a screen announcing that the site has been seized pursuant to an order by a U.S. District Court, and its owners charged with several federal crimes (*see attachment*). Oopsy daisy. Maybe you’re not so clever after all. You get scared, lock your doors, pull the blinds, and decide to check out some of the statutes the Department of Justice has so kindly provided you.

1. The U.S. Code is prepared by the Office of the Law Revision Counsel of the U.S. House of Representatives; go to its website at <http://uscode.house.gov>. This will bring up a Table of Contents for the U.S. Code. The notice from the megaupload.com webpage (*attached*) referred you to several specific statutes that you want to see, so you think this will be an easy way to go about it.

- a. The website notice (*attached*) lists five statutes that are in **Title 18** (*ignore* the statute that's in Title 17). Yes, I said "FIVE". Look carefully. What are they (listing both the number *and* the short title)? (**Hint:** § means "section" as in singular, and §§ means "sections" as in plural) (*five two-part answers*)
- b. You see from the Table of Contents that Title 18 is "Crimes and Criminal Procedure", which makes, unfortunately for you, a lot of sense. Click on that link (*not* the "Appendix" link).

Your law school buddy, Buddy, is in this little venture with you, so you decide to look up the statute for "Conspiracy to Commit Copyright Infringement" (from the website notice). Although that sounds kindof cool, almost like a spy movie, you're getting a little nervous. What Chapter (number *and* name) is that statute in? (**Hint:** You'll have to drill down through the "PARTS" first) (*two answers*)

- c. Click on the link for the appropriate Chapter, and then click on the specific statute to bring it up. What is the caption (short title) of the statute? (**Note:** This is odd, but the caption is actually more vague than the one listed on the Megaupload website notice; I guess the website notice just filled in the offense, copyright infringement, for us, because the FBI is ever so helpful)
- d. According to the statute, if your crime was *not* a misdemeanor then what is the punishment that you and Buddy could be facing?
- e. Scroll down to the "Amendments" section. It tells you that a Public Law was passed in 1994 that "substituted "fined under this title" for "fined not more than \$10,000". What is the cite for that Public Law?

- f. By changing from “fined not more than \$10,000” to “fined”, it seems pretty clear that they would be happy to fine you more than \$10,000. Does this worry you?

_____ Are you kidding? I made scads of money from all those copyright infringements I did!

_____ The tears in my eyes are starting to blur the pages of the statutes. Someone hand me a Kleenex. Sniff.

2. The last thing you want to do is check one of the Criminal Copyright Infringement statutes listed in the website notice, 18 USC § 2319. Go back to the table of contents screen, *i.e.*, the first screen where it said “Browse the United States Code”. You will see a “Jump To” section; using the “Title” and “Section” search boxes given you, pull up 18 USC § 2319.

- a. According to subsection (b)(2), if the offense is a felony and a second or subsequent offence, can they imprison you for more than **5** years?

_____ YES

_____ NO

- b. How does this make you feel?

_____ Why worry? I’ll be sent to one of those cushy federal prisons where I’ll have catered food, cable TV, and a gym that’s nicer than my apartment!

_____ I can no longer hear you as I am in a fetal position underneath my table, rocking back and forth in a catatonic state, and possibly drooling.

PART FIVE: MAGAZINE MISDEEDS

You work in a small law firm that has a regional monthly magazine, *Clarksburg Today!*, as a client. The magazine has been in existence for almost three years, has a wide distribution by regular mail, and has been a client of your firm from its first issue. One day you are on a long airplane flight, reading a history magazine, and minding your own business. You see a box with teeny-tiny print next to the book review you’re reading and, just to test your eyesight, decide to check it out. It’s the “United States Postal Service Statement of Ownership, Management, and Circulation”, and it clearly states that it’s required by federal statute (*see attachment*). Your stomach begins to churn as you realize that you were never aware of this law and *Clarksburg Today!* has never published this teeny-tiny box of treachery. You bolt for the bathroom. Uh oh ... ocupado!

1. After you return home you decide to check out the statute mentioned in the teeny-tiny box. After clearing it with your boss (because it's not cheap), you log on to Lexis Advance and pull up the statute by typing the citation into the red search box.
 - a. What is the caption (short title) of this statute?
 - b. What Title is this statute in (both name *and* number)? (**Hint:** Links are helpful things) (*two answers*)
 - c. What Chapter is this statute in (both name *and* number)? (**Hint:** Again with the helpful links) (*two answers*)
 - d. Your client is an owner of a publication having periodical publication mail privileges. According to subsection (a) of the statute, they are supposed to publish certain information in their publication once a year. For example, under **subsection (a)(1)**, what information needs to be published?
 - e. Your client has not been doing these things, basically because you didn't bother to tell them they needed to. What is your answer to this?
 - _____ Be an adult and admit it to them! Besides losing money for your firm when the client switches to another firm, and probably losing your job, what's the worst that could happen?
 - _____ Forget being an adult! I'm changing my name, dyeing my hair, and leaving town on the midnight bus!
 - f. Go to the "History" section for the statute (after the text of the statute). What is the Public Law number of the Act that created this statute, the Statute at Large citation, *and* year it was enacted? (*three answers*)

- g. Remembering what your brilliant professors told you about “statutory schemes” and “statutes not living in a vacuum”, you decide to look at the statute that precedes this one to see if it is just as stunningly interesting. Click on the “Previous” link to go to it (in the upper left hand corner of the statute, in blue, with an arrow pointing ←). What is the caption (short title) of this new statute?
- h. Yep. Just as scintillating. Using the “Next” link (opposite the “Previous” link, big surprise), go back to our original statute. Under the “Annotations” section (after the text of the statute), you will see that this hotly litigated statute merits two “Case Notes” mentions, one Attorney General opinion and one case. What years are these Case Notes from? (*two answers*)
- i. Should we continue on with our journey through federal statutes?

_____ Oh, my goodness, no! My ticker just can’t take all this excitement!

_____ Most definitely! I’m just a-twitter with learning about all the amazing fun I’m going to have as a lawyer!

PART SIX: YOU’RE ON YOUR OWN AGAIN (but I’ll make it short)

Remember the Leahy-Smith America Invents Act that your supervising partner made you find legislative history for in the first assignment? Well, he has called you at home during the Super Bowl and wants you to find some statutes about that for him. You tell him, no problem, the Broncos just got the ball which means Peyton Manning should be intercepted in the next 17 seconds or so, and you’ll look it up after that. You’ll have plenty of time as the Seahawks are marching down the field to score again.

Here’s your one hint for this problem:

- Go to the WestlawNext main page
- Click on “Federal Materials” under “Browse”
- Click on “United States Code Annotated (USCA)”
- This will bring you to a Table of Contents for the USCA. On the right hand side, you will see a link for the “USCA Popular Name Table” and the “USCA Index”

1. Using the Popular Name Table, find the Leahy Smith America Invents Act.
 - a. What is its Public Law number, Statute at Large citation, and date it became a law?

b. Section 6(d) of the Act was separated into nine separate statutes. What are they?
(Tip: When statutes are consecutive you can use this format, 20 USC §§ 101 – 115)

2. Go back to the USCA Table of Contents screen. Using the USCA Index, find the “First to File Rule” entry.

a. What Title and Section of the USC does it tell you to go to, *i.e.*, what statute?

b. Bring up that statute. Under the “Credits” field, what is the very last Public Law listed as amending this statute (it doesn’t say it’s amending it, but that’s what it did)?

c. Does this jive with Question 1a?

___ YES

___ NO

PART NOTHING: BONUS BONANZA!

A few weeks ago you made a smashing debut on “Lawyers Only Jeopardy” and have now been called back to the “Super-Duper Lawyers Only Jeopardy”. The other contestants are sniveling 2Ls from Univ. of State and State Univ. The pride of all WVU lawyers and law students comes down to this one final question:

Who is your friend?

___ The dentist

___ The tax man

___ The person whose car you hit

___ The Index

