

PART 1700—UNIFORM NATIONAL DISCHARGE STANDARDS FOR VESSELS OF THE ARMED FORCES

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AUTHORITY: 33 U.S.C. 1322, 1361.

SOURCE: 64 FR 25134, May 10, 1999, unless otherwise noted.

Subpart A—Scope

§ 1700.1 Applicability.

(a) This part applies to the owners and operators of Armed Forces vessels, except where the Secretary of Defense finds that compliance with this part is not in the interest of the national security of the United States. This part does not apply to vessels while they are under construction, vessels in drydock, amphibious vehicles, or vessels under the jurisdiction of the Department of Transportation other than those of the Coast Guard.

(b) This part also applies to States and political subdivisions of States.

§ 1700.2 Effect.

(a) This part identifies those discharges, other than sewage, incidental to the normal operation of vessels of the Armed Forces that require control within the navigable waters of the United States, including the territorial seas and the waters of the contiguous zone, and those discharges that do not require control. Discharges requiring control are identified in §1700.4. Discharges not requiring control are identified in §1700.5. Federal standards of performance for each required Marine Pollution Control Device are listed in §§1700.14 through 1700.38. Federal standards of performance apply to all vessels, whether existing or new, and regardless of vessel class, type, or size, unless otherwise expressly provided in §§1700.14 through 1700.38.

(b) This part prohibits States and their political subdivisions from adopting or enforcing State or local statutes or regulations controlling the discharges from Armed Forces vessels listed in §§1700.4 and 1700.5 according to the timing provisions in §1700.6, except

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to establish a no-discharge zone by State prohibition in accordance with §1700.9, or to apply for a no-discharge zone by EPA prohibition in accordance with §1700.10. This part also provides a mechanism for States to petition the Administrator and the Secretary to review a determination of whether a discharge requires control, or to review a Federal standard of performance for a Marine Pollution Control Device, in accordance with §§1700.11 through 1700.13.

[64 FR 25134, May 10, 1999, as amended at 82 FR 3182, Jan. 11, 2017]

§ 1700.3 Definitions.

Administrator means the Administrator of the United States Environmental Protection Agency or that person's authorized representative.

Armed Forces vessel means a vessel owned or operated by the United States Department of Defense or the United States Coast Guard, other than vessels that are time or voyage chartered by the Armed Forces, vessels of the U.S. Army Corps of Engineers, or vessels that are memorials or museums.

Bioaccumulative means the opposite of *not bioaccumulative*.

Biodegradable means the following for purposes of the standards:

(1) Regarding *environmentally acceptable lubricants* and greases, *biodegradable* means lubricant formulations that contain at least 90% (weight in weight concentration or w/w) or grease formulations that contain at least 75% (w/w) of a constituent substance or constituent substances (only stated substances present above 0.10% must be assessed) that each demonstrate either the removal of at least 70% of dissolved organic carbon, production of at least 60% of the theoretical carbon dioxide, or consumption of at least 60% of the theoretical oxygen demand within 28 days. Test methods include: Organization for Economic Co-operation and Development Test Guidelines 301 A-F, 306, and 310, ASTM 5864, ASTM D-7373, OCSPP Harmonized Guideline 835.3110, and International Organization for Standardization 14593:1999. For lubricant formulations, the 10% (w/w) of the formulation that need not meet the above biodegradability requirements, up to 5% (w/w) may be non-biodegradable, but not bioaccumulative, while

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the remaining 5-10% must be inherently biodegradable. For grease formulations, the 25% (w/w) of the formulation that need not meet the above biodegradability requirement, the constituent substances may be either inherently biodegradable or non-biodegradable, but may not be bioaccumulative. Test methods to demonstrate inherent biodegradability include: OECD Test Guidelines 302C (>70% biodegradation after 28 days) or OECD Test Guidelines 301 A-F (>20% but <60% biodegradation after 28 days).

(2) Regarding cleaning products, *biodegradable* means products that demonstrate either the removal of at least 70% of dissolved organic carbon, production of at least 60% of the theoretical carbon dioxide, or consumption of at least 60% of the theoretical oxygen demand within 28 days. Test methods include: Organization for Economic Cooperation and Development Test Guidelines 301 A-F, 306, and 310, and International Organization for Standardization 14593:1999.

(3) Regarding biocidal substances, *biodegradable* means a compound or mixture that yields 60% of theoretical maximum carbon dioxide and demonstrate a removal of at least 70% of dissolved organic carbon within 28 days as described in EPA 712-C-98-075 (OPPTS 835.3100 Aerobic Aquatic Biodegradation).

Discharge incidental to the normal operation of a vessel means a discharge, including, but not limited to: graywater, bilgewater, cooling water, weather deck runoff, ballast water, oil water separator effluent, and any other pollutant discharge from the operation of a marine propulsion system, shipboard maneuvering system, crew habitability system, or installed major equipment, such as an aircraft carrier elevator or a catapult, or from a protective, preservative, or absorptive application to the hull of a vessel; and a discharge in connection with the testing, maintenance, and repair of any of the aforementioned systems whenever the vessel is waterborne, including pierside. A discharge incidental to normal operation does not include:

- (1) Sewage;
- (2) A discharge of rubbish, trash, or garbage;

(3) A discharge of air emissions resulting from the operation of a vessel propulsion system, motor driven equipment, or incinerator;

(4) A discharge that requires a National Pollutant Discharge Elimination System (NPDES) permit under the Clean Water Act; or

(5) A discharge containing source, special nuclear, or byproduct materials regulated by the Atomic Energy Act.

Environmental Protection Agency, abbreviated EPA, means the United States Environmental Protection Agency.

Environmentally acceptable lubricants means lubricants that are *biodegradable*, *minimally-toxic*, and *not bioaccumulative* as defined in this subpart. The following labeling programs and organizations meet the definition of being *environmentally acceptable lubricants*: Blue Angel, European Ecolabel, Nordic Swan, the Swedish Standards SS 155434 and 155470, Safer Choice, and the Convention for the Protection of the Marine Environment of the North-East Atlantic (OSPAR) requirements.

Federally-protected waters means waters within 12 miles of the United States that are also part of any of the following:

(1) Marine sanctuaries designated under the National Marine Sanctuaries Act (16 U.S.C. 1431 *et seq.*) or Marine National Monuments designated under the Antiquities Act of 1906;

(2) A unit of the National Wildlife Refuge System, including Wetland Management Districts, Waterfowl Production Areas, National Game Preserves, Wildlife Management Areas, and National Fish and Wildlife Refuges;

(3) National Wilderness Areas; and

(4) Any component designated under the National Wild and Scenic Rivers System.

Great Lakes means waters of the United States extending to the international maritime boundary with Canada in Lake Ontario, Lake Erie, Lake Huron (including Lake St. Clair), Lake Michigan, and Lake Superior, and the connecting channels (Saint Marys River, Saint Clair River, Detroit River, Niagara River, and Saint Lawrence River to the international maritime boundary with Canada).

Hazardous material means any hazardous material as defined in 49 CFR 171.8.

Marine Pollution Control Device, abbreviated MPCD, means any equipment or management practice installed or used on an Armed Forces vessel that is designed to receive, retain, treat, control, or discharge a discharge incidental to the normal operation of a vessel, and that is determined by the Administrator and Secretary to be the most effective equipment or management practice to reduce the environmental impacts of the discharge consistent with the considerations in Clean Water Act section 312(n)(2)(B).

Minimally-toxic means a substance must pass either OECD 201, 202, and 203 for acute toxicity testing, or OECD 210 and 211 for chronic toxicity testing. For purposes of the standards, equivalent toxicity data for marine species, including methods ISO/DIS 10253 for algae, ISO TC147/SC5/W62 for crustacean, and OSPAR 2005 for fish, may be substituted for OECD 201, 202, and 203. If a substance is evaluated for the formulation and main constituents, the LC50 of fluids must be at least 100 mg/L and the LC50 of greases, two-stroke oils, and all other total loss lubricants must be at least 1000 mg/L. If a substance is evaluated for each constituent substance, rather than the complete formulation and main compounds, then constituents comprising less than 20% of fluids can have an LC50 between 10–100 mg/L or a no-observed-effect concentration (NOEC) between 1–10 mg/L, constituents comprising less than 5% of fluids can have an LC50 between 1–10 mg/L or a NOEC between 0.1–1 mg/L, and constituents comprising less than 1% of fluids, can have an LC50 less than 1 mg/L or a NOEC between 0–0.1 mg/L.

Minimally-toxic soaps, cleaners, and detergents means any substance or mixture of substances which has an acute aquatic toxicity value (LC50) corresponding to a concentration greater than 10 parts per million (ppm) and does not produce byproducts with an acute aquatic toxicity value (LC50) corresponding to a concentration less than 10 ppm. Minimally-toxic soaps, cleaners, and detergents typically contain little to no nonylphenols.

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No-discharge zone means an area of specified waters established pursuant to this regulation into which one or more specified discharges incidental to the normal operation of Armed Forces vessels, whether treated or untreated, are prohibited.

Not bioaccumulative means any of the following: The partition coefficient in the marine environment is $\log K_{ow} < 3$ or > 7 using test methods OECD 117 and 107; molecular mass > 800 Daltons; molecular diameter > 1.5 nanometer; bio-concentration factor (BCF) or bio-accumulation factor (BAF) is < 100 L/kg, using OECD 305, OCSPP 850.1710 or OCSPP 850.1730, or a field-measured BAF; or polymer with molecular weight (MW) fraction below 1,000 g/mol is $< 1\%$.

Person in charge (PIC) means the single individual named master of the vessel or placed in charge of the vessel, by the U.S. Department of Defense or by the Department in which the U.S. Coast Guard is operating, as appropriate, and who is responsible for the operation, manning, victualing, and supplying of the vessel of the Armed Forces. Examples of a PIC include, but are not limited to:

(1) A Commanding Officer, Officer in Charge, or senior commissioned officer on board the vessel;

(2) A civilian, military, or U.S. Coast Guard person assigned to a shore command or activity that has been designated as the PIC for one or more vessels, such as a group of boats or craft;

(3) A Tugmaster, Craftmaster, Coxswain, or other senior enlisted person onboard the vessel;

(4) A licensed civilian mariner onboard a Military Sealift Command vessel; or

(5) A contracted commercial person at a shore installation that is not part of the Armed Forces but as identified by the U.S. Department of Defense or the Department in which the U.S. Coast Guard is operating.

Phosphate-free soaps, cleaners, and detergents means any substance or mixture of substances which contain, by weight, 0.5% or less of phosphates or derivatives of phosphates.

Secretary means the Secretary of the United States Department of Defense

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or that person's authorized representative.

Toxic materials means any toxic pollutant identified in 40 CFR 401.15.

State means a state, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

United States includes the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Canal Zone, and the Trust Territory of the Pacific Islands.

Vessel includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on navigable waters of the United States or waters of the contiguous zone, but does not include amphibious vehicles.

Waters subject to UNDS means the navigable waters of the United States, including the territorial seas and the waters of the contiguous zone, as these terms are defined in the Clean Water Act (33 U.S.C. 1362).

[64 FR 25134, May 10, 1999, as amended at 82 FR 3182, Jan. 11, 2017; 85 FR 43475, July 17, 2020]

Subpart B—Discharge Determinations

§ 1700.4 Discharges requiring control.

For the following discharges incidental to the normal operation of Armed Forces vessels, the Administrator and the Secretary have determined that it is reasonable and practicable to require use of a Marine Pollution Control Device for at least one class of vessel to mitigate adverse impacts on the marine environment:

(a) Aqueous Film-Forming Foam: the firefighting foam and seawater mixture discharged during training, testing, or maintenance operations.

(b) Catapult Water Brake Tank & Post-Launch Retraction Exhaust: the oily water skimmed from the water tank used to stop the forward motion of an aircraft carrier catapult, and the condensed steam discharged when the catapult is retracted.

(c) Chain Locker Effluent: the accumulated precipitation and seawater that is emptied from the compartment used to store the vessel's anchor chain.

(d) Clean Ballast: the seawater taken into, and discharged from, dedicated ballast tanks to maintain the stability of the vessel and to adjust the buoyancy of submarines.

(e) Compensated Fuel Ballast: the seawater taken into, and discharged from, ballast tanks designed to hold both ballast water and fuel to maintain the stability of the vessel.

(f) Controllable Pitch Propeller Hydraulic Fluid: the hydraulic fluid that discharges into the surrounding seawater from propeller seals as part of normal operation, and the hydraulic fluid released during routine maintenance of the propellers.

(g) Deck Runoff: the precipitation, washdowns, and seawater falling on the weather deck of a vessel and discharged overboard through deck openings.

(h) Dirty Ballast: the seawater taken into, and discharged from, empty fuel tanks to maintain the stability of the vessel.

(i) Distillation and Reverse Osmosis Brine: the concentrated seawater (brine) produced as a byproduct of the processes used to generate freshwater from seawater.

(j) Elevator Pit Effluent: the liquid that accumulates in, and is discharged from, the sumps of elevator wells on vessels.

(k) Firemain Systems: the seawater pumped through the firemain system for firemain testing, maintenance, and training, and to supply water for the operation of certain vessel systems.

(l) Gas Turbine Water Wash: the water released from washing gas turbine components.

(m) Graywater: galley, bath, and shower water, as well as wastewater from lavatory sinks, laundry, interior deck drains, water fountains, and shop sinks.

(n) Hull Coating Leachate: the constituents that leach, dissolve, ablate, or erode from the paint on the hull into the surrounding seawater.

(o) Motor Gasoline and Compensating Discharge: the seawater taken into, and discharged from, motor gasoline

tanks to eliminate free space where vapors could accumulate.

(p) Non-Oily machinery wastewater: the combined wastewater from the operation of distilling plants, water chillers, valve packings, water piping, low- and high-pressure air compressors, and propulsion engine jacket coolers.

(q) Photographic Laboratory Drains: the laboratory wastewater resulting from processing of photographic film.

(r) Seawater Cooling Overboard Discharge: the discharge of seawater from a dedicated system that provides non-contact cooling water for other vessel systems.

(s) Seawater Piping Biofouling Prevention: the discharge of seawater containing additives used to prevent the growth and attachment of biofouling organisms in dedicated seawater cooling systems on selected vessels.

(t) Small Boat Engine Wet Exhaust: the seawater that is mixed and discharged with small boat propulsion engine exhaust to cool the exhaust and quiet the engine.

(u) Sonar Dome Discharge: the leaching of antifoulant materials into the surrounding seawater and the release of seawater or freshwater retained within the sonar dome.

(v) Submarine Bilgewater: the wastewater from a variety of sources that accumulates in the lowest part of the submarine (i.e., bilge).

(w) Surface Vessel Bilgewater/Oil-Water Separator Effluent: the wastewater from a variety of sources that accumulates in the lowest part of the vessel (the bilge), and the effluent produced when the wastewater is processed by an oil water separator.

(x) Underwater Ship Husbandry: the materials discharged during the inspection, maintenance, cleaning, and repair of hulls performed while the vessel is waterborne.

(y) Welldeck Discharges: the water that accumulates from seawater flooding of the docking well (welldeck) of a vessel used to transport, load, and unload amphibious vessels, and from maintenance and freshwater washings of the welldeck and equipment and vessels stored in the welldeck.