

Statutory Notes and Related Subsidiaries**APPLICABILITY OF SPILL PREVENTION, CONTROL, AND COUNTERMEASURE RULE**

Pub. L. 113-121, title I, §1049, June 10, 2014, 128 Stat. 1257, as amended by Pub. L. 114-322, title IV, §5011, Dec. 16, 2016, 130 Stat. 1902, provided that:

“(a) DEFINITIONS.—In this section:

“(1) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of the Environmental Protection Agency.

“(2) FARM.—The term ‘farm’ has the meaning given the term in section 112.2 of title 40, Code of Federal Regulations (or successor regulations).

“(3) GALLON.—The term ‘gallon’ means a United States gallon.

“(4) OIL.—The term ‘oil’ has the meaning given the term in section 112.2 of title 40, Code of Federal Regulations (or successor regulations).

“(5) OIL DISCHARGE.—The term ‘oil discharge’ has the meaning given the term ‘discharge’ in section 112.2 of title 40, Code of Federal Regulations (or successor regulations).

“(6) REPORTABLE OIL DISCHARGE HISTORY.—

“(A) IN GENERAL.—Subject to subparagraph (B), the term ‘reportable oil discharge history’ means a single oil discharge, as described in section 112.1(b) of title 40, Code of Federal Regulations (including successor regulations), that exceeds 1,000 gallons or 2 oil discharges, as described in section 112.1(b) of title 40, Code of Federal Regulations (including successor regulations), that each exceed 42 gallons within any 12-month period—

“(i) in the 3 years prior to the certification date of the Spill Prevention, Control, and Countermeasure plan (as described in section 112.3 of title 40, Code of Federal Regulations (including successor regulations); or

“(ii) since becoming subject to part 112 of title 40, Code of Federal Regulations, if the facility has been in operation for less than 3 years.

“(B) EXCLUSIONS.—The term ‘reportable oil discharge history’ does not include an oil discharge, as described in section 112.1(b) of title 40, Code of Federal Regulations (including successor regulations), that is the result of a natural disaster, an act of war, or terrorism.

“(7) SPILL PREVENTION, CONTROL, AND COUNTERMEASURE RULE.—The term ‘Spill Prevention, Control, and Countermeasure rule’ means the regulation, including amendments, promulgated by the Administrator under part 112 of title 40, Code of Federal Regulations (or successor regulations).

“(b) CERTIFICATION.—In implementing the Spill Prevention, Control, and Countermeasure rule with respect to any farm, the Administrator shall—

“(1) require certification by a professional engineer for a farm with—

“(A) an individual tank with an aboveground storage capacity greater than 10,000 gallons;

“(B) an aggregate aboveground storage capacity greater than or equal to 20,000 gallons; or

“(C) a reportable oil discharge history; or

“(2) allow certification by the owner or operator of the farm (via self-certification) for a farm with—

“(A) an aggregate aboveground storage capacity less than 20,000 gallons and greater than the lesser of—

“(i) 6,000 gallons; and

“(ii) the adjustment quantity established under subsection (d)(2); and

“(B) no reportable oil discharge history; and

“(3) not require compliance with the rule by any farm—

“(A) with an aggregate aboveground storage capacity greater than 2,500 gallons and less than the lesser of—

“(i) 6,000 gallons; and

“(ii) the adjustment quantity established under subsection (d)(2); and

“(B) no reportable oil discharge history; and

“(4) not require compliance with the rule by any farm with an aggregate aboveground storage capacity of less than 2,500 gallons.

“(c) REGULATION OF ABOVEGROUND STORAGE AT FARMS.—

“(1) CALCULATION OF AGGREGATE ABOVEGROUND STORAGE CAPACITY.—For purposes of subsection (b), the aggregate aboveground storage capacity of a farm excludes—

“(A) all containers on separate parcels that have a capacity that is 1,000 gallons or less; and

“(B) all containers holding animal feed ingredients approved for use in livestock feed by the Commissioner of Food and Drugs.

“(2) CERTAIN FARM CONTAINERS.—Part 112 of title 40, Code of Federal Regulations (or successor regulations), shall not apply to the following containers located at a farm:

“(A) Containers on a separate parcel that have—

“(i) an individual capacity of not greater than 1,000 gallons; and

“(ii) an aggregate capacity of not greater than 2,500 gallons.

“(B) A container holding animal feed ingredients approved for use in livestock feed by the Food and Drug Administration.

“(d) STUDY.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [June 10, 2014], the Administrator, in consultation with the Secretary of Agriculture, shall conduct a study to determine the appropriate exemption under paragraphs (2) and (3) of subsection (b), which shall be not more than 6,000 gallons and not less than 2,500 gallons, based on a significant risk of discharge to water.

“(2) ADJUSTMENT.—Not later than 18 months after the date on which the study described in paragraph (1) is complete, the Administrator, in consultation with the Secretary of Agriculture, shall promulgate a rule to adjust the exemption levels described in paragraphs (2) and (3) of subsection (b) in accordance with the study.”

ENVIRONMENTAL COURT FEASIBILITY STUDY

Pub. L. 92-500, §9, Oct. 18, 1972, 86 Stat. 899, authorized the President, acting through the Attorney General, to study the feasibility of establishing a separate court or court system with jurisdiction over environmental matters and required him to report the results of his study, together with his recommendations, to Congress not later than one year after Oct. 18, 1972.

TRANSFER OF PUBLIC HEALTH SERVICE OFFICERS

Pub. L. 89-234, §2(b)-(k), Oct. 2, 1965, 79 Stat. 904, 905, authorized the transfer of certain commissioned officers of the Public Health Service to classified positions in the Federal Water Pollution Control Administration, now the Environmental Protection Agency, where such transfer was requested within six months after the establishment of the Administration and made certain administrative provisions relating to pension and retirement rights of the transferees, sick leave benefits, group life insurance, and certain other miscellaneous provisions.

§ 1362. Definitions

Except as otherwise specifically provided, when used in this chapter:

(1) The term “State water pollution control agency” means the State agency designated by the Governor having responsibility for enforcing State laws relating to the abatement of pollution.

(2) The term “interstate agency” means an agency of two or more States established by or pursuant to an agreement or compact approved

by the Congress, or any other agency of two or more States, having substantial powers or duties pertaining to the control of pollution as determined and approved by the Administrator.

(3) The term “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.

(4) The term “municipality” means a city, town, borough, county, parish, district, association, or other public body created by or pursuant to State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 1288 of this title.

(5) The term “person” means an individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, or any interstate body.

(6) The term “pollutant” means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. This term does not mean (A) “sewage from vessels or a discharge incidental to the normal operation of a vessel of the Armed Forces” within the meaning of section 1322 of this title; or (B) water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil or gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the State in which the well is located, and if such State determines that such injection or disposal will not result in the degradation of ground or surface water resources.

(7) The term “navigable waters” means the waters of the United States, including the territorial seas.

(8) The term “territorial seas” means the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of three miles.

(9) The term “contiguous zone” means the entire zone established or to be established by the United States under article 24 of the Convention of the Territorial Sea and the Contiguous Zone.

(10) The term “ocean” means any portion of the high seas beyond the contiguous zone.

(11) The term “effluent limitation” means any restriction established by a State or the Administrator on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into navigable waters, the waters of the contiguous zone, or the ocean, including schedules of compliance.

(12) The term “discharge of a pollutant” and the term “discharge of pollutants” each means (A) any addition of any pollutant to navigable waters from any point source, (B) any addition

of any pollutant to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft.

(13) The term “toxic pollutant” means those pollutants, or combinations of pollutants, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will, on the basis of information available to the Administrator, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions in reproduction) or physical deformations, in such organisms or their offspring.

(14) The term “point source” means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include agricultural stormwater discharges and return flows from irrigated agriculture.

(15) The term “biological monitoring” shall mean the determination of the effects on aquatic life, including accumulation of pollutants in tissue, in receiving waters due to the discharge of pollutants (A) by techniques and procedures, including sampling of organisms representative of appropriate levels of the food chain appropriate to the volume and the physical, chemical, and biological characteristics of the effluent, and (B) at appropriate frequencies and locations.

(16) The term “discharge” when used without qualification includes a discharge of a pollutant, and a discharge of pollutants.

(17) The term “schedule of compliance” means a schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an effluent limitation, other limitation, prohibition, or standard.

(18) The term “industrial user” means those industries identified in the Standard Industrial Classification Manual, Bureau of the Budget, 1967, as amended and supplemented, under the category of “Division D—Manufacturing” and such other classes of significant waste producers as, by regulation, the Administrator deems appropriate.

(19) The term “pollution” means the man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

(20) The term “medical waste” means isolation wastes; infectious agents; human blood and blood products; pathological wastes; sharps; body parts; contaminated bedding; surgical wastes and potentially contaminated laboratory wastes; dialysis wastes; and such additional medical items as the Administrator shall prescribe by regulation.

(21) COASTAL RECREATION WATERS.—

(A) IN GENERAL.—The term “coastal recreation waters” means—

(i) the Great Lakes; and

(ii) marine coastal waters (including coastal estuaries) that are designated under section 1313(c) of this title by a State for use for

swimming, bathing, surfing, or similar water contact activities.

(B) **EXCLUSIONS.**—The term “coastal recreation waters” does not include—

- (i) inland waters; or
- (ii) waters upstream of the mouth of a river or stream having an unimpaired natural connection with the open sea.

(22) **FLOATABLE MATERIAL.**—

(A) **IN GENERAL.**—The term “floatable material” means any foreign matter that may float or remain suspended in the water column.

(B) **INCLUSIONS.**—The term “floatable material” includes—

- (i) plastic;
- (ii) aluminum cans;
- (iii) wood products;
- (iv) bottles; and
- (v) paper products.

(23) **PATHOGEN INDICATOR.**—The term “pathogen indicator” means a substance that indicates the potential for human infectious disease.

(24) **OIL AND GAS EXPLORATION AND PRODUCTION.**—The term “oil and gas exploration, production, processing, or treatment operations or transmission facilities” means all field activities or operations associated with exploration, production, processing, or treatment operations, or transmission facilities, including activities necessary to prepare a site for drilling and for the movement and placement of drilling equipment, whether or not such field activities or operations may be considered to be construction activities.

(25) **RECREATIONAL VESSEL.**—

(A) **IN GENERAL.**—The term “recreational vessel” means any vessel that is—

- (i) manufactured or used primarily for pleasure; or
- (ii) leased, rented, or chartered to a person for the pleasure of that person.

(B) **EXCLUSION.**—The term “recreational vessel” does not include a vessel that is subject to Coast Guard inspection and that—

- (i) is engaged in commercial use; or
- (ii) carries paying passengers.

(26) **TREATMENT WORKS.**—The term “treatment works” has the meaning given the term in section 1292 of this title.

(27) **GREEN INFRASTRUCTURE.**—The term “green infrastructure” means the range of measures that use plant or soil systems, permeable pavement or other permeable surfaces or substrates, stormwater harvest and reuse, or landscaping to store, infiltrate, or evapotranspire stormwater and reduce flows to sewer systems or to surface waters.

(June 30, 1948, ch. 758, title V, § 502, as added Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 886; amended Pub. L. 95-217, § 33(b), Dec. 27, 1977, 91 Stat. 1577; Pub. L. 100-4, title V, §§ 502(a), 503, Feb. 4, 1987, 101 Stat. 75; Pub. L. 100-688, title III, § 3202(a), Nov. 18, 1988, 102 Stat. 4154; Pub. L. 104-106, div. A, title III, § 325(c)(3), Feb. 10, 1996, 110 Stat. 259; Pub. L. 106-284, § 5, Oct. 10, 2000, 114 Stat. 875; Pub. L. 109-58, title III, § 323, Aug. 8, 2005, 119 Stat. 694; Pub. L. 110-288, § 3, July 29, 2008, 122 Stat. 2650; Pub. L. 113-121, title V, § 5012(b), June

10, 2014, 128 Stat. 1328; Pub. L. 115-436, § 5(a), Jan. 14, 2019, 132 Stat. 5561.)

Editorial Notes

AMENDMENTS

2019—Par. (27). Pub. L. 115-436 added par. (27).
 2014—Par. (26). Pub. L. 113-121 added par. (26).
 2008—Par. (25). Pub. L. 110-288 added par. (25).
 2005—Par. (24). Pub. L. 109-58 added par. (24).
 2000—Pars. (21) to (23). Pub. L. 106-284 added pars. (21) to (23).
 1996—Par. (6)(A). Pub. L. 104-106 substituted “sewage from vessels or a discharge incidental to the normal operation of a vessel of the Armed Forces” for “sewage from vessels”.
 1988—Par. (20). Pub. L. 100-688 added par. (20).
 1987—Par. (3). Pub. L. 100-4, § 502(a), inserted “the Commonwealth of the Northern Mariana Islands,” after “Samoa.”
 Par. (14). Pub. L. 100-4, § 503, inserted “agricultural stormwater discharges and” after “does not include”.
 1977—Par. (14). Pub. L. 95-217 inserted provision that “point source” does not include return flows from irrigated agriculture.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-121 effective Oct. 1, 2014, see section 5012(c) of Pub. L. 113-121, set out as a note under section 1292 of this title.

DEFINITION OF “POINT SOURCE”

Pub. L. 100-4, title V, § 507, Feb. 4, 1987, 101 Stat. 78, provided that: “For purposes of the Federal Water Pollution Control Act [33 U.S.C. 1251 et seq.], the term ‘point source’ includes a landfill leachate collection system.”

Executive Documents

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

TERRITORIAL SEA AND CONTIGUOUS ZONE OF UNITED STATES

For extension of territorial sea and contiguous zone of United States, see Proc. No. 5928 and Proc. No. 7219, respectively, set out as notes under section 1331 of Title 43, Public Lands.

§ 1363. Water Pollution Control Advisory Board

(a) Establishment; composition; terms of office

(1) There is hereby established in the Environmental Protection Agency a Water Pollution Control Advisory Board, composed of the Administrator or his designee, who shall be Chairman, and nine members appointed by the President, none of whom shall be Federal officers or employees. The appointed members, having due regard for the purposes of this chapter, shall be selected from among representatives of various State, interstate, and local governmental agencies, of public or private interests contributing to, affected by, or concerned with pollution, and of other public and private agencies, organizations, or groups demonstrating an active interest in the field of pollution prevention and control, as well as other individuals who are expert in this field.