

Subpart B—Applicability

§ 117.11 General applicability.

This regulation sets forth a determination of the reportable quantity for each substance designated as hazardous in 40 CFR part 116. The regulation applies to quantities of designated substances equal to or greater than the reportable quantities, when discharged into or upon the navigable waters of the United States, adjoining shorelines, into or upon the contiguous zone, or beyond the contiguous zone as provided in section 311(b)(3) of the Act, except to the extent that the owner or operator can show such that discharges are made:

(a) In compliance with a permit issued under the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1401 *et seq.*);

(b) In compliance with approved water treatment plant operations as specified by local or State regulations pertaining to safe drinking water;

(c) Pursuant to the label directions for application of a pesticide product registered under section 3 or section 24 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (7 U.S.C. 136 *et seq.*), or pursuant to the terms and conditions of an experimental use permit issued under section 5 of FIFRA, or pursuant to an exemption granted under section 18 of FIFRA;

(d) In compliance with the regulations issued under section 3004 or with permit conditions issued pursuant to section 3005 of the Resource Conservation and Recovery Act (90 Stat. 2795; 42 U.S.C. 6901);

(e) In compliance with instructions of the On-Scene Coordinator pursuant to 40 CFR part 1510 (the National Oil and Hazardous Substances Pollution Plan) or 33 CFR 153.10(e) (Pollution by Oil and Hazardous Substances) or in accordance with applicable removal regulations as required by section 311(j)(1)(A);

(f) In compliance with a permit issued under § 165.7 of Title 14 of the State of California Administrative Code;

(g) From a properly functioning inert gas system when used to provide inert gas to the cargo tanks of a vessel;

(h) From a permitted source and are excluded by § 117.12 of this regulation;

(i) To a POTW and are specifically excluded or reserved in § 117.13; or

(j) In compliance with a permit issued under section 404(a) of the Clean Water Act or when the discharges are exempt from such requirements by section 404(f) or 404(r) of the Act (33 U.S.C. 1344(a), (f), (r)).

§ 117.12 Applicability to discharges from facilities with NPDES permits.

(a) This regulation does not apply to:

(1) Discharges in compliance with a permit under section 402 of this Act;

(2) Discharges resulting from circumstances identified, reviewed and made a part of the public record with respect to a permit issued or modified under section 402 of this Act, and subject to a condition in such permit;

(3) Continuous or anticipated intermittent discharges from a point source, identified in a permit or permit application under section 402 of this Act, which are caused by events occurring within the scope of the relevant operating or treatment systems; or

(b) A discharge is “in compliance with a permit issued under section 402 of this Act” if the permit contains an effluent limitation specifically applicable to the substance discharged or an effluent limitation applicable to another waste parameter which has been specifically identified in the permit as intended to limit such substance, and the discharge is in compliance with the effluent limitation.

(c) A discharge results “from circumstances identified, reviewed and made a part of the public record with respect to a permit issued or modified under section 402 of the Act, and subject to a condition in such permit,” whether or not the discharge is in compliance with the permit, where:

(1) The permit application, the permit, or another portion of the public record contains documents that specifically identify:

(i) The substance and the amount of the substance; and

(ii) The origin and source of the substance; and

(iii) The treatment which is to be provided for the discharge either by:

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(A) An on-site treatment system separate from any treatment system treating the permittee's normal discharge; or

(B) A treatment system designed to treat the permittee's normal discharge and which is additionally capable of treating the identified amount of the identified substance; or

(C) Any combination of the above; and

(2) The permit contains a requirement that the substance and amounts of the substance, as identified in § 117.12(c)(1)(i) and § 117.12(c)(1)(ii) be treated pursuant to § 117.12(c)(1)(iii) in the event of an on-site release; and

(3) The treatment to be provided is in place.

(d) A discharge is a "continuous or anticipated intermittent discharge from a point source, identified in a permit or permit application under section 402 of this Act, and caused by events occurring within the scope of the relevant operating or treatment systems," whether or not the discharge is in compliance with the permit, if:

(1) The hazardous substance is discharged from a point source for which a valid permit exists or for which a permit application has been submitted; and

(2) The discharge of the hazardous substance results from:

(i) The contamination of noncontact cooling water or storm water, provided that such cooling water or storm water is not contaminated by an on-site spill of a hazardous substance; or

(ii) A continuous or anticipated intermittent discharge of process waste water, and the discharge originates within the manufacturing or treatment systems; or

(iii) An upset or failure of a treatment system or of a process producing a continuous or anticipated intermittent discharge where the upset or failure results from a control problem, an operator error, a system failure or malfunction, an equipment or system startup or shutdown, an equipment wash, or a production schedule change, provided that such upset or failure is not caused by an on-site spill of a hazardous substance.

[44 FR 50776, Aug. 29, 1979, as amended at 44 FR 58910, Oct. 12, 1979]

§ 117.13 Applicability to discharges from publicly owned treatment works and their users.

(a) [Reserved]

(b) These regulations apply to all discharges of reportable quantities to a POTW, where the discharge originates from a mobile source, except where such source has contracted with, or otherwise received written permission from the owners or operators of the POTW to discharge that quantity, and the mobile source can show that prior to accepting the substance from an industrial discharger, the substance had been treated to comply with any effluent limitation under sections 301, 302 or 306 or pretreatment standard under section 307 applicable to that facility.

§ 117.14 Demonstration projects.

Notwithstanding any other provision of this part, the Administrator of the Environmental Protection Agency may, on a case-by-case basis, allow the discharge of designated hazardous substances in connection with research or demonstration projects relating to the prevention, control, or abatement of hazardous substance pollution. The Administrator will allow such a discharge only where he determines that the expected environmental benefit from such a discharge will outweigh the potential hazard associated with the discharge.

Subpart C—Notice of Discharge of a Reportable Quantity

§ 117.21 Notice.

Any person in charge of a vessel or an onshore or an offshore facility shall, as soon as he has knowledge of any discharge of a designated hazardous substance from such vessel or facility in quantities equal to or exceeding in any 24-hour period the reportable quantity determined by this part, immediately notify the appropriate agency of the United States Government of such discharge. Notice shall be given in accordance with such procedures as the Secretary of Transportation has set forth in 33 CFR 153.203. This provision applies to all discharges not specifically excluded or reserved by another section of these regulations.