

PART 116—DESIGNATION OF HAZARDOUS SUBSTANCES

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AUTHORITY: Secs. 311(b)(2)(A) and 501(a), Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

§ 116.1 Applicability.

This regulation designates hazardous substances under section 311(b)(2)(A) of the Federal Water Pollution Control Act (the Act). The regulation applies to discharges of substances designated in Table 116.4.

[43 FR 10474, Mar. 13, 1978]

§ 116.2 Abbreviations.

ppm=parts per million
 mg=milligram(s)
 kg=kilogram(s)
 mg/l=milligrams(s) per liter= (approx.) ppm
 mg/kg=milligram(s) per kilogram= (approx.) ppm

[43 FR 10474, Mar. 13, 1978]

§ 116.3 Definitions.

As used in this part, all terms shall have the meaning defined in the Act and as given below:

The Act means the Federal Water Pollution Control Act, as amended by the Federal Water Pollution Control Act Amendments of 1972 (Pub. L. 92-500), and as further amended by the Clean Water Act of 1977 (Pub. L. 95-217), 33 U.S.C. 1251 et seq.; and as further amended by the Clean Water Act Amendments of 1978 (Pub. L. 95-676);

Animals means appropriately sensitive animals which carry out respiration by means of a lung structure permitting gaseous exchange between air and the circulatory system;

Aquatic animals means appropriately sensitive wholly aquatic animals which carry out respiration by means of a gill structure permitting gaseous exchange between the water and the circulatory system;

Aquatic flora means plant life associated with the aquatic eco-system including, but not limited to, algae and higher plants;

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;

Discharge includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying or dumping, but excludes (A) discharges in compliance with a permit under section 402 of this Act, (B) discharges resulting from circumstances identified and 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, and (C) 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 relevant operating or treatment systems;

LC50 means that concentration of material which is lethal to one-half of the test population of aquatic animals upon continuous exposure for 96 hours or less.

Mixture means any combination of two or more elements and/or compounds in solid, liquid, or gaseous form except where such substances have undergone a chemical reaction so as to become inseparable by physical means.

Navigable waters is defined in section 502(7) of the Act to mean "waters of the United States, including the territorial seas," and includes, but is not limited to:

(1) All waters which are presently used, or were used in the past, or may be susceptible to use as a means to transport interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide, and including adjacent wetlands; the term *wetlands* as used in this regulation shall include those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevelance of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas; the term *adjacent* means bordering, contiguous or neighboring;

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(2) Tributaries of navigable waters of the United States, including adjacent wetlands;

(3) Interstate waters, including wetlands; and

(4) All other waters of the United States such as intrastate lakes, rivers, streams, mudflats, sandflats and wetlands, the use, degradation or destruction of which affect interstate commerce including, but not limited to:

(i) Intrastate lakes, rivers, streams, and wetlands which are utilized by interstate travelers for recreational or other purposes; and

(ii) Intrastate lakes, rivers, streams, and wetlands from which fish or shellfish are or could be taken and sold in interstate commerce; and

(iii) Intrastate lakes, rivers, streams, and wetlands which are utilized for industrial purposes by industries in interstate commerce.

Navigable waters do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA.

Offshore facility means any facility of any kind located in, on, or under, any of the navigable waters of the United States, and any facility of any kind which is subject to the jurisdiction of the United States and is located in, on, or under any other waters, other than a vessel or a public vessel;

Onshore facility means any facility (including, but not limited to, motor vehicles and rolling stock) of any kind located in, on, or under, any land within the United States other than submerged land;

Otherwise subject to the jurisdiction of the United States means subject to the jurisdiction of the United States by virtue of United States citizenship, United States vessel documentation or numbering, or as provided for by international agreement to which the United States is a party.

A discharge in connection with activities under the Outer Continental Shelf Lands Act or the Deepwater Port Act of 1974, or which may affect natural resources belonging to, appertaining to, or under the exclusive management author-

ity of the United States (including resources under the Fishery Conservation and Management Act of 1976), means: (1) A discharge into any waters beyond the contiguous zone from any vessel or onshore or offshore facility, which vessel or facility is subject to or is engaged in activities under the Outer Continental Shelf Lands Act or the Deepwater Port Act of 1974, and (2) any discharge into any waters beyond the contiguous zone which contain, cover, or support any natural resource belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976).

Public vessel means a vessel owned or bareboat-chartered and operated by the United States, or a State or political subdivision thereof, or by a foreign nation, except when such vessel is engaged in commerce.

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 3 miles.

Vessel means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water other than a public vessel;

[43 FR 10474, Mar. 13, 1978; 43 FR 27533, June 26, 1978, as amended at 44 FR 10266, Feb. 16, 1979; 58 FR 45039, Aug. 25, 1993]

§ 116.4 Designation of hazardous substances.

The elements and compounds appearing in Tables 116.4 A and B are designated as hazardous substances in accordance with section 311(b)(2)(A) of the Act. This designation includes any isomers and hydrates, as well as any solutions and mixtures containing these substances. Synonyms and Chemical Abstract System (CAS) numbers have been added for convenience of the user only. In case of any disparity the common names shall be considered the designated substance.