

HAZARDOUS AND TOXIC SUBSTANCES

COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND RECOVERY ACT (CERCLA)

DEFINITIONS

Environment

40 C.F.R. § 302.3 2

Facility

42 U.S.C. § 9601(9) 3

Hazardous Substance

42 U.S.C. § 9601(14); 40 C.F.R. § 302.4 4

Person

42 U.S.C. § 9601(21) 5

Release

42 U.S.C. § 9601(22) 6

Reportable Quantity

42 U.S.C. §§ 9602(a), (b) 7

Vessel

42 U.S.C. § 9601(28) 8

NOTIFICATION REQUIREMENTS

42 U.S.C. § 9603 9

ENVIRONMENT

40 C.F.R. § 302.3. DEFINITIONS.

As used in this part, all terms shall have the meaning set forth below:

...

Environment means (1) the navigable waters, the waters of the contiguous zone, and the ocean waters of which the natural resources are under the exclusive management authority of the United States under the Fishery Conservation and Management Act of 1976, and (2) any other surface water, ground water, drinking water supply, land surface or subsurface strata, or ambient air within the United States or under the jurisdiction of the United States;

FACILITY

42 U.S.C. § 9601. DEFINITIONS.

For purposes of this subchapter—

...

(9) The term “facility” means (A) any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, or aircraft, or (B) any site or area where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise come to be located; but does not include any consumer product in consumer use or any vessel.

HAZARDOUS SUBSTANCE

42 U.S.C. § 9601. DEFINITIONS.

For purposes of this subchapter—

...

(14) The term “hazardous substance” means (A) any substance designated pursuant to [33 U.S.C. § 1321(b)(2)(A)], (B) any element, compound, mixture, solution, or substance designated pursuant to [42 U.S.C. § 9602], (C) any hazardous waste having the characteristics identified under or listed pursuant to [42 U.S.C. § 6921], (but not including any waste the regulation of which under the Solid Waste Disposal Act has been suspended by Act of Congress), (D) any toxic pollutant listed under [33 U.S.C. § 1317(a)], (E) any hazardous air pollutant listed under [42 U.S.C. § 7412], and (F) any imminently hazardous chemical substance or mixture with respect to which the Administrator has taken action pursuant to [15 U.S.C. § 2606]. The term does not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of this paragraph, and the term does not include natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas).

40 C.F.R. § 302.4. DESIGNATION OF HAZARDOUS SUBSTANCES.

(a) Listed hazardous substances. The elements and compounds and hazardous wastes appearing in Table 302.4¹ are designated as hazardous substances under section 102(a) of the Act.

(b) Unlisted hazardous substances. A solid waste, as defined in 40 CFR 261.2, which is not excluded from regulation as a hazardous waste under 40 CFR 261.4(b), is a hazardous substance under section 101(14) of the Act if it exhibits any of the characteristics identified in 40 CFR 261.20 through 261.24.

¹Table 302.4, List of Hazardous Substances and Reportable Quantities, is omitted from this excerpt.—ED.

PERSON

42 U.S.C. § 9601. DEFINITIONS.

For purposes of this subchapter—

...

(21) The term “person” means an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, United States Government, State, municipality, commission, political subdivision of a State, or any interstate body.

RELEASE

42 U.S.C. § 9601. DEFINITIONS.

For purposes of this subchapter—

...

(22) The term “release” means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant), but excludes (A) any release which results in exposure to persons solely within a workplace, with respect to a claim which such persons may assert against the employer of such persons, (B) emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine, (C) release of source, byproduct, or special nuclear material from a nuclear incident, as those terms are defined in the Atomic Energy Act of 1954, if such release is subject to requirements with respect to financial protection established by the Nuclear Regulatory Commission under [42 U.S.C. § 2210], or, for the purposes of section 104 of this title or any other response action, any release of source byproduct, or special nuclear material from any processing site designated under [42 U.S.C. § 7912(a)(1) or § 7942(a)], and (D) the normal application of fertilizer.

REPORTABLE QUANTITY

42 U.S.C. § 9602. DESIGNATION OF ADDITIONAL HAZARDOUS SUBSTANCES AND ESTABLISHMENT OF REPORTABLE RELEASED QUANTITIES; REGULATIONS

(a) The Administrator shall promulgate and revise as may be appropriate, regulations designating as hazardous substances, in addition to those referred to in [42 U.S.C. § 9601(14)], such elements, compounds, mixtures, solutions, and substances which, when released into the environment may present substantial danger to the public health or welfare or the environment, and shall promulgate regulations establishing that **quantity** of any hazardous substance the release of which shall be **reported** pursuant to [42 U.S.C. § 9603]. The Administrator may determine that one single quantity shall be the **reportable quantity** for any hazardous substance, regardless of the medium into which the hazardous substance is released. For all hazardous substances for which proposed regulations establishing **reportable quantities** were published in the Federal Register under this subsection on or before March 1, 1986, the Administrator shall promulgate under this subsection final regulations establishing **reportable quantities** not later than December 31, 1986. For all hazardous substances for which proposed regulations establishing **reportable quantities** were not published in the Federal Register under this subsection on or before March 1, 1986, the Administrator shall publish under this subsection proposed regulations establishing **reportable quantities** not later than December 31, 1986, and promulgate final regulations under this subsection establishing reportable quantities not later than April 30, 1988.

(b) Unless and until superseded by regulations establishing a reportable quantity under subsection (a) of this section for any hazardous substance as defined in [42 U.S.C. § 9601(14)], (1) a quantity of one pound, or (2) for those hazardous substances for which reportable quantities have been established pursuant to [33 U.S.C. § 311(b)(4)], such reportable quantity, shall be deemed that quantity, the release of which requires notification pursuant to [42 U.S.C. § 9603(a) or (b)].

VESSEL

42 U.S.C. § 9601. DEFINITIONS.

For purposes of this subchapter—

...

(28) The term “vessel” means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water.

NOTIFICATION REQUIREMENTS

42 U.S.C. § 9603. NOTIFICATION REQUIREMENTS RESPECTING RELEASED SUBSTANCES

(a) Notice to National Response Center upon release from vessel or offshore or onshore facility by person in charge; conveyance of notice by Center.—Any person in charge of a vessel or an offshore or an onshore facility shall, as soon as he has knowledge of any release (other than a federally permitted release) of a hazardous substance from such vessel or facility in quantities equal to or greater than those determined pursuant to [42 U.S.C. § 9602], immediately **notify** the National Response Center established under the Clean Water Act of such release. The National Response Center shall convey the **notification** expeditiously to all appropriate Government agencies, including the Governor of any affected State.

(b) Penalties for failure to notify; use of notice or information pursuant to notice in criminal case.—Any person—

(1) in charge of a vessel from which a hazardous substance is released, other than a federally permitted release, into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone, or

(2) in charge of a vessel from which a hazardous substance is released, other than a federally permitted release, which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Magnuson Fishery Conservation and Management Act [16 U.S.C. §§ 1801 et seq.]), and who is otherwise subject to the jurisdiction of the United States at the time of the release, or

(3) in charge of a facility from which a hazardous substance is released, other than a federally permitted release,

in a quantity equal to or greater than that determined pursuant to section 9602 of this title who fails to **notify** immediately the appropriate agency of the United States Government as soon as he has knowledge of such release or who submits in such a **notification** any information which he knows to be false or misleading shall, upon conviction, be fined in accordance with the applicable provisions of title 18 or imprisoned for not more than 3 years (or not more than 5 years in the case of a second or subsequent conviction), or both. **Notification** received pursuant to this subsection or information obtained by the exploitation of such **notification** shall not be used against any such person in any criminal case, except a prosecution for perjury or for giving a false statement. . . .