

§ 136.5 Approval of alternate test procedures.

(a) The Regional Administrator of the region in which the discharge will occur has final responsibility for approval of any alternate test procedure proposed by the responsible person or firm making the discharge.

(b) Within thirty days of receipt of an application, the Director will forward such application proposed by the responsible person or firm making the discharge, together with his recommendations, to the Regional Administrator. Where the Director recommends rejection of the application for scientific and technical reasons which he provides, the Regional Administrator shall deny the application, and shall forward a copy of the rejected application and his decision to the Director of the State Permit Program and to the Director of the Environmental Monitoring and Support Laboratory, Cincinnati.

(c) Before approving any application for an alternate test procedure proposed by the responsible person or firm making the discharge, the Regional Administrator shall forward a copy of the application to the Director of the Environmental Monitoring and Support Laboratory, Cincinnati.

(d) Within ninety days of receipt by the Regional Administrator of an application for an alternate test procedure, proposed by the responsible person or firm making the discharge, the Regional Administrator shall notify the applicant and the appropriate State agency of approval or rejection, or shall specify the additional information which is required to determine whether to approve the proposed test procedure. Prior to the expiration of such ninety day period, a recommendation providing the scientific and other technical basis for acceptance or rejection will be forwarded to the Regional Administrator by the Director of the Environmental Monitoring and Support Laboratory, Cincinnati. A copy of all approval and rejection notifications will be forwarded to the Director, Environmental Monitoring and Support Laboratory, Cincinnati, for the purposes of national coordination.

(e) Within ninety days of the receipt by the Director of the Environmental Monitoring and Support Laboratory,

Cincinnati of an application for an alternate test procedure for nationwide use, the Director of the Environmental Monitoring and Support Laboratory, Cincinnati shall notify the applicant of his recommendation to the Administrator to approve or reject the application, or shall specify additional information which is required to determine whether to approve the proposed test procedure. After such notification, an alternate method determined by the Administrator to satisfy the applicable requirements of this part shall be approved for nationwide use to satisfy the requirements of this subchapter; alternate test procedures determined by the Administrator not to meet the applicable requirements of this part shall be rejected. Notice of these determinations shall be submitted for publication in the FEDERAL REGISTER not later than 15 days after such notification and determination is made.

[38 FR 28760, Oct. 16, 1973, as amended at 41 FR 52785, Dec. 1, 1976]

PART 140—MARINE SANITATION DEVICE STANDARD

Sec.

- 140.1 Definitions.
- 140.2 Scope of Standard.
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- 140.4 Complete prohibition.
- 140.5 Analytical procedures.

AUTHORITY: Sec. 312, as added October 18, 1972, Pub. L. 92-500, sec. 2, 86 Stat. 871. Interpret or apply sec. 312(b)(1), 33 U.S.C. 1322(b)(1).

SOURCE: 41 FR 4453, Jan. 29, 1976, unless otherwise noted.

§ 140.1 Definitions.

For the purpose of these standards the following definitions shall apply:

(a) "Sewage" means human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes;

(b) "Discharge" includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping;

(c) "Marine sanitation device" includes any equipment for installation onboard a vessel and which is designed to receive, retain, treat, or discharge sewage and any process to treat such sewage;

(d) "Vessel" includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on waters of the United States;

(e) "New vessel" refers to any vessel on which construction was initiated on or after January 30, 1975;

(f) "Existing vessel" refers to any vessel on which construction was initiated before January 30, 1975;

(g) "Fecal coliform bacteria" are those organisms associated with the intestines of warm-blooded animals that are commonly used to indicate the presence of fecal material and the potential presence of organisms capable of causing human disease.

§ 140.2 Scope of Standard.

The standard adopted herein applies only to vessels on which a marine sanitation device has been installed. The standard does not require the installation of a marine sanitation device on any vessel that is not so equipped. The standard applies to vessels owned and operated by the United States unless the Secretary of Defense finds that compliance would not be in the interest of national security.

§ 140.3 Standard.

(a)(1) In freshwater lakes, freshwater reservoirs or other freshwater impoundments whose inlets or outlets are such as to prevent the ingress or egress by vessel traffic subject to this regulation, or in rivers not capable of navigation by interstate vessel traffic subject to this regulation, marine sanitation devices certified by the U.S. Coast Guard (see 33 CFR Part 159, published in 40 FR 4622, January 30, 1975), installed on all vessels shall be designed and operated to prevent the overboard discharge of sewage, treated or untreated, or of any waste derived from sewage. This shall not be construed to prohibit the carriage of Coast Guard-certified flow-through treatment devices which have been secured so as to prevent such discharges.

(2) In all other waters, Coast Guard-certified marine sanitation devices installed on all vessels shall be designed and operated to either retain, dispose of, or discharge sewage. If the device has

a discharge, subject to paragraph (d) of this section, the effluent shall not have a fecal coliform bacterial count of greater than 1,000 per 100 milliliters nor visible floating solids. Waters where a Coast Guard-certified marine sanitation device permitting discharge is allowed include coastal waters and estuaries, the Great Lakes and inter-connected waterways, fresh-water lakes and impoundments accessible through locks, and other flowing waters that are navigable interstate by vessels subject to this regulation.

(b) This standard shall become effective on January 30, 1977 for new vessels and on January 30, 1980 for existing vessels (or, in the case of vessels owned and operated by the Department of Defense, two years and five years, for new and existing vessels, respectively, after promulgation of implementing regulations by the Secretary of Defense under section 312(d) of the Act).

(c) Any vessel which is equipped as of the date of promulgation of this regulation with a Coast Guard-certified flow-through marine sanitation device meeting the requirements of paragraph (a) (2) of this section, shall not be required to comply with the provisions designed to prevent the overboard discharge of sewage, treated or untreated, in paragraph (a) (1) of this section, for the operable life of that device.

(d) After January 30, 1980, subject to paragraphs (e) and (f) of this section, marine sanitation devices on all vessels on waters that are not subject to a prohibition of the overboard discharge of sewage, treated or untreated, as specified in paragraph (a) (1) of this section, shall be designed and operated to either retain, dispose of, or discharge sewage, and shall be certified by the U.S. Coast Guard. If the device has a discharge, the effluent shall not have a fecal coliform bacterial count of greater than 200 per 100 milliliters, nor suspended solids greater than 150 mg/l.

(e) Any existing vessel on waters not subject to a prohibition of the overboard discharge of sewage in paragraph (a) (1) of this section, and which is equipped with a certified device on or before January 30, 1978, shall not be required to comply with paragraph (d) of this section, for the operable life of that device.

(f) Any new vessel on waters not subject to the prohibition of the overboard discharge of sewage in paragraph (a) (1) of this section, and on which construction is initiated before January 31, 1980, which is equipped with a marine sanitation device before January 31, 1980, certified under paragraph (a) (2) of this section, shall not be required to comply with paragraph (d) of this section, for the operable life of that device.

(g) The degrees of treatment described in paragraphs (a) and (d) of this section are "appropriate standards" for purposes of Coast Guard and Department of Defense certification pursuant to section 312(g) (2) of the Act.

(h) This section is not to be construed to accelerate the effective date of the standards and regulations promulgated under section 312 as such date affects the sales regulations for marine sanitation devices specified in section 312(g) (1): January 30, 1977, and January 30, 1980, for new and existing vessels, respectively.

§ 140.4 Complete prohibition.

(a) A State may completely prohibit the discharge from all vessels of any sewage, whether treated or not, into some or all of the waters within such State by making a written application to the Administrator, Environmental Protection Agency, and by receiving the Administrator's affirmative determination pursuant to section 312(f) (3) of the Act. Upon receipt of an application under section 312(f) (3) of the Act, the Administrator will determine within 90 days whether adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels using such waters are reasonably available. Applications made by States pursuant to section 312(f) (3) of the Act shall include: (1) A certification that the protection and enhancement of the waters described in the petition require greater environmental protection than the applicable Federal standard; (2) a map showing the location of commercial and recreational pump-out facilities; (3) a description of the location of pump-out facilities within waters designated for no discharge; (4) the general schedule of operating hours of the pump-out facilities; (5) the draught requirements on vessels that may be excluded because of

insufficient water depth adjacent to the facility; (6) information indicating that treatment of wastes from such pump-out facilities is in conformance with Federal law; and (7) information on vessel population and vessel usage of the subject waters.

(b) A State may make a written application to the Administrator, Environmental Protection Agency, under section 312(f) (4) of the Act, for the issuance of a regulation completely prohibiting discharge from a vessel of any sewage, whether treated or not, into particular waters of the United States or specified portions thereof, which waters are located within the boundaries of such State. Such application shall specify with particularity the waters, or portions thereof, for which a complete prohibition is desired. The application shall include identification of water recreational areas, drinking water intakes, aquatic sanctuaries, identifiable fish-spawning and nursery areas, and areas of intensive boating activities. If, on the basis of the State's application and any other information available to him, the Administrator is unable to make a finding that the waters listed in the application require a complete prohibition of any discharge in the waters or portions thereof covered by the application, he shall state the reasons why he cannot make such a finding, and shall deny the application. If the Administrator makes a finding that the waters listed in the application require a complete prohibition of any discharge in all or any part of the waters or portions thereof covered by the State's application, he shall publish notice of such findings together with a notice of proposed rule making, and then shall proceed in accordance with 5 U.S.C. 553. If the Administrator's finding is that applicable water quality standards require a complete prohibition covering a more restricted or more expanded area than that applied for by the State, he shall state the reasons why his finding differs in scope from that requested in the State's application.

§ 140.5 Analytical procedures.

In determining the composition and quality of effluent discharge from marine sanitation devices, the procedures contained in 40 CFR Part 136, "Guidelines Establishing Test Procedures for the Analysis of Pollutants," or subsequent

revisions or amendments thereto, shall be employed.

PART 141—NATIONAL INTERIM PRIMARY DRINKING WATER REGULATIONS

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AUTHORITY: Secs. 1412, 1414, 1445, and 1450 of the Public Health Service Act, 88 Stat. 1660 (42 U.S.C. 300g-1, 300g-3, 300j-4, and 300j-9).

SOURCE: 40 FR 59570, Dec. 24, 1975, unless otherwise noted.

Subpart A—General

§ 141.1 Applicability.

This part establishes primary drinking water regulations pursuant to section 1412 of the Public Health Service Act, as amended by the Safe Drinking Water Act (Pub. L. 93-523); and related regulations applicable to public water systems.

§ 141.2 Definitions.

As used in this part, the term:

(a) "Act" means the Public Health Service Act, as amended by the Safe Drinking Water Act, Pub. L. 93-523.

(b) "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water.

(c) "Maximum contaminant level" means the maximum permissible level of a contaminant in water which is delivered to the free flowing outlet of the ultimate user of a public water system, except in the case of turbidity where the maximum permissible level is measured at the point of entry to the distribution system. Contaminants added to the water under circumstances controlled by the user, except those resulting from corrosion of piping and plumbing caused by water quality, are excluded from this definition.

(d) "Person" means an individual, corporation, company, association, partnership, State, municipality, or Federal agency.

(e) "Public water system" means a system for the provision to the public of piped water for human consumption, if such system has at least fifteen service connections or regularly serves an average of at least twenty-five individuals daily at least 60 days out of the year. Such term includes (1) any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system, and (2) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. A public water system is either a "community water system" or a "non-community water system."

(i) "Community water system" means a public water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.