

under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Whole effluent toxicity means the aggregate toxic effect of an effluent measured directly by a toxicity test.

NOTE: At 45 FR 48620, July 21, 1980, the Environmental Protection Agency suspended until further notice in §122.2, the last sentence, beginning "This exclusion applies . . ." in the definition of "Waters of the United States." This revision continues that suspension.¹

(Clean Water Act (33 U.S.C. 1251 *et seq.*), Safe Drinking Water Act (42 U.S.C. 300f *et seq.*), Clean Air Act (42 U.S.C. 7401 *et seq.*), Resource Conservation and Recovery Act (42 U.S.C. 6901 *et seq.*)

[48 FR 14153, Apr. 1, 1983, as amended at 48 FR 39619, Sept. 1, 1983; 50 FR 6940, 6941, Feb. 19, 1985; 54 FR 254, Jan. 4, 1989; 54 FR 18781, May 2, 1989; 54 FR 23895, June 2, 1989; 58 FR 45039, Aug. 25, 1993; 58 FR 67980, Dec. 22, 1993; 64 FR 42462, Aug. 4, 1999; 65 FR 30905, May 15, 2000]

§ 122.3 Exclusions.

The following discharges do not require NPDES permits:

(a) Any discharge of sewage from vessels, effluent from properly functioning marine engines, laundry, shower, and galley sink wastes, or any other discharge incidental to the normal operation of a vessel. This exclusion does not apply to rubbish, trash, garbage, or other such materials discharged overboard; nor to other discharges when the vessel is operating in a capacity other than as a means of transportation such as when used as an energy or mining facility, a storage facility or a seafood processing facility, or when secured to a storage facility or a seafood processing facility, or when secured to the bed of the ocean, contiguous zone or waters of the United States for the purpose of mineral or oil exploration or development.

(b) Discharges of dredged or fill material into waters of the United States which are regulated under section 404 of CWA.

¹EDITORIAL NOTE: The words "This revision" refer to the document published at 48 FR 14153, Apr. 1, 1983.

(c) The introduction of sewage, industrial wastes or other pollutants into publicly owned treatment works by indirect dischargers. Plans or agreements to switch to this method of disposal in the future do not relieve dischargers of the obligation to have and comply with permits until all discharges of pollutants to waters of the United States are eliminated. (See also §122.47(b)). This exclusion does not apply to the introduction of pollutants to privately owned treatment works or to other discharges through pipes, sewers, or other conveyances owned by a State, municipality, or other party not leading to treatment works.

(d) Any discharge in compliance with the instructions of an On-Scene Coordinator pursuant to 40 CFR part 300 (The National Oil and Hazardous Substances Pollution Contingency Plan) or 33 CFR 153.10(e) (Pollution by Oil and Hazardous Substances).

(e) Any introduction of pollutants from non point-source agricultural and silvicultural activities, including storm water runoff from orchards, cultivated crops, pastures, range lands, and forest lands, but not discharges from concentrated animal feeding operations as defined in §122.23, discharges from concentrated aquatic animal production facilities as defined in §122.24, discharges to aquaculture projects as defined in §122.25, and discharges from silvicultural point sources as defined in §122.27.

(f) Return flows from irrigated agriculture.

(g) Discharges into a privately owned treatment works, except as the Director may otherwise require under §122.44(m).

[48 FR 14153, Apr. 1, 1983, as amended at 54 FR 254, 258, Jan. 4, 1989]

§ 122.4 Prohibitions (applicable to State NPDES programs, see § 123.25).

No permit may be issued:

(a) When the conditions of the permit do not provide for compliance with the applicable requirements of CWA, or regulations promulgated under CWA;

(b) When the applicant is required to obtain a State or other appropriate certification under section 401 of CWA