

40 C.F.R. § 118.8

Exceptions and exemptions.

(a) *Exceptions.* This part does not apply to the owner or operator of any facility, equipment, or operation that is not subject to the jurisdiction of the EPA under section 33 U.S.C. 1321(j)(5)(C), as follows:

(1) Any non-transportation-related onshore facility, that due to its location, could not reasonably be expected to have a discharge, or substantial threat of a discharge, as described in § 118.3. This determination must be based solely upon consideration of the geographical and location aspects of the non-transportation-related onshore facility (such as proximity to navigable waters, land contour, drainage, etc.) and must exclude consideration of manmade features such as dikes, equipment, depressions, or other structures, which may serve to restrain, hinder, contain, or otherwise prevent a discharge.

(2) Any equipment, or operation of a vessel or transportation-related onshore facility which is subject to the authority and control of the U.S. Department of Transportation, and which provides movement or conveyances of CWA hazardous substances in interstate or intrastate commerce by rail, pipeline, highway vehicle, or vessel. For modes other than pipeline, this exception is limited to movement under active shipping papers prior to arrival at a final destination pursuant to 49 CFR parts 171-180.

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