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**Title 40 —Protection of Environment**  
**Chapter I —Environmental Protection Agency**  
**Subchapter D —Water Programs**

**Part 113** Liability Limits for Small Onshore Storage Facilities

**Subpart A** Oil Storage Facilities

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**PART 113—LIABILITY LIMITS FOR SMALL ONSHORE STORAGE FACILITIES**

**Authority:** Sec. 311(f)(2), 86 Stat. 867 (33 U.S.C. 1251 (1972)).

**Source:** 38 FR 25440, Sept. 13, 1973, unless otherwise noted.

**Subpart A—Oil Storage Facilities**

**§ 113.1 Purpose.**

This subpart establishes size classifications and associated liability limits for small onshore oil storage facilities with fixed capacity of 1,000 barrels or less.

**§ 113.2 Applicability.**

This subpart applies to all onshore oil storage facilities with fixed capacity of 1,000 barrels or less. When a discharge to the waters of the United States occurs from such facilities and when removal of said discharge is performed by the United States Government pursuant to the provisions of subsection 311(c)(1) of the Act, the liability of the owner or operator and the facility will be limited to the amounts specified in § 113.4.

**§ 113.3 Definitions.**

As used in this subpart, the following terms shall have the meanings indicated below:

(a) **Aboveground** storage facility means a tank or other container, the bottom of which is on a plane not more than 6 inches below the surrounding surface.

(b) **Act** means the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1151, et seq.

- (c) **Barrel** means 42 United States gallons at 60 degrees Fahrenheit.
- (d) **Belowground** storage facility means a tank or other container located other than as defined as "Aboveground".
- (e) **Discharge** includes, but is not limited to any spilling, leaking, pumping, pouring, emitting, emptying or dumping.
- (f) **Onshore Oil Storage Facility** means any facility (excluding motor vehicles and rolling stock) of any kind located in, on, or under, any land within the United States, other than submerged land.
- (g) **On-Scene Coordinator** is the single Federal representative designated pursuant to the National Oil and Hazardous Substances Pollution Contingency Plan and identified in approved Regional Oil and Hazardous Substances Pollution Contingency Plans.
- (h) **Oil** means oil of any kind or in any form, including but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil.
- (i) **Remove or removal** means the removal of the oil from the water and shorelines or the taking of such other actions as the Federal On-Scene Coordinator may determine to be necessary to minimize or mitigate damage to the public health or welfare, including but not limited to, fish, shellfish, wildlife, and public and private property, shorelines, and beaches.

Additionally, the terms not otherwise defined herein shall have the meanings assigned them by section 311(a) of the Act.

#### § 113.4 Size classes and associated liability limits for fixed onshore oil storage facilities, 1,000 barrels or less capacity.

Unless the United States can show that oil was discharged as a result of willful negligence or willful misconduct within the privity and knowledge of the owner or operator, the following limits of liability are established for fixed onshore facilities in the classes specified:

- (a) Aboveground storage.

Size class	Capacity (barrels)	Limit (dollars)
I	Up to 10	4,000
II	11 to 170	60,000
III	171 to 500	150,000

Size class	Capacity (barrels)	Limit (dollars)
IV	501 to 1,000	200,000

(b) Belowground storage.

Size class	Capacity (barrels)	Limit (dollars)
I	Up to 10	5,200
II	11 to 170	78,000
III	171 to 500	195,000
IV	501 to 1,000	260,000

### § 113.5 Exclusions.

This subpart does not apply to:

- (a) Those facilities whose average daily oil throughput is more than their fixed oil storage capacity.
- (b) Vehicles and rolling stock.

### § 113.6 Effect on other laws.

Nothing herein shall be construed to limit the liability of any facility under State or local law or under any Federal law other than section 311 of the Act, nor shall the liability of any facility for any charges or damages under State or local law reduce its liability to the Federal Government under section 311 of the Act, as limited by this subpart.