

Subpart E—Impact of the Proposed Dumping on Other Uses of the Ocean

§ 227.20 Basis for determination.

(a) Based on current state of the art, consideration must be given to any possible long-range effects of even the most innocuous substances when dumped in the ocean on a continuing basis. Such a consideration is made in evaluating the relationship of each proposed disposal activity in relationship to its potential for long-range impact on other uses of the ocean.

(b) An evaluation will be made on an individual basis for each proposed dumping of material of the potential for effects on uses of the ocean for purposes other than material disposal. The factors to be considered in this evaluation include those stated in subpart D, but the evaluation of this subpart E will be based on the impact of the proposed dumping on specific uses of the ocean rather than on overall esthetic, recreational and economic values.

§ 227.21 Uses considered.

An appraisal will be made of the nature and extent of existing and potential uses of the disposal site itself and of any areas which might reasonably be expected to be affected by the proposed dumping, and a quantitative and qualitative evaluation made, where feasible, of the impact of the proposed dumping on each use. The uses considered shall include, but not be limited to:

- (a) Commercial fishing in open ocean areas;
- (b) Commercial fishing in coastal areas;
- (c) Commercial fishing in estuarine areas;
- (d) Recreational fishing in open ocean areas;
- (e) Recreational fishing in coastal areas;
- (f) Recreational fishing in estuarine areas;
- (g) Recreational use of shorelines and beaches;
- (h) Commercial navigation;
- (i) Recreational navigation;
- (j) Actual or anticipated exploitation of living marine resources;
- (k) Actual or anticipated exploitation of non-living resources, includ-

ing without limitation, sand and gravel places and other mineral deposits, oil and gas exploration and development and offshore marine terminal or other structure development; and

- (l) Scientific research and study.

§ 227.22 Assessment of impact.

The assessment of impact on other uses of the ocean will consider both temporary and long-range effects within the state of the art, but particular emphasis will be placed on any irreversible or irretrievable commitment of resources that would result from the proposed dumping.

Subpart F—Special Requirements for Interim Permits Under Section 102 of the Act

§ 227.23 General requirement.

Each interim permit issued under section 102 of the Act will include a requirement for the development and implementation, as soon as practicable, of a plan which requires, at the discretion of the Administrator or Regional Administrator, as the case may be, either:

- (a) Elimination of ocean disposal of the waste, or
- (b) Bringing the waste into compliance with all the criteria for acceptable ocean disposal.

§ 227.24 Contents of environmental assessment.

A plan developed pursuant to this subpart F must include an environmental assessment of the proposed action, including without limitation:

- (a) Description of the proposed action;
- (b) A thorough review of the actual need for dumping;
- (c) Environmental impact of the proposed action;
- (d) Adverse impacts which cannot be avoided should the proposal be implemented;
- (e) Alternatives to the proposed action;
- (f) Relationship between short-term uses of man's environment and the maintenance and enhancement of long-term productivity;
- (g) Irreversible and irretrievable commitments of resources which would

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be involved in the proposed action should it be implemented; and

(h) A discussion of problems and objections raised by other Federal, State and local agencies and by interested persons in the review process.

§ 227.25 Contents of plans.

In addition to the environmental assessment required by § 227.24, a plan developed pursuant to this subpart F must include a schedule for eliminating ocean dumping or bringing the wastes into compliance with the environmental impact criteria of subpart B, including without limitation, the following:

(a) If the waste is treated to the degree necessary to bring it into compliance with the ocean dumping criteria, the applicant should provide a description of the treatment and a scheduled program for treatment and a subsequent analysis of treated material to prove the effectiveness of the process.

(b) If treatment cannot be effected by post-process techniques the applicant should, determining the offending constituents, examine his raw materials and his total process to determine the origin of the pollutant. If the offending constituents are found in the raw material the applicant should consider a new supplier and provide an analysis of the new material to prove compliance. Raw materials are to include all water used in the process. Water from municipal sources complying with drinking water standards is acceptable. Water from other sources such as private wells should be analyzed for contaminants. Water that has been used in the process should be considered for treatment and recycling as an additional source of process water.

(c) If offending constituents are a result of the process, the applicant should investigate and describe the source of the constituents. A report of this information will be submitted to EPA and the applicant will then submit a proposal describing possible alternatives to the existing process or processes and level of cost and effectiveness.

(d) If an acceptable alternative to ocean dumping or additional control technology is required, a schedule and documentation for implementation of

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the alternative or approved control process shall be submitted and shall include, without limitation:

- (1) Engineering plan;
- (2) Financing approval;
- (3) Starting date for change;
- (4) Completion date;
- (5) Operation starting date.

(e) If an acceptable alternative does not exist at the time the application is submitted, the applicant will submit an acceptable in-house research program or employ a competent research institution to study the problem. The program of research must be approved by the Administrator or Regional Administrator, as the case may be, before the initiation of the research. The schedule and documentation for implementation of a research program will include, without limitation:

- (1) Approaches;
- (2) Experimental design;
- (3) Starting date;
- (4) Reporting intervals;
- (5) Proposed completion date;
- (6) Date for submission of final report.

§ 227.26 Implementation of plans.

Implementation of each phase of a plan shall be initiated as soon as it is approved by the Administrator or Regional Administrator, as the case may be.

Subpart G—Definitions

§ 227.27 Limiting permissible concentration (LPC).

(a) The limiting permissible concentration of the liquid phase of a material is:

(1) That concentration of a constituent which, after allowance for initial mixing as provided in § 227.29, does not exceed applicable marine water quality criteria; or, when there are no applicable marine water quality criteria,

(2) That concentration of waste or dredged material in the receiving water which, after allowance for initial mixing, as specified in § 227.29, will not exceed a toxicity threshold defined as 0.01 of a concentration shown to be acutely toxic to appropriate sensitive marine organisms in a bioassay carried