

Environmental Protection Agency

§ 228.4

assigned responsibility for implementing the management functions identified in § 228.3.

(f) *Statistical significance* shall mean the statistical significance determined by using appropriate standard techniques of multivariate analysis with results interpreted at the 95 percent confidence level and based on data relating species which are present in sufficient numbers at control areas to permit a valid statistical comparison with the areas being tested.

(g) *Valuable commercial and recreational species* shall mean those species for which catch statistics are compiled on a routine basis by the Federal or State agency responsible for compiling such statistics for the general geographical area impacted, or which are under current study by such Federal or State agencies for potential development for commercial or recreational use.

(h) *Normal ambient value* means that concentration of a chemical species reasonably anticipated to be present in the water column, sediments, or biota in the absence of disposal activities at the disposal site in question.

§ 228.3 Disposal site management responsibilities.

(a) Management of a site consists of regulating times, rates, and methods of disposal and quantities and types of materials disposed of; developing and maintaining effective ambient monitoring programs for the site; conducting disposal site evaluation and designation studies; and recommending modifications in site use and/or designation (e.g., termination of use of the site for general use or for disposal of specific wastes).

(b) Each site, upon interim or final designation, will be assigned to either an EPA Regional office or to EPA Headquarters for management. These designations will be consistent with the delegation of authority in § 220.4. The designated management authority is fully responsible for all aspects of the management of sites within the general requirements specified in § 220.4 and this section. Specific requirements for meeting the management responsibilities assigned to the designated

management authority for each site are outlined in §§ 228.5 and 228.6.

[42 FR 2482, Jan. 11, 1977, as amended at 59 FR 61129, Nov. 29, 1994]

§ 228.4 Procedures for designation of sites.

(a) *General Permits*. Geographical areas or regions within which materials may be dumped under a general permit will be published as part of the promulgation of each general permit.

(b) *Special and Interim Permits*. Areas where ocean dumping is permitted subject to the specific conditions of individual special or interim permits, will be designated by promulgation in this part 228, and such designation will be made based on environmental studies of each site, regions adjacent to the site, and on historical knowledge of the impact of waste disposal on areas similar to such sites in physical, chemical, and biological characteristics. All studies for the evaluation and potential selection of dumping sites will be conducted in accordance with the requirements of §§ 228.5 and 228.6.

The Administrator may, from time to time, designate specific locations for temporary use for disposal of small amounts of materials under a special permit only without disposal site designation studies when such materials satisfy the Criteria and the Administrator determines that the quantities to be disposed of at such sites will not result in significant impact on the environment. Such designations will be done by promulgation in this part 228, and will be for a specified period of time and for specified quantities of materials.

(c) *Emergency Permits*. Dumping sites for materials disposed of under an emergency permit will be specified by the Administrator as a permit condition and will be based on an individual appraisal of the characteristics of the waste and the safest means for its disposal.

(d) *Research Permits*. Dumping sites for research permits will be determined by the nature of the proposed study. Dumping sites will be specified by the Administrator as a permit condition.

(e) *Dredged Material Permits*. (1) Areas where ocean dumping of dredged material is permitted subject to the specific

§ 228.5

40 CFR Ch. I (7-1-04 Edition)

conditions of Dredged Material permits issued by the U.S. Army Corps of Engineers will be designated by EPA promulgation in this part 228, and such designation will be made based on environmental studies of each site, regions adjacent to the site, and on historical knowledge of the impact of dredged material disposal on areas similar to such sites in physical, chemical, and biological characteristics. All studies for the evaluation and potential selection of dredged material disposal sites will be conducted in accordance with the appropriate requirements of §§ 228.5 and 228.6, except that:

(i) Baseline or trend assessment requirements may be developed on a case-by-case basis from the results of research, including that now in progress by the Corps of Engineers.

(ii) An environmental impact assessment for all sites within a particular geographic area may be prepared based on complete disposal site designation or evaluation studies on a typical site or sites in that area. In such cases, sufficient studies to demonstrate the generic similarity of all sites within such a geographic area will be conducted.

(2) In those cases where a recommended disposal site has not been designated by the Administrator, or where it is not feasible to utilize a recommended disposal site that has been designated by the Administrator, the District Engineer shall, in consultation with EPA, select a site in accordance with the requirements of §§ 228.5 and 228.6(a). Concurrence by EPA in permits issued for the use of such site for the dumping of dredged material at the site will constitute EPA approval of the use of the site for dredged material disposal only.

(3) Sites designated for the ocean dumping of dredged material in accordance with the procedures of paragraph (e) (1) or (2) of this section shall be used only for the ocean dumping of dredged material under permits issued by the U.S. Army Corps of Engineers.

§ 228.5 General criteria for the selection of sites.

(a) The dumping of materials into the ocean will be permitted only at sites or in areas selected to minimize the interference of disposal activities with

other activities in the marine environment, particularly avoiding areas of existing fisheries or shellfisheries, and regions of heavy commercial or recreational navigation.

(b) Locations and boundaries of disposal sites will be so chosen that temporary perturbations in water quality or other environmental conditions during initial mixing caused by disposal operations anywhere within the site can be expected to be reduced to normal ambient seawater levels or to undetectable contaminant concentrations or effects before reaching any beach, shoreline, marine sanctuary, or known geographically limited fishery or shellfishery.

(c) If at any time during or after disposal site evaluation studies, it is determined that existing disposal sites presently approved on an interim basis for ocean dumping do not meet the criteria for site selection set forth in §§ 228.5 through 228.6, the use of such sites will be terminated as soon as suitable alternate disposal sites can be designated.

(d) The sizes of ocean disposal sites will be limited in order to localize for identification and control any immediate adverse impacts and permit the implementation of effective monitoring and surveillance programs to prevent adverse long-range impacts. The size, configuration, and location of any disposal site will be determined as a part of the disposal site evaluation or designation study.

(e) EPA will, wherever feasible, designate ocean dumping sites beyond the edge of the continental shelf and other such sites that have been historically used.

§ 228.6 Specific criteria for site selection.

(a) In the selection of disposal sites, in addition to other necessary or appropriate factors determined by the Administrator, the following factors will be considered:

(1) Geographical position, depth of water, bottom topography and distance from coast;

(2) Location in relation to breeding, spawning, nursery, feeding, or passage areas of living resources in adult or juvenile phases;