

Subpart A—General**§ 227.1 Applicability.**

(a) Section 102 of the Act requires that criteria for the issuance of ocean disposal permits be promulgated after consideration of the environmental effect of the proposed dumping operation, the need for ocean dumping, alternatives to ocean dumping, and the effect of the proposed action on esthetic, recreational and economic values and on other uses of the ocean. These parts 227 and 228 of this subchapter H together constitute the criteria established pursuant to section 102 of the Act. The decision of the Administrator, Regional Administrator or the District Engineer, as the case may be, to issue or deny a permit and to impose specific conditions on any permit issued will be based on an evaluation of the permit application pursuant to the criteria set forth in this part 227 and upon the requirements for disposal site management pursuant to the criteria set forth in part 228 of this subchapter H.

(b) With respect to the criteria to be used in evaluating disposal of dredged materials, this section and subparts C, D, E, and G apply in their entirety. To determine whether the proposed dumping of dredged material complies with subpart B, only §§ 227.4, 227.5, 227.6, 227.9, 227.10 and 227.13 apply. An applicant for a permit to dump dredged material must comply with all of subparts C, D, E, G and applicable sections of B, to be deemed to have met the EPA criteria for dredged material dumping promulgated pursuant to section 102(a) of the Act. If, in any case, the Chief of Engineers finds that, in the disposition of dredged material, there is no economically feasible method or site available other than a dumping site, the utilization of which would result in noncompliance with the criteria established pursuant to subpart B relating to the effects of dumping or with the restrictions established pursuant to section 102(c) of the Act relating to critical areas, he shall so certify and request that the Secretary of the Army seek a waiver from the Administrator pursuant to part 225.

(c) The Criteria of this part 227 are established pursuant to section 102 of

the Act and apply to the evaluation of proposed dumping of materials under title I of the Act. The Criteria of this part 227 deal with the evaluation of proposed dumping of materials on a case-by-case basis from information supplied by the applicant or otherwise available to EPA or the Corps of Engineers concerning the characteristics of the waste and other considerations relating to the proposed dumping.

(d) After consideration of the provisions of §§ 227.28 and 227.29, no permit will be issued when the dumping would result in a violation of applicable water quality standards.

§ 227.2 Materials which satisfy the environmental impact criteria of subpart B.

(a) If the applicant satisfactorily demonstrates that the material proposed for ocean dumping satisfies the environmental impact criteria set forth in subpart B, a permit for ocean dumping will be issued unless:

(1) There is no need for the dumping, and alternative means of disposal are available, as determined in accordance with the criteria set forth in subpart C; or

(2) There are unacceptable adverse effects on esthetic, recreational or economic values as determined in accordance with the criteria set forth in subpart D; or

(3) There are unacceptable adverse effects on other uses of the ocean as determined in accordance with the criteria set forth in subpart E.

(b) If the material proposed for ocean dumping satisfies the environmental impact criteria set forth in subpart B, but the Administrator or the Regional Administrator, as the case may be, determines that any one of the considerations set forth in paragraph (a)(1), (2) or (3) of this section applies, he will deny the permit application; provided however, that he may issue an interim permit for ocean dumping pursuant to paragraph (d) of § 220.3 and subpart F of this part 227 when he determines that:

(1) The material proposed for ocean dumping does not contain any of the materials listed in § 227.5 or listed in § 227.6, except as trace contaminants; and

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(2) In accordance with subpart C there is a need to ocean dump the material and no alternatives are available to such dumping; and

(3) The need for the dumping and the unavailability of alternatives, as determined in accordance with subpart C, are of greater significance to the public interest than the potential for adverse effect on esthetic, recreational or economic values, or on other uses of the ocean, as determined in accordance with subparts D and E, respectively.

§ 227.3 Materials which do not satisfy the environmental impact criteria set forth in subpart B.

If the material proposed for ocean dumping does not satisfy the environmental impact criteria of subpart B, the Administrator or the Regional Administrator, as the case may be, will deny the permit application; provided however, that he may issue an interim permit pursuant to paragraph (d) of § 220.3 and subpart F of this part 227 when he determines that:

(a) The material proposed for dumping does not contain any of the materials listed in § 227.6 except as trace contaminants, or any of the materials listed in § 227.5;

(b) In accordance with subpart C there is a need to ocean dump the material; and

(c) Any one of the following factors is of greater significance to the public interest than the potential for adverse impact on the marine environment, as determined in accordance with Subpart B:

(1) The need for the dumping, as determined in accordance with subpart C; or

(2) The adverse effects of denial of the permit on recreational or economic values as determined in accordance with subpart D; or

(3) The adverse effects of denial of the permit on other uses of the ocean, as determined in accordance with subpart E.

Subpart B—Environmental Impact

§ 227.4 Criteria for evaluating environmental impact.

This subpart B sets specific environmental impact prohibitions, limits,

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and conditions for the dumping of materials into ocean waters. If the applicable prohibitions, limits, and conditions are satisfied, it is the determination of EPA that the proposed disposal will not unduly degrade or endanger the marine environment and that the disposal will present:

(a) No unacceptable adverse effects on human health and no significant damage to the resources of the marine environment;

(b) No unacceptable adverse effect on the marine ecosystem;

(c) No unacceptable adverse persistent or permanent effects due to the dumping of the particular volumes or concentrations of these materials; and

(d) No unacceptable adverse effect on the ocean for other uses as a result of direct environmental impact.

§ 227.5 Prohibited materials.

The ocean dumping of the following materials will not be approved by EPA or the Corps of Engineers under any circumstances:

(a) High-level radioactive wastes as defined in § 227.30;

(b) Materials in whatever form (including without limitation, solids, liquids, semi-liquids, gases or organisms) produced or used for radiological, chemical or biological warfare;

(c) Materials insufficiently described by the applicant in terms of their compositions and properties to permit application of the environmental impact criteria of this subpart B;

(d) Persistent inert synthetic or natural materials which may float or remain in suspension in the ocean in such a manner that they may interfere materially with fishing, navigation, or other legitimate uses of the ocean.

§ 227.6 Constituents prohibited as other than trace contaminants.

(a) Subject to the exclusions of paragraphs (f), (g) and (h) of this section, the ocean dumping, or transportation for dumping, of materials containing the following constituents as other than trace contaminants will not be approved on other than an emergency basis:

(1) Organohalogen compounds;

(2) Mercury and mercury compounds;