

§ 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;
- (3) Cadmium and cadmium compounds;
- (4) Oil of any kind or in any form, including but not limited to petroleum, oil sludge, oil refuse, crude oil, fuel oil, heavy diesel oil, lubricating oils, hydraulic fluids, and any mixtures containing these, transported for the purpose of dumping insofar as these are not regulated under the FWPCA;

(5) Known carcinogens, mutagens, or teratogens or materials suspected to be carcinogens, mutagens, or teratogens by responsible scientific opinion.

(b) These constituents will be considered to be present as trace contaminants only when they are present in materials otherwise acceptable for ocean dumping in such forms and amounts in liquid, suspended particulate, and solid phases that the dumping of the materials will not cause significant undesirable effects, including the possibility of danger associated with their bioaccumulation in marine organisms.

(c) The potential for significant undesirable effects due to the presence of these constituents shall be determined by application of results of bioassays on liquid, suspended particulate, and solid phases of wastes according to procedures acceptable to EPA, and for dredged material, acceptable to EPA and the Corps of Engineers. Materials shall be deemed environmentally acceptable for ocean dumping only when the following conditions are met:

(1) The liquid phase does not contain any of these constituents in concentrations which will exceed applicable marine water quality criteria after allowance for initial mixing; provided that mercury concentrations in the disposal site, after allowance for initial mixing, may exceed the average normal ambient concentrations of mercury in ocean

waters at or near the dumping site which would be present in the absence of dumping, by not more than 50 percent; and

(2) Bioassay results on the suspended particulate phase of the waste do not indicate occurrence of significant mortality or significant adverse sublethal effects due to the dumping of wastes containing the constituents listed in paragraph (a) of this section. These bioassays shall be conducted with appropriate sensitive marine organisms as defined in § 227.27(c) using procedures for suspended particulate phase bioassays approved by EPA, or, for dredged material, approved by EPA and the Corps of Engineers. Procedures approved for bioassays under this section will require exposure of organisms for a sufficient period of time and under appropriate conditions to provide reasonable assurance, based on consideration of the statistical significance of effects at the 95 percent confidence level, that, when the materials are dumped, no significant undesirable effects will occur due to chronic toxicity of the constituents listed in paragraph (a) of this section; and

(3) Bioassay results on the solid phase of the wastes do not indicate occurrence of significant mortality or significant adverse sublethal effects due to the dumping of wastes containing the constituents listed in paragraph (a) of this section. These bioassays shall be conducted with appropriate sensitive benthic marine organisms using benthic bioassay procedures approved by EPA, or, for dredged material, approved by EPA and the Corps of Engineers. Procedures approved for bioassays under this section will require exposure of organisms for a sufficient period of time to provide reasonable assurance, based on considerations of statistical significance of effects at the 95 percent confidence level, that, when the materials are dumped, no significant undesirable effects will occur due either to chronic toxicity or to bioaccumulation of the constituents listed in paragraph (a) of this section; and

(4) For persistent organohalogen not included in the applicable marine water quality criteria, bioassay results on the liquid phase of the waste show

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that such compounds are not present in concentrations large enough to cause significant undesirable effects due either to chronic toxicity or to bioaccumulation in marine organisms after allowance for initial mixing.

(d) When the Administrator, Regional Administrator or District Engineer, as the case may be, has reasonable cause to believe that a material proposed for ocean dumping contains compounds identified as carcinogens, mutagens, or teratogens for which criteria have not been included in the applicable marine water quality criteria, he may require special studies to be done prior to issuance of a permit to determine the impact of disposal on human health and/or marine ecosystems. Such studies must provide information comparable to that required under paragraph (c)(3) of this section.

(e) The criteria stated in paragraphs (c)(2) and (3) of this section are mandatory. The availability of acceptable procedures was announced in the FEDERAL REGISTER in 1991 and 1996.

(f) The prohibitions and limitations of this section do not apply to the constituents identified in paragraph (a) of this section when the applicant can demonstrate that such constituents are (1) present in the material only as chemical compounds or forms (e.g., inert insoluble solid materials) non-toxic to marine life and non-bioaccumulative in the marine environment upon disposal and thereafter, or (2) present in the material only as chemical compounds or forms which, at the time of dumping and thereafter, will be rapidly rendered non-toxic to marine life and non-bioaccumulative in the marine environment by chemical or biological degradation in the sea; provided they will not make edible marine organisms unpalatable; or will not endanger human health or that of domestic animals, fish, shellfish, or wildlife.

(g) The prohibitions and limitations of this section do not apply to the constituents identified in paragraph (a) of this section for the granting of research permits if the substances are rapidly rendered harmless by physical, chemical or biological processes in the sea; provided they will not make edible marine organisms unpalatable and will

not endanger human health or that of domestic animals.

(h) The prohibitions and limitations of this section do not apply to the constituents identified in paragraph (a) of this section for the granting of permits for the transport of these substances for the purpose of incineration at sea if the applicant can demonstrate that the stack emissions consist of substances which are rapidly rendered harmless by physical, chemical or biological processes in the sea. Incinerator operations shall comply with requirements which will be established on a case-by-case basis.

[42 FR 2476, Jan. 11, 1977; 43 FR 1071, Jan. 6, 1978, as amended at 59 FR 26572, May 20, 1994; 59 FR 52652, Oct. 18, 1994; 73 FR 74987, Dec. 10, 2008]

§ 227.7 Limits established for specific wastes or waste constituents.

Materials containing the following constituents must meet the additional limitations specified in this section to be deemed acceptable for ocean dumping:

(a) Liquid waste constituents immiscible with or slightly soluble in seawater, such as benzene, xylene, carbon disulfide and toluene, may be dumped only when they are present in the waste in concentrations below their solubility limits in seawater. This provision does not apply to materials which may interact with ocean water to form insoluble materials;

(b) Radioactive materials, other than those prohibited by § 227.5, must be contained in accordance with the provisions of § 227.11 to prevent their direct dispersion or dilution in ocean waters;

(c) Wastes containing living organisms may not be dumped if the organisms present would endanger human health or that of domestic animals, fish, shellfish and wildlife by:

(1) Extending the range of biological pests, viruses, pathogenic microorganisms or other agents capable of infesting, infecting or extensively and permanently altering the normal populations of organisms;

(2) Degrading uninfected areas; or

(3) Introducing viable species not indigenous to an area.