

1200 Pennsylvania Avenue NW.,  
Washington, DC 20460.

**SUPPLEMENTARY INFORMATION:** Requests to make brief oral comments or provide written statements to the FRRCC should be sent to Donna Perla, Acting Designated Federal Officer, at the contact information above. All requests must be submitted no later than May 18, 2016, at the contact information above.

*Meeting Access:* For information on access or services for individuals with disabilities, please contact Donna Perla at 202-564-0184 or [perla.donna@epa.gov](mailto:perla.donna@epa.gov). To request accommodation of a disability, please contact Donna Perla, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: April 19, 2016.

**Donna Perla,**

*Acting Designated Federal Officer.*

[FR Doc. 2016-09733 Filed 4-25-16; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OW-2016-0150; FRL-9945-67-OW]

### General Permit for Ocean Disposal of Marine Mammal Carcasses

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of availability of proposed general permit.

**SUMMARY:** The Environmental Protection Agency (EPA) proposes to issue a general permit to authorize any officer, employee, agent, department, agency, or instrumentality of federal, state, tribal, or local unit of government, as well as any Marine Mammal Health and Stranding Response Program (MMHSRP) Stranding Agreement Holder, and any Alaska Native subsistence user to transport from the United States and dispose of marine mammal carcasses in ocean waters. EPA's purpose in proposing a general permit is to expedite required authorizations that otherwise currently require the issuance of an emergency permit for the ocean disposal of marine mammal carcasses. EPA also proposes permit terms that would apply for at sea disposal of marine mammal carcasses generally by governmental entities (and MMHSRP Agreement Holders), as well as by Alaska Native subsistence users based on circumstances specific to the remote locations of such disposals. The EPA invites public comment on all aspects of this proposed general permit.

**DATES:** Comments must be received on or before June 27, 2016.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OW-2016-0150, to the *Federal eRulemaking Portal*: <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

#### FOR FURTHER INFORMATION CONTACT:

Brian Rappoli, Ocean and Coastal Protection Division, Office of Water, 4504T, Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number: 202-566-1548; fax number: 202-566-1546; email address: [rappoli.brian@epa.gov](mailto:rappoli.brian@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

###### A. Does this action apply to me?

The proposed general permit would apply to any officer, employee, agent, department, agency, or instrumentality of federal, state, tribal, or local unit of government, as well as any MMHSRP Stranding Agreement Holder, and any Alaska Native subsistence user that transports from the United States and disposes of marine mammal carcasses in ocean waters.

###### B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through [www.regulations.gov](http://www.regulations.gov) or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or

CD ROM the specific information that is claimed as CBI). In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

##### II. Federal Law and International Conventions

The EPA proposes general terms of authorization under Title I of the Marine Protection, Research, and Sanctuaries Act (MPRSA), sometimes referred to as the Ocean Dumping Act, for the ocean disposal of the marine mammal carcasses. The term "marine mammal" would mean any mammal that is morphologically adapted to the marine environment (including sea otters and members of the orders Sirenia, Pinnipedia, and Cetacea), or primarily inhabits the marine environment (*e.g.*, polar bears). Other than Alaska Native subsistence users, EPA does not anticipate that ocean disposal would be necessary for marine mammal carcasses except in unusual circumstances, such as (1) beached whale carcasses and (2) after mass strandings of other marine mammals.

Transportation for the purpose of disposal of any material in the ocean requires authorization under the

MPRSA. In the past, the EPA has permitted the ocean disposal of cetacean (whales and related species) and pinniped (seals and related species) carcasses on a case-by-case basis, with emergency permits. The terms of this proposed general permit are based on the EPA's past emergency permitting and will enable more timely authorization of such ocean disposals. The general permit will apply to the transport of marine mammal carcasses from the United States for the purpose of ocean disposal.

Living marine mammals are protected by federal law, including the Marine Mammal Protection Act (MMPA), the Endangered Species Act, and the Whaling Convention Act (WCA), and international conventions, including the International Convention for the Regulation of Whaling, which established the International Whaling Commission (IWC), and the Convention on International Trade in Endangered Species of Wild Fauna and Flora. Although the proposed general permit would apply only to animal carcasses, certain IWC regulations are nevertheless relevant. Specifically, IWC regulations recognize that indigenous or aboriginal subsistence whaling is not the same as the commercial whaling that is subject to the IWC's whaling moratorium. As relevant to subsistence whaling in the United States, the IWC sets catch limits for the Western Arctic stock of bowhead whales based upon the needs of Native hunters in Alaskan villages. The hunt is managed cooperatively by the National Marine Fisheries Service (NMFS) and the Alaska Eskimo Whaling Commission under the WCA and the MMPA.

The MMHSRP of the NMFS and MMHSRP Stranding Agreement Holders are provided authority under this general permit because Stranding Agreement Holders are authorized to take marine mammals subject to the provisions of the MMPA (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), the Regulations Governing the Taking, Importing, and Exporting of Endangered and Threatened Fish and Wildlife (50 CFR parts 222 through 226), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*). As such, MMHSRP Stranding Agreement Holders may have a need for ocean disposal should stranded marine mammals die.

### III. Strandings and Beachings

Marine mammals that have died or have become sick or injured reach the ocean shoreline by a variety of

mechanisms. One such mechanism is beaching, which involves a marine mammal carcass being driven ashore by currents or winds. Alternatively, single or multiple strandings of live marine mammal(s) may occur with the subsequent death of the animal(s). In most stranding cases, the causes of marine mammal strandings are unknown, but some identified causes include: disease, parasite infestation, harmful algal blooms, injuries due to ship strikes, fishery entanglements, pollution exposure, unusual weather or oceanographic events, trauma, and starvation. While many cetaceans and pinnipeds die every year, most carcasses never reach the coast; rather, the carcasses are consumed by other organisms or decompose sufficiently to sink to the ocean bottom where, depending upon the size of the carcass, they may form the basis of an "organic fall" (*e.g.*, kelp, wood, and whale falls) ecosystem.

Stranding or beaching events may pose a risk to public health due to the potential for transfer to the public of communicable diseases (*e.g.*, brucellosis, poxvirus and Mycobacteriosis) from cetacean or pinniped carcasses. Cetacean or pinniped carcasses present a significant disposal concern due not only to the size of some carcasses but also due to the frequency with which carcasses reach the shoreline. For example, between February 2010 and February 2014, over 1000 cetacean carcasses were found along the coast of the northern Gulf of Mexico.

### IV. Hazard to Navigation

Floating carcasses near shore (*e.g.*, in a harbor) also may pose a hazard to navigation. Per regulations promulgated by the Army Corps of Engineers, at 33 CFR 245.20, the determination of a navigation hazard is made jointly by the Army Corps of Engineers and the U.S. Coast Guard (USCG). If such a determination is made, the Army Corps of Engineers determines appropriate remedial action as described in § 245.25, which may include removal of the carcass(es). Permit authorization to transport for the purpose of ocean disposal proposed today would be available if the removal operation requires ocean disposal of such carcasses.

### V. Disposal and Management Options

Generally available options for marine mammal carcass disposal and management include: allowing the carcass(es) to decompose in place; burial in place; transportation to a landfill; incineration; and towing to sea

for ocean disposal. Additional disposal options, such as rendering, composting, and alkaline hydrolysis, would depend on the availability of appropriate facilities. Selection of an option will depend upon factors such as carcass size, number of carcasses, and/or location. This proposed general permit concerns only the towing to sea for ocean disposal option.

#### A. In-Place Decomposition

Allowing a carcass to decompose in place may be an acceptable option if the location of the carcass is on a remote portion of the shoreline that is sufficiently distant from population centers so that the carcass does not pose a risk for public health and animal health, or result in unacceptable olfactory or visual aesthetic impacts. This option may be the most practical when the carcass is located in an area that is inaccessible to heavy equipment, thereby making other options, such as burying in place or moving to a landfill, infeasible.

#### B. In-Place and Landfill Burial

Burial of a carcass has been used as a disposal option, especially when the carcass is located near population centers or near areas used for recreational activities. A carcass may be buried near where the animal strands or beaches, usually above the high water mark, or transported inland for disposal, for example, at a municipal landfill. Disposal by trench burial involves excavating a trough, placing the carcass in the trench, and covering the carcass with the excavated material. The burial disposal option depends on the availability of appropriate excavation equipment but may be limited by potential environmental damage (*e.g.*, destruction of dunes, beach grass, or nesting sites) caused by the transportation and operation of excavation equipment. While burial may be a cost-effective option for carcass disposal, it may not necessarily eliminate disease agents and disease transmission vectors that may be present, consequently posing a potential risk to human health and animal health.

#### C. Incineration

The incineration option for carcass disposal, which includes both open-air burning and fixed-facility incineration, offers an advantage in terms of pathogen destruction. However, due to the high water content of marine mammal carcasses, incineration costs may limit this option to small carcasses. While open-air burning of carcasses may yield a relatively benign ash, the amount of particulate matter and pyrogenic

compounds released to the atmosphere by open-air burning may be significant and may require authorization (or may be prohibited) under state or local air pollution control laws. Additionally, the EPA presumes that open-air burning may require the use of hydrocarbon fuels, which could result in contamination of the underlying soil. Fixed-facility incinerators, which include small and large incineration facilities, crematoria, and power plant incinerators, offer the advantage of being regulated facilities that meet local and/or federal emission standards; however, the use of the fixed-facility option depends upon the transportability of the carcass.

#### D. Ocean Disposal

Sometimes, the only available carcass disposal option is towing to sea for ocean disposal. Ocean disposal may be appropriate after consideration and exhaustion of land-based alternatives provided that an acceptable ocean dumping site can be identified, for example, where the release point is sufficiently far offshore that currents and winds will not return the carcass to shore, and the carcass will not pose a hazard to navigation. Positive buoyancy of the carcass may occur, depending on the time elapsed, due to the natural progression of the decomposition process. Consequently, appropriate carcass preparation (e.g., attachment of weights) may be required if a determination is made that the carcass must be sunk, rather than released, at the identified ocean disposal site.

#### VI. Potential Consequences of Marine Mammal Carcass Disposal in the Ocean

Most deep-sea benthic ecosystems are organic-carbon limited and, in many cases, are dependent upon organic matter from surface waters. A sunken carcass provides a large load of organic carbon to the sea floor. These local enrichments of the sea floor result in the establishment of specialized assemblages. Large organic falls occur naturally on the sea floor. Over 20 macro faunal species are known to exclusively inhabit the microenvironment formed by large organic falls and over 30 other macro faunal species are known to inhabit these sites.

The deep-sea benthic ecosystem response to whale falls has been the subject of scientific study and several stages of succession have been observed in the assemblages. The duration of these stages varies greatly with carcass size. The first stage is marked by the formation of bathyal scavenger assemblages that include hagfishes,

sleeper sharks, crabs, and amphipods. During the second stage, sediments surrounding the carcass, which have become enriched with organic carbon, become colonized by high densities of worms (e.g., Dorvilleidae, Chrysopetalidae). Once the consumption of soft tissue is complete, decomposition proceeds dominantly via anaerobic microbial digestion of bone lipids. The efflux of sulfides from the bones may, depending upon the size of the skeleton, provide for the formation of chemoautotrophic assemblages, which is the third stage of succession. These chemoautotrophic assemblages consist of organisms such as heterotrophic bacteria, mussels, snails, worms, limpets, and amphipods.

Considering the available scientific information on organic falls, the EPA finds that the potential effects of carcass disposal are minimal for the following reasons: (1) Except for happenstance, cetacean and pinniped carcasses would sink to the ocean floor rather than wash ashore; (2) the formation of an organic fall is a naturally occurring phenomenon with no known adverse environmental impacts; and (3) towing or other transportation of a carcass to sea for ocean disposal, when other disposal options are not viable, presents a minimal perturbation to a naturally occurring phenomenon.

The EPA's findings are consistent with the statutory considerations applicable to permit issuance under the MPRSA because: the general permit requires consideration of land-based alternatives; carcass disposal will not significantly affect human health, fisheries resources, or marine ecosystems; and carcass disposal will not result in permanent effects.

#### VII. Regulatory Background

MPRSA Section 102(a)(1), 33 U.S.C. 1412(a)(1), requires that any person obtain a permit to transport any material from the United States for the purpose of dumping into ocean waters; section 102(a)(2) requires agencies or instrumentalities of the United States to obtain a permit in order to transport any material from any location for the purpose of ocean dumping. MPRSA Section 104(c), 33 U.S.C. 1414(c), and the EPA regulations at 40 CFR 220.3(a) authorize the issuance of a general permit under the MPRSA for the dumping of materials which have a minimal adverse environmental impact and are generally disposed of in small quantities. The towing (or other transportation) of a marine mammal carcass by any person for disposal at sea constitutes transportation of material for the purpose of dumping in ocean

waters, and thus is subject to the MPRSA. Because the material to be disposed would consist of the carcass or carcasses, there would be no materials present that are prohibited by 40 CFR 227.5.

#### VIII. Consideration of Alaska Native Subsistence Users

The proposed general permit includes specific considerations that would apply to Alaska Native subsistence users. For purposes of this proposed general permit, EPA intends the term "Alaska Native subsistence user" to be based on the statutory term defined at 16 U.S.C. 1371(b) that refers to "any Indian, Aleut, or Eskimo who resides in Alaska and who dwells on the coast of the North Pacific Ocean or the Arctic Ocean" who takes a marine mammal for subsistence purposes or for purposes of creating and selling authentic native articles of handicrafts and clothing and provided such taking is not in a wasteful manner.

The proposed general permit considers ocean disposal of marine mammal carcasses by an Alaska Native subsistence user for two reasons. First, marine mammals are generally abundant and widely distributed throughout coastal Alaska and Alaska Natives depend upon these natural resources for many customary and traditional uses. Collectively, these customary and traditional uses (e.g., food, clothing) are referred to as "subsistence uses." Alaska Native subsistence use of marine mammals has been ongoing for thousands of years. More recently, the United States has recognized the importance of subsistence uses of marine mammals by Alaska Natives through enactment of the MMPA, which expressly exempts Alaska Native subsistence users from the general prohibition on "taking" marine mammals under certain circumstances (16 U.S.C. 1371(b)). Nonetheless, a potential by-product of such subsistence uses may be a need to transport and dispose, in ocean waters, marine mammal carcasses (or parts thereof) that have no further use for subsistence purposes.

Second, many coastal communities of Alaska Native subsistence users are in remote locations and thus face a time-critical public safety issue, for example, whenever a marine mammal carcass washes ashore near a village or town, or a marine mammal is harvested or salvaged and the carcass is hauled ashore near a village or town. Such carcasses may attract bears or other scavenger animals, which may increase the risk of human injury or mortality. For these reasons, it would be prudent

to expedite the removal and, if necessary, ocean disposal of such carcasses as soon as practical.

With these considerations in mind, the intent of the Alaska Native subsistence users-specific permit conditions (see Section B) is, to the maximum extent allowable, to avoid unnecessary interference with long-standing subsistence uses and traditional cultural practices, and to recognize the unique circumstances faced by Alaska Native subsistence users. In proposing this general permit, the EPA does not intend to change, alter or otherwise affect subsistence uses of marine mammals by Alaska Natives. Section B thus sets forth requirements designed to address these considerations while also complying with the MPRSA and the EPA's accompanying regulations at 40 CFR subchapter H. The primary differences between Sections A and B relate to federal agency concurrences, distance from land requirements for disposal, and reporting requirements.

To further clarify, the proposed general permit is not intended to and would not regulate: Any subsistence activities in Alaska, including hunting, harvesting, salvaging, hauling, dressing, butchering, distribution and consumption of marine mammals (or any other species used for subsistence purposes); the transportation and dumping of marine mammal carcasses on land, such as in whale boneyards or in inland waters (*i.e.*, waters that are landward of the baseline of the territorial sea, such as rivers, lakes and certain enclosed bays or harbors); or leaving marine mammal carcasses to decompose in place on sea ice (or in a hole or lead in the sea ice), where there is no transportation by vessel or other vehicle for the purpose of ocean dumping. The purpose of this proposed general permit would be to expedite required authorizations that otherwise currently require the issuance of an emergency permit for the ocean disposal of marine mammal carcasses.

## IX. Discussion

Considering the information presented in the previous section, EPA proposes to determine that the potential adverse environmental impacts of marine mammal carcass disposal at sea are minimal and that marine mammal carcasses often must be disposed of in emergency situations. As such, issuance of a general permit would be appropriate under the MPRSA.

Section A of the general permit that EPA proposes to issue today would be available to government entities and MMHSRP Stranding Agreement

Holders. Section A would authorize any officer, employee, agent, department, agency, or instrumentality of federal, state, tribal, or local unit of government, as well as any MMHSRP Stranding Agreement Holder, to transport and dispose of marine mammal carcasses in ocean waters. EPA proposes to require each such general permittee to consult with the MMHSRP of NMFS prior to initiating any ocean disposal activities; to consult with and to obtain concurrence from the applicable USCG District Office, NMFS Regional Office, and EPA Regional Office on selection of a disposal site, which must be at least three miles seaward of the baseline of the territorial sea; and to submit a report to the EPA on the ocean disposal activities.

Section B of the proposed general permit would authorize any Alaska Native subsistence user to transport and dispose of marine mammal carcasses in ocean waters. EPA proposes to require each general permittee authorized under Section B to select an ocean disposal site sufficiently far offshore so that currents and winds will not return the carcass to shore and the carcass will not pose a hazard to navigation; and to submit a report to the EPA on the ocean disposal activities. The proposed general permit would not require a statement of need and rationale for selecting ocean disposal rather than other disposal options under Section B based on a presumption that other disposal options are not likely available in remote Native Alaskan subsistence communities. Additionally, the proposed general permit would not specify a distance requirement under Section B based on a presumption that large tow vessels are not likely available in remote Native Alaskan subsistence communities. These presumptions are consistent with EPA's intention to avoid altering Alaska Native subsistence user practices in Alaska. The EPA invites comments on the appropriateness of such presumptions for ocean dumping of marine mammals under Section B.

## X. Statutory and Executive Order Reviews

### A. Paperwork Reduction Act

The information collection activities that would be required under this proposed general permit would be covered under the MPRSA Information Collection Request (ICR) that has been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act. The ICR document that the EPA prepared for all of MPRSA activities has been assigned EPA ICR number 0824.06. You can find

a copy of the ICR in the docket for this general permit, and it is briefly summarized here. The MPRSA ICR includes generalized estimates for respondent costs associated with possible future general permits including this one, but not specifically for this proposed general permit. Therefore, the estimated number of respondents and costs associated with this general permit are a subset of the total costs estimated in the ICR, and are significantly lower than the totals presented in the ICR due to the very simple reporting associated with this general permit.

Section 104(e) of the MPRSA authorizes EPA to collect information to ensure that ocean dumping is appropriately regulated and will not harm human health or the marine environment, based on applying the Ocean Dumping Criteria. To meet United States' reporting obligation under the London Convention, EPA also reports some of this information in the annual United States Ocean Dumping Report, which is sent to the International Maritime Organization.

*Respondents/affected entities:* any officer, employee, agent, department, agency, or instrumentality of federal, state, tribal, or local unit of government, as well as any MMHSRP Stranding Agreement Holder, and any Alaska Native subsistence user who disposes of a marine mammal carcass at sea would be affected by the general permit. Under this proposed general permit, respondents would not need to request a permit as they would already be covered under the general permit.

*Respondent's obligation to respond:* pursuant to 40 CFR 221.1 and 221.2, EPA requires all ocean dumping permit holders to supply the specified reporting information.

The number of respondents covered under the proposed general permit and associated costs can only be estimated at this time. Based on existing data of marine mammal ocean disposal requests, EPA would expect one to four responses per year under the provisions of Section A. Based upon the available data, EPA estimates that there will be 40 to 60 responses per year under the provisions of Section B.

*Frequency of response:* one or more disposal events could be included in a response.

Total estimated burden ranges from 3.75 to 15.00 hours per year and 30.00 to 45.00 hours per year under the requirements of Section A and Section B, respectively. Burden is defined at 5 CFR 1320.3(b).

Total estimated cost ranges from \$263.63 to \$1,054.50 per year and

\$2,109.00 to \$3,163.50 per year under the requirements of Section A and Section B, respectively.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9.

Submit your comments on the Agency's need for this information, the accuracy of the provided burden estimates and any suggested methods for minimizing respondent burden to the EPA using the docket identified at the beginning of this general permit. You may also send your ICR-related comments to OMB's Office of Information and Regulatory Affairs via email to [oir\\_a\\_submissions@omb.eop.gov](mailto:oir_a_submissions@omb.eop.gov), Attention: Desk Officer for the EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after receipt, OMB must receive comments no later than May 26, 2016. The EPA will respond to any ICR-related comments in the final general permit.

*B. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

This action has tribal implications. However, it will neither impose substantial direct compliance costs on federally recognized tribal governments, nor preempt tribal law. The proposed general permit has tribal implications because it may affect traditional practices of some tribes.

The EPA consulted with tribal officials under the EPA Policy on Consultation and Coordination with Indian Tribes early in the process of developing this general permit to allow them to have meaningful and timely input into its development.

On June 2, 2015, EPA mailed a Tribal Leader Notification letter with a consultation plan to all coastal tribes in the Lower 48 States and Alaska, who could be potentially impacted by the proposed general permit. EPA held two teleconferences on June 16th and 30th. Via teleconference and email, the Agency received input from three tribes: Aleutian Pribilof Island Association, Coquille tribe, and Trinidad Rancheria tribe. In addition, EPA coordinated with the Alaska Eskimo Whaling Commission through a briefing and discussion on July 17, 2015. Tribal concerns during consultation focused on the potential to impact traditional hunting and whaling practices, and providing coverage under the general permit to tribes.

After considering tribal input, EPA made certain changes to address tribal

concerns. The initial scope of the proposed general permit would have applied to only the at sea disposal of large carcasses (e.g., whales, walruses), from land, which have died and subsequently washed ashore or died after becoming stranded. Through additional outreach with Alaska Native villages, we learned that the initial scope of the general permit was inadequate for subsistence users; consequently, we broadened the scope to include all marine mammal carcasses. Additionally, coverage under the general permit was initially intended for state and municipal governments; however, based upon comments from two tribal representatives, coverage will be extended to all tribal governments.

Dated: April 18, 2016.

**Bill Long,**

*Acting Director, Oceans and Coastal Protection Division.*

**General Permit for Ocean Disposal of Marine Mammal Carcasses**

*A. General Requirements for Governmental Entities and Stranding Agreement Holders*

Except as provided in Section B below, any officer, employee, agent, department, agency, or instrumentalality of federal, state, tribal, or local unit of government, as well as any MMHSRP Stranding Agreement Holder, is hereby granted a general permit to transport and dispose of marine mammal carcasses in ocean waters subject to the following conditions:

1. The Permittee shall consult with the MMHSRP of NMFS prior to initiating any disposal activities.
2. A disposal site must be at least three miles seaward of the baseline from which the territorial sea is measured, as provided for in the Convention on the Territorial Sea and the Contiguous Zone. The Permittee shall consult with and obtain written concurrence (via email or letter) from the applicable USCG District Office, NMFS Regional Office, and EPA Regional Office on ocean disposal site selection. A fact sheet containing points of contact at USCG, NMFS, and EPA is available at <http://www.epa.gov/ocean-dumping/ocean-disposal-marine-mammal-carcasses>.
3. If a determination is made that the carcass must be sunk, rather than released at the disposal site, the transportation and dumping of any materials other than the materials necessary to ensure the sinking of the carcass are not authorized under this general permit and constitute a violation of the MPRSA. If materials are used to sink the carcass, the Permittee must consult with and obtain written concurrence (via email or letter) from the applicable EPA Regional Office on the selection of materials. Any materials described in 40 CFR 227.5 (prohibited materials) or 40 CFR 227.6 (constituents prohibited as other than trace amounts) may not be used.

4. The Permittee shall submit a report on the dumping activities authorized by this general permit to the applicable EPA Regional Office within 30 days after carcass disposal. This report shall include:

- a. A description of the carcass(es) disposed;
  - b. The date, time, and location (by latitude and longitude) at the degree of precision available to the person reporting the information, for example, locational technology available on board the tow vessel used for ocean disposal;
  - c. The name, title, affiliation, and contact information of the person in charge of the disposal operation and the person in charge of the vessel or vehicle that transported the carcass (if different than the person in charge of the disposal);
  - d. A statement of need and rationale for selecting ocean disposal rather than other disposal options; and
  - e. Copies of correspondence from USCG and NMFS that indicate their concurrence on the selection of the disposal site.
5. The Permittee shall immediately notify EPA of any violation of any condition of this general permit.

*B. Requirements for Alaska Native Subsistence Users*

Notwithstanding Section A, any Alaska Native subsistence user is hereby granted a general permit to transport and dispose of marine mammal carcasses in ocean waters subject to the following conditions:

1. The Permittee shall submit a report on the dumping activities authorized by this general permit to EPA Region 10 within 30 days after disposal of a carcass. This report shall include:
  - a. A description of the carcass(es) disposed;
  - b. The date, time, and location (by latitude and longitude) at the degree of precision available to the person reporting the information, for example, locational technology available on board the tow vessel used for ocean disposal; and
  - c. The name and contact information of the person in charge of the disposal and the person in charge of the vessel or vehicle that transported the carcass (if different from the person in charge of the disposal).
2. Marine mammal carcasses must be towed or otherwise transported to a site offshore where currents and winds will not return the carcass to shore and the carcass will not pose a hazard to navigation.

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**ENVIRONMENTAL PROTECTION AGENCY**

[FRL-9931-87-OEI]

**Cross-Media Electronic Reporting: Authorized Program Revision Approval, State of Kansas**

**AGENCY:** Environmental Protection Agency (EPA).