

1412(c) of this title. Disposal at or in the vicinity of an alternative site shall be limited to a period of not greater than 5 years unless the site is subsequently designated pursuant to section 1412(c) of this title; except that an alternative site may continue to be used for an additional period of time that shall not exceed 5 years if—

(1) no feasible disposal site has been designated by the Administrator;

(2) the continued use of the alternative site is necessary to maintain navigation and facilitate interstate or international commerce; and

(3) the Administrator determines that the continued use of the site does not pose an unacceptable risk to human health, aquatic resources, or the environment.

(c) Concurrence by Administrator

(1) Notification

Prior to issuing a permit to any person under this section, the Secretary shall first notify the Administrator of the Secretary's intention to do so and provide necessary and appropriate information concerning the permit to the Administrator. Within 30 days of receiving such information, the Administrator shall review the information and request any additional information the Administrator deems necessary to evaluate the proposed permit.

(2) Concurrence by Administrator

Within 45 days after receiving from the Secretary all information the Administrator considers to be necessary to evaluate the proposed permit, the Administrator shall, in writing, concur with (either entirely or with conditions) or decline to concur with the determination of the Secretary as to compliance with the criteria, conditions, and restrictions established pursuant to sections 1412(a) and 1412(c) of this title relating to the environmental impact of the permit. The Administrator may request one 45-day extension in writing and the Secretary shall grant such request on receipt of the request.

(3) Effect of concurrence

In any case where the Administrator makes a determination to concur (with or without conditions) or to decline to concur within the time period specified in paragraph (2) the determination shall prevail. If the Administrator declines to concur in the determination of the Secretary no permit shall be issued. If the Administrator concurs with conditions the permit shall include such conditions. The Administrator shall state in writing the reasons for declining to concur or for the conditions of the concurrence.

(4) Failure to act

If no written documentation is made by the Administrator within the time period provided for in paragraph (2), the Secretary may issue the permit.

(5) Compliance with criteria and restrictions

Unless the Administrator grants a waiver pursuant to subsection (d), any permit issued by the Secretary shall require compliance with such criteria and restrictions.

(d) Waiver of requirements

If, in any case, the Secretary 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 non-compliance with the criteria established pursuant to section 1412(a) of this title relating to the effects of dumping or with the restrictions established pursuant to section 1412(c) of this title relating to critical areas, he shall so certify and request a waiver from the Administrator of the specific requirements involved. Within thirty days of the receipt of the waiver request, unless the Administrator finds that the dumping of the material will result in an unacceptably adverse impact on municipal water supplies, shell-fish beds, wildlife, fisheries (including spawning and breeding areas), or recreational areas, he shall grant the waiver.

(e) Federal projects involving dredged material

In connection with Federal projects involving dredged material, the Secretary may, in lieu of the permit procedure, issue regulations which will require the application to such projects of the same criteria, other factors to be evaluated, the same procedures, and the same requirements which apply to the issuance of permits under subsections (a), (b), (c), and (d) of this section and section 1414(a) and (d) of this title.

(Pub. L. 92-532, title I, §103, Oct. 23, 1972, 86 Stat. 1055; Pub. L. 102-580, title V, §§504, 506(b), Oct. 31, 1992, 106 Stat. 4866, 4869.)

Editorial Notes

AMENDMENTS

1992—Subsec. (b). Pub. L. 102-580, §506(b), inserted "maximum" before "extent feasible" and inserted three sentences at end.

Subsec. (c). Pub. L. 102-580, §504(a), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "Prior to issuing any permit under this section, the Secretary shall first notify the Administrator of his intention to do so. In any case in which the Administrator disagrees with the determination of the Secretary as to compliance with the criteria established pursuant to section 1412(a) of this title relating to the effects of the dumping or with the restrictions established pursuant to section 1412(c) of this title relating to critical areas, the determination of the Administrator shall prevail. Unless the Administrator grants a waiver pursuant to subsection (d), the Secretary shall not issue a permit which does not comply with such criteria and with such restrictions."

Subsec. (e). Pub. L. 102-580, §504(b), inserted before period at end "and section 1414(a) and (d) of this title".

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 6 months after Oct. 23, 1972, see section 110(a) of Pub. L. 92-532, set out as a note under section 1411 of this title.

§ 1414. Permit conditions

(a) Designated and included conditions

Permits issued under this subchapter shall designate and include (1) the type of material authorized to be transported for dumping or to be dumped; (2) the amount of material author-

ized to be transported for dumping or to be dumped; (3) the location where such transport for dumping will be terminated or where such dumping will occur; (4) such requirements, limitations, or conditions as are necessary to assure consistency with any site management plan approved pursuant to section 1412(c) of this title; (5) any special provisions deemed necessary by the Administrator or the Secretary, as the case may be, after consultation with the Secretary of the Department in which the Coast Guard is operating, for the monitoring and surveillance of the transportation or dumping; and (6) such other matters as the Administrator or the Secretary, as the case may be, deems appropriate. Permits issued under this subchapter shall be issued for a period of not to exceed 7 years.

(b) Permit processing fees; reporting requirements

The Administrator or the Secretary, as the case may be, may prescribe such processing fees for permits and such reporting requirements for actions taken pursuant to permits issued by him under this subchapter as he deems appropriate.

(c) General permits

Consistent with the requirements of sections 1412 and 1413 of this title, but in lieu of a requirement for specific permits in such case, the Administrator or the Secretary, as the case may be, may issue general permits for the transportation for dumping, or dumping, or both, of specified materials or classes of materials for which he may issue permits, which he determines will have a minimal adverse environmental impact.

(d) Review

Any permit issued under this subchapter shall be reviewed periodically and, if appropriate, revised. The Administrator or the Secretary, as the case may be, may limit or deny the issuance of permits, or he may alter or revoke partially or entirely the terms of permits issued by him under this subchapter, for the transportation for dumping, or for the dumping, or both, of specified materials or classes of materials, where he finds, based upon monitoring data from the dump site and surrounding area, that such materials cannot be dumped consistently with the criteria and other factors required to be applied in evaluating the permit application. No action shall be taken under this subsection unless the affected person or permittee shall have been given notice and opportunity for a hearing on such action as proposed.

(e) Information for review and evaluation of applications

The Administrator or the Secretary, as the case may be, shall require an applicant for a permit under this subchapter to provide such information as he may consider necessary to review and evaluate such application.

(f) Public information

Information received by the Administrator or the Secretary, as the case may be, as a part of any application or in connection with any permit granted under this subchapter shall be available to the public as a matter of public record, at every stage of the proceeding. The

final determination of the Administrator or the Secretary, as the case may be, shall be likewise available.

(g) Display of issued permits

A copy of any permit issued under this subchapter shall be placed in a conspicuous place in the vessel which will be used for the transportation or dumping authorized by such permit, and an additional copy shall be furnished by the issuing official to the Secretary of the department in which the Coast Guard is operating, or its designee.

(h) Low-level radioactive waste; research purposes

Notwithstanding any provision of this subchapter to the contrary, during the two-year period beginning on January 6, 1983, no permit may be issued under this subchapter that authorizes the dumping of any low-level radioactive waste unless the Administrator of the Environmental Protection Agency determines—

(1) that the proposed dumping is necessary to conduct research—

(A) on new technology related to ocean dumping, or

(B) to determine the degree to which the dumping of such substance will degrade the marine environment;

(2) that the scale of the proposed dumping is limited to the smallest amount of such material and the shortest duration of time that is necessary to fulfill the purposes of the research, such that the dumping will have minimal adverse impact upon human health, welfare, and amenities, and the marine environment, ecological systems, economic potentialities, and other legitimate uses;

(3) after consultation with the Secretary of Commerce, that the potential benefits of such research will outweigh any such adverse impact; and

(4) that the proposed dumping will be preceded by appropriate baseline monitoring studies of the proposed dump site and its surrounding environment.

Each permit issued pursuant to this subsection shall be subject to such conditions and restrictions as the Administrator determines to be necessary to minimize possible adverse impacts of such dumping.

(i) Radioactive Material Disposal Impact Assessment; Congressional approval

(1) Two years after January 6, 1983, the Administrator may not issue a permit under this subchapter for the disposal of radioactive waste material until the applicant, in addition to complying with all other requirements of this subchapter, prepares, with respect to the site at which the disposal is proposed, a Radioactive Material Disposal Impact Assessment which shall include—

(A) a listing of all radioactive materials in each container to be disposed, the number of containers to be dumped, the structural diagrams of each container, the number of curies of each material in each container, and the exposure levels in rems at the inside and outside of each container;

(B) an analysis of the environmental impact of the proposed action, at the site at which the applicant desires to dispose of the material, upon human health and welfare and marine life;

(C) any adverse environmental effects at the site which cannot be avoided should the proposal be implemented;

(D) an analysis of the resulting environmental and economic conditions if the containers fail to contain the radioactive waste material when initially deposited at the specific site;

(E) a plan for the removal or containment of the disposed nuclear material if the container leaks or decomposes;

(F) a determination by each affected State whether the proposed action is consistent with its approved Coastal Zone Management Program;

(G) an analysis of the economic impact upon other users of marine resources;

(H) alternatives to the proposed action;

(I) comments and results of consultation with State officials and public hearings held in the coastal States that are nearest to the affected areas;

(J) a comprehensive monitoring plan to be carried out by the applicant to determine the full effect of the disposal on the marine environment, living resources, or human health, which plan shall include, but not be limited to, the monitoring of exterior container radiation samples, the taking of water and sediment samples, and fish and benthic animal samples, adjacent to the containers, and the acquisition of such other information as the Administrator may require; and

(K) such other information which the Administrator may require in order to determine the full effects of such disposal.

(2) The Administrator shall include, in any permit to which paragraph (1) applies, such terms and conditions as may be necessary to ensure that the monitoring plan required under paragraph (1)(J) is fully implemented, including the analysis by the Administrator of the samples required to be taken under the plan.

(3) The Administrator shall submit a copy of the assessment prepared under paragraph (1) with respect to any permit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Environment and Public Works of the Senate.

(4)(A) Upon a determination by the Administrator that a permit to which this subsection applies should be issued, the Administrator shall transmit such a recommendation to the House of Representatives and the Senate.

(B) No permit may be issued by the Administrator under this Act for the disposal of radioactive materials in the ocean unless the Congress, by approval of a resolution described in paragraph (D) within 90 days of continuous session of the Congress beginning on the date after the date of receipt by the Senate and the House of Representatives of such recommendation, authorizes the Administrator to grant a permit to dispose of radioactive material under this Act.

(C) For purposes of this subsection—

(1) continuity of session of the Congress is broken only by an adjournment sine die;

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the 90 day calendar period.

(D) For the purposes of this subsection, the term “resolution” means a joint resolution, the resolving clause of which is as follows: “That the House of Representatives and the Senate approve and authorize the Administrator of the Environmental Protection Agency to grant a permit to _____ under the Marine Protection, Research, and Sanctuaries Act of 1972 to dispose of radioactive materials in the ocean as recommended by the Administrator to the Congress on _____, 19__.”; the first blank space therein to be filled with the appropriate applicant to dispose of nuclear material and the second blank therein to be filled with the date on which the Administrator submits the recommendation to the House of Representatives and the Senate.

(Pub. L. 92-532, title I, §104, Oct. 23, 1972, 86 Stat. 1056; Pub. L. 97-424, title IV, §424(a), Jan. 6, 1983, 96 Stat. 2165; Pub. L. 100-17, title I, §133(c)(1), Apr. 2, 1987, 101 Stat. 172; Pub. L. 102-580, title V, §507, Oct. 31, 1992, 106 Stat. 4869.)

Editorial Notes

REFERENCES IN TEXT

This Act and the Marine Protection, Research, and Sanctuaries Act of 1972, referred to in subsec. (i)(4)(B), (D), is Pub. L. 92-532, Oct. 23, 1972, 86 Stat. 1052, which is classified generally to this chapter, chapter 41 (§2801 et seq.) of this title, and chapters 32 (§1431 et seq.) and 32A (§1447 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1401 of this title and Tables.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102-580, §507(b), inserted at end “Permits issued under this subchapter shall be issued for a period of not to exceed 7 years.”

Pub. L. 102-580, §507(a), amended cl. (4) generally. Prior to amendment, cl. (4) read as follows: “the length of time for which the permits are valid and their expiration date;”

Subsec. (d). Pub. L. 102-580, §507(c), inserted “, based upon monitoring data from the dump site and surrounding area,” after “where he finds”.

1987—Subsec. (i)(4)(D). Pub. L. 100-17 inserted “to _____” after “grant a permit”.

1983—Subsecs. (h), (i). Pub. L. 97-424 added subsecs. (h) and (i).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 6 months after Oct. 23, 1972, see section 110(a) of Pub. L. 92-532, set out as a note under section 1411 of this title.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

ABOLITION OF HOUSE COMMITTEE ON MERCHANT MARINE
AND FISHERIES

Committee on Merchant Marine and Fisheries of House of Representatives abolished and its jurisdiction transferred by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995. For treatment of references to Committee on Merchant Marine and Fisheries, see section 1(b)(3) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress.

§ 1414a. Special provisions regarding certain dumping sites

(a) New York Bight Apex

(1) For purposes of this subsection—

(A) The term “Apex” means the New York Bight Apex consisting of the ocean waters of the Atlantic Ocean westward of 73 degrees 30 minutes west longitude and northward of 40 degrees 10 minutes north latitude.

(B) The term “Apex site” means that site within the Apex at which the dumping of municipal sludge occurred before October 1, 1983.

(C) The term “eligible authority” means any sewerage authority or other unit of State or local government that on November 2, 1983, was authorized under court order to dump municipal sludge at the Apex site.

(2) No person may apply for a permit under this subchapter in relation to the dumping of, or the transportation for purposes of dumping, municipal sludge within the Apex unless that person is an eligible authority.

(3) The Administrator may not issue, or renew, any permit under this subchapter that authorizes the dumping of, or the transportation for purposes of dumping, municipal sludge within the Apex after the earlier of—

(A) December 15, 1987; or

(B) the day determined by the Administrator to be the first day on which municipal sludge generated by eligible authorities can reasonably be dumped at a site designated under section 1412 of this title other than a site within the Apex.

(b) Restriction on use of 106-mile site

The Administrator may not issue or renew any permit under this subchapter which authorizes any person, other than a person that is an eligible authority within the meaning of subsection (a)(1)(C), to dump, or to transport for the purposes of dumping, municipal sludge within the site designated under section 1412(c) of this title by the Administrator and known as the “106-Mile Ocean Waste Dump Site” (as described in 49 F.R. 19005).

(Pub. L. 92-532, title I, §104A, as added Pub. L. 99-662, title XI, §1172(b), Nov. 17, 1986, 100 Stat. 4259; Pub. L. 100-4, title V, §508(b), Feb. 4, 1987, 101 Stat. 79; Pub. L. 100-688, title I, §1002, Nov. 18, 1988, 102 Stat. 4139.)

Editorial Notes

AMENDMENTS

1988—Pub. L. 100-688 repealed the second of two identical sections 104A of Pub. L. 92-532, both classified to this section and enacted by Pub. L. 99-662 and Pub. L. 100-4, thereby involving no change in text.

Statutory Notes and Related Subsidiaries

NEW YORK BIGHT APEX NOT SUITABLE FOR DUMPING

Pub. L. 99-662, title XI, §1172(a), Nov. 17, 1986, 100 Stat. 4259, provided that: “The Congress finds that the New York Bight Apex is no longer a suitable location for the ocean dumping of municipal sludge.”

An identical provision was enacted by Pub. L. 100-4, title V, §508(a), Feb. 4, 1987, 101 Stat. 79.

§ 1414b. Ocean dumping of sewage sludge and industrial waste

(a) Termination of dumping

(1) Prohibitions on dumping

Notwithstanding any other provision of law—

(A) on and after the 270th day after November 18, 1988, no person (including a person described in section 1414a(a)(1)(C) of this title) shall dump into ocean waters, or transport for the purpose of dumping into ocean waters, sewage sludge or industrial waste, unless such person—

(i) has entered into a compliance agreement or enforcement agreement which meets the requirements of subsection (c)(2) or (3), as applicable; and

(ii) has obtained a permit issued under section 1412 of this title which authorizes such transportation and dumping; and

(B) after December 31, 1991, it shall be unlawful for any person to dump into ocean waters, or to transport for the purposes of dumping into ocean waters, sewage sludge or industrial waste.

(2) Prohibition on new entrants

The Administrator shall not issue any permit under this Act which authorizes a person to dump into ocean waters, or to transport for the purposes of dumping into ocean waters, sewage sludge or industrial waste, unless that person was authorized by a permit issued under section 1412 of this title or by a court order to dump into ocean waters, or to transport for the purpose of dumping into ocean waters, sewage sludge or industrial waste on September 1, 1988.

(b) Special dumping fees

(1) In general

Subject to paragraph (4), any person who dumps into ocean waters, or transports for the purpose of dumping into ocean waters, sewage sludge or industrial waste shall be liable for a fee equal to—

(A) \$100 for each dry ton (or equivalent) of sewage sludge or industrial waste transported or dumped by the person on or after the 270th day after November 18, 1988, and before January 1, 1990;

(B) \$150 for each dry ton (or equivalent) of sewage sludge or industrial waste transported or dumped by the person on or after January 1, 1990, and before January 1, 1991; and

(C) \$200 for each dry ton (or equivalent) of sewage sludge or industrial waste transported or dumped by the person on or after January 1, 1991, and before January 1, 1992.

(2) Payment of fees

Of the amount of fees under paragraph (1) for which a person is liable, such person—