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Title 40 —Protection of Environment

Chapter I —Environmental Protection Agency

Subchapter H —Ocean Dumping

Part 225 Corps of Engineers Dredged Material Permits

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PART 225—CORPS OF ENGINEERS DREDGED MATERIAL PERMITS

Authority: 33 U.S.C. 1412 and 1418.

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§ 225.1 General.

Applications and authorizations for Dredged Material Permits under section 103 of the Act for the transportation of dredged material for the purpose of dumping it in ocean waters will be evaluated by the U.S. Army Corps of Engineers in accordance with the criteria set forth in part 227 and processed in accordance with 33 CFR 209.120 with special attention to § 209.120(g)(17) and 33 CFR 209.145.

§ 225.2 Review of Dredged Material Permits.

- (a) The District Engineer shall send a copy of the public notice to the appropriate Regional Administrator, and set forth in writing all of the following information:
 - (1) The location of the proposed disposal site and its physical boundaries;
 - (2) A statement as to whether the site has been designated for use by the Administrator pursuant to section 102(c) of the Act;
 - (3) If the proposed disposal site has not been designated by the Administrator, a statement of the basis for the proposed determination why no previously designated site is feasible and a description of the characteristics of the proposed disposal site necessary for its designation pursuant to part 228 of this subchapter H;
 - (4) The known historical uses of the proposed disposal site;
 - (5) Existence and documented effects of other authorized dumpings that have been made in the dumping area (e.g., heavy metal background reading and organic carbon content);
 - (6) An estimate of the length of time during which disposal will continue at the proposed site;

- (7) Characteristics and composition of the dredged material; and
 - (8) A statement concerning a preliminary determination of the need for and/or availability of an environmental impact statement.
- (b) The Regional Administrator will within 15 days of the date the public notice and other information required to be submitted by paragraph (a) of § 225.2 are received by him, review the information submitted and request from the District Engineer any additional information he deems necessary or appropriate to evaluate the proposed dumping.
- (c) Using the information submitted by the District Engineer, and any other information available to him, the Regional Administrator will within 15 days after receipt of all requested information, make an independent evaluation of the proposed dumping in accordance with the criteria and respond to the District Engineer pursuant to paragraph (d) or (e) of this section. The Regional Administrator may request an extension of this 15 day period to 30 days from the District Engineer.
- (d) When the Regional Administrator determines that the proposed dumping will comply with the criteria, he will so inform the District Engineer in writing.
- (e) When the Regional Administrator determines that the proposed dumping will not comply with the criteria he shall so inform the District Engineer in writing. In such cases, no Dredged Material Permit for such dumping shall be issued unless and until the provisions of § 225.3 are followed and the Administrator grants a waiver of the criteria pursuant to § 225.4.

§ 225.3 Procedure for invoking economic impact.

- (a) When a District Engineer's determination to issue a Dredged Material Permit for the dumping of dredged material into ocean waters has been rejected by a Regional Administrator upon application of the Criteria, the District Engineer may determine whether, under section 103(d) of the Act, there is an economically feasible alternative method or site available other than the proposed dumping in ocean waters. If the District Engineer makes any such preliminary determination that there is no economically feasible alternative method or site available, he shall so advise the Regional Administrator setting forth his reasons for such determination and shall submit a report of such determination to the Chief of Engineers in accordance with 33 CFR 209.120 and 209.145.
- (b) If the decision of the Chief of Engineers is that ocean dumping at the designated site is required because of the unavailability of feasible alternatives, he shall so certify and request that the Secretary of the Army seek a waiver from the Administrator of the Criteria or of the critical site designation in accordance with § 225.4.

§ 225.4 Waiver by Administrator.

The Administrator shall grant the requested waiver unless within 30 days of his receipt of the notice, certificate and request in accordance with paragraph (b) of § 225.3 he determines in accordance with this section that the proposed dumping will have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas), wildlife, or recreational areas. Notice of the Administrator's final determination under this section shall be given to the Secretary of the Army.