

(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 recom-

mendation 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.)

#### 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, as amended, 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).

#### 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) of this section, 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.)

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.

NEW YORK BIGHT APEX NOT SUITABLE FOR DUMPING

Section 1172(a) of Pub. L. 99-662 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) of this section, 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—

(A) shall pay into a trust account established by the person in accordance with subsection (e) of this section a sum equal to 85 percent of such amount;

(B) shall pay to the Administrator a sum equal to \$15 per dry ton (or equivalent) of sewage sludge and industrial waste transported or dumped by such person, for use for agency activities as provided in subsection (f)(1) of this section;

(C) subject to paragraph (5), shall pay into the Clean Oceans Fund established by the State in which the person is located a sum equal to 50 percent of the balance of such amount after application of subparagraphs (A) and (B); and

(D) subject to paragraph (5), shall pay to the State in which the person is located a sum equal to the balance of such amount after application of subparagraphs (A), (B), and (C), for deposit into the water pollution control revolving fund established by the State under title VI of the Federal Water Pollution Control Act [33 U.S.C. 1381 et seq.], as provided in subsection (f)(2) of this section.

**(3) Schedule for payment**

Fees under this subsection shall be paid on a quarterly basis.

**(4) Waiver of fees**

(A) The Administrator shall waive all fees under this subsection, other than the portion