

“(a) GENERAL RULE.—Notwithstanding the requirements of sections 402(p)(2)(B), (C), and (D) of the Federal Water Pollution Control Act [33 U.S.C. 1342(p)(2)(B), (C), (D)], permit application deadlines for stormwater discharges associated with industrial activities from facilities that are owned or operated by a municipality shall be established by the Administrator of the Environmental Protection Agency (hereinafter in this section referred to as the ‘Administrator’) pursuant to the requirements of this section.

“(b) PERMIT APPLICATIONS.—

“(1) INDIVIDUAL APPLICATIONS.—The Administrator shall require individual permit applications for discharges described in subsection (a) on or before October 1, 1992; except that any municipality that has participated in a timely part I group application for an industrial activity discharging stormwater that is denied such participation in a group application or for which a group application is denied shall not be required to submit an individual application until the 180th day following the date on which the denial is made.

“(2) GROUP APPLICATIONS.—With respect to group applications for permits for discharges described in subsection (a), the Administrator shall require—

“(A) part I applications on or before September 30, 1991, except that any municipality with a population of less than 250,000 shall not be required to submit a part I application before May 18, 1992; and

“(B) part II applications on or before October 1, 1992, except that any municipality with a population of less than 250,000 shall not be required to submit a part II application before May 17, 1993.

“(c) MUNICIPALITIES WITH LESS THAN 100,000 POPULATION.—The Administrator shall not require any municipality with a population of less than 100,000 to apply for or obtain a permit for any stormwater discharge associated with an industrial activity other than an airport, powerplant, or uncontrolled sanitary landfill owned or operated by such municipality before October 1, 1992, unless such permit is required by section 402(p)(2)(A) or (E) of the Federal Water Pollution Control Act [33 U.S.C. 1342(p)(2)(A), (E)].

“(d) UNCONTROLLED SANITARY LANDFILL DEFINED.—For the purposes of this section, the term ‘uncontrolled sanitary landfill’ means a landfill or open dump, whether in operation or closed, that does not meet the requirements for run-on and run-off controls established pursuant to subtitle D of the Solid Waste Disposal Act [42 U.S.C. 6941 et seq.].

“(e) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to affect any application or permit requirement, including any deadline, to apply for or obtain a permit for stormwater discharges subject to section 402(p)(2)(A) or (E) of the Federal Water Pollution Control Act [33 U.S.C. 1342(p)(2)(A), (E)].

“(f) REGULATIONS.—The Administrator shall issue final regulations with respect to general permits for stormwater discharges associated with industrial activity on or before February 1, 1992.”

PHOSPHATE FERTILIZER EFFLUENT LIMITATION

Pub. L. 100-4, title III, §306(c), Feb. 4, 1987, 101 Stat. 36, provided that:

“(1) ISSUANCE OF PERMIT.—As soon as possible after the date of the enactment of this Act [Feb. 4, 1987], but not later than 180 days after such date of enactment, the Administrator shall issue permits under section 402(a)(1)(B) of the Federal Water Pollution Control Act [33 U.S.C. 1342(a)(1)(B)] with respect to facilities—

“(A) which were under construction on or before April 8, 1974, and

“(B) for which the Administrator is proposing to revise the applicability of the effluent limitation established under section 301(b) of such Act [33 U.S.C. 1311(b)] for phosphate subcategory of the fertilizer manufacturing point source category to exclude such facilities.

“(2) LIMITATIONS ON STATUTORY CONSTRUCTION.—Nothing in this section [amending section 1311 of this title and enacting this note] shall be construed—

“(A) to require the Administrator to permit the discharge of gypsum or gypsum waste into the navigable waters,

“(B) to affect the procedures and standards applicable to the Administrator in issuing permits under section 402(a)(1)(B) of the Federal Water Pollution Control Act [33 U.S.C. 1342(a)(1)(B)], and

“(C) to affect the authority of any State to deny or condition certification under section 401 of such Act [33 U.S.C. 1341] with respect to the issuance of permits under section 402(a)(1)(B) of such Act.”

LOG TRANSFER FACILITIES

Pub. L. 100-4, title IV, §407, Feb. 4, 1987, 101 Stat. 74, provided that:

“(a) AGREEMENT.—The Administrator and Secretary of the Army shall enter into an agreement regarding coordination of permitting for log transfer facilities to designate a lead agency and to process permits required under sections 402 and 404 of the Federal Water Pollution Control Act [33 U.S.C. 1342, 1344], where both such sections apply, for discharges associated with the construction and operation of log transfer facilities. The Administrator and Secretary are authorized to act in accordance with the terms of such agreement to assure that, to the maximum extent practicable, duplication, needless paperwork and delay in the issuance of permits, and inequitable enforcement between and among facilities in different States, shall be eliminated.

“(b) APPLICATIONS AND PERMITS BEFORE OCTOBER 22, 1985.—Where both of sections 402 and 404 of the Federal Water Pollution Control Act [33 U.S.C. 1342, 1344] apply, log transfer facilities which have received a permit under section 404 of such Act before October 22, 1985, shall not be required to submit a new application for a permit under section 402 of such Act. If the Administrator determines that the terms of a permit issued on or before October 22, 1985, under section 404 of such Act satisfies the applicable requirements of sections 301, 302, 306, 307, 308, and 403 of such Act [33 U.S.C. 1311, 1312, 1316, 1317, 1318, and 1343], a separate application for a permit under section 402 of such Act shall not thereafter be required. In any case where the Administrator demonstrates, after an opportunity for a hearing, that the terms of a permit issued on or before October 22, 1985, under section 404 of such Act do not satisfy the applicable requirements of sections 301, 302, 306, 307, 308, and 403 of such Act, modifications to the existing permit under section 404 of such Act to incorporate such applicable requirements shall be issued by the Administrator as an alternative to issuance of a separate new permit under section 402 of such Act.

“(c) LOG TRANSFER FACILITY DEFINED.—For the purposes of this section, the term ‘log transfer facility’ means a facility which is constructed in whole or in part in waters of the United States and which is utilized for the purpose of transferring commercially harvested logs to or from a vessel or log raft, including the formation of a log raft.”

ALLOWABLE DELAY IN MODIFYING EXISTING APPROVED STATE PERMIT PROGRAMS TO CONFORM TO 1977 AMENDMENT

Pub. L. 95-217, §54(c)(2), Dec. 27, 1977, 91 Stat. 1591, provided that any State permit program approved under this section before Dec. 27, 1977, which required modification to conform to the amendment made by section 54(c)(1) of Pub. L. 95-217, which amended subsec. (b)(8) of this section, not be required to be modified before the end of the one year period which began on Dec. 27, 1977, unless in order to make the required modification a State must amend or enact a law in which case such modification not be required for such State before the end of the two year period which began on Dec. 27, 1977.

§ 1343. Ocean discharge criteria

(a) Issuance of permits

No permit under section 1342 of this title for a discharge into the territorial sea, the waters of

the contiguous zone, or the oceans shall be issued, after promulgation of guidelines established under subsection (c) of this section, except in compliance with such guidelines. Prior to the promulgation of such guidelines, a permit may be issued under such section 1342 of this title if the Administrator determines it to be in the public interest.

(b) Waiver

The requirements of subsection (d) of section 1342 of this title may not be waived in the case of permits for discharges into the territorial sea.

(c) Guidelines for determining degradation of waters

(1) The Administrator shall, within one hundred and eighty days after October 18, 1972 (and from time to time thereafter), promulgate guidelines for determining the degradation of the waters of the territorial seas, the contiguous zone, and the oceans, which shall include:

(A) the effect of disposal of pollutants on human health or welfare, including but not limited to plankton, fish, shellfish, wildlife, shorelines, and beaches;

(B) the effect of disposal of pollutants on marine life including the transfer, concentration, and dispersal of pollutants or their by-products through biological, physical, and chemical processes; changes in marine ecosystem diversity, productivity, and stability; and species and community population changes;

(C) the effect of disposal, of pollutants on esthetic, recreation, and economic values;

(D) the persistence and permanence of the effects of disposal of pollutants;

(E) the effect of the disposal of varying rates, of particular volumes and concentrations of pollutants;

(F) other possible locations and methods of disposal or recycling of pollutants including land-based alternatives; and

(G) the effect on alternate uses of the oceans, such as mineral exploitation and scientific study.

(2) In any event where insufficient information exists on any proposed discharge to make a reasonable judgment on any of the guidelines established pursuant to this subsection no permit shall be issued under section 1342 of this title.

(June 30, 1948, ch. 758, title IV, §403, as added Pub. L. 92-500, §2, Oct. 18, 1972, 86 Stat. 883.)

Statutory Notes and Related Subsidiaries

DISCHARGES FROM POINT SOURCES IN UNITED STATES VIRGIN ISLANDS ATTRIBUTABLE TO MANUFACTURE OF RUM; EXEMPTION; CONDITIONS

Discharges from point sources in the United States Virgin Islands in existence on Aug. 5, 1983, attributable to the manufacture of rum not to be subject to the requirements of this section under certain conditions, see section 214(g) of Pub. L. 98-67, set out as a note under section 1311 of this title.

Executive Documents

TERRITORIAL SEA AND CONTIGUOUS ZONE OF UNITED STATES

For extension of territorial sea and contiguous zone of United States, see Proc. No. 5928 and Proc. No. 7219,

respectively, set out as notes under section 1331 of Title 43, Public Lands.

§ 1344. Permits for dredged or fill material

(a) Discharge into navigable waters at specified disposal sites

The Secretary may issue permits, after notice and opportunity for public hearings for the discharge of dredged or fill material into the navigable waters at specified disposal sites. Not later than the fifteenth day after the date an applicant submits all the information required to complete an application for a permit under this subsection, the Secretary shall publish the notice required by this subsection.

(b) Specification for disposal sites

Subject to subsection (c) of this section, each such disposal site shall be specified for each such permit by the Secretary (1) through the application of guidelines developed by the Administrator, in conjunction with the Secretary, which guidelines shall be based upon criteria comparable to the criteria applicable to the territorial seas, the contiguous zone, and the ocean under section 1343(c) of this title, and (2) in any case where such guidelines under clause (1) alone would prohibit the specification of a site, through the application additionally of the economic impact of the site on navigation and anchorage.

(c) Denial or restriction of use of defined areas as disposal sites

The Administrator is authorized to prohibit the specification (including the withdrawal of specification) of any defined area as a disposal site, and he is authorized to deny or restrict the use of any defined area for specification (including the withdrawal of specification) as a disposal site, whenever he determines, after notice and opportunity for public hearings, that the discharge of such materials into such area will have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas), wildlife, or recreational areas. Before making such determination, the Administrator shall consult with the Secretary. The Administrator shall set forth in writing and make public his findings and his reasons for making any determination under this subsection.

(d) "Secretary" defined

The term "Secretary" as used in this section means the Secretary of the Army, acting through the Chief of Engineers.

(e) General permits on State, regional, or nationwide basis

(1) In carrying out his functions relating to the discharge of dredged or fill material under this section, the Secretary may, after notice and opportunity for public hearing, issue general permits on a State, regional, or nationwide basis for any category of activities involving discharges of dredged or fill material if the Secretary determines that the activities in such category are similar in nature, will cause only minimal adverse environmental effects when performed separately, and will have only minimal cumulative adverse effect on the environ-