

## § 222.13

that the Environmental Appeals Board take; and

(5) A certificate of service of the notice of appeal on all other parties to the adjudicatory hearing.

(c) The effective date of any determination made pursuant to paragraph (f)(2) of § 222.11 may be stayed by the Environmental Appeals Board pending final determination by it pursuant to this section upon the filing of a notice of appeal which satisfies the requirements of paragraph (b) of this section or upon initiation by the Environmental Appeals Board of review of any determination in the absence of such notice of appeal.

(d) Within 20 days following the filing of a notice of appeal in accordance with this section, any party to the adjudicatory hearing may file a written memorandum, no more than 40 pages in length, in response thereto.

(e) Within 45 days following the filing of a notice of appeal in accordance with this section, the Environmental Appeals Board shall render its final determination with respect to all issues raised in the appeal to the Environmental Appeals Board and shall affirm, reverse, or modify the previous determination and briefly state the basis for its determination.

(f) In accordance with 5 U.S.C. section 704, the filing of an appeal to the Environmental Appeals Board pursuant to this section shall be a prerequisite to judicial review of any determination to issue or impose conditions upon any permit, or to modify, revoke or suspend any permit, or to take any other enforcement action, under this subchapter H.

[42 FR 2471, Jan. 11, 1977, as amended at 57 FR 5346, Feb. 13, 1992]

### § 222.13 Computation of time.

In computing any period of time prescribed or allowed in this part, except unless otherwise provided, the day on which the designated period of time begins to run shall not be included. The last day of the period so computed is to be included unless it is a Saturday, Sunday, or a legal holiday in which the Environmental Protection Agency is not open for business, in which event the period runs until the end of the next day which is not a Saturday, Sun-

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day, or legal holiday. Intermediate Saturdays, Sundays and legal holidays shall be excluded from the computation when the period of time prescribed or allowed is seven days or less.

### PART 223—CONTENTS OF PERMITS; REVISION, REVOCATION OR LIMITATION OF OCEAN DUMPING PERMITS UNDER SECTION 104(d) OF THE ACT

#### Subpart A—Contents of Ocean Dumping Permits Issued Under Section 102 of the Act

Sec.

223.1 Contents of special, emergency, general, and research permits; posting requirements.

#### Subpart B—Procedures for Revision, Revocation or Limitation of Ocean Dumping Permits Under Section 104(d) of the Act

223.2 Scope of these rules.

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223.4 Request for, scheduling and conduct of public hearing; determination.

223.5 Request for, scheduling and conduct of adjudicatory hearing; determination.

AUTHORITY: Secs. 102, 104, 107, 108, Marine Protection Research, and Sanctuaries Act of 1972, as amended (33 U.S.C. 1412, 1414, 1417, 1418)

SOURCE: 42 FR 60702, Nov. 28, 1977, unless otherwise noted.

#### Subpart A—Contents of Ocean Dumping Permits Issued Under Section 102 of the Act

##### § 223.1 Contents of special, emergency, general, and research permits; posting requirements.

(a) All special, emergency and research permits shall be displayed on the vessel engaged in dumping and shall include the following:

- (1) Name of permittee;
- (2) Means of conveyance and methods and procedures for release of the materials to be dumped;
- (3) The port through or from which such material will be transported for dumping;
- (4) A description of relevant physical and chemical properties of the materials to be dumped;

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(5) The quantity of the material to be dumped expressed in tons;

(6) The disposal site;

(7) The times at which the permitted dumping may occur and the effective date and expiration date of the permit;

(8) Special provisions which, after consultation with the Coast Guard, are deemed necessary for monitoring or surveillance of the transportation or dumping;

(9) Such monitoring relevant to the assessment of the impact of permitted dumping activities on the marine environment at the disposal site as the Administrator or Regional Administrator, as the case may be, determine to be necessary or appropriate; and

(10) Any other terms and conditions determined by the Administrator, or Regional Administrator, as the case may be, to be necessary or appropriate, including, without limitation, release procedures and requirements for the continued investigation or development of alternatives to ocean dumping.

(b) General permits shall contain such terms and conditions as the Administrator deems necessary or appropriate.

(c) [Reserved]

[42 FR 60702, Nov. 28, 1977, as amended at 73 FR 74986, Dec. 10, 2008]

### Subpart B—Procedures for Revision, Revocation or Limitation of Ocean Dumping Permits Under Section 104(d) of the Act

#### § 223.2 Scope of these rules.

(a) These rules of practice shall govern all proceedings under section 104(d) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended (33 U.S.C. 1414(d)), to revise, revoke or limit the terms and conditions of any permit issued pursuant to section 102 of the Act. Section 104(d) provides that “the Administrator \* \* \* 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 title, for the transportation for dumping, or for the dumping, or both of specified materials or classes of materials, where he finds that such materials cannot be dumped consist-

ently with the criteria and other factors required to be applied in evaluating the permit application.”

(b) In the absence of specific provisions in these rules, and where appropriate, questions arising at any stage of the proceedings shall be resolved at the discretion of the Presiding Officer, the Regional Administrator, or the Administrator, as appropriate.

#### § 223.3 Preliminary determination; notice.

(a) *General.* Any general, special, emergency, or research permit issued pursuant to section 102 of the Act shall be subject to revision, revocation or limitation, in whole or in part, as the result of a determination by the Administrator or Regional Administrator that:

(1) The cumulative impact of the permittee's dumping activities or the aggregate impact of all dumping activities at the dump site designated in the permit should be categorized as Impact Category I, as defined in § 228.10(c)(1) of this subchapter; or

(2) There has been a change in circumstances relating to the management of the disposal site designated in the permit; or

(3) The dumping authorized by the permit would violate applicable water quality standards; or

(4) The dumping authorized by the permit can no longer be carried out consistent with the criteria set forth in parts 227 and 228.

(b) *Preliminary determination.* Whenever any person authorized by the Administrator or Regional Administrator to (1) periodically review permits pursuant to section 104(d) of the Act or (2) otherwise assess the need for revision, revocation or limitation of a permit makes any of the determinations listed in paragraph (a) of this section with respect to a permit issued pursuant to section 102 of the Act, and additionally determines that revision, revocation or limitation of such permit is warranted, the Administrator or Regional Administrator, as the case may be, shall provide notification of such proposed revision, revocation or limitation to the permittee named in the permit, if any, the public, and any cognizant Federal/