

**The original documents are located in Box 7, folder “Waste - Ocean Dumping” of  
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file -  
BUDGET  
Ocean  
dumping  
e necessary action ☐

~~Mrs.~~ Sasaki

~~Mr. Crabill~~

Mr. Morrill

Jim Tozzi

DATE \_\_\_\_\_

Jim Tozzi

I agree w/ you, but  
it could really create a job  
and I don't know effects, either

## EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

DATE: March 22, 1973

REPLY TO  
ATTN OF: NRPD

SUBJECT: Ocean Dumping Regulations

. Mr. Morrill

- . The ocean dumping Act makes it unlawful to transport or dump waste materials into the ocean after April 23, 1973, without a permit issued by the Environmental Protection Agency.
- . The major disagreement is between EPA and two other agencies, Commerce and AEC.
- . EPA's basic philosophy is to require all parties dumping into the ocean to apply for a permit after which EPA will analyze their request and grant a permit if appropriate, i.e., they would emphasize the use of special permits.
- . Commerce and AEC oppose this position on two grounds
  - that it is counter to the underlying philosophy and interagency agreements reached in respect to the International Dumping Convention, namely to restrict the dumping of highly toxic materials in the short-run and to tighten the regulations as information becomes available.
  - That logistically, EPA will not be able to process the large number of applications and there will be a substantial disruption in the ocean dumping program.

Thus, Commerce and AEC propose the use of a broad temporary "genral permit" which will exempt a class of parties for a period of 180 days. These parties must, however, submit data on their dumping operations.

### Options:

1. Adopt the specific permit approach (EPA)
  2. Adopt the specific and general permit approach (AEC, Commerce)
- . If option 2 is adopted,
    - EPA will be able to make a more complete assessment of each application and probably be able to process more permits in the short-run.
    - The Administration will get a "blackeye" from the environmentalists for giving a class exemption to their own legislative proposal
    - EPA will probably be sued and the general program will be stopped by court action.



- . If option 1 is adopted;
  - A significant portion of the ocean dumping program could be terminated due to inaction on the part of EPA (EPA states this is incorrect since they have identified only 100 top priority permits)
  - EPA could get sued for issuing a specific special permit without adequate technical justification

. Recommendation:

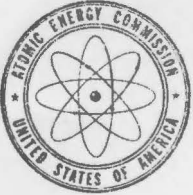
Assuming

- that the courts will stop the general permit program
- that EPA will place a severe restriction on the number of parties covered in general.

I recommend the adoption of option 1. The timing of this decision is critical, since from this date, EPA has 30 days to promulgate the rulemaking, receive the applications, and grant permits. If they fail to meet this deadline, ocean dumping will be prohibited throughout the country.

*UB*  
Jim Tozzi  
Natural Resources  
Programs Division





UNITED STATES  
ATOMIC ENERGY COMMISSION  
WASHINGTON, D.C. 20545

JUN 22 1973

Office of Air and Water Programs  
Environmental Protection Agency  
ATTN: Mr. T. A. Wastler  
Room 1102  
Crystal Mall Building 2  
1921 Jefferson Drive Highway  
Arlington, Virginia 22202

Dear Mr. Wastler:

Reference is made to the Federal Register Notice of May 16, which published for public comment EPA's interim criteria on "Ocean Dumping" (38 FR 12877, May 16, 1973).

The Atomic Energy Commission has appreciated the opportunity of working with EPA staff on its development of the interim criteria. However, as previously indicated to EPA and OMB staff, we have a serious problem with the criteria as presently drafted -- a problem which arises from EPA's attempt to combine criteria for the evaluation of permit applications for ocean dumping under the Marine Protection, Research, and Sanctuaries Act of 1972 (P.L. 92-532) with the criteria for determining permissible ocean discharges under the Federal Water Pollution Control Act Amendments of 1972 (P.L. 92-500).

While we realize that economy of language suggests the desirability of combining the two criteria, it appears to us that the types of criteria contemplated by the aforementioned statutes are so dissimilar as to effectively frustrate any attempt at combining the two into a meaningful document. For example, the FWPCA but not the Marine Act specifies "need for the proposed dumping" as a relevant consideration; contains elaborate provisions for effluent limitations embracing, among other things, "best practicable" and "best available" technology in reducing pollutant discharges; and confers limited exemption from NEPA's requirements. On the other hand, the Marine Act but not the FWPCA covers nuclear materials regulated by the Atomic Energy Act of 1954, as amended.

Such dissimilar statutory treatment has resulted in confusion when one document is proposed to implement both statutes. Thus,

~~G. Schiade, White House~~

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were Rose H&L

Comments considered  
and overruled by OMB  
in the quality of life  
review process.

Shen

JUN 22 1973

§ 227.1 indicates that the criteria apply only to dumping -- a term defined in the Marine Act as excluding effluents from outfall structures regulated under FWPCA. This confusion is continued by § 227.3's failure to utilize the Marine Act's statutory standard for issuing permits; the specification of "need" in §§ 227.42 and 227.43 as a relevant consideration though it is not directly relevant for the Marine Act; the coverage of radioactive wastes in § 227.31 (b) (7) without noting FWPCA's exemption of nuclear materials regulated by the Atomic Energy Act of 1954, as amended; and the use of "best practicable" and "best available" standards in § 227.43 -- proper under FWPCA but improper under the Marine Act.

Further detailed AEC staff comments and recommendations on the criteria are enclosed.

Sincerely,

*Robert J. Catlin*

Robert J. Catlin, Director  
Division of Environmental Affairs

Enclosure:  
AEC Staff Comments and Recommendations



AEC COMMENTS AND RECOMMENDATIONS ON EPA  
OCEAN DUMPING CRITERIA (40 CFR 227)  
(Federal Register Publication, May 16, 1973)

1. Subsection 227.1 (d) states that "The dumping of some types of waste materials into the marine environment is strictly regulated because of known adverse detrimental effects on the aquatic ecosystem or human health and welfare" (emphasis supplied). The following sentence states that "These materials ... are given in § 227.3" and in that part, "radioactive wastes not otherwise prohibited" are included in the listing. This incorrectly implies that there have been demonstrated adverse effects attributable to sea disposal of radioactive wastes.

To our knowledge, no detrimental effects have been demonstrated or experienced from sea dumping of radioactive wastes by the U.S. or other countries and therefore the sentence is not factual. The injustice done to past users of sea dumping in the U.S. and to present users of sea dumping elsewhere can and should be corrected by changing the text to read "... strictly regulated in order to prevent or minimize known or potential adverse effects ..."

2. In subsection 227.2 "High-level radioactive wastes" and "materials in whatever form ... produced for radiological ... warfare" are both absolutely prohibited from sea dumping, but only the first of these two terms is defined. Although this anomaly stems from the domestic legislation, its perpetuation in the regulations fosters the inference that radiological warfare agents are such common items that they need not even be defined. The EPA should define "radiological warfare agents" so that the AEC may discuss their presence or absence without misunderstandings.
3. Subsection 227.31 (b) (7), in connection with the dumping of radioactive wastes not otherwise prohibited, states that "as a general policy, the containment of radioactive materials (see § 227.35) is indicated rather than their direct dispersion and dilution in ocean waters."

There is no parallel statement about containing any nonradioactive dumped material either in Part 227.35 or in any other part of the sea dumping criteria. However, there are numerous statements and requirements indicating an obvious intent that no sea dumping permit be issued for any material unless its dispersion can be demonstrated to have minimal adverse effects. By contrast, the implication seems to be that radioactive wastes are a special case, so much more hazardous or unpredictable than any other material that even their slightest dispersion is to be discouraged as a general policy.



There is no scientific basis for such an implication and the statement should therefore be deleted.

4. Subsection 227.35 (b) (1) could be improved by clarifying the use of the term "inert matrix." A sentence could be inserted at the end of 227.35 (b) (1) to state:

"When radioactive 'materials requiring special care' are interspersed throughout some relatively durable solid material so that the radioactive material of concern can only gradually become exposed to the environment as the embedding material erodes away, those radioactive materials are considered to be isolated in an inert matrix for the purposes of the ocean dumping regulations."

5. Subsection 227.43 (a) and (b) borrow the July 1977 and July 1983 milestones from the Federal Water Pollution Control Act Amendments (P.L. 92-500) and incorporates them into ocean dumping regulation, despite the fact that Congress did not elect to take this action when the ocean dumping legislation (P.L. 92-532) was deliberated and enacted. We believe this contributes significantly to making the restrictions on ocean disposal of wastes much more stringent than disposal of such wastes elsewhere in the environment, contrary to the intent of Congress and the Administration. Subparagraphs (a) and (b) should therefore be deleted.
6. The wording of section 227.71 is confusing and could be clarified by repeating the phrase used earlier in the sentence, "that concentration of a waste material or chemical constituent," before "in the receiving water" at line 8.
7. The criteria discuss materials which are absolutely prohibited from sea dumping, materials requiring special care, and materials subject only to general regulation and permission because of anticipated minimal adverse effects. Radioactive wastes not otherwise prohibited are listed in the "special care" category, but not defined.

Essentially all materials contain at least some extremely small quantities of radioactive materials, but it is obvious from the general arrangement of the criteria (and of the antecedent legislation) that there is no corresponding intent to treat all materials as radioactive wastes. The existence of a "de minimus" concept only in this implied form could lead to misunderstandings and development of a more quantitative "de minimus" provision in the criteria is considered essential.



The Committee on Oceanography of the National Academy of Sciences - National Research Council has extensively studied the disposal of radioactive waste materials into Atlantic and Pacific coastal waters. In the development of "de minimus" criteria it is suggested that the scientific guidance provided in the following two NAS reports be used:

1. NAS-NRC Publication 655, "Radioactive Waste Disposal into Atlantic and Gulf Coastal Waters;" and
2. NAS-NRC Publication 985, "Disposal of Low-Level Radioactive Waste into Pacific Coastal Waters."

AEC technical staff would also be glad to assist in the development of such criteria.

