

TITLE 33 - NAVIGATION AND NAVIGABLE WATERS
CHAPTER 26 - WATER POLLUTION PREVENTION AND CONTROL
SUBCHAPTER II - GRANTS FOR CONSTRUCTION OF TREATMENT WORKS

§ 1293a. Contained spoil disposal facilities

(a) Construction, operation, and maintenance; period; conditions; requirements

The Secretary of the Army, acting through the Chief of Engineers, is authorized to construct, operate, and maintain, subject to the provisions of subsection (c) of this section, contained spoil disposal facilities of sufficient capacity for a period not to exceed ten years, to meet the requirements of this section. Before establishing each such facility, the Secretary of the Army shall obtain the concurrence of appropriate local governments and shall consider the views and recommendations of the Administrator of the Environmental Protection Agency and shall comply with requirements of section 1171 of this title, and of the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.]. Section 401 of this title shall not apply to any facility authorized by this section.

(b) Time for establishment; consideration of area needs; requirements

The Secretary of the Army, acting through the Chief of Engineers, shall establish the contained spoil disposal facilities authorized in subsection (a) of this section at the earliest practicable date, taking into consideration the views and recommendations of the Administrator of the Environmental Protection Agency as to those areas which, in the Administrator's judgment, are most urgently in need of such facilities and pursuant to the requirements of the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and the Federal Water Pollution Control Act [33 U.S.C. 1251 et seq.].

(c) Written agreement requirement; terms of agreement

Prior to construction of any such facility, the appropriate State or States, interstate agency, municipality, or other appropriate political subdivision of the State shall agree in writing to

- (1) furnish all lands, easements, and rights-of-way necessary for the construction, operation, and maintenance of the facility;
- (2) contribute to the United States 25 per centum of the construction costs, such amount to be payable either in cash prior to construction, in installments during construction, or in installments, with interest at a rate to be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction is initiated, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations, which are neither due or callable for redemption for fifteen years from date of issue;
- (3) hold and save the United States free from damages due to construction, operation, and maintenance of the facility; and
- (4) except as provided in subsection (f) of this section, maintain the facility after completion of its use for disposal purposes in a manner satisfactory to the Secretary of the Army.

(d) Waiver of construction costs contribution from non-Federal interests; findings of participation in waste treatment facilities for general geographical area and compliance with water quality standards; waiver of payments in event of written agreement before occurrence of findings

The requirement for appropriate non-Federal interest or interests to furnish an agreement to contribute 25 per centum of the construction costs as set forth in subsection (c) of this section shall be waived by the Secretary of the Army upon a finding by the Administrator of the Environmental Protection Agency that for the area to which such construction applies, the State or States involved, interstate agency, municipality, and other appropriate political subdivision of the State and industrial concerns are participating in and in compliance with an approved plan for the general geographical area of the dredging activity for construction, modification, expansion, or rehabilitation of waste treatment facilities and the Administrator has found that applicable water quality standards are not being violated.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

In the event such findings occur after the appropriate non-Federal interest or interests have entered into the agreement required by subsection (c) of this section, any payments due after the date of such findings as part of the required local contribution of 25 per centum of the construction costs shall be waived by the Secretary of the Army.

(e) Federal payment of costs for disposal of dredged spoil from project

Notwithstanding any other provision of law, all costs of disposal of dredged spoil from the project for the Great Lakes connecting channels, Michigan, shall be borne by the United States.

(f) Title to lands, easements, and rights-of-way; retention by non-Federal interests; conveyance of facilities; agreement of transferee

The participating non-Federal interest or interests shall retain title to all lands, easements, and rights-of-way furnished by it pursuant to subsection (c) of this section. A spoil disposal facility owned by a non-Federal interest or interests may be conveyed to another party only after completion of the facility's use for disposal purposes and after the transferee agrees in writing to use or maintain the facility in a manner which the Secretary of the Army determines to be satisfactory.

(g) Federal licenses or permits; charges; remission of charge

Any spoil disposal facilities constructed under the provisions of this section shall be made available to Federal licensees or permittees upon payment of an appropriate charge for such use. Twenty-five per centum of such charge shall be remitted to the participating non-Federal interest or interests except for those excused from contributing to the construction costs under subsections (d) and (e) of this section.

(h) Provisions applicable to Great Lakes and their connecting channels

This section, other than subsection (i), shall be applicable only to the Great Lakes and their connecting channels.

(i) Research, study, and experimentation program relating to dredged spoil extended to navigable waters, etc.; cooperative program; scope of program; utilization of facilities and personnel of Federal agency

The Chief of Engineers, under the direction of the Secretary of the Army, is hereby authorized to extend to all navigable waters, connecting channels, tributary streams, other waters of the United States and waters contiguous to the United States, a comprehensive program of research, study, and experimentation relating to dredged spoil. This program shall be carried out in cooperation with other Federal and State agencies, and shall include, but not be limited to, investigations on the characteristics of dredged spoil, and alternative methods of its disposal. To the extent that such study shall include the effects of such dredge spoil on water quality, the facilities and personnel of the Environmental Protection Agency shall be utilized.

(j) Period for depositing dredged materials

The Secretary of the Army, acting through the Chief of Engineers, is authorized to continue to deposit dredged materials into a contained spoil disposal facility constructed under this section until the Secretary determines that such facility is no longer needed for such purpose or that such facility is completely full.

(k) Study and monitoring program

(1) Study

The Secretary of the Army, acting through the Chief of Engineers, shall conduct a study of the materials disposed of in contained spoil disposal facilities constructed under this section for the purpose of determining whether or not toxic pollutants are present in such facilities and for the purpose of determining the concentration levels of each of such pollutants in such facilities.

(2) Report

Not later than 1 year after November 17, 1988, the Secretary shall transmit to Congress a report on the results of the study conducted under paragraph (1).

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(3) Inspection and monitoring program

The Secretary shall conduct a program to inspect and monitor contained spoil disposal facilities constructed under this section for the purpose of determining whether or not toxic pollutants are leaking from such facilities.

(4) Toxic pollutant defined

For purposes of this subsection, the term “toxic pollutant” means those toxic pollutants referred to in section 1311 (b)(2)(C) and 1311 (b)(2)(D) of this title and such other pollutants as the Secretary, in consultation with the Administrator of the Environmental Protection Agency, determines are appropriate based on their effects on human health and the environment.

(Pub. L. 91–611, title I, § 123, Dec. 31, 1970, 84 Stat. 1823; Pub. L. 93–251, title I, § 23, Mar. 7, 1974, 88 Stat. 20; Pub. L. 100–676, § 24, Nov. 17, 1988, 102 Stat. 4027.)

References in Text

Section 1171 of this title, referred to in subsec. (a), was omitted as superseded.

The National Environmental Policy Act of 1969, referred to in subsecs. (a) and (b), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The Federal Water Pollution Control Act, referred to in subsec. (b), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, § 2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to this chapter (§ 1251 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1251 of this title and Tables.

Codification

Section was formerly classified to section 1165a of this title.

Section was not enacted as a part of the Federal Water Pollution Control Act which comprises this chapter.

Amendments

1988—Subsec. (j). Pub. L. 100–676, § 24(a), added subsec. (j).

Subsec. (k). Pub. L. 100–676, § 24(b), added subsec. (k).

1974—Subsec. (d). Pub. L. 93–251 inserted provision for waiver of payments in event of a written agreement before occurrence of findings.

Great Lakes Confined Disposal Facilities

Pub. L. 104–303, title V, § 513, Oct. 12, 1996, 110 Stat. 3762, provided that:

“(a) Assessment.—Pursuant to the responsibilities of the Secretary under section 123 of the River and Harbor Act of 1970 (33 U.S.C. 1293a), the Secretary shall conduct an assessment of the general conditions of confined disposal facilities in the Great Lakes.

“(b) Report.—Not later than 3 years after the date of the enactment of this Act [Oct. 12, 1996], the Secretary shall transmit to Congress a report on the results of the assessment conducted under subsection (a), including the following:

“(1) A description of the cumulative effects of confined disposal facilities in the Great Lakes.

“(2) Recommendations for specific remediation actions for each confined disposal facility in the Great Lakes.

“(3) An evaluation of, and recommendations for, confined disposal facility management practices and technologies to conserve capacity at such facilities and to minimize adverse environmental effects at such facilities throughout the Great Lakes system.”