

**U.S. ENVIRONMENTAL PROTECTION AGENCY**

**MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT  
(OCEAN DUMPING) PERMIT**

Permit Type: Emergency  
Effective Date: April 29, 2024  
Expiration Date: May 3, 2024  
Applicant: Town of Marblehead, Massachusetts  
Person or firm producing or processing the material proposed to be dumped:  
Mark Souza, Harbormaster, Town of Marblehead, MA  
Person or firm transporting the material for dumping: Smith Marine, Marblehead, MA

**I. ACTION**

This is an emergency permit that allows the permittee to transport the marine mammal carcass of a humpback whale, found along the shore of Preston Beach, Marblehead, MA and dispose of it at the provided coordinates within the EPA designated Massachusetts Bay Disposal Site if the carcass is weighted such that it will sink to the bottom, or at a distance of at least 15 miles east of the eastern boundary of the Stellwagen Bank National Marine Sanctuary such that the carcass is not expected to drift back to the shoreline prior to decomposing/sinking and is not expected to cause any disruption in vessel traffic. EPA has determined that there has been demonstrated to exist an emergency, requiring the dumping of this material, that poses an unacceptable risk relating to human health and admits of no other feasible solution. The US Coast Guard Sector Boston will be notified by phone of this emergency permit.

**II. BACKGROUND**

Under the ocean dumping regulations [see 40 CFR 220.3(c)], emergency permits may be issued for any materials except those prohibited by 40 CFR 227.5 (*i.e., high-level radioactive wastes; materials produced or used for radiological, chemical or biological warfare; materials insufficiently described to permit application of the environmental impact criteria of 40 CFR 227 Subpart B; and persistent inert synthetic or natural materials which may float or remain in suspension in the ocean in such a manner that they may interfere materially with fishing, navigation, or other legitimate uses of the ocean*) when the Administrator determines that there exists an emergency requiring the dumping of such materials, which otherwise poses an unacceptable risk relating to human health, and admits of no other feasible solution.

Emergency permits may be issued for materials listed in 40 CFR 227.6 (*i.e., organohalogen compounds; mercury and mercury compounds; cadmium and cadmium compounds; oil of*

*any kind or in any form; known or suspected carcinogens, mutagens, or teratogens*) when present as greater than trace contaminants only after consultation with the Department of State with respect to the need to consult with Parties to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (the London Convention) that are likely to be affected by dumping.

As used in the ocean dumping regulations, “emergency” refers to situations requiring action with a marked degree of urgency, but is not limited in its application to circumstances requiring immediate action.

Notice of every complete application for an emergency permit, including a tentative determination with respect to issuance or denial of the permit, must be published before the emergency permit is issued, except that no notice or tentative determinations are required in any case in which EPA determines:

- (1) that an emergency (as defined in 40 CFR 220.3) exists;
- (2) that the emergency poses an unacceptable risk relating to human health;
- (3) that the emergency admits of no other feasible solution; and
- (4) that the public interest requires the issuance of an emergency permit as soon as possible.

In such cases, appropriate notice shall be given as soon as practicable after the issuance of the emergency permit.

Whether before or after the permit is issued, notice must be given by publication in a daily newspaper of general circulation in the State in closest proximity to the proposed dump site and by publication in a daily newspaper or general circulation in the city in which is located the office of the Administrator or the Regional Administrator, as the case may be, giving notice.

EPA permits also may be subject to other environmental considerations under the Endangered Species Act (ESA), the Magnuson-Stevens Act (MSA), and/or the Coastal Zone Management Act (CZMA). See Appendix A for additional information on when and how these Acts might apply.

### **III. FINDINGS**

#### **A. *Description of the emergency***

EPA has determined that there exists an emergency requiring the dumping of this material. A deceased humpback whale was found awash on Preston Beach in Marblehead, MA late on April 25, 2024. Although beach burial is often chosen for the disposal of marine mammal carcasses, because of the rocky nature of the Marblehead coastline and the size of the carcass, burial is not feasible. Further, given the development and population density along

the Massachusetts Bay coastline transport to another coastal area for burial or removal for upland disposal is not feasible. Hence, disposal of the carcass at sea is the only viable option for protection of human health.

**B. Risk relating to human health posed by the emergency**

EPA has determined that this emergency poses an unacceptable risk relating to human health. The whale carcass is located along a populated coastal area with homes directly adjacent to the shoreline. Additionally, given the publicity of the whale beaching and the nearby public beach access, the whale carcass is attracting many onlookers. With the warmer and sunny spring conditions, decay of the carcass is proceeding rapidly, increasing the risk of exposure to aerosols resulting in a need to quickly remove and dispose of the carcass.

**C. Evaluation of alternatives to dumping**

EPA has determined that this emergency admits of no other feasible solution. Given the rocky nature of the coastline, burial of the carcass is not feasible. Given the size of the carcass (~42 feet long and ~65,000 pounds) removal from the water and transport for upland disposal are not feasible along this highly developed and densely populated shoreline of Massachusetts Bay without creating additional risk to human health.

**D. Notice**

EPA has determined that the public interest requires the issuance of this emergency permit as soon as possible. It is necessary to transport the marine mammal carcass away from the shoreline as quickly as possible to limit the ongoing risk to human health. Further, given that decay of the carcass is underway, the risk of aerosol exposure is increasing as well as the risk of the carcass coming apart during transport prior to reaching the intended disposal location. Therefore, notice of this permit will be given as soon as practicable after issuance of the permit.

**E. Type and volume/quantity of material to be dumped**

EPA has determined that the following material may be dumped under this emergency permit: Marine mammal carcass (humpback whale) of approximately 42 feet in length and 65,000 pounds.

EPA has determined that there are no materials listed in 40 CFR 227.6 present as greater than trace contaminants in the material to be dumped. Therefore, consultation with the Department of State is not required.

**F. Dump site**

The marine mammal carcass will be towed to either: (a) the coordinates 42.433318 N, 70.581653 W within the EPA-designated Massachusetts Bay Dredged Material Disposal Site if the carcass is weighted such that it will sink to the bottom (this area is already demarcated on NOAA charts); or (b) to a distance of at least 15 miles east of the eastern boundary of the Stellwagen Bank National Marine Sanctuary such that the carcass is not

expected to drift back to the shoreline prior to decomposing/sinking and is not expected to cause any disruption in vessel traffic.

**G. *Expected consequences of the dumping***

There are not expected to be any environmental impacts resulting from the dumping. After release of the marine mammal carcass, it is expected that it will be degraded and/or consumed as part of the normal marine food chain.

The dumping authorized under this permit is not likely to adversely affect essential fish habitat because of the distance of either of the disposal locations to essential fish habitat and the nature of the disposal (organic material of marine origin that typically ends up on the seafloor).

**H. *Permit conditions***

The timing and coordinates of the release point of the whale carcass shall be provided along with photographs of the vessel's navigation screen at the release point, the weighting system (if employed), and the carcass after release (floating or as submerging).

**I. *Other agencies involved***

NOAA's Regional Marine Mammal Stranding Coordinator (Gloucester, MA) with supporting stranding network partners, the Seacoast Science Center (Rye, NH) provided the initial assessment and sample collection of the whale carcass on the shoreline in Marblehead, MA on April 26.

**IV. TERMS AND CONDITIONS OF THE EMERGENCY PERMIT**

- A. This permit authorizes the transportation and dumping into ocean waters of the materials listed in paragraph C below pursuant to the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 33 U.S.C. 1401, et seq., ("MPRSA"), subject to the terms and conditions set forth herein. All transportation and dumping authorized herein shall at all times be undertaken in a manner consistent with this permit.
- B. For purposes of this permit, the applicant, the person or firm producing or processing the material proposed to be dumped, and the person or firm transporting the material for dumping are all considered the permittee and are all responsible for compliance with this permit.
- C. The permittee is authorized to transport the following material for ocean disposal: Marine mammal carcass (humpback whale). This material shall not be altered in its content from this description by the addition of wastes from any other sources.
- D. The material listed in paragraph C shall be dumped at the following location: (a) the coordinates 42.433318 N 70.581653 W within the EPA designated Massachusetts Bay Dredged Material Disposal Site if the carcass is weighted such that it will sink to the bottom (this area is already demarcated on NOAA charts); or (b) to a distance of at least 15 miles east of the eastern boundary of the Stellwagen Bank National Marine

- Sanctuary such that the carcass is not expected to drift back to the shoreline prior to decomposing/sinking and is not expected to cause any disruption in vessel traffic.
- E. The material listed in paragraph C shall be transported for dumping through or from the following port: Marblehead, MA.
  - F. The material listed in paragraph C shall be conveyed by water towing and released at the point of disposal.
  - G. This permit is effective on April 29, 2024, and expires on May 4, 2024.
  - H. The timing/coordinates of the release point of the whale carcass shall be provided along with photographs of the vessel's navigation screen at the release point, the weighting system (if employed), and the carcass after release (floating or as submerging).
  - I. Transportation to, and dumping at, any location other than that authorized by this permit shall constitute a violation of the MPRSA and this permit. Transportation and dumping of any materials not specifically identified, or in excess of that identified, in this permit shall constitute a violation of the MPRSA and this permit.
  - J. The permittee shall maintain records of the following information, which will be available for inspection by EPA or the U.S. Coast Guard: (1) the physical and chemical characteristics of the material dumped; (2) the times and locations of dumping; (3) any other information required as a condition of this permit.
  - K. The permittee shall submit a report on the dumping activities authorized by this permit to Steven Wolf ([wolf.steven@epa.gov](mailto:wolf.steven@epa.gov)) within 30 days after the expiration date of this permit. The report shall include the records maintained under paragraph M above.
  - L. A copy of this permit shall be placed in a conspicuous place in the vessel used for the transportation and dumping operations authorized by this permit.
  - M. This permit may be modified or revoked, in whole or in part, for causes including, but not limited to, the following: (1) violation of any term or condition of the permit; (2) misrepresentation, inaccuracy, or failure by the permittee to disclose all relevant facts; or (3) a change in any condition or material fact upon which this permit is based that requires either a temporary or permanent reduction or elimination of the authorized transportation or dumping.

#### **V. FOR FURTHER INFORMATION**

For further information on this permit, please contact Steven Wolf, USEPA Region 1 Ocean Dumping Coordinator, 978-201-1928, [wolf.steven@epa.gov](mailto:wolf.steven@epa.gov)

#### **VI. SUMMARY OF INFORMATION INCLUDED IN PERMIT APPLICATION**

The NOAA Regional Marine Mammal Stranding Coordinator and the Marblehead, MA Harbormaster provided information pursuant to 40 CFR 221.1 to prepare this Emergency Permit. This information is available by contacting the Region 1 Ocean Dumping Coordinator identified above.

David W. Cash, Regional Administrator  
U.S. Environmental Protection Agency  
Region 1

April 29, 2024