

RULES and REGULATIONS

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[OW-4-FRL-3226-4]

Water Pollution Control; Ocean Dumping; Designation of Sites

Thursday, July 2, 1987

***25008** AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA today designates all of the existing dredged material disposal site offshore Savannah, Georgia, and part of existing dredged material disposal sites offshore Charleston, South Carolina, and Wilmington, North Carolina, as EPA approved ocean dumping sites in the Atlantic Ocean for the dumping of dredged material from these three harbor areas, respectively. These site designations are being proposed for an indefinite period of time, but are subject to continued monitoring in order to insure that adverse environmental impacts do not occur. The decision to reduce the size of the existing Charleston and Wilmington sites is based on projected future dredged material disposal volumes and the facilitation of monitoring. In addition, EPA designates, for a seven-year period following final designation, the entire existing Charleston site for use only for dredged materials from the Charleston Harbor deepening project. This action is necessary to provide acceptable ocean dumping sites for the current and future disposal of dredged material.

EFFECTIVE DATE: These designations shall become effective August 3, 1987.

***25009** ADDRESSES: Send comments to: Sally S. Turner, Marine and Estuarine Branch, Water Management Division, EPA, 345 Courtland Street NE. Atlanta, GA 30365.

The file supporting these final site designations is available for public inspection at the following locations: EPA Public Information Reference Unit (PIRU), Room 2904 (rear), 401 M Street, SW. Washington, DC, and EPA Region IV, 345 Courtland Street NE., Atlanta, Georgia.

FOR FURTHER INFORMATION CONTACT: Chris Provost, 404/347-2126.

SUPPLEMENTARY INFORMATION:

A. Background

Section 102(c) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, [33 U.S.C. 1401](#) et seq. ("the Act"), gives the Administrator of EPA the authority to designate sites where ocean dumping may be permitted. On December 23, 1986, the Administrator delegated the authority to designate ocean dumping sites to the Regional Administrator of the Region in which the site is located. These final site designations are within

Region IV and are being made pursuant to that authority.

The EPA Ocean Dumping Regulations ([40 CFR Chapter I, Subchapter H, § 228.4](#)) state that ocean dumping sites will be designated by promulgation in this Part 228. A list of “Approved Interim and Final Ocean Dumping Sites” was published on January 11, 1977 (42 FR 2461 et seq.) and was extended on August 19, 1985 ([50 FR 33338](#)). That list established the existing Savannah, Charleston, and Wilmington sites as interim sites and extended their period of use until July 31, 1988.

B. EIS Development

Section 102(c) of the National Environmental Policy Act of 1969, [42 U.S.C. 4321](#) et seq. (“NEPA”), requires that Federal agencies prepare an Environmental Impact Statement (EIS) on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment. While NEPA does not apply to EPA activities of this type, EPA has voluntarily committed to prepare EIS's in connection with ocean dumping site designations such as this [See 39 FR 16186 (May 7, 1974)].

EPA has prepared a draft and final EIS entitled “Environmental Impact Statement (EIS) for Savannah, GA, Charleston, SC, and Wilmington, NC Ocean Dredged Material Disposal Sites Designation.” On October 28, 1983, a notice of availability of the final EIS for public review and comment was published in the Federal Register ([48 FR 49918](#)). The public comment period on the final EIS closed November 28, 1983. No comments were received on the final EIS during the comment period. Anyone desiring a copy of the EIS may obtain one from the address given above.

The final EIS includes EPA's assessment of the ten comments received during the comment period on the draft EIS. Comments correcting facts presented in the draft EIS were incorporated in the text, and the changes were noted in the final EIS. Specific comments which could not be treated as text changes were responded to point by point in the final EIS, following the letters of comment.

The action discussed in the EIS is final designation for continuing use of the ocean dredged material disposal sites near Savannah, GA, Charleston, SC, and Wilmington, NC. The purpose of the action is to provide environmentally acceptable locations for the ocean disposal of materials dredged from the Savannah, Charleston, and Wilmington Channel Systems when ocean disposal is found to be necessary for some dredged material. The need for ocean disposal is determined on a case-by-case basis as part of the process of evaluating proposed disposal projects under the criteria for ocean dumping permits specified in EPA's Ocean Dumping Regulations (40 CFR Part 227).

The EIS discusses the need for the action and examines ocean disposal site alternatives to the proposed action. The EIS presents the information needed to evaluate the suitability of ocean disposal areas for final designation and is based on one of a series of disposal site environmental studies. The environmental studies and final designation process are being conducted in accordance with the requirements of the Act, the Ocean Dumping Regulations, and other applicable Federal environmental legislation.

C. Coastal Zone Management and Endangered Species Coordination

The States of North Carolina and South Carolina have concurred with EPA's determination that these site designations are consistent with their approved State Coastal Zone Management Plans. The State of Georgia does not have such a plan. The National Marine Fisheries Service and the U.S. Fish and Wildlife Service have concurred

with EPA's conclusion that the designation of these disposal sites will not affect the endangered species under their jurisdictions.

D. Site designation

Each year the entrance channels to Savannah, Charleston, and Wilmington Harbors must be dredged because natural processes cause them to shoal. Approximately one million cubic yards of sediments are dredged annually from the entrance channels to each harbor and dumped in ocean disposal sites adjacent to the respective dredging areas. Disposal at these sites shall be limited to dredged material from the three respective Harbor areas. However, these materials must be shown to meet the appropriate requirements of EPA's Ocean Dumping Regulations. The existing disposal sites were used for many years prior to their interim designation in 1977. Dredging may occur at any time of the year at the three harbors.

The action is for the final designation of the existing Savannah site and two sites of reduced area within the existing Charleston and Wilmington dredged material disposal sites. The entire existing Charleston site will receive materials from the proposed deepening project for a period of seven years after final designation. The Savannah site and reduced Charleston and Wilmington sites will receive operation and maintenance dredged material from the respective harbor areas for an indefinite period. The decision to reduce the size of the Charleston site for indefinite designation (by approximately 75 percent of the existing site's area) and the Wilmington site (by approximately 90 percent of the existing site's area) is based on past and anticipated dredging activities in the respective areas. EPA believes that the reduced size of each is sufficient for the expected disposal volumes, and reducing the designated area will facilitate monitoring activities. In addition, the reduction in size of these sites increases their distances from shore which reduces the associated potential impact to beaches or amenity areas.

Boundary coordinates for the Savannah, Charleston and Wilmington sites for indefinite designation are as follows:

Savannah

31d 55' 53"N., 80d, 44' 20"W.; 31d 57' 55"N., 80d 46' 48"W.; 31d 57' 55"N., 80d 44' 20"W.; 31d 55' 53"N., 80d 46' 48"W.

Charleston

32d 40' 27"N., 79d 47' 22"W.; 32d 39' 04"N., 79d 44' 25"W.; 32d 38' 07"N., 79d 45' 03"W.; 32d 39' 30"N., 79d 48' 00"W.

***25010** *Wilmington*

33d 49' 30"N., 78d 03' 06"W.; 33d 48' 18"N., 78d 01' 39"W.; 33d 47' 19"N., 78d 02' 48"W.; 33d 48' 30"N., 78d 04' 16"W.

Boundary coordinates of the Charleston Harbor deepening site (i.e. the entire existing Charleston site which will be used only to receive dredged materials from the proposed Charleston Harbor deepening project) are: 32d 38' 06"N., 79d 41' 57"W.; 32d 40' 42"N., 79d 47' 30"W.; 32d 39' 04"N., 79d 49' 21' "W.; 32d 36' 28"N., 79d 43' 48"W.

On February 23, 1987, EPA proposed a rule change designating these sites for the disposal of dredged materials [52 FR 5459 (February 23, 1987)]. The preamble to this proposed rule presented the characteristics of the sites in terms of the five general and eleven specific criteria identified in Section 228 of the Ocean Dumping Regulations. These criteria, taken together, constitute an environmental assessment of the suitability of each site as a repository for dredged material. That assessment concludes that these sites are appropriate for final designation.

Two letters of comment were received on the proposed rule. The South Carolina State Ports Authority (SPA) commented that the proposed designation of the Charleston Harbor deepening project site for four years was not sufficient. The SPA suggested designating this site for the duration of the Charleston Harbor deepening project. The latest construction schedule for the deepening project was transmitted to EPA after publication of the proposed rule. That schedule indicates that the majority of the construction will be completed in seven years. Since it is EPA's intention to designate this site for the deepening project, the designation is being made for seven years to reflect this updated schedule. Throughout the project, monitoring of the disposal site will document the effects of disposal and the extent of dispersion or mounding of the material. Therefore, EPA believes that the seven year designation is sufficient for disposal of the materials from the Charleston Harbor deepening project. If after this time it is apparent that significant quantities of material from this project remain to be disposed of in the ocean, and the monitoring results indicate that the larger area is still needed, the designation of the larger site can be extended. The SPA also indicated that the proposed size of the permanent Charleston site is too small. EPA and the Corps of Engineers have determined that the reduced area of three square nautical miles is adequate capacity for this site.

The Corps of Engineers, South Atlantic Division (SAD), expressed concern regarding the responsibilities of EPA and the Corps for the management of the sites. Under the authority of the Act and the Ocean Dumping Regulations, EPA is responsible for the management of ocean disposal sites. management of the sites consists of regulating times, rates, and methods of disposal, quantities and types of materials for disposal, developing monitoring programs and conducting site evaluations. The Regulations further encourage the full participation of other federal, state, and local agencies in the development and implementation of monitoring plans. EPA, Region IV and the SAD are currently developing a Memorandum of Understanding (MOU) to facilitate joint involvement in disposal site management. The MOU will outline any joint responsibilities that EPA and the Corps will share in implementing site management plans. SAD also commented that the Corps projects are not subject to the "permitting process" referenced in the proposed rule. While it is true that federal projects are not required to have permits pursuant to Section 103 of the Act, they must, like non-federal projects, be evaluated under the criteria for ocean dumping permits specified in EPA's Ocean Dumping Regulations (40 CFR Part 227). SAD also correctly commented that the permanent Charleston site is not located directly in the center of the interim Charleston site, but still within the interim site boundaries.

E. Action

Dredged material disposal has occurred at the disposal sites for the past several years. Recent monitoring associated with the site designation process has not detected any persistent or cumulative changes in the water quality or ecology at the sites. Impacts from dumping have been found to be temporary and restricted to within the site boundary. The near-shore location of the disposal sites facilitates surveillance and monitoring and decreases the impact of sediment texture/chemistry changes resulting from disposal of dissimilar sediments.

The designation of these ocean dredged material disposal sites as EPA Approved Ocean Dumping Sites is being published as final rulemaking. Management authority of these sites will be the responsibility of the Regional

Administrator of EPA Region IV. EPA Region IV, and the Corps of Engineers, South Atlantic Division, are currently preparing a Memorandum of Understanding which will outline the responsibilities of each Agency in the monitoring of the sites.

It should be emphasized that, once an ocean dumping site is designated, such a site designation does not constitute or imply EPA's approval of actual disposal of materials at the site. Before ocean dumping of dredged material from non-Federal projects at the site may commence, the Corps of Engineers must evaluate a permit application using EPA's ocean dumping criteria. If a federal project is involved, the Corps must also evaluate the proposed dumping in accordance with those criteria. In either case, EPA has the right to disapprove the actual dumping if it determines that environmental concerns under the Act have not been met.

F. Regulatory Assessments

Under the Regulatory Flexibility Act, EPA is required to perform a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. EPA has determined that this action will not have a significant impact on small entities since the site designation will only have the effect of providing a disposal option for dredged material. Consequently, this action does not necessitate preparation of a Regulatory Flexibility Analysis.

Under [Executive Order 12291](#), EPA must judge whether a regulation is “major” and therefore subject to the requirement of a Regulatory Impact Analysis. This action will not result in an annual effect on the economy of \$100 million or more or cause any of the other effects which would result in its being classified by the Executive Order as a “major” rule. Consequently, this final rule does not necessitate preparation of a Regulatory Impact Analysis.

This final rule does not contain any information collection requirements subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980, [44 U.S.C. 3501](#) et seq.

This final rulemaking notice represents the Record of Decision required under regulations promulgated by the Council on Environmental Quality for agencies subject to NEPA.

List of Subjects in 40 CFR Part 228

Water pollution control.

Dated: June 25, 1987.

Lee A. DeHihns, III,

Acting Regional Administrator.

In consideration of the foregoing, Subchapter H of Chapter I of Title 40 is to be amended as set forth below.

***25011** PART 228—[AMENDED]1. The authority citation for Part 228 continues to read as follows:

Authority: [33 U.S.C. 1412](#) and [1418](#).

2. [Section 228.12](#) is amended by removing and reserving paragraph (a)1)(ii)(C) and by adding paragraphs (b)(32), (33), (34), and (35) to read as follows:

[40 CFR § 228.12](#)

[§ 228.12](#) Delegation of management authority for ocean dumping sites.

* * * * *

(b) * * *

(32) Savannah, GA, Dredged Material Disposal Site—Region IV.

Location: 31d, 55' 53"N., 80d 44' 20"W.; 31d 57' 55"N., 80d 46' 48" W.; 31d 57' 55"N., 80d 44' 20"W.; 31d 55' 53"N., 80d 46' 48"W.

Size: 4.26 square nautical miles.

Depth: Averages 11.4 meters.

Primary Use: Dredged material.

Period of Use: Continuing use.

Restriction: Disposal shall be limited to dredged material from the Savannah Harbor area.

(33) Charleston, SC, Dredged Material Disposal Site—Region IV.

Location: 32d 40' 27"N., 79d 47' 22"W.; 32d 39' 04"N., 79d 44' 25"W.; 32d 38' 07"N., 79d 45' 03"W.; 32d 39' 30"N., 79d 48' 00"W.

Size: 3 square nautical miles.

Depth: Averages 11 meters.

Primary Use: Dredged material.

Period of Use: Continuing use.

Restriction: Disposal shall be limited to dredged material from the Charleston Harbor area.

(34) Charleston, SC, Harbor Deepening Project Dredged Material Disposal Site—Region IV.

Location: 32d 38' 06"N., 79d 41' 57"W.; 32d 40' 42"N., 79d 47' 30"W.; 32d 39' 04"N., 79d 49' 21"W.; 32d 36' 28"N., 79d 43' 48"W.

Size: 11.8 square nautical miles.

Depth: Averages 11 meters.

Primary Use: Dredged material from the Charleston Harbor deepening project.

Period of Use: Not to exceed seven years from the initiation of the Charleston Harbor deepening project.

Restriction: Disposal shall be limited to dredged material from the Charleston Harbor deepening project.

(35) Wilmington, NC, Dredged Material Disposal Site—Region IV.

Location: 33d 49' 30"N., 78d 03' 06"W.; 33d 48' 18"N., 78d 01' 39"W.; 33d 47' 19"N., 78d 02' 48"W.; 33d 48' 30"N., 78d 04' 16"W.

Size: 2.3 square nautical miles.

Depth: Averages 13 meters.

Primary Use: Dredged material.

Period of Use: Continuing use.

Restriction: Disposal shall be limited to dredged material from Wilmington Harbor area.

[FR Doc. 87-15079 Filed 7-1-87; 8:45 am]

BILLING CODE 6560-50-M

52 FR 25008-02, 1987 WL 225937 (F.R.)

END OF DOCUMENT