

RULES and REGULATIONS
ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[OW-4-FRL-3159-4]

Ocean Dumping; Site Designation

Monday, February 23, 1987

***5459** AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA today designates a new dredged material disposal site in the Atlantic Ocean offshore Fernandina Beach, Amelia Island, Florida ("the Fernandina site"), as an EPA-approved ocean dumping site for the dumping of dredged material. This action is necessary to provide an acceptable ocean dumping site for projects in the area which require ocean disposal of dredged material. This final designation is for an indefinite period of time but is subject to continued monitoring to ensure that unacceptable adverse environmental impacts do not occur. The interim designation previously given to another site in the area near Fernandina Harbor is being cancelled.

DATE: This designation shall become effective on March 25, 1987.

ADDRESSES: Send comments to:

Sally Turner, Chief, Marine Protection Section, Water Management Division, U.S. Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, GA 30365.

The file supporting this site designation is available for public inspection at the following locations:

EPA Public Information Reference Unit (PIRU), Room 2904 (rear), 401 M Street, SW., Washington, DC 20460.

EPA Region IV, 345 Courtland Street, NE., Atlanta, GA 30365.

FOR FURTHER INFORMATION CONTACT:Reginald G. Rogers, 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. This designation of the Fernandina site,

Florida is within Region IV and is being made pursuant to that authority.

The EPA Ocean Dumping Regulations promulgated under the Act ([40 CFR Chapter I, Subchapter H, section 228.4](#)) state that ocean dumping sites will be designated by promulgation in this Part 228. This site designation is being published as final rulemaking in accordance with [§ 228.4\(e\)](#) of the Ocean Dumping Regulations, which permits the designation of ocean disposal sites for dredged material.

B. EIS Development

Section 102(2)(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.

The object of NEPA is to build into Agency decision-making processes careful consideration of all environmental aspects of proposed actions. While NEPA does not apply to EPA activities of this type, EPA has voluntarily committed to prepare EIS's ***5460** in connection with ocean dumping site designations such as this [See 39 FR 16186 (May 7, 1974)].

The Corps of Engineers and EPA have prepared a draft and final EIS titled, Supplement to the Jacksonville Harbor Ocean Dredged Material Disposal Site—Final Environmental Impact Statement for Designation of a New Fernandina Harbor, Florida Ocean Dredged Material Disposal Site.

This Supplemental EIS (SEIS) discusses the final EPA designation of an ocean dredged material disposal site for continuing use near Fernandina Beach, FL. The purpose of the EPA's action is to provide an environmentally acceptable ocean location for disposal of dredged materials if an ocean disposal site is needed for such materials. The need for ocean disposals is determined on a case-by-case basis as part of the process of issuing permits for ocean disposal.

Of Friday July 25, 1986, a notice of availability of the draft SEIS for public review and comment was published in the Federal Register [[51 FR 26748](#) July 25, 1986]. Seven comment letters were received on the draft SEIS and were addressed in the final SEIS. On Friday November 14, 1986, the notice of availability of the final SEIS was published in the Federal Register [[51 FR 41415](#) November 14, 1986]. Three comment letters were received on the final SEIS. The comments on the final SEIS were addressed in the proposed rulemaking published for this site designation at [52 FR 438](#) (January 6, 1987).

C. Site Designation

The proposed site is located approximately six nautical miles offshore Amelia Island, Florida and occupies an area of about 4 square nautical miles. Water depths within the area average 16 meters. The coordinates of the site are as follows:

30°33'00" N.; 81°16'52" W.

30°31'00" N.; 81°16'52" W.

30°31'00" N., 81°19'08" W.

30°33'00" N., 81°19'08" W.

On January 6, 1987, EPA proposed a rule change designating this site for the disposal of dredged materials [52 FR 38 (January 6, 1987)]. The preamble to this proposed rule presented the characteristics of the site in terms of the eleven specific factors identified in § 228.5 of the Ocean Dumping Regulations which, taken together, constitute an assessment of the site's suitability as a repository for dredged material. That assessment concludes that this site is appropriate for final designation. The State of Florida, the U.S. Fish and Wildlife Service and the National Marine Fisheries Service have concurred with this site designation.

Two letters of comment were received on the proposed rule, neither of which opposed the designation of the Fernandina site. The first, from the U.S. Coast Guard Port Safety and Security Division, indicated that a memorandum of understanding between the Coast Guard and the Corps of Engineers requires the Corps of Engineers to provide surveillance over federally contracted activities which are associated with federal navigation projects which entail dredged material disposal operations in ocean waters. In supplementary information accompanying the proposed rule, EPA had referred to the Coast Guard's monitoring role and we acknowledge this memorandum of understanding and its provisions for federal navigation projects. The second letter of comment was received from the Department of Interior's Minerals Management Service, Offshore Minerals Management Office, and Office of Strategic and International Minerals. The comments indicated that EPA neglected to mention the potential for offshore minerals other than oil and gas deposits, and that the Service would like to be kept informed of the results of monitoring at the site. EPA acknowledges that mineral deposits other than oil and gas may exist in the area. However, EPA believes that this site designation will not affect the future exploration or extraction of minerals in the vicinity. EPA will keep the Service informed of the availability of results of monitoring studies conducted at the site.

D. Action

The designation of the Fernandina site as an EPA-approved ocean dumping site is today being published as a final rulemaking. Management of this site will be the responsibility of the EPA Region IV.

A site designation does not give approval for actual disposal of materials at the site. Before ocean dumping of dredged material from a specific project may commence at the designated site, the Corps of Engineers must evaluate a permit application according to EPA's ocean dumping criteria (40 CFR, Part 227). If a Federal project is involved, the Corps of Engineers must also evaluate the proposed ocean disposal in accordance with the same criteria. In either case, EPA has the authority to disapprove the actual dumping if it determines that environmental concerns under the Act have not been met. Upon the effective date of this rule change, the nearby Fernandina Harbor site, previously designated for dredged materials on an interim basis, will no longer be needed. Therefore, the interim designation is being cancelled. The interim site was incorrectly cited in the proposed rule change. The citation given in the paragraph included in order to cancel the interim site was "paragraph (a)(1)(ii)(C)" of § 228.12 of the Ocean Dumping Regulations. This citation should have read § 228.12 paragraph (a)(3)" of the Ocean Dumping Regulations. This final rule corrects the amending paragraph in order to effect removal of the interim Fernandina site from the list of sites in § 228.12(a)(3).

E. 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 proposal 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: February 13, 1987.

Approved by:

Jack E. Ravan,

Regional Administrator for Region IV.

PART 228—[AMENDED]In consideration of the foregoing, Subchapter H of Chapter I of Title 409 is amended as set forth below.

1. The authority citation for Part 228 continues to read as follows:

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

***5461** 2. Part 228 is amended by removing from [§ 228.12\(a\)\(3\)](#) the words and coordinates “Fernandina Harbor—30°42'00" N., 81°19'05" W.; 30°42'00" N., 81°17'55" W.; 30°41'00" N., 81°17'55" W.; 30°41'00" N., 81°19'05" W.” and by adding paragraph (b)(3) to read as follows:

[40 CFR § 228.12](#)

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

* * * * *

(b) * * *

(30) Fernandina Beach, Florida Dredged Material Disposal Site—Region IV.

Location:

30°33'00" N.; 81°16'52"W.

30°31'00" N.; 81°16'52" W.

30°31'00" N.; 81°19'08" W.

30°33'00" N.; 81°19'08" W.

Size: 4 square nautical miles

Depth: Average 16 meters

Primary use: Dredged Material

Period of Use: Continuing use

Restrictions: Disposal shall be limited to dredged material which meets the criteria given in the Ocean Dumping Regulations, Part 227.

[FR Doc. 87-3717 Filed 2-20-87; 8:45 am]

BILLING CODE 6560-50-M

52 FR 5459-01, 1987 WL 128169 (F.R.)

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