

RULES and REGULATIONS
ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[OW-4-FRL-3246-4]

Ocean Dumping; Site Designation

Friday, August 14, 1987

***30360** AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA today designates the alternative dredged material disposal site in the Atlantic Ocean offshore Morehead City, North Carolina ("the site") as an EPA approved ocean dumping site for the dumping of dredged material. The Morehead City site includes that part of the existing site that is greater than 3 nautical miles (nmi) from shore and an adjacent area seaward. This site is chosen so as to decrease the possibility of interference with fisheries and recreational use of the ocean. This action is necessary to provide an acceptable ocean dumping ***30361** site for the current and future disposal of dredged material.

DATE: This designation shall become effective on September 14, 1987.

ADDRESSES: 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: Christopher 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. This site designation is within Region IV and is 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](#)). The list established the Morehead City site as an interim site.

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 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 [39 FR 16186 (May 7, 1984)].

EPA has prepared a draft and final EIS entitled, “Environmental Impact Statement—Morehead City Ocean Dredged Material Site Designation.”

On Friday, February 8, 1985, a notice of availability of the Final Morehead City EIS for public review and comment was published in the Federal Register [[48 FR 5423 \(February 8, 1985\)](#)]. The public comment period on the final EIS closed March 11, 1985. Anyone desiring a copy of the EIS may obtain one from the address above.

The final EIS consists of supplemental information to the draft EIS and must be attached to the draft EIS to provide a full document.

C. Coastal Zone Management and Endangered Species Coordination

By letter of October 18, 1984, the State of North Carolina concurred with EPA's conclusion that this site designation is consistent with the State Coastal Zone Management Plan. The National Marine Fisheries Service and the U.S. Fish and Wildlife Service have concurred with EPA's conclusion that the designation of this disposal site will not affect the endangered species under their jurisdiction.

D. Site Designation

Morehead City is one of only two deep water ports in North Carolina. Morehead City supported shipping commerce of 3 million tons in 1980. Consequently, maintenance of this port for navigation is vital to the state and local economies.

Boundary coordinates for the Morehead City site are as follows:

34°38'30" N, 76°45'0" W;

34°38'30" N, 76°41'42" W;

34°38'09" N, 76°41'0" W;

34°36'0" N, 76°41'0" W;

34°36'0" N, 70°45'0" W.

On June 4, 1987, EPA proposed this final site designation in the Federal Register [[52 FR 21082 \(June 4, 1987\)](#)]. The preamble to this proposed rule change presented the characteristics of the site in terms of the eleven specific factors identified in Section 228.5 of the Ocean Dumping Regulations which, taken together, constitute an as-

assessment of the site's suitability as a repository for dredged material.

That assessment concludes that this site is appropriate for final designation. One letter of comment was received on the proposed rule. That comment, from the North Carolina State Ports Authority, supported the designation of the Morehead City site as proposed.

E. Action

The designation of the Morehead City dredged material disposal site as an EPA Approved Ocean Dumping Site is being published as final rulemaking. Management authority of these sites will be the responsibility of the Regional Administrator of EPA Region IV.

It should be emphasized that, if an ocean dumping site is designated, such a site designation does not constitute or imply EPA's approval of actual disposal of materials at sea. Before ocean dumping of dredged material at the site may commence, the Corps of Engineers must evaluate a permit application according to 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: August 3, 1987.

Lee A. DeHihns III,

Acting Regional Administrator, Region IV.

In consideration of the foregoing, Subchapter H of Chapter I of Title 409 is amended as set forth below.

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

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

2. [Section 228.12](#) is amended by removing from paragraph (a)(3) the words and coordinates “Morehead City ***30362** Harbor-Maintenance Dredging Hopper Dredge Disposal Area” 3 miles x 3 miles; approximate latitude and longitude, bounded north 34°40'00", south 34°38'30", east 76°41'00", west 76°43' 00", and by adding paragraph (b)(31) to read as follows:

[40 CFR § 228.12](#)

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

* * * * *

(b) * * *

(31) Morehead City, North Carolina, Dredged Material Disposal Site-Region IV.

Location: 34°38'30" N., 76°45'0" W.; 34°38'30" N., 76°41'42" W.; 34°38'09" N., 76°41'0" W; 34°36'0" N., 76°41'0" W., 34°36'0" N., 76°45'0" W.

Size: 8 square nautical miles.

Depth: Average 12.0 meters.

Primary Use: Dredged material.

Period of Use: Continuing use.

Restriction: Disposal shall be limited to dredged material from the Morehead City Harbor, North Carolina area. All material disposed must satisfy the requirements of the ocean dumping regulations.

[FR Doc. 87-18316 Filed 8-13-87; 8:45 am]

BILLING CODE 6560-50-M

52 FR 30360-01, 1987 WL 139216 (F.R.)

END OF DOCUMENT