

RULES and REGULATIONS
ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[FRL-5204-6]

Ocean Dumping; Final Site Designation

Thursday, May 11, 1995

***25147** AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA today designates an Ocean Dredged Material Disposal Site (ODMDS) in the Gulf of Mexico offshore Tampa, Florida, as an EPA-approved ocean dumping site for the disposal of suitable dredged material. This action is necessary to provide an acceptable ocean disposal site for consideration as an option for dredged material disposal projects in the greater Tampa, Florida vicinity. This site designation is for an indefinite period of time, but the site is subject to continuing monitoring to insure that unacceptable adverse environmental impacts do not occur.

EFFECTIVE DATE: This designation shall become effective on June 12, 1995.

ADDRESSES: Wesley B. Crum, Chief, Coastal Programs Section, Water Management Division, U. S. Environmental Protection Agency, Region IV, 345 Courtland St, NE., Atlanta, Georgia 30365.

FOR FURTHER INFORMATION CONTACT: Gary W. Collins, 404/347-1740 ext. 4286.

SUPPLEMENTARY INFORMATION:

A. Background

Section 102(c) of the Marine Protection, Research, and Sanctuaries Act (MPRSA) of 1972, as amended, [33 U.S.C. 1401 et seq.](#), gives the Administrator of EPA the authority to designate sites where ocean disposal may be permitted. On October 1, 1986, the Administrator delegated the authority to designate ocean disposal sites to the Regional Administrator of the Region in which the sites are located. This designation of a site offshore Tampa, Florida, which is within Region IV, is being made pursuant to that authority.

The EPA Ocean Dumping Regulations promulgated under MPRSA ([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 (January 11, 1977)). The list established two sites for Tampa, Site A and Site B, as interim sites. Subsequent legal action by Manatee County and extensive field efforts have resulted in the identification of the now proposed site. The details of these events can be found in the "Final Environmental Impact Statement for the Designation of an Ocean Dredged Material Disposal Site Located Offshore Tampa, Florida."

B. EIS Development

Section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as amended, [42 U.S.C. 4321](#) et seq., 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 the Agency decision making process 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 EISs in connection with ocean disposal site designations such as this (see 39 FR 16186 (May 7, 1974)).

EPA, in cooperation with the Jacksonville District of the U.S. Army Corps of Engineers (COE), has prepared a Final EIS (FEIS) entitled "Final Environmental Impact Statement for the Designation of An Ocean Dredged Material Disposal Site Located Offshore Tampa, Florida." On September 23, 1994, the Notice of Availability (NOA) of the FEIS for public review and comment was published in the Federal Register ([59 FR 48878 \(September 23 1994\)](#)). Anyone desiring a copy of the EIS may obtain one from the address given above. The public comment period on the final EIS closed on October 24, 1994. The closing date was extended for 15 days due to a request by the State of Florida.

EPA received 1 comment letter on the Final EIS. The letter was from the State of Florida (dated November 18, 1994) and stated that the proposed designation was found to be consistent with the Florida Coastal Management Program.

This rule permanently designates the continued use of the previously designated Site 4 near Tampa, Florida. The purpose of the action is to provide an environmentally acceptable option for the ocean disposal of dredged material. The need for the permanent designation of the Tampa ODMDS is based on a demonstrated COE need for ocean disposal of maintenance dredged material from the Federal navigation projects in the greater Tampa Bay area. However, every disposal activity by the COE is evaluated on a case-by-case basis to determine the need for ocean disposal for that particular case. The need for ocean disposal for other projects, and the suitability of the material for ocean disposal, will be determined on a case-by-case basis as part of the COE's process of issuing permits for ocean disposal for private/federal actions and a public review process for their own actions.

For the Tampa ODMDS, the COE and EPA would evaluate all federal dredged material disposal projects pursuant to the EPA criteria given in the Ocean Dumping Regulations (40 CFR parts 220 through 229) and the COE regulations (33 CFR 209.120 and parts 335-338). The COE then issues Marine Protection, Research, and Sanctuaries Act (MPRSA) ***25148** permits after compliance with regulations is determined to private applicants for the transport of dredged material intended for ocean disposal. EPA has the right to disapprove any ocean disposal project if, in its judgment, the MPRSA environmental criteria ([Section 102\(a\)](#)) or conditions of designation ([Section 102\(c\)](#)) are not met.

The FEIS discusses the need for this site designation and examines ocean disposal site alternatives to this action.

Non-ocean disposal options have been examined and are discussed in the FEIS.

EPA proposed the designation of this site on January 13, 1995 ([60 FR 3186](#)). The public comment period expired on February 27, 1995. Only one letter was received on the proposed designation of the Tampa ODMDS. The letter, from the U. S. Department of the Interior (DOI), expressed concern that some of the material may come from portions of the channel that lie within the Federal Outer Continental Shelf (OCS) and the need to inform the DOI's Minerals Management Service (MMS) of such activities. The DOI also expressed concern that material coming from the OCS and used for activities such as beach nourishment could not be removed without a mineral lease issued by MMS. EPA believes that these comments are pertinent only to the COE's permitting action that is discussed previously and no response is needed.

C. Site Designation

The site is located west of Tampa, Florida, approximately 18 nautical miles (nmi) offshore. The ODMDS occupies an area of about 4 square nautical miles (nmi²), in the configuration of an approximate 2 nmi by 2 nmi square.

Water depths within the area average 22 meters (m). The coordinates of the Tampa site are as follows:

27degrees32'27" N	83degrees06'02" W;
27degrees32'27" N	83degrees03'46" W;
27degrees30'27" N	83degrees06'02" W; and
27degrees30'27" N	83degrees03'46" W.

D. Regulatory Requirements

Pursuant to the Ocean Dumping Regulations, [40 CFR 228.5](#), five general criteria are used in the selection and approval for continuing use of ocean disposal sites. Sites are selected so as to minimize interference with other marine activities, to prevent any temporary perturbations associated with the disposal from causing impacts outside the disposal site, and to permit effective monitoring to detect any adverse impacts at an early stage. Where feasible, locations off the Continental Shelf and other sites that have been historically used are to be chosen. If, at any time, disposal operations at a site cause unacceptable adverse impacts, further use of the site can be restricted or terminated by EPA. The site conforms to the five general criteria.

In addition to these general criteria in [§228.5](#), [§228.6](#) lists the 11 specific criteria used in evaluating a disposal site to assure that the general criteria are met. Application of these 11 criteria constitutes an environmental assessment of the impact of disposal at the site. The characteristics of the site were reviewed in the proposed rule in terms of these 11 criteria (the EIS may be consulted for additional information).

E. Site Management

Site management of the Tampa ODMDS is the responsibility of EPA as well as the COE. The COE issues permits to private applicants for ocean disposal; however, EPA/Region IV assumes overall responsibility for site management.

The Site Management and Monitoring Plan (SMMP) for the Tampa ODMDS was developed as a part of the process of completing the EIS. This plan, the result of partnering of the federal, state and local authorities who have an interest in ocean disposal and the protection of marine resources, provides procedures for both site management and for the monitoring of effects of disposal activities. The SMMP Team will meet regularly to review the site activities and make recommendations to EPA and the COE on future management and monitoring of the ODMDS. This SMMP is intended to be flexible and may be modified by the responsible agency for cause. Copies of the SMMP are available either separately or as part of the EIS at the address given above.

F. Site Designation

The EIS concludes that the site may appropriately be designated for use. The site is compatible with the 11 specific and 5 general criteria used for site evaluation.

The designation of the Tampa site as an EPA-approved ODMDS is being published as Final Rulemaking. Overall management of this site is the responsibility of the Regional Administrator of EPA/Region IV.

It should be emphasized that, if an ODMDS is designated, such a site designation does not constitute EPA's approval of actual disposal of material at sea. Before ocean disposal of dredged material at the site may commence, the COE must evaluate a permit application according to EPA's Ocean Dumping Criteria. EPA has the right to disapprove the actual disposal if it determines that environmental concerns under MPRSA have not been met.

The Tampa ODMDS is not restricted to disposal use by federal projects; private applicants may also dispose suitable dredged material at the ODMDS once relevant regulations have been satisfied. This site is restricted, however, to suitable dredged material from the greater Tampa, Florida vicinity.

G. Regulatory Assessments

Under the Regulatory Flexibility Act, EPA is required to perform a Regulatory Flexibility Analysis for all rules that 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 designation will only have the effect of providing a disposal option for dredged material. Consequently, this Rule does not necessitate preparation of a Regulatory Flexibility Analysis.

Under [Executive Order 12866](#), 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 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.

List of Subjects in 40 CFR Part 228

Environmental protection, Water pollution control.

Patrick M. Tobin,

Acting Regional Administrator.

In consideration of the foregoing, subchapter H of chapter I of title 40 is amended as follows:

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

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

[40 CFR § 228.15](#)

2. [Section 228.15](#) is amended by adding paragraph (h)(18) to read as follows:

[40 CFR § 228.15](#)

[§228.15](#) Dumping sites designated on a final basis.

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(h) * * *

***25149** (18) Tampa, Florida; Ocean Dredged Material Disposal Site ____ Region IV.

(i) Location:

27degrees32'27" N	83degrees06'02" W;
27degrees32'27" N	83degrees03'46" W;
27degrees30'27" N	83degrees06'02" W;
27degrees30'27" N	83degrees03'46" W.

(ii) Size: Approximately 4 square nautical miles.

(iii) Depth: Approximately 22 meters.

(iv) Primary use: Dredged material.

(v) Period of use: Continuing use.

(vi) Restriction: Disposal shall be limited to suitable dredged material from the greater Tampa, Florida vicinity. Disposal shall comply with conditions set forth in the most recent approved Site Management and Monitoring Plan.

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60 FR 25147-01, 1995 WL 273694 (F.R.)
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