Inert ingredients	Limits	Uses
Grape pomace, dried		Solid diluent, carrier.

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BILLING CODE 6560-50-M

40 CFR Part 228

[OW-FRL-2796-1]

Ocean Dumping; Interim Final Designation of Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rule.

SUMMARY: EPA today designates the existing dredged material disposal site located adjacent to the San Francisco main ship channel 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 the current and future disposal of dredged material resulting from the annual dredging of the San Francisco main ship channel. EPA is promulgating this designation as an interim final rule to give the public an opportunity to comment on a change to the site restriction made after the close of the comment period.

DATES: This site designation shall become effective on April 12, 1985. Comments must be submitted no later than April 12, 1985.

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

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

EPA Region IX, 215 Fremont Street, San Francisco, California

FOR FURTHER INFORMATION CONTACT: Mr. Paul Pan, Chief, Environmental Analysis Branch (WH-546), EPA, Washington, DC 20460, 202/755-9231.

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 September 19, 1980, the Administrator delegated the authority to designate ocean dumping sites to the Assistant Administrator for Water and Waste Managment, now the Assistant Administrator for Water. This site designation 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 accordance with 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 February 7, 1983 (48 FR 5557 et seq.). That list established the San Francisco Channel Bar site as an interim site and extended its period of use until January 31, 1984. The interim designation of this site was further extended to January 31, 1985, on March 9, 1984 (49 FR 8923 et seq.), in order to provide a site necessary for the disposal of dredged material from the San Francisco area until such time as rulemaking for an ocean disposal site for continuing use can be completed.

B. EIS Development

EPA has prepared an Environmental Impact Statement (EIS) in accordance with EPA's Statement of Policy for Voluntary Preparation of EIS's (39 FR 16186, May 7, 1974; 39 FR 37119, October 21, 1974). On November 28, 1980, a notice of availability of the draft EIS for public review and comment was published in the **Federal Register.** This draft EIS envisioned restricting site use to dredged material that was composed "predominantly of sand, gravel, rock, or any other naturally occurring bottom sediment" from an area of high wave energy, and to compatible dredged material "for beach nourishment or restoration." (40 CFR 227.13(b).) A revised draft of the San Francisco Channel Bar EIS was subsequently issued recommending that disposal be allowed of other dredged material found environmentally acceptable for ocean disposal after testing as outlined at 40 CFR 227.13. As recommended by the revised draft EIS, the quantity and acceptabiltiy of material for ocean disposal at this site would be considered by EPA and the Corps of Engineers on a case-by-case basis within each project EIS or permit application evaluation.

On February 26, 1982, a notice of the availability of the revised draft EIS for public review and comment was published in the **Federal Register** (47 FR 8402). The public comment period on this revised draft EIS closed April 12, 1982. On September 10, 1982, a notice of availability of the final EIS for public review and comment was published in the **Federal Register** (47 FR 39886). The public comment period on the final EIS closed October 12, 1982. This document is available for public inspection at the addresses given above and is summarized in the following paragraphs.

The final 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 for continuing use and is based on one of a series of disposal site environmental studies. The environmental studies and site designation process are being conducted in accordance with the requirements of the Act, the Ocean Dumping Regulations, and other applicable Federal environmental legislation.

C. Site Designation

On August 29, 1984, EPA proposed designation of this site for the continuing disposal of dredged materials from the entrance of the San Francisco main ship channel and other dredged materials meeting the requirements of 40 CFR 227.13 (49 FR 34248). The public comment period expired on October 15, 1984. No comments were received on the proposed rule.

The entrance to San Francisco Bay is through the Gulf of the Farallones and the narrow Golden Gate. The Gulf extends from Point San Pedro on the south for 34 miles to Point Reyes on the north and has a greatest width of 23 miles from the Farallon Islands on the west to the mainland.

The location of the dredged material disposal site is three nautical miles west of the San Francisco Peninsula and one nautical mile south of, and running parallel to, the San Francisco main ship channel. It is a rectangular area, 4,572 x 914 meters, with corner coordinates as follows:

37°44'55" N., 122°37'18" W.;
37°45'55" N., 122°34'24" W.;
37°44'24" N., 122°37'06" W.;
37°45'15" N., 122°34'12" W.

The site lies with its long axis at right angles to the San Francisco Channel Bar. Water depths within the site range from 14.3 meters in the southwest and northeast corners to 11 meters in the center. Historically, the site has received an annual volume of dredged material ranging from 950,000 cubic yards to 1,500,000 cubic yards.

Most of the dredged materials proposed for ocean disposal will be from required dredging operations at the entrance of the San Francisco main ship channel which is composed primarily of sand having grain sizes compatible with naturally occurring sediments at the disposal site and containing approximately 5 percent of particles

having grain sizes finer than that normally attributed to very fine sand (.075 millimeters). Other dredged materials meeting the requirements of 40 CFR 227.13 but having smaller grain sizes may be dumped at this site only upon completion of an appropriate case-by-case evaluation by the Corps and EPA of the impact of such material on the site which demonstrates that such impact will be acceptable. Maximum quantities of dredged materials to be disposed at this site are to be determined by the permitting authority.

The proposed site designation would have allowed disposal of other dredged materials if a case-by-case evaluation showed not only that the materials would have acceptable impacts, but also that they would be compatible with natural sediments at the site and would contain no more than 5 percent of particles with grain sizes finer than .075 millimeters. Just prior to proposal, however, the Corps of Engineers requested EPA to delete the specific references to compatibility and grain size. The Corps and EPA agreed that the general requirement for a case-by-case evaluation would adequately protect the site because it would prohibit disposal of materials found to be incompatible with natural sediments or to have unacceptable grain sizes. Moreover, it was consistent with both the revised draft EIS and final EIS, neither of which recommended specific restrictions on the amount of fine-grained particles.

EPA agreed to remove the more specific restrictions to the proposed designation, but inadvertently published the proposal without deleting the appropriate language. To expedite the designation of this site, EPA is promulgating today the restriction that it intended to propose. However, to give the public a chance to comment on the precise wording of the restriction, EPA is promulgating the designation as an interim final rule. EPA will consider all comments submitted within 30 days of the publication of this notice.

D. Regulatory Requirements

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 keep any temporary perturbations from the dumping 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 are chosen. If at any time disposal operations at a site cause unacceptable adverse impacts, further use of the site will be restricted or terminated. These general criteria are set forth in § 228.5 of the EPA Ocean Dumping Regulations, and § 228.6 lists 11 specific factors used in evaluating a proposed disposal site to assure that the general criteria are met.

The existing San Francisco Channel Bar dredged material disposal site satisfies the five general criteria for continuing use. As discussed below under the 11 specific factors considered in determining compliance with these criteria, use of the site does not interfere with other marine activities, studies have shown the dumping at the site has not caused impacts outside the disposal site, and the site is in a location where effective monitoring is feasible. This site is not off the Continental Shelf; however, there are minimal environmental risks associated with use of the existing site, and use of an off-the-Shelf site would increase difficulty of monitoring and increase costs of disposal without a corresponding environmental benefit.

EPA established the 11 specific factors in § 228.6 to constitute an environmental assessment of the impact of the site for disposal. The criteria are used to make critical comparisons between the alternative sites and are the bases for final site selection. The characteristics of the existing site are reviewed below in terms of these 11 criteria.

1. *Geographical position, depth of water, bottom topography and distance from coast.* [40 CFR 228.6(a)(1).]

The site is approximately a rectangle, 4,572 x 914 meters. Its corner coordinates are given above. Water depth ranges from 11 to 14.3 meters. The only prominent features on the sea floor are sand ripples.

2. *Location in relation to breeding, spawning, nursery, feeding, or passage areas of living resources in adult or juvenile phases.* [40 CFR 228.6(a)(2).]

Many species of fish and invertebrates spawn throughout the Gulf of the Farallones or within areas in the Gulf where they occur as adults; nursery areas are similarly distributed. However, few spawning of nursery grounds have been identified in the Gulf because the areas used for these purposes are usually widespread and indistinct from the general habitat of a given species. Thus the site may serve as an established, though minor, portion of the range for these activities.

Juvenile Dungeness crabs may occur in the site during disposal operations. Crabs are highly motile, however, and studies of behavior of the species as discussed in the EIS show that they should have little difficulty escaping the thin layer of sand or finer grained material deposited during disposal operations. Fine grained or highly cohesive material if deposited so as to form thick layers could possibly immobilize the crabs. However, as noted in the discussion under factor 6, the currents at this site are such that mounding which could create thick layers does not occur.

Salmon migrate through the Golden Gate during spring in order to spawn and may pass through the site. Salmon migrating into the Bay during disposal operations would be diverted from the site but would not be prevented from entering the Golden Gate. The site may also be used as a springtime spawning area by English sole, and juveniles of English sole, sanddabs, and California halibut may be found there.

Considering the extent of the region in which spawning and nursery areas occur, disposal of dredged material at this site presents no significant threat to reproducing populations of fishes. The limited area of the disposal site and the infrequency of disposal operations minimize the direct exposure of these species to dredged material. Spawning occurs in the spring, while the annual dredging and disposal operations have been historically conducted between November and January. Under optimal weather conditions, the entire disposal cycle is completed in one month.

3. *Location in relation to beaches and other amenity areas.* [40 CFR 228.6(a)(3).]

The site is approximately 3 nautical miles from the San Francisco coastline. The beaches in this region are undeveloped and experience light to moderate public use. The location of the present interim site was chosen by the Corps of Engineers in 1972 partly in anticipation that the sand disposed of at the site would build up eroding beaches south of the site.

4. *Types and quantities of wastes proposed to be disposed of, and proposed methods of release, including methods of packing the waste, if any.* [40 CFR 228.6(a)(4).]

Dredged material from the entrance of the main ship channel is the only material currently disposed at the site and is excluded from further testing in compliance with 40 CFR 227.13(b)(1). This material is composed primarily of fine- and medium-grained sands, essentially identical to the material at the site. Historically, annual volumes have ranged from 950,000 cubic yards to 1,500,000 cubic yards.

Other dredged material meeting the requirements of 40 CFR 227.13 but having smaller grain sizes may be dumped at this site only upon

completion of an appropriate case-by-case evaluation of the impact of such material on the site which demonstrates that such impact will be acceptable.

The dredged material is presently transported by a hopper dredge equipped with subsurface release mechanisms. None of the material is packaged in any manner. EPA is not aware of any plans to change the method of release.

5. *Feasibility of surveillance and monitoring.* [40 CFR 228.6(a)(5).]

The optimum surveillance range of the United States Coast Guard Vessel Traffic Service (VTS) is 16 nautical miles from Point Bonita. Thus, the site is well within radar range, and surveillance would not be difficult. Monitoring is feasible at the site.

Monitoring by the Corps of Engineers, EPA, and permittees will continue for as long as the site is used. Periodic reports of the monitoring operations will be made available to interested persons upon request. If evidence of significant adverse environmental effects is found, notice of availability of reports on such findings and proposed actions will be published in the **Federal Register.**

6. *Dispersal, horizontal transport and vertical mixing characteristics of the area, including prevailing current direction and velocity, if any.* [40 CFR 228.6(a)(6).]

Strong tidal currents are the dominant influence on water movement at the site and in the adjacent areas. The mean direction of the current alternates with the tidal cycle, between southwest and northeast, and the net water movement is to the southwest. Average current velocity is less than 1 knot.

Dredged material dumped at the site quickly reaches the bottom but is widely dispersed in the process by the strong currents, so that no mounding takes place. The settled material forms a uniform bottom layer with an average thickness of two inches.

Long-term sediment transport oscillates between inshore and offshore movements, and the site is located in an area of the California coastline which exhibits limited net littoral transport. Thus, the majority of dredged material dumped at the site would exhibit some oscillatory local movement but would remain within the region of the site. The dredged material acceptable for disposal at the site is similar to the natural sediments of this site, and any transport of the material past the actual boundaries of the disposal site would not be a matter of concern, particularly since the benthic fauna throughout the area are adapted to continuing natural sediment movement. In addition, any net littoral transport of the material toward shorelines would assist in building up eroding beaches.

7. *Existence and effects of current and previous discharges and dumping in the area (including cumulative effects).* [40 CFR 228.6(a)(7).]

The majority of the benthic fauna at the site are motile and able to withstand temporary burial. Any fish in the site vicinity would not be significantly affected by the transient post-disposal effects, such as the turbidity plume, and could escape by swimming away from the site. The Corps of Engineers concluded that there is little chance that disposal of dredged material at the site has any long-term adverse effect on the indigenous biological community of the Bar. Based on review of the information provided to EPA by the Corps of Engineers and other data reported in the EIS on the site, EPA agrees with the Corps' conclusions.

8. *Interference with shipping, fishing, recreation, mineral extraction, desalination, fish and shellfish culture, areas of special scientific importance and other legitimate uses of the ocean.* [40 CFR 228.6(a)(8).]

Extensive shipping, fishing, and recreational activities take place in the Gulf of the Farallones throughout the year. Past disposal of dredged material at the site and at other nearby disposal sites has never interfered with these activities.

9. *The existing water quality and ecology of the site as determined by available data or by trend assessment or baseline surveys.* [40 CFR 228.6(a)(9).]

Water quality at the site is influenced by San Francisco Bay and entrained ocean waters. The Corps of Engineers monitored water quality at the site following dredged material disposal in 1974 and observed that effects on salinity, pH, dissolved oxygen, and turbidity were either nonexistent or dissipated within several minutes. They noted that water ebbing from San Francisco Bay increased turbidity at the site more significantly than the disposal operations.

The material dredged from the main ship channel is nearly identical in silt content to the natural sediments of the site. Thus, the dredged material from the entrance channel would not substantially alter the natural sediments to which the endemic fauna are adapted, and a change in the benthic ecology by such effect is precluded. Large amounts of fine-grained or cohesive material from other areas, disposed in a relatively short period of time, could change the grain size composition of the site. However, because of the high energy nature of the site, the small amounts of these materials disposed over an extended period as part of predominantly sand dredged material would not be expected to materially change the grain size composition of the sites.

10. *Potentiality for the development or recruitment of nuisance species in the disposal site.* [40 CFR 228.6(a)(10).]

Nuisance species are rare in open coastal waters. The dynamic natures of many features of the marine environment seem to disrupt conditions which favor nuisance species. Physical impact of dredged material disposal alone is unlikely to promote nuisance species at the site. At the existing site, the naturally occurring sediments would not be significantly altered by the disposal of dredged material, and the original inhabitants of the site would quickly recolonize the impact area.

11. *Existence at or in close proximity to the site of any significant natural or cultural features of historical importance.* [40 CFR 228.6(a)(11).]

The Bureau of Land Management (BLM) maintains an inventory of cultural and historic resources for the Pacific Coast, including offshore areas. Based on this inventory, BLM mapped shipwreck zones for the Gulf of the Farallones. The site is in an area classified as Zone 2 (cluster of at least three shipwrecks within five nautical miles or a single shipwreck within one nautical mile). The National Maritime Museum in San Francisco determined that the only areas to be excluded from dredged material disposal by reason of shipwrecks with historical interest are Drake's Bay and the waters off Tennessee Cove in Marin County. Neither of these areas would be affected. No other natural or cultural features of historical importance exist at or near the site.

E. Action

The existing site is compatible with the criteria used for site evaluation. EPA considered whether it would be preferable to designate a different site and evaluated three others areas: An inshore area, a mid-shelf area, and a shelf-break (i.e., off the edge of the Continential Shelf) area. For the following reasons, EPA has determined that the existing site is the preferable site for the disposal of dredged material. These factors are discussed in greater detail in the EIS.

Sediment dredged from the main ship channel is nearly identical to the natural sediment of the site in grain size; thus, the suitability of site sediments for the existing types of fauna found in and around the site, or the inshore site, would not be altered.

The benthic fauna at the existing and inshore sites are more resistent to burial than those at the mid-shelf and shelf-break sites.

The impact on fisheries would be minimized by use of the existing or inshore sites. While even a total loss of existing feeding grounds at the mid-shelf and shelf-break sites would be insignificant in comparison to the total feeding area available in the Gulf of the Farallones, such a negative impact can be avoided by designating either the existing site or the inshore site. Since the existing site has been historically used and the alternative sites offer no advantages from an environmental perspective, and since the mid-shelf and shelf-break sites have the potential for greater adverse effects, EPA is giving the existing site interim final designation.

The final EIS includes the Agency's assessment of the six comments received during the comment period on the revised draft EIS. Comments correcting facts presented in the revised draft EIS were incorporated in the text and the changes noted in the final EIS. Specific comments which could not be appropriately treated as text changes were responded to point-by-point in the final EIS, following the letters of comment. Two comments were received on the final EIS. One comment was that the concerns expressed on the draft EIS had been satisfactorily addressed. In the other comment, the National Marine Fisheries Service (NMFS) recommended that the channel bar site not be used for disposal of fine-grained material until an analysis is completed which can document that disposal of such material would not significantly impact biota at the site. EPA believes that the dredged material resulting from the operation and maintenance of existing channels would be sandy material which would be compatible with the natural sediments of the disposal site. This may include dredged material from the main ship channel itself which may be excluded from further testing, and dredged material from other areas which has been tested and found environmentally acceptable under § 227.13 and has grain sizes compatible with the natural sediments at the site.

The data presently available are not adequate to assess the impact of the disposal of fine-grained material at the proposed site. Dredged material meeting the requirements of 40 CFR 227.13 but having smaller grain sizes may be dumped at this site only upon completion of an appropriate case-by-case evaluation of the impact of such material on the site which demonstrates that such impact will be acceptable.

Based on the information reported in the EIS, EPA is designating the existing San Francisco Channel Bar site for continuing use for the ocean disposal of specified dredged material where the applicant has demonstrated compliance with EPA's ocean dumping criteria. The EIS is available for inspection at the addresses given above.

The designation of the existing San Francisco Channel Bar dredged material disposal site as a EPA Approved Ocean Dumping Site is being published as interim final rulemaking for the reasons explained above. Management authority of this site is now delegated to the Regional Administrator of EPA Region IX.

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 rule does not necessitate preparation of a Regulatory Impact Analysis.

This 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

Water pollution control.

Authority: 33 U.S.C. sections 1412 and 1418.

Dated: March 7, 1985.

Henry L. Longest II,

Acting Assistant Administrator for Water.

PART 228—[AMENDED]

In consideration of the foregoing, Subchapter H of Chapter I of Title 40 is amended by removing paragraph (J), the San Francisco Channel Bar Dredged Material Disposal Site, from paragraph (a)(1)(i) of § 228.12 and adding to § 228.12(b) an ocean dumping site for Region IX as follows:

§ 228.12 Delegation of management authority for ocean dumping sites.

* * * * *

(b) * * *

(22) San Francisco Channel Bar Dredged Material Site—Region IX.

Location: 37°45'55" N, 122°37'18" W; 37°45'45" N, 122°34'24" W; 37°44'24" N, 122°38'06" W; 37°45'15" N, 122°34'12" W.

Size: 4,572 x 914 meters.

Depth: Ranges from 11 to 14.3 meters

Primary Use: Dredged material.

Period of Use: Continuing use.

Restriction: Disposal shall be limited to material from required dredging operations at the entrance of the San Francisco main ship channel which is composed primarily of sand having grain sizes compatible with naturally occurring sediments at the disposal site and containing approximately 5 percent of particles having grain sizes finer than that normally attributed to very fine sand (0.75 millimeter). Other dredged materials meeting the requirements of 40 CFR 227.13 but having smaller grain sizes may be dumped at this site only upon completion of an appropriate case-by-case evaluation of the impact of such material on the site which demonstrates that such impact will be acceptable.

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