

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 228**

[FRL-3780-4.]

Ocean Dumping; Designation of Disposal Site.**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

SUMMARY: EPA today is designating a dredged material disposal site located offshore of the mouth of the Coquille River, Oregon, for the disposal of dredged material removed from the Coquille River navigation project and vicinity. This action is necessary to provide an acceptable ocean dumping site for the current and future disposal of this material. This site designation is for an indefinite period of time, but the site is subject to continuing monitoring to ensure that unacceptable, adverse environmental impacts do not occur.

DATES: This designation will become effective on June 20, 1990.

ADDRESSES: John Malek, Ocean Dumping Coordinator, Region 10, WD-138.

The file supporting this 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 10, 1200 Sixth Avenue, Seattle, Washington

U.S. Army Corps of Engineers, North Pacific Division, U.S. Custom House, 220 Northwest Eighth, Portland, Oregon.

U.S. Army Corps of Engineers, Portland District, Multnomah Building, 319 Southwest Pine, Portland, Oregon

FOR FURTHER INFORMATION CONTACT: John Malek, 206/442-1286.

SUPPLEMENTARY INFORMATION:**A. Background.**

Section 102(c) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 39 U.S.C. 1401 *et seq.* ("the Act"), gives the Administration the authority to designate sites where ocean dumping may be permitted. On October 1, 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 being made pursuant to that authority.

The EPA Ocean Dumping Regulations (40 CFR chapter I, subchapter H, § 228.4) state that ocean dumping site will be designated by publication in part 228. A

list of "Approved and Final Ocean Dumping Sites" was published on January 11, 1977 (42 FR 2461 *et seq.*) and was last updated on February 2, 1990 (55 FR 3688 *et seq.*). That list established an interim site in the vicinity of the Coquille River entrance. An adjusted site, located approximately 450 meters north-northwest of the interim site, has been selected for formal designation.

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. 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 in connection with ocean dumping site designations such as this. 39 FR 16186 (May 7, 1974).

EPA Region 10 prepared Draft and Final EIS entitled "Coquille Ocean Dredged Material Disposal Site (ODMDS) Designation." Five letters of comment were submitted, which EPA assessed and responded to in the final EIS. As a separate but concurrent action, a notice of availability of the final EIS has been published in the Federal Register. Anyone desiring a copy of the final EIS may obtain one from the address given above.

The action discussed in the final EIS is designation for continuing use of an ocean disposal site for dredged material. The purpose of the designation is to provide an environmentally acceptable location for ocean disposal of dredged material. The appropriateness of ocean disposal is determined on a case-by-case basis as part of the process of issuing permits for ocean disposal.

The final EIS presented the information to support designation of an ocean dredged material disposal site (ODMDS) in the Pacific Ocean off the mouth of the Coquille River in the State of Oregon. The designated ODMDS is an adjusted location lying north-northeast of the previous interim-designated site. Site designation studies were conducted by the Portland District, Corps of Engineers, in consultation with EPA Region 10. The adjusted ODMDS was judged to be a safer location with less potential for adverse environmental effects. No significant or long-term adverse environmental effects are predicted to result from the designation.

The designated ODMDS would continue to receive sediments dredged by the Corps of Engineers to maintain the federally-authorized navigation project at Coquille River, Oregon, and other dredged materials authorized in accordance with section 109 of the Marine Protection, Research, and Sanctuaries Act of 1972 (MPRSA). Before any disposal may occur, a specific evaluation by the Corps must be made using EPA's ocean dumping criteria. EPA makes an independent evaluation of the proposal and has the right to disapprove the actual disposal.

The former, interim-designated site is hereby rescinded.

The study and final designation process were conducted in accordance with the Act, the Ocean Dumping Regulations, and other applicable Federal environmental legislation.

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

C. Site Designation

On November 10, 1988, EPA proposed designation of the adjusted site for the continuing disposal of dredged material. The public comment period for the proposed rule and draft EIS were concurrent and closed on December 27, 1988. Five letters of comment were received specifically referencing the draft EIS. No comments were received specifically referencing the proposed rule. These comments were responded to in the final EIS. The majority of comments provided clarification and were not considered substantive. No one raised serious concern regarding designation or management of the Coquille site.

The site is located approximately 1 nautical mile offshore of the Coquille River, Oregon, and occupies an area approximately 150 acres (17 square nautical miles). Water depths within the area average 18.3 meters. The coordinates of the site are as follows:

43° 08' 26" N.	124° 26' 44" W.
43° 08' 03" N.	124° 26' 08" W.
43° 08' 13" N.	124° 27' 00" W.
and 43° 07' 50" N.	124° 26' 23" W.
43° 08' 08" N.	124° 26' 34" W.
	(centroid)

If at any time disposal operations at the site cause unacceptable adverse impacts, further use of the site will be restricted or terminated.

D. Regulatory Requirements

Five general criteria are used in the selection and approval of ocean disposal sites for continuing use. 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, appropriate action will be taken by EPA. Such action would include additional restrictions on site use and a requirement for more intensive monitoring; however, the use of that site might be terminated and suitable alternate disposal sites identified and designated. The general criteria are given in § 228.5 of the EPA Ocean Dumping Regulations, and § 228.6 lists eleven specific factors used in evaluating a proposed disposal site to assure that the general criteria are met.

The site, as discussed below under the eleven specific factors, is acceptable under the five general criteria, except for the preference for sites located off the Continental Shelf. EPA has determined, based on the information presented in the EIS, that a site off the Continental Shelf is not feasible and that no environmental benefits would be obtained by selecting such a site instead of the site being designated in this action. Historical disposal at the existing interim site has not resulted in substantial adverse effects to living resources of the ocean or to other uses of the marine environment.

The characteristics of the adjusted site being designated are reviewed below in terms of the eleven factors and in comparison to the now-rescinded interim site.

1. Geographical position, depth of water, bottom topography, and distance from coast. 40 CFR 228.6(a)(1). The interim site lies in 12 to 25 meters of water, 450 meters offshore from the entrance to the Coquille River. Corner coordinates are:

43° 07' 54" N.	124° 27' 04" W.
43° 07' 30" N.	124° 28' 27" W.
43° 07' 20" N.	124° 28' 40" W.
and 43° 07' 44" N.	124° 27' 17" W.

The interim site's center is on a 280 degree azimuth from the river mouth. In general, the interim site lies just north of the submerged extension of Coquille Point on bottom contours sloping at about 60 feet per mile.

The adjusted ODMDS lies 1,150 meters north-northeast of the interim ODMDS. Bottom contours and depths at the adjusted site are similar to those at the interim ODMDS. The adjusted site has the following corner and centroid coordinates:

43° 08' 26" N.	124° 26' 44" W.
43° 08' 03" N.	124° 26' 08" W.
43° 08' 13" N.	124° 27' 00" W.
and 43° 07' 50" N.	124° 26' 23" W.
43° 08' 08" N.	124° 26' 34" W.

(centroid)

2. Location in relation to breeding, spawning, nursery, feeding, or passage areas of living resources in adult and juvenile phases. 40 CFR 228.6(a)(2). Aquatic resources are described in detail in the final EIS, appendix A. The interim and adjusted sites are located in the nearshore area, and contain an abundance of aquatic life characteristic of nearshore, sandy, wave-influenced regions common along the coasts of the Pacific Northwest. The dominant commercially and recreationally important macroinvertebrate species in the area are shellfish, Dungeness crab, and squid. Recently, the Oregon Department of Fish and Wildlife (ODFW) has identified a squid spawning area that overlays the adjusted site. Numerous species of birds and marine mammals occur in the pelagic nearshore and shoreline habitats.

The nearshore area off the Coquille River supports a variety of pelagic and demersal fish species. Pelagic species include anadromous salmon, steelhead, cutthroat trout, striped bass, and shad which migrate through the estuary to upriver spawning areas. Although migratory species are present throughout the year, individual species are present only during certain times of the year. Demersal species present include English sole, sanddab, and starry flounder which spawn in the inshore coastal area in the summer. The species of invertebrates inhabiting the sandy portions of the area are the more motile psammitic (sand-dwelling) forms which tolerate or require high sediment flux. Past and anticipated future disposal activities are not expected to significantly affect this community beyond the initial physical impacts of disposal. Abundances of some benthic organisms were higher at the adjusted site than at the interim site.

The interim site contains submerged rocky habitats and is immediately adjacent to neritic reefs. These are unusual features along the coast and support a variety of aquatic organisms, including bull kelp (*Nerocystis luteana*) and its associated fish and invertebrate community. Pelagic species associated with the neritic reefs to the east and south of the estuary and jetties include both resident and non-resident species. The shallower reefs are dominated by black rockfish while the deeper reefs are dominated by lingcod, yellow rockfish and black rockfish. These rocky areas

also have a very different benthic composition from the surrounding, sandy environments. Past disposal activity does not appear to have significantly impacted this community.

The ocean waters contain many nearshore pelagic organisms which include zooplankton and meroplankton (fish, crab and other invertebrate larvae). These organisms generally display seasonal changes in abundance and, since they are present over most of the coast, are not critical to overall coastal populations. Based on evidence from previous zooplankton and larval fish studies, no impacts to organisms in the water column are predicted. Portland District requested an endangered species listing from U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS). The brown pelican and the gray whale represent the only species which were listed. Based on previous biological assessments conducted along the Oregon coast regarding impacts to the brown pelican and the gray whale, no impact to either species is anticipated from the project. Letters of concurrence are included in appendix F of the Draft EIS.

In summary, both the interim and adjusted ODMDS contain living resources that could be affected by disposal activities. Evaluation of past disposal activities do not indicate that unacceptable adverse effects to these resources have occurred. The interim site contains and is in close proximity to submerged rocks and reefs with rich and varied aquatic communities. There is no evidence that past disposal has seriously impacted these communities, and in the absence of any other disposal location the interim site would be considered an acceptable site. However, the adjusted site represents a potentially less impacting location and its use is considered environmentally preferable.

3. Location in relation to beaches and other amenity areas. 40 CFR 228.6(a)(3). The southeast corner of the adjusted site is approximately 1,150 meters from the end of the north jetty. Both the interim and adjusted ODMDS are far enough removed that use of either site would not affect these amenities.

4. Types and quantities of wastes proposed to be disposed of, and proposed method of release, including methods of packing the waste, if any. 40 CFR 228.6(a)(4). The final designated ODMDS will receive dredged materials transported by either government or private contractor hopper dredges. The current dredges available for use at Coquille have hopper capacities from 800 to 4,000 cy. This would be the range

in volumes of dredged material disposed of in any one dredging/disposal cycle. Upwards of 100,000 cy of material can be placed at the site in one dredging season by any combination of private and government dredgers. The dredges would be under power and moving while disposing. This allows the ship to maintain steerage.

The material dredged from the entrance channel consists of medium to fine grain marine sands. The dredged material shows a wider variation in median grain size and tends to be slightly coarser than the ambient sediments at the proposed disposal site. The differences are small enough that the sediments are considered compatible. The occasional gravel sized sediments occur in such small quantities and so infrequently as to cause no problems. All sediments destined for ocean disposal is subject to specific evaluation, including independent review by EPA. Past sediments discharged at the interim ODMDS have been clean sands that met the exclusion criteria (40 CFR 227.13(b)).

5. Feasibility of surveillance and monitoring: 40 CFR 228.6(a)(5). The proximity of the proposed disposal site to shore facilities creates an ideal situation for shore-based monitoring of disposal activities to ensure that material is actually discharged at the disposal site. There is routinely a Coast Guard vessel patrolling the entrance and nearshore areas so surveillance can also be accomplished by surface vessel.

Following formal designation of an ODMDS for Coquille, EPA and the Corps will develop a site management plan which will address the need for post-disposal monitoring. Several research groups are available in the area to perform any required field monitoring. The work could be performed from small surface research vessels at a reasonable cost.

6. Dispersal, horizontal transport and vertical mixing characteristics of the area, including prevailing current direction, and velocity. 40 CFR 228.6(a)(6). The nearshore circulation at Coquille is influenced by the complex bathymetry and geology. Bottom currents have been observed by video camera and were recorded in April-May 1985. Currents were toward the north and offshore with velocity under .5 feet/second. The area at Coquille is exposed to normal wave action typical of this portion of the Pacific Ocean. The material dredged from the entrance channel at Coquille River is fine to medium sand. For the range of depths and grain sizes found at either of the Coquille ODMDS sites there is essentially constant mobility of bottom

sediment due to wave action. This wave-induced motion is not responsible for net transport, but, once in motion, bottom sediments can be affected by other forces such as gravity or directional currents. Sediments discharged at either of the ODMDS would be expected to join the littoral movement and disperse gradually out of the site.

7. Existence and effects of current and previous discharges and dumping in the area (including cumulative effects). 40 CFR 228.6(a)(7). The 10-year range of disposal has varied from 25,000 to 118,000 cy; on average, about 59,000 cy are annually discharged to the ocean. Future volumes are expected to be similar, although probably showing some increase as other disposal options are exhausted.

No biological information has been found to exist regarding the interim site prior to any disposal having occurred. It is expected that no significant impacts to the interim site have occurred beyond the yearly, site-specific effects of disposal. Beyond the observation that abundances of some benthic organisms are lower inside the interim ODMDS than other locations outside (which may be related to past disposal), there appear to be no apparent disposal effects.

No pre- or post-disposal studies on water or sediment quality have been performed. Sediments disposed in the past are identical to sediments collected in close proximity to the interim site and have met the exclusion criteria for testing.

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). The Draft EIS identified no legitimate uses of the ocean that would be interfered with as a result of designation of an ODMDS or its use. The following paragraphs summarize conclusions:

Commercial Fishing: Two commercial fisheries occur in the inshore area: Salmon trawling and Dungeness crab fishing. The length of the salmon fishing season varies each year depending upon the established quota; however, it normally extends from July to September. During this period, the potential exists for conflicts between the dredge and fishing boats. The Coast Guard and ODFW indicated that this had never been a problem to their knowledge. The Dungeness crab season extends from December 1 to August 15 each year; however, most of the crabbing occurs prior to June and usually ends early because of the

increase in soft-shell crabs in the catch which are not marketable. As a result, most crab fishing is done outside of the normal dredging season and it is unlikely that a conflict would result. ODFW has identified a potential squid fishery in the area. No fishery exists at present, but stocks may be sufficient to support a fishery if a market develops. There are no commercial fish or shellfish aquaculture operations that would currently be impacted by use of the existing disposal site.

Recreational Fishing: Both private party and charterboat recreational fishing for salmon and rock and reef fish occurs in the inshore area off Coquille River. The sports salmon fishing season coincides with the commercial season and extends from summer until the quota for the area is reached. Most of the sports fishery occurs along the south reef because of navigational hazards on the north reef. Potential exists for recreational fishing boats to conflict with dredging and disposal operations, however, none has been reported to date. It is unlikely that any significant conflict will develop in the near future.

Offshore Mining Operations: No offshore mining presently occurs; although, considerations for offshore mining and oil/gas leases are in the development stages. The disposal site is not expected to interfere with such proposed operations, as most exploration programs are scheduled for the outer continental shelf.

Navigation: No conflicts with commercial navigation traffic have been recorded in the more than 60-year history of hopper dredging activity. The probable reason for this is the light commercial traffic through the Coquille navigation channel. Interviews with Coast Guard personnel also did not produce any instances of conflicts with either commercial or recreational traffic. Navigation hazards exist within the immediate area (e.g., rock outcroppings/reefs) which have been considered in positioning the adjusted ODMDS. Ships cannot navigate within the area south of the interim disposal site.

Scientific: There are no identified scientific study locations. However, there is a permanent wave buoy several miles offshore in 70-meter water depth. This buoy is part of a Pacific Coast wave data network operated by Scripps for the Corps of Engineers.

Coastal Zone Management: In reviewing proposed ODMDS for consistency with the Coastal Zone Management (CZM) plan, they are evaluated against Oregon's Statewide Goal 19 (Ocean Resources). Local Jurisdiction does not extend beyond the

baseline for territorial seas and, therefore, local plans do not address offshore sites. Goal 19 requires that agencies determine the impact of proposed projects or actions. Paragraph 2.g of Goal 19 specifically addresses dredged material disposal. The requirements of the ocean dumping regulations are broad enough to meet the needs of Goal 19. Therefore, the designation of this site for ocean disposal of dredged material following the ocean dumping regulations would be consistent with Goal 19 and the State of Oregon's Coastal Zone Management Plan.

Pursuant to an Office of Water policy memorandum dated October 23, 1989, EPA has evaluated the proposed site designation for consistency with the State's approved coastal zone management program. EPA has determined that the designation of this site is consistent to the maximum extent practicable with the State coastal management program. The State of Oregon has concurred with this determination (appendix F of final EIS). In addition, as part of the NEPA process, EPA has consulted with the State of Oregon regarding the effects of the dumping at the site on the State coastal zone. EPA has taken the State's comments into account in preparing the final EIS for the site, in determining whether the proposed site should be designated, and in determining whether restrictions or limitations should be placed on the use of the site.

9. *The existing water quality and ecology of the site as determined by available data or by trend assessment of baseline surveys.* 40 CFR 228.6(a)(9). Water quality off the mouth of the Coquille River is considered excellent, typical of unpolluted seawater along the Pacific Northwest coast. No short- or long-term impacts on water quality are expected to be associated with disposal operations. The offshore area is a northwest Pacific Ocean mobile sand community bordered by a neritic reef system. Evaluation of the interim ODMDS in light of past disposal did not indicate any significant adverse effects to those communities. Designation and use of the adjusted ODMDS is not expected to have significant ecological consequences and provides additional distance from the reef community.

10. *Potentiality for the development or recruitment of nuisance species in the disposal site.* 40 CFR 228.6(a)(10). It is highly unlikely that any nuisance species could be transported or attracted to the disposal site as result of dredging and disposal activities.

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 neritic reefs off the Oregon coast comprise a unique ecological feature. They support a wide variety of invertebrates and fish species as well as bull kelp communities. These areas are partially sheltered from wave action and receive nutrients from both the ocean and the estuaries are usually highly productive.

Potential areas of shipwrecks were evaluated. Given the characteristics of the Coquille Bar, onshore current patterns, and hard sand bottom, and the fact that the ship channel over the bar has been actively maintained by dredging and removal of wrecks from the 1860's to present, it is unlikely that any wrecks have survived in the vicinity of the disposal site. Based on this information it is unlikely that any significant cultural resources will be affected by the continued use of the disposal site. The existing information and supplementary side scan sonar data was reviewed by the State Historic Preservation Office (SHPO). SHPO concurred with the Corps' findings of no cultural resources concerns. The SHPO letter of concurrence is included in the Final EIS.

E. Action

The EIS concluded that the adjusted site may be appropriately designated for use. The adjusted site is compatible with the general criteria and specific factors used for site evaluation.

The designation of the Coquille River ODMDS as an EPA approved Ocean Dumping Site is being published as final rulemaking. Management of this site will be delegated to the Regional Administrator of EPA Region 10.

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

This Proposed 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.

Dated: April 23, 1990.

Thomas P. Dunne,
Acting Regional Administrator for Region 10.

In consideration of the foregoing, subchapter H of chapter I of title 40 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. sections 1412 and 1418.

2. Section 228.12 is amended by removing from paragraph (a)(3) the entry for "Coquille River Entrance," and adding paragraph (b)(71) to read as follows:

§ 228.12 Delegation of management authority for ocean dumping sites.

* * * * *

(b) * * *

(71) Coquille River Entrance—Region 10. Location: 43°08'26" N., 124°26'44" W.; 43°08'03" N., 124°26'08" W.; 43°08'13" N., 124°27'00" W.; and 43°07'50" N., 124°26'23" W.

Size: 0.17 square nautical miles.

Depth: 18.3 meters (average).

Primary Use: Dredged material.

Period of Use: Continuing use.

Restrictions: Disposal shall be limited to dredged material from the Coquille Estuary and River and adjacent areas.

[FR Doc. 90-11723 Filed 5-18-90; 8:45 am]

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