PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

■ 1. The authority citation for Part 7 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 462(k); Sec. 7.96 also issued under D.C. Code 10–137 (2001) and D.C. Code 50–2201 (2001).

■ 2. In § 7.89 add paragraph (b) to read as follows:

§ 7.89 New River Gorge National River.

* * * * *

(b) *Bicycling.* (1) *Where may I ride a bicycle within New River Gorge National River?* Bicycle use is allowed:

(i) On park roads and in parking areas; and

(ii) On administrative roads and trails authorized for bicycle use as listed in the following table.

Administrative Roads and Trails Authorized for Bicycle Use—North to South

Hawks Nest Connector Trail
Fayetteville Trail
Park Loop Trail
Timber Ridge Trail
Kaymoor Trail
Craig Branch Trail
Arrowhead Trail
Long Point Trail (except 0.2 miles closest to Long Point Vista)
Keeneys Creek Rail Trail
Headhouse Trail
Tipple Trail
Seldom Seen Trail
Nuttallburg Town Loop Connector Trail
Brooklyn Mine Trail
Brooklyn Miner's Connector Trail
Southside Trail
Rend Trail
Stone Cliff Trail
Terry Top Trail
Garden Ground Stacked Loop Trail
Little Laurel Trail
Mud Turn Trail
Glade Creek Trail
Panther Branch Connector Trail

(2) *How will I know where these administrative roads and trails are located in the park?* The administrative roads and trails where bicycle use is authorized are identified on maps located in the Superintendent's office, at park visitor centers, at interpretive kiosks, and on the park's Web site. Additional information about bicycling will also be posted at appropriate trailheads and other locations.

(3) *What requirements must I meet to ride a bicycle within New River Gorge National River?* (i) In addition to the applicable provisions in 36 CFR part 4, all bicyclists must yield to other trail users in the following manner:

(A) A bicyclist must yield to an equestrian;

(B) A bicyclist must yield to a pedestrian; and

(C) A bicyclist travelling downhill must yield to a bicyclist travelling uphill.

(ii) Yielding the right of way requires slowing down to a safe speed, being prepared to stop, establishing communication, and passing safely.

(iii) Failure to yield is prohibited.

(4) *How will the Superintendent manage bicycle use where it is authorized?* The Superintendent may close park and administrative roads, parking areas and trails, or portions thereof, reopen the same, or impose conditions or restrictions for bicycle use after taking into consideration public health and safety, natural and cultural resource protection, and other management activities and objectives.

(i) The Superintendent will provide public notice of all such actions through one or more of the methods listed in § 1.7 of this chapter.

(ii) Violating a closure, condition, or restriction is prohibited.

Dated: November 20, 2013.

Rachel Jacobson,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2013–29087 Filed 12–4–13; 8:45 am]

BILLING CODE 4312–EJ–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[EPA–R06–OW–2011–0712; FRL–9903–26–Region–6]

Ocean Dumping; Sabine-Neches Waterway (SNWW) Ocean Dredged Material Disposal Site Designation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA today designates four new Ocean Dredged Material Disposal Sites (ODMDS) located offshore of Texas for the disposal of dredged material from the Sabine-Neches Waterway (SNWW) Channel Improvement Project (CIP), which includes an extension of the Entrance Channel into the Gulf of Mexico, pursuant to the Marine Protection, Research and Sanctuaries Act, as amended (MPRSA). The designation of these four disposal sites does not by itself authorize the disposal of dredged material, but makes these sites available for use for dredged material from the CIP if no environmentally preferable, practicable alternative for managing that dredged material exists, and if analysis of the dredged material indicates that it is suitable for open-water disposal. This action is to designate adequate, environmentally-acceptable ocean disposal site capacity for suitable dredged material generated from new work (construction) and future maintenance dredging from the SNWW CIP.

DATES: This rule is effective on January 6, 2014.

FOR FURTHER INFORMATION CONTACT: Jessica Franks, Ph.D., Marine and Coastal Section (6WQ–EC), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733, telephone (214) 665–8335, fax number (214) 665–6689; email address *franks.jessica@epa.gov.*

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The supporting document for these site designations is the Final Environmental Impact Statement (EIS) for the Sabine-Neches Waterway Channel Improvement Project: Southeast Texas and Southwest Louisiana (SNWW CIP) dated March 2011, prepared by the U.S. Army Corps of Engineers (also Corps or USACE). Appendix B of Volume III contains the Ocean Dredged Material Disposal Sites Final Environmental Impact Statement. The U.S. Army Corps of Engineers Final EIS for the SNWW CIP was published in the **Federal Register** (FR) April 4, 2011 (Vol. 76, Nos. 43). That document is available for public inspection at the following locations:

1. Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733
2. Federal e-Rulemaking Portal: *http://www.regulations.gov.*

A. Potentially Affected Entities

Entities potentially affected by this action are persons, organizations, or government bodies seeking to dispose of dredged material in ocean waters offshore of Texas for the disposal of dredged material from the Sabine-Neches Waterway, under the Marine Protection Research and Sanctuaries Act, 33 U.S.C. 1401 *et seq.* The Final Rule would be primarily of relevance to the US Army Corps of Engineers when proposing to dispose of dredged material from the Sabine-Neches Waterway. Potentially affected categories and entities include:

Category	Examples of potentially affected entities
Federal government	U.S. Army Corps of Engineers Civil Works projects, and other Federal agencies.
Industry and general public	Port authorities, marinas and harbors, shipyards and marine repair facilities, berth owners.
State, local and tribal governments	Governments owning and/or responsible for ports, harbors, and/or berths, Government agencies requiring disposal of dredged material associated with public works projects.

This table is not intended to be exhaustive, but rather provides a guide regarding entities likely to be affected by this action. For questions regarding the applicability of this action to a particular entity, please refer to the contact person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

B. Background

Ocean disposal of dredged materials is regulated under Title I of the Marine Protection, Research and Sanctuaries Act, 33 U.S.C. 1401 *et seq.* (MPRSA). The EPA and the USACE share responsibility for the management of ocean disposal of dredged material. Under Section 102 of MPRSA, EPA is responsible for designating an acceptable location for the ocean dredged material disposal sites (ODMDS). With concurrence from EPA, the USACE issues permits under MPRSA Section 103 for ocean disposal of dredged material deemed suitable according to EPA criteria in MPRSA Section 102 and EPA regulations in 40 CFR part 227.

Pursuant to its voluntary NEPA policy, published at 63 FR 58045 (October 29, 1998), EPA typically relies on the EIS process to enhance public participation on the Final designation of an ODMDS. A site designation EIS evaluates alternative sites and examines the potential environmental impacts associated with disposal of dredged material at various locations. Such an EIS first demonstrates the need for the ODMDS designation action (40 CFR 6.203(a) and 40 CFR 1502.13) by describing available or potential aquatic and non-aquatic (*i.e.,* land-based) alternatives and the consequences of not designating a site—the No Action Alternative. Once the need for an ocean disposal site is established, potential sites are screened for feasibility through a Zone of Siting Feasibility (ZSF) process. Potential alternative sites are then evaluated using EPA's ocean disposal criteria at 40 CFR part 228 and compared in the EIS. Of the sites that satisfy these criteria, the site that best complies is selected as the preferred alternative for designation through a rulemaking process published in the **Federal Register** (FR).

Formal designation of an ODMDS in the **Federal Register** and codification in the Code of Federal Regulations does not constitute approval of dredged material for ocean disposal. Site designation merely identifies a suitable ocean location in the event that dredged material is later approved for ocean disposal. Designation of an ODMDS provides an ocean disposal alternative for consideration in the review of each proposed dredging project. Before any ocean disposal may take place, the dredging project proponent must demonstrate a need for ocean disposal, including consideration of alternatives. Alternatives to ocean disposal, including the option for beneficial re-use of dredged material, are evaluated for each dredging project that may result in the ocean disposal of dredged materials from such project. Ocean disposal of dredged material is only allowed after both EPA and USACE determine that the proposed activity is environmentally acceptable under criteria codified at 40 CFR part 227 and 33 CFR part 336, respectively. In addition, ongoing management of these ODMDS would be subject to Site Management and Monitoring Plan(s) (SMMP) required by MPRSA section 102(c)(3)(F) and (c)(4), which are discussed more fully below.

Decisions to allow ocean disposal are made on a case-by-case basis through the MPRSA Section 103 permitting process, resulting in a USACE permit or its equivalent process for USACE's Civil Works projects. Material proposed for disposal at a designated ODMDS must conform to EPA's permitting criteria for acceptable quality (40 CFR parts 225 and 227), as determined from physical, chemical, and bioassay/bioaccumulation tests prescribed by national sediment testing protocols (EPA and USACE 1991). Only clean non-toxic dredged material is acceptable for ocean disposal. The newly designated sites will be subject to ongoing monitoring and management to ensure continued protection of the marine environment.

Evaluation of the ODMDS under EPA's general and specific criteria is described in the March 2011 "Final Environmental Impact Statement for Sabine-Neches Waterway Channel Improvement Project Southeast Texas and Southwest Louisiana, Appendix B." The Final Rule provides adequate, environmentally-acceptable ocean disposal site capacity for suitable dredged material generated from new work (construction) and future maintenance dredging along the SNWW Entrance Channel 13.2-mile extension by formally designating the SNWW A–D sites as acceptable ocean disposal locations for dredged material meeting applicable requirements.

The proposed rule for designation was published in the **Federal Register** on June 27, 2013, as docket number EPA–R06–OW–2011–0712. The comment

period closed on August 12, 2013. Comments received are addressed in section G., below. Under NEPA, federal agencies prepare a public record of decision (ROD) at the time of their decision on any action for which an FEIS has been prepared. This final rulemaking notice serves the same purpose as a ROD required under regulations promulgated by the Council on Environmental Quality for federal agencies subject to NEPA (CEQ Regulations 40 CFR 1505.2

C. Location

As identified in Appendix B of the FEIS, the environmentally preferred sites which EPA now designates are SNWW–A, which is located 21 miles from shore, SNWW–B, which is located 24 miles from shore, SNWW–C, which is located 27 miles from shore, and SNWW–D, which is located 30 miles from shore. Each of the ODMDS occupies an area of 5.3 square statute miles, with depths ranging from 44 to 46 feet. The bottom topography is flat.

D. Disposal Volume Limit

The action designates the SNWW A–D for a one-time placement of approximately 18,737,000 cubic yards (cy) of new work (construction) material plus approximately 37,725,000 cubic yards of maintenance material over a 50-year period. The need for ongoing ocean disposal capacity is based on modeling in the USACE SNWW CIP Engineering Appendix.

E. Site Management and Monitoring Plan (SMMP)

Continuing use of the sites requires verification that significant impacts do not occur outside of the disposal site boundaries through implementation of the SMMP developed as part of the Final EIS for the Sabine-Neches Waterway Project. The SMMP provides a structured framework to ensure that dredged material disposal activities will not unreasonably degrade or endanger human health, welfare, the marine environment, or economic potentialities (Section 103(a) of the MPRSA). Two main objectives for management of SNWW A–D are: (1) To ensure that only dredged material that satisfies the criteria set forth in 40 CFR part 227, subparts B, C, D, E, and G and § 228.4(e) and is suitable for unrestricted placement at the ODMDS is, in fact, disposed at the sites, and; (2) to avoid excessive mounding, either within the site boundaries or in areas adjacent to the sites, as a direct result of placement operations.

The EPA and USACE Galveston District personnel will achieve SMMP objectives by jointly administering the following activities in accordance with MPRSA section 102(c)(3): (1) A baseline assessment of conditions at the sites; (2) a program for monitoring the sites; (3) special management conditions or practices to be implemented at the sites that are necessary for protection of the environment; (4) consideration of the quantity of dredged material to be discharged at the sites, and the presence, nature, and bioavailability of the contaminants in the material; (5) consideration of the anticipated use of the sites over the long term, including the anticipated closure date for the sites, if applicable, and any need for management of the sites after the closure; and (6) a schedule for review and revision of the SMMP.

The SMMP requires periodic physical monitoring to confirm that disposal material is deposited within the seafloor disposal boundary, as well as bathymetric surveys to confirm that there is no excessive mounding or short-term transport of material beyond the limits of the ODMDS. The SMMP describes physical and chemical sediment and biological monitoring requirements. Monitoring activities are required to be conducted based on the Evaluation of Dredged Material Proposed for Ocean Disposal Testing Manual, EPA 503/8–91/001 and the Joint EPA–USACE Regional Implementation Agreement (RIA) procedures. Results will be used to confirm that dredged material actually disposed at the sites satisfies the criteria set forth in 40 CFR part 227, subparts B, C, D, E, and G, and § 228.4(e) and is suitable for unrestricted ocean disposal. Other activities implemented through the SMMP to achieve these objectives include: (1) Regulating quantities and types of material to be disposed, including the time, rates, and methods of disposal; and (2) recommending changes to site use requirements, including disposal amounts or timing, based on periodic evaluation of site monitoring results.

E. Ocean Dumping Site Designation Criteria

Five general criteria and 11 specific site selection criteria are used in the selection and approval of ocean disposal sites for continued use (40 CFR 228.5 and 40 CFR 228.6(a)).

General Selection Criteria

1. The dumping of materials into the ocean will be permitted only at sites or in areas selected to minimize the interference of disposal activities with other activities in the marine environment, particularly avoiding areas of existing fisheries or shellfisheries, and regions of heavy commercial or recreational navigation.

The EPA selected SNWW A–D, including appropriate buffer zones, to avoid sport and commercial fishing activities, as well as other areas of biological sensitivity. The preferred ODMDS are outside the channel, including the navigation channel buffer zone, and safety fairways, and avoid known navigational obstructions, although they do infringe on two Fairway Anchorage areas.

2. Locations and boundaries of disposal sites will be so chosen that temporary perturbations in water quality or other environmental conditions during initial mixing caused by disposal operations anywhere within the site can be expected to be reduced to normal ambient seawater levels or to undetectable contaminant concentrations or effects before reaching any beach, shoreline, marine sanctuary, or known geographically limited fishery or shellfishery.

The sizes for the buffer zones and for the SNWW A–D sites are based on sediment transport modeling and the physical oceanographic characterization of the Sabine Pass area. Modeling and characterization, combined with the information on the expected quality of the material to be dredged, ensures that perturbations caused by placement are reduced to ambient conditions at the boundaries of the site. Reports of the modeling and characterization are included in the administrative record for this action.

3. If at any time during or after disposal site evaluation studies, it is determined that existing disposal sites presently approved on an interim basis for ocean dumping do not meet the criteria for site selection set forth in Sections 228.5 through 228.6, the use of such sites will be terminated as soon as suitable alternate disposal sites can be designated.

This criterion does not apply to the Final Site designations because they are not existing sites that had previously been approved on an interim basis.

4. The sizes of the ocean disposal sites will be limited in order to localize for identification and control any immediate adverse impacts and permit the implementation of effective monitoring and surveillance programs to prevent adverse long-range impacts. The size, configuration, and location of any disposal site will be determined as a part of the disposal site evaluation or designation study.

The sizes of the Final Sites are as small as possible to reasonably meet the criteria stated in 40 CFR 228.5 and 40

CFR 228.6(a). The size for each Final ODMDS is 5.32 square statute miles (4.02 square nautical miles). The SMMPs were designed to provide adequate surveillance to prevent adverse long-range impacts.

5. The EPA will, wherever feasible, designate ocean dumping sites beyond the edge of the continental shelf and other such sites that have been historically used.

Cost, safety, and time factors plus difficulties with monitoring and surveillance preclude the designation of any ODMDS beyond the edge of the Continental Shelf off Sabine Pass (and the Gulf of Mexico generally). Additionally, uncertainty about the resilience of the deep-ocean benthic community indicates that an off-shelf disposal site could threaten severe adverse impacts to that off-shelf benthic community. The EPA did not identify an environmental advantage to an off-shelf site designation, whereas possible adverse impacts to the human environment could be more easily monitored at a nearshore site. The existing ODMDS that have been used historically, while large enough to accommodate future maintenance material, are cost prohibitive with regard to disposal of dredged material from the channel extension. Without designation of the four new ODMDS, this material would need to be transported to the existing maintenance ODMDS. The end of the existing channel is roughly 13 miles from the end of the proposed extension, resulting in an increased travel distance of 26 miles for each load of dredged material from the extension work. Construction costs are expected to double under this scenario, making it impossible to economically justify the SNWW CIP.

Specific Selection Criteria

1. Geographical position, depth of water, bottom topography, and distance from the coast.

The four new ODMDS sites are bounded by the following coordinates (Location North American Datum from 1983):

A	ODMDS	29°24′47″ N, 93°43′29″ W; 29°24′47″ N, 93°41′08″ W 29°22′48″ N, 93°41′09″ W; 29°22′49″ N, 93°43′29″ W
B	ODMDS	29°21′59″ N, 93°43′29″ W; 29°21′59″ N, 93°41′08″ W 29°20′00″ N, 93°41′09″ W; 29°20′00″ N, 93°43′29″ W
C	ODMDS	29°19′11″ N, 93°43′29″ W; 29°19′11″ N, 93°41′09″ W 29°17′12″ N, 93°41′09″ W; 29°17′12″ N, 93°43′29″ W
D	ODMDS	29°16′22″ N, 93°43′29″ W; 29°16′22″ N, 93°41′10″ W 29°14′24″ N, 93°44′10″ W; 29°14′24″ N, 93°43′29″ W

The water depth at the SNWW A–D sites ranges from 44 to 46 feet and the bottom topography is flat. SNWW–A is located 21 miles from shore, SNWW–B is located 24 miles from shore, SNWW–C is located 27 miles from shore and SNWW–D is located 30 miles from shore.

2. Location in relation to breeding, spawning, nursery, feeding, or passage areas of living resources in adult or juvenile phases.

Due to the marine open water locale of the SNWW A–D sites, the presence of aerial, pelagic, or benthic living resources is likely within the area of the sites. The location of the ODMDS is between the principal spawning areas and the estuarine nursery areas. The water column and benthic effects associated with ocean disposal of dredged material at the ODMDS would not adversely affect the passage of organisms to and from the spawning-nursery areas through the waters above the disposal sites. Localized and intermittent dredged material disposal operations are unlikely to adversely affect migration, feeding, or nesting of marine mammals and sea turtles.

3. Location in relation to beaches and other amenity areas.

The SNWW A–D sites are over 21 miles from any beach and Sabine Bank is at least 1.7 miles from the nearest of the ODMDS. According to the dredged material transport model (available in the administrative record), the maximum distance for the mounded dredged material to reach ambient depth is 1,081 feet. Doubling this distance would provide a buffer of 0.4 mile, only a fraction of the 1.7 miles to Sabine Bank.

4. Types and quantities of wastes proposed to be disposed of, and proposed methods of release, including methods of packaging the waste, if any.

Only suitable dredged material from the SNWW Entrance Channel 13.2 mile extension may be disposed at the sites. Dredged material proposed for ocean disposal is subject to strict testing requirements established by the EPA and USACE, and only clean (non-toxic) dredged materials from the SNWW Entrance Channel 13.2 mile extension would be allowed to be disposed of at the SNWW A–D sites. Approximately 18.7 mcy of new work material will be dredged during the construction of 13.2-mile extension of the Entrance Channel. Maintenance material per dredging cycle is estimated at three mcy for a total of 37.7 mcy over a period of 50 years. Dredged material is expected to be released from hopper dredges.

5. Feasibility of surveillance and monitoring.

Surveillance and monitoring are feasible at the SNWW A–D sites. The SMMP prepared for the sites consists of (1) a method for recording the location of each discharge; (2) bathymetric surveys; and, (3) grain-size analysis, sediment chemistry characterization, and benthic infaunal analysis at selected stations.

6. Dispersal, horizontal transport, and vertical mixing characteristics of the area, including prevailing current direction and velocity, if any.

These three physical oceanographic parameters were used by the U.S. Army Corps of Engineers to develop the necessary buffer zones for the exclusion analysis and to determine the adequacy of size of the SNWW A–D sites. Predominant longshore currents, and thus predominant longshore transport, are to the west. Long-term mounding has not historically occurred in the existing nearby ODMDS. Therefore, steady longshore transport and occasional storms, including hurricanes, are expected to remove the disposed material from the sites through dispersal, horizontal transport, and vertical mixing.

7. Existence and effects of current and previous discharges and dumping in the area (including cumulative effects).

The Final Environmental Impact Statement (EIS) discusses the results of chemical and bioassay testing of samples collected to support the proposed Waterway Extension and surrounds, and concluded that there were no indications of water or sediment quality problems in the ZSF, including the proposed disposal sites. Testing of dredged material collected and tested from past maintenance dredging indicates that the material dredged from the channel was acceptable for ocean disposal according to the evaluation criteria published at 40 CFR part 227. Based on current direction and modeling of the new work and maintenance material, the SNWW A–D sites are situated to prevent discharged material from reentering the

channel and to ensure that any mounding poses no obstruction to navigation. No cumulative mounding has been detected at the existing ODMDS and there is no reason to expect any at the SNWW A–D ODMDS.

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.

The interference considerations that are pertinent to the present situation are shipping, mineral extraction, commercial and recreational fishing, and recreational areas. The SNWW A–D ODMDS will not interfere with these or other legitimate uses of the ocean because the exclusion processes used to identify the sites was designed to prevent the selection of sites that would cause any such interference. Ocean disposal of dredged material in the past has not interfered with other uses.

9. Existing water quality and ecology of the site as determined by available data or by trend assessment or baseline surveys.

The FEIS to support the proposed Waterway Extension project cited a baseline study, which used sediment samples from the area of the proposed Extension and the ZSF. No adverse water or sediment quality concerns were indicated. Sampled and characterized, benthos of the area, is dominated by polychaetes (57.7%) and included abundant populations of malacostracans (18.3%) and bivalves (7.7%). Density ranged from 4,055 organisms/square foot at Station 3 (north of ODMDS A) up to 30,265 organisms/square foot at Station 26 (center of ODMDS B). Areas of moderately high sand content (68 to 91%) supported the highest densities, located near ODMDS B and ODMDS C, near the center of the ZSF. In general, the water and sediment quality is good throughout the ZSF and in the existing (historically used) ODMDS. There have been no long-term adverse impacts on water and sediment quality or benthos at the existing ODMDS, and none are expected with use of the SNWW A–D sites.

10. Potentiality for the development or recruitment of nuisance species in the disposal site.

With disturbances to any benthic community, opportunistic species would initially recolonize the area. At this location, however, these species would not be nuisance species, i.e., they would not interfere with other legitimate uses of the ocean, they would not be human pathogens, and they would not be non-indigenous species. The placement of dredged material in the past has not attracted or promoted development or recruitment of nuisance species, and the placement of the dredged material from new work and future maintenance dredged material should not attract or promote the development or recruitment of nuisance species.

11. Existence at or in close proximity to the site of any significant natural or cultural features of historical importance.

Historic records generated by the former Minerals Management Service (MMS) indicate that no historic shipwrecks are mapped within the limits of the SNWW A–D ODMDS, but remote-sensing surveys have not been conducted. Ocean disposal of dredged material is not expected to adversely affect any unrecorded wrecks given the depth of water through which the material would settle and the expected depth of burial at the time of disposal, particularly given the dispersive nature of the seabed environment in this portion of the Gulf. The distribution, depth, and dispersion of dredged material within these ODMDS have been evaluated by numerical modeling (PBS&J, 2006). Hopper dredges would drop dredged material onto the ODMDS, forming mound fields with individual mounds totaling no more than five feet in height. The effects of the deposition of material on any undiscovered feature would be cushioned by settling through water depths ranging from 30 to 45 feet. Previous monitoring of existing placement areas and studies of bottom ocean currents has shown that the material would disperse between channel maintenance cycles and not accumulate. The SNWW A–D ODMDS are located in Federal waters (i.e., outside of adjacent State jurisdiction).

G. Responses to Comments

The proposed rule for designation was published in the **Federal Register** on June 27, 2013, as docket number EPA–R06–OW–2011–0712. The comment period closed on August 12, 2013. The EPA received four comments on the proposed rule from three entities and one individual. These comments are responded to here.

1. Concerns About Minimizing Ocean Disposal by Maximizing Beneficial Re-Use

Two commenters expressed concerns about using new dredged material for beneficial use instead of placement in the ODMDS SNWW A–D designated areas. The Louisiana Department of Wildlife and Fisheries recommended using new work material beneficially. An individual commenter expressed concern that disposal of dredged material would increase hypoxia in the Gulf of Mexico and recommended beneficial use of dredged material.

Disposal or re-use placement alternatives that could practicably meet the purpose and need of a dredging project must be evaluated at the time of project-specific permitting. Timing and logistics can affect the practicability of dredged material disposal or beneficial use alternatives. For an individual project, ocean disposal is permitted only when other alternatives are not practicable. However, determining the availability of alternatives for individual dredging projects is independent of this ODMDS designation action, and such comments are not further addressed here.

2. Concerns About a Consistency Determination

The Louisiana Department of Natural Resources (LDNR), Office of Coastal Management, commented that this designation action "will require the preparation of a consistency determination in accordance with section 307(c) of the Coastal Zone Management Act." Pursuant to section 307(c)(1) of the Coastal Zone Management Act, federal activities that affect a state's coastal zone must be consistent to the maximum extent practicable with the enforceable policies of the state's approved coastal zone management program. To implement that requirement, federal agencies prepare coastal consistency determinations and submit them to the appropriate state agencies, which may concur in or object to a consistency determination. In connection with its preparation of the EIS on the Sabine-Neches Waterway Channel Improvement Project, the Corps of Engineers prepared a coastal consistency determination on its proposed navigation projects and the ODMDS designation, which it submitted to the Louisiana Department of Natural Resources (LDNR) and the Texas General Land Office (TGLO), the agencies implementing approved coastal zone management plans for their respective states. On March 30, 2010, TGLO concurred in the Corps consistency determination. By letter of March 31, 2010, LDNR concurred on condition that the Corps submit a supplemental consistency determination to LDNR after the project planning and design process, which results in a more detailed description of project features. The LDNR's letter also generally opposed EPA's ODMDS designation, noting that the designation would provide the Corps an option

other than beneficial use for disposal of dredged material. More detailed plans and descriptions of the proposed navigation projects may be needed for LDNR and the Corps to resolve potential issues on the practicability of beneficial use of dredged materials in Louisiana's coastal zone. However, such issues are independent of EPA's proposed ODMDS designations, which only make an offshore disposal option available when the Corps deems beneficial use that might otherwise be required by a state CZM program impracticable. The EPA supports beneficial use of dredged material, but ODMDS designations do not in any way require that the Corps forego beneficial use in favor of ocean disposal.

Moreover, the closest of any of the four ODMDS is approximately 20 miles off the Texas coast at its nearest point. Predominant longshore currents in the ODMDS locations flow from east to west and dredged material transport modeling shows that any dredged materials discharged to them will not thus enter or otherwise affect Louisiana's coastal zone. Because this ODMDS designation will not affect any land or water use or natural resource of Louisiana's coastal zone, no coastal consistency determination need be prepared for this action.

3. Question on the Designation Process

One commenter from the U.S. Coast Guard asked for clarification on the Rule-Making process for the designation of the ODMDS A–D sites. The EPA provided clarification to the commenter.

G. Regulatory Requirements

1. National Environmental Policy Act (NEPA)

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), federal agencies are generally required to prepare an environmental impact statement (EIS) on major federal actions significantly affecting the quality of the human environment. Under the doctrine of functional equivalency, EPA designations of ODMDS under MPRSA are not subject to NEPA requirements. The EPA believes the NEPA process enhances public participation on such designations and the potential effects of these designations were fully analyzed in an EIS on the Sabine-Neches Waterway Channel Improvement Project: Southeast Texas and Southwest Louisiana (SNWW CIP). The Corps of Engineers was the lead agency on that EIS and EPA was a cooperating agency.

Notice of the draft EIS was published in the **Federal Register** on December 24, 2009, and the document was available for review and comment through March 10, 2010. In addition, public meetings on the EIS were held in Beaumont, Texas and Lake Charles, Louisiana. Comments included concerns on pipeline relocation, marsh ecology, beneficial use of dredged material, and increased danger from storms. Few comments were received on designation of the ODMDS. Detailed responses to comments were published in Appendix A of the final EIS, notice of which was published in the **Federal Register** on March 4, 2012. The EPA has relied on information from the EIS and its technical appendices in its consideration and application of ocean dumping criteria to the four ODMDS this Rule designates.

2. Endangered Species Act Consultation

During development of the SNWW CIP project EIS referenced above, USACE and EPA consulted with the U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS) pursuant to the provisions of the Endangered Species Act (ESA), regarding the potential for designation and use of the ocean disposal sites to jeopardize the continued existence of any Federally-listed species. The consultation process is documented in the EIS.

Of the Threatened or Endangered Species noted in the biological assessment for the SNWW CIP, only sea turtles and whales are found as far offshore as the SNWW A–D ODMDS. The NMFS issued a biological opinion on August 13, 2007, that site designation is not likely to jeopardize the continued existence of any Federally-listed species.

3. Magnuson-Stevens Fishery Conservation and Management Act of 1996

The designation of the SNWW A–D ODMDS will not adversely affect essential fish habitat. By letter dated March 8, 2010, the National Marine Fisheries Service concurred with the USACE findings that beneficial features associated with the project would offset any adverse impacts of the Waterway Expansion project.

4. Coastal Zone Management Act

Pursuant to section 307(c)(1) of the Coastal Zone Management Act, federal activities that affect a state's coastal zone must be consistent to the maximum extent practicable with the enforceable policies of the state's approved Coastal Zone Management (CZM) program. To implement that requirement, federal agencies prepare coastal consistency determinations and submit them to the appropriate state agencies, which may concur in or object to a consistency determination.

In connection with its preparation of the EIS on the Sabine-Neches Waterway Channel Improvement Project, the Corps prepared a coastal consistency determination on its proposed navigation projects and the ODMDS designation, which it submitted to the Louisiana Department of Natural Resources (LDNR) and the Texas General Land Office (TGLO), the agencies implementing approved coastal zone management plans for their respective states. On March 30, 2010, TGLO concurred in the Corps consistency determination. By letter of March 31, 2010, LDNR concurred on condition that the Corps submit a supplemental consistency determination to LDNR after the project planning and design process, resulting in a more detailed description of project features. The LDNR's letter also generally opposed EPA's ODMDS designation, claiming it would provide the Corps an option other than beneficial use for disposal of dredged material.

More detailed plans and descriptions of the proposed navigation projects may be needed for LDNR and the Corps to resolve potential issues on the practicability of beneficial use of dredged materials in Louisiana's coastal zone. Such issues are independent of EPA's proposed ODMDS designations, however, which only make an offshore disposal option available when the Corps deems beneficial use that might otherwise be required by a state CZM program impracticable. The EPA supports beneficial use of dredged material, but ODMDS designations do not in any way require that the Corps forego beneficial use in favor of ocean disposal.

Moreover, the closest of any of the four SNWW A–D ODMDS is approximately 20 miles off the Texas coast at its nearest point. Predominant longshore currents in the SNWW A–D ODMDS locations flow from east to west. Dredged material transport modeling shows that any dredged materials discharged to the SNWW A–D ODMDS will not thus enter or otherwise affect Louisiana's coastal zone. Because the SNWW A–D ODMDS designations will not affect any land or water use or natural resource of Louisiana's coastal zone, a coastal consistency determination is not needed.

5. Coastal Barrier Improvement Act of 1990

The Coastal Barrier Improvement Act is intended to protect fish and wildlife resources and habitat, prevent loss of human life, and preclude the expenditure of Federal funds that may induce development on coastal barrier islands and adjacent nearshore areas. The Coastal Barrier Improvement Act of 1990 was enacted to reauthorize the Coastal Barrier Resources Act (CBRA) of 1982. Exceptions to the Federal expenditure restrictions include maintenance or constructed improvement(s) to existing Federal navigational channels and related structures (e.g., jetties), including the disposal of dredged materials related to maintenance and construction; therefore, project activities related to disposal are exempt from the prohibitions set forth in this act, as noted in the Final EIS for the SNWW CIP, Vol. II.

H. Administrative Review

This rule designates ocean dredged material disposal sites pursuant to Section 102 of the MPRSA. This action complies with applicable executive orders and statutory provisions as follows:

1. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993) EPA must determine whether the regulatory action is "significant," and therefore subject to office of Management and Budget (OMB) review and other requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to lead to a rule that may:

(a) Have an annual effect on the economy of $100 million or more, or adversely affect in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or Tribal governments or communities;

(b) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(c) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof: Or

(d) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This Final Rule should have minimal impact on State, local, or Tribal governments or communities. Consequently, EPA has determined that this Final Rule is not a "significant regulatory action" under the terms of Executive Order 12866.

2. Paperwork Reduction Act

The Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, is intended to minimize the reporting and recordkeeping burden on the regulated community, as well as to minimize the cost of Federal information collection and dissemination. In general, the Act requires that information requests and record-keeping requirements affecting ten or more non-Federal respondents be approved by OMB. Since the Final Rule would not establish or modify any information or recordkeeping requirements, but only clarifies existing requirements, it is not subject to the provisions of the Paperwork Reduction Act.

3. Regulatory Flexibility Act, as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996

The Regulatory Flexibility Act (RFA) provides that whenever an agency promulgates a final rule under 5 U.S.C. 553, the agency must prepare a regulatory flexibility analysis (RFA) unless the head of the agency certifies that the final rule will not have a significant economic impact on a substantial number of small entities (5 U.S.C. 604 and 605). The site designation and management actions would only have the effect of setting maximum annual disposal volume and providing a continuing disposal option for dredged material. Consequently, EPA's action will not impose any additional economic burden on small entities. For this reason, the Regional Administrator certifies, pursuant to section 605(b) of the RFA, that the Final Rule will not have a significant economic impact on a substantial number of small entities.

4. Unfunded Mandates

Title II of the Unfunded Mandates Reform Act (UMRA) of 1995 (Pub. L. 104–4) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. This Final Rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local or Tribal governments or the private sector that may result in estimated costs of $100 million or more in any year. It imposes no new enforceable duty on any State, local or Tribal governments or the private sector nor does it contain any regulatory requirements that might significantly or uniquely affect small government entities. Thus, the requirements of section 203 of the UMRA do not apply to this Final Rule.

5. Executive Order 13132: Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory *policies that have federalism implications. "Policies that have federalism implications"* are defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

This Final Rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132.

6. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by Tribal officials in the development of regulatory policies that have Tribal implications." This Final Rule does not have Tribal implications, as defined in Executive Order 13175.

7. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

This Executive Order (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, EPA must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by EPA. This Final Rule is not subject to the Executive Order because it is not economically significant as defined in Executive Order 12866, and because EPA does not have reason to believe the

environmental health or safety risks addressed by this action present a disproportionate risk to children.

8. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use Compliance With Administrative Procedure Act

This Final Rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866. The Final Rule would only have the effect of setting maximum annual disposal volumes and providing a continuing disposal option for dredged material. Thus, EPA concluded that this Final Rule is not likely to have any adverse energy effects.

9. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. This Final Rule does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

10. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low Income Populations

Executive Order 12898 (59 FR 7629) directs Federal agencies to determine whether the Final Rule would have a disproportionate adverse impact on minority or low-income population groups within the project area. The Final Rule would not significantly affect any low-income or minority population.

List of Subjects in 40 CFR Part 228

Environmental protection, Water pollution control.

Dated: October 31, 2013.

Ron Curry,

Regional Administrator, Region 6.

In consideration of the foregoing, EPA amends part 228, chapter I of title 40 of the Code of Federal Regulations as follows:

PART 228—CRITERIA FOR THE MANAGEMENT OF DISPOSAL SITES FOR OCEAN DUMPING

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

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

■ 2. Section 228.15 is amended by adding paragraphs (j)(22) through (25) to read as follows:

§ 228.15 Dumping sites designated on a final basis.

* * * * *

(j) * * *

(22) Sabine-Neches, TX Dredged Material Site A.

(i) *Location:* 29°24′47″ N., 93°43′29″ W.; 29°24′47″ N., 93°41′08″ W.; 29°22′48″ N., 93°41′09″ W.; 29°22′49″ N., 93°43′29″ W.; thence to point of beginning.

(ii) *Size:* approximately 5.3 square miles.

(iii) *Depth:* Ranges from 44 to 46 feet.

(iv) *Primary Use:* Dredged material.

(v) *Period of Use:* Continuing use.

(vi) *Restrictions:* Disposal shall be limited to dredged material from the Sabine-Neches 13.2 mile Extension Channel that complies with EPA's Ocean Dumping Regulations. Dredged material that does not meet the criteria set forth in 40 CFR part 227 shall not be placed at the site. Disposal operations shall be conducted in accordance with requirements specified in a Site Management and Monitoring Plan developed by EPA and USACE, to be reviewed periodically, at least every 10 years.

(23) Sabine-Neches, TX Dredged Material Site B.

(i) *Location:* 29°21′59″ N., 93°43′29″ W.; 29°21′59″ N., 93°41′08″ W.; 29°20′00″ N., 93°41′09″ W.; 29°20′00″ N., 93°43′29″ W.; thence to point of beginning.

(ii) *Size:* approximately 5.3 square miles.

(iii) *Depth:* Ranges from 44 to 46 feet.

(iv) *Primary Use:* Dredged material.

(v) *Period of Use:* Continuing use.

(vi) *Restrictions:* Disposal shall be limited to dredged material from the Sabine-Neches 13.2 mile Extension Channel that complies with EPA's Ocean Dumping Regulations. Dredged material that does not meet the criteria set forth in 40 CFR part 227 shall not be placed at the site. Disposal operations shall be conducted in accordance with requirements specified in a Site Management and Monitoring Plan developed by EPA and USACE, to be reviewed periodically, at least every 10 years.

(24) Sabine-Neches, TX Dredged Material Site C.

(i) *Location:* 29°19′11″ N., 93°43′29″ W.; 29°19′11″ N, 93°41′09″ W.; 29°17′12″ N., 93°41′09″ W.; 29°17′12″ N., 93°43′29″ W.; thence to point of beginning.

(ii) *Size:* approximately 5.3 square miles.

(iii) *Depth:* Ranges from 44 to 46 feet.

(iv) *Primary Use:* Dredged material.

(v) *Period of Use:* Continuing use.

(vi) *Restrictions:* Disposal shall be limited to dredged material from the Sabine-Neches 13.2 mile Extension Channel that complies with EPA's Ocean Dumping Regulations. Dredged material that does not meet the criteria set forth in 40 CFR part 227 shall not be placed at the site. Disposal operations shall be conducted in accordance with requirements specified in a Site Management and Monitoring Plan developed by EPA and USACE, to be reviewed periodically, at least every 10 years.

(25) Sabine-Neches, TX Dredged Material Site D.

(i) *Location:* 29°16′22″ N., 93°43′29″ W.; 29°16′22″ N., 93°41′10″ W.; 29°14′24″ N., 93°44′10″ W.; 29°14′24″ N., 93°43′29″ W.; thence to point of beginning.

(ii) *Size:* approximately 5.3 square miles.

(iii) *Depth:* Ranges from 44 to 46 feet.

(iv) *Primary Use:* Dredged material.

(v) *Period of Use:* Continuing use.

(vi) *Restrictions:* Disposal shall be limited to dredged material from the Sabine-Neches 13.2 mile Extension Channel that complies with EPA's Ocean Dumping Regulations. Dredged material that does not meet the criteria set forth in 40 CFR part 227 shall not be placed at the site. Disposal operations shall be conducted in accordance with requirements specified in a Site Management and Monitoring Plan developed by EPA and USACE, to be reviewed periodically, at least every 10 years.

* * * * *

[FR Doc. 2013–28808 Filed 12–4–13; 8:45 am]

BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

41 CFR Part 303–70

[FTR Amendment 2013–02; FTR Case 2013–302; Docket Number 2013–0010, Sequence 1]

RIN 3090–AJ37

Federal Travel Regulation (FTR); Agency Requirements for Payment of Expenses Connected With the Death of Certain Employees and Family Members

AGENCY: Office of Governmentwide Policy, U.S. General Services Administration (GSA).

ACTION: Final rule.