

collection burden that requires additional review by OMB under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The information collection activities contained in the regulations are already approved under OMB control number 2070-0133 (EPA ICR No. 1632). An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

Because the Agency has made a "good cause" finding that this action is not subject to notice-and-comment requirements under the APA or any other statute as stated in Unit IV. of this preamble, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1531-1538). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA.

This rule does not have tribal implications, as specified in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000), or federalism implications as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999).

Since this action is not economically significant under Executive Order 12866, it is not subject to Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), and 13211, *Actions concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001).

This action does not involve technical standards; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

This rule does not involve special consideration of environmental justice related issues as specified in Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

EPA's compliance with these statutes and Executive Orders for the existing regulations is discussed in the August

16, 2006 and October 29, 2008 **Federal Register** documents.

VI. FIFRA Mandated Reviews

As provided in FIFRA section 25(a)(2) and (d), the Secretary of Agriculture and the FIFRA Scientific Advisory Panel waived review of this final rule. Also in accordance with FIFRA section 25(a), the Agency transmitted this final rule to the Secretary of the Senate and the Clerk of the House of Representatives.

VII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the Agency promulgating the rule must submit a rule report to each House of the Congress and the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 156

Environmental protection, Labeling, Pesticides and pests.

Dated: June 9, 2010.

Lisa P. Jackson,
Administrator.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 156—[AMENDED]

■ 1. The authority citation for part 156 continues to read as follows:

Authority: 7 U.S.C. 136 through 136y.

■ 2. Revise § 156.159 to read as follows:

§ 156.159 Compliance date.

Any pesticide product released for shipment by a registrant after December 16, 2010 must bear a label that complies with §§ 156.10(d)(7), 156.10(f), 156.10(i)(2)(ix), 156.140, 156.144, 156.146 and 156.156.

[FR Doc. 2010-14403 Filed 6-14-10; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[EPA-R10-OW-2006-0409; FRL-9161-7]

Ocean Dumping; Correction of Typographical Error in 2006 Federal Register Final Rule for Designation of Ocean Dredged Material Disposal Site at Coos Bay, OR, Site F; Restoration of Coordinates for Ocean Dredged Material Disposal Site at Coos Bay, OR, Site H

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to correct a typographical error in the Final Rule for the Ocean Dumping; De-designation of Ocean Dredged Material Disposal Site and Designation of New Site near Coos Bay, Oregon.

DATES: This rule is effective on August 16, 2010 without further notice, unless EPA receives adverse comment by July 15, 2010. If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit any comments, identified by Docket ID No. EPA-R10-OW-2006-0409 by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for accessing the docket and materials related to this direct final rule and for submitting comments.
- *E-mail:* Winkler.Jessica@epa.gov.
- *Mail:* Jessica Winkler, U.S.

Environmental Protection Agency, Region 10, Office of Ecosystems, Tribal and Public Affairs (ETPA-088), Environmental Review and Sediment Management Unit, 1200 Sixth Avenue, Suite 900, Seattle, Washington 98101.

Publicly available docket materials are available either electronically at <http://www.regulations.gov> or in hard copy during normal business hours for the regional library at the U.S. Environmental Protection Agency, Region 10, Library, 10th Floor, 1200 Sixth Avenue, Suite 900, Seattle, Washington 98101. For access to the documents at the Region 10 Library, contact the Region 10 Library Reference Desk at (206) 553-1289, between the hours of 9 a.m. to 12 p.m., and between the hours of 1 p.m. to 4 p.m., Monday through Friday, excluding legal holidays, for an appointment.

FOR FURTHER INFORMATION CONTACT: Jessica Winkler, U.S. Environmental

Protection Agency, Region 10, Office of Ecosystems, Tribal and Public Affairs (ETPA-088), Environmental Review and Sediment Management Unit, 1200 Sixth Avenue, Suite 900, Seattle, Washington 98101, phone number: (206) 553-7369, e-mail: winkler.jessica@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Why is EPA using a direct final rule?

EPA is publishing this rule without a prior proposed rule because this is a noncontroversial action and EPA anticipates no adverse comment. The sites have been used as EPA intended and as described in the preamble to the **Federal Register** and in the Site Management and Monitoring Plan (SMMP) and the typographical error was only brought to EPA's attention in late

April 2010. However, in the "Proposed Rules" section of this **Federal Register**, we are publishing a separate document that will serve as the proposed rule to allow EPA to withdraw this final rule and respond to comments on this action if adverse comments are received on this direct final rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, *see* the **ADDRESSES** section of this document.

If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. We will address all public

comments in any subsequent final rule based on the proposed rule.

II. Does this action apply to me?

Persons potentially affected by this action include those who seek or might seek permits or approval by EPA to dispose of dredged material into ocean waters pursuant to the Marine Protection, Research, and Sanctuaries Act (MPRSA), 33 U.S.C. 1401 to 1445. EPA's action would be relevant to persons, including organizations and government bodies seeking to dispose of dredged material in ocean waters offshore of the Coos Bay, Oregon. Currently, the U.S. Army Corps of Engineers (Corps) would be most affected by this action. Potentially affected categories and persons include:

Category	Examples of potentially regulated persons
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 for readers regarding persons likely to be affected by this action. For any questions regarding the applicability of this action to a particular person, please refer to the contact person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

III. What is the background for this action?

In 1986, the Regional Administrator designated three disposal sites (Site E, original Site F and Site H) off of Coos Bay, Oregon under the MPRSA. Original Site F began to experience mounding and the Corps selected a 103 Site F to enable the three Coos Sites to accommodate the total volume of dredged material generated on an annual basis. The Corps intended to seek designation of the 103 site as soon as reasonable, however, the 103 Site F was too small for 102 designation by EPA. Consequently EPA proposed a new Site F on March 31, 2000, which was

larger than the 103 site. In that proposal, EPA also proposed to de-designate the original Site F. EPA published a final rule, 71 FR 27396 (May 11, 2006), to de-designate original Site F and to designate new Site F. Figure 1, below, shows all of the Coos Sites, including Sites E and H, the de-designated Site F, the 103 configured Site F and the new Site F. The new Site F was designed to ensure that disposal of dredged material into Site F would be managed to retain material in the active littoral drift area to augment shoreline building processes and to allow material placed in the corner of the site closest to the jetty to continue augmentation toward the nearshore and toward the North Jetty. The coordinates (North American Datum—NAD 83) for new Site F, as finalized in the Final Rule preamble, were:

43°22'54.8887" N., 124°19'28.9905" W.
 43°21'32.8735" N., 124°20'37.7373" W.
 43°22'51.4004" N., 124°23'32.4318" W.
 43°23'58.4014" N., 124°22'35.4308" W.

These coordinates were the coordinates used in the final Site Management and Monitoring Plan (SMMP) for the Coos Sites. These coordinates were to be codified at 40 CFR 228.15(n)(3). However, a typographical error in the final rule mistakenly allowed the coordinates to be codified at 40 CFR 228.15(n)(4). This typographical error led to the result on paper, but not in practice, of leaving the Original Site F coordinates unchanged and inadvertently overwriting the coordinates for Site H. The error did not result in any disposal taking place at any of the Coos Sites in locations not described in the rule preambles or in the SMMP. The error itself was not discovered until late April 2010. At all times, disposals of dredged material suitable for ocean disposal at the Coos Sites took place in the Sites as described in the preamble to the Final Rule, 71 FR 27396 (May 11, 2006), and in the final SMMP for the Coos Sites.

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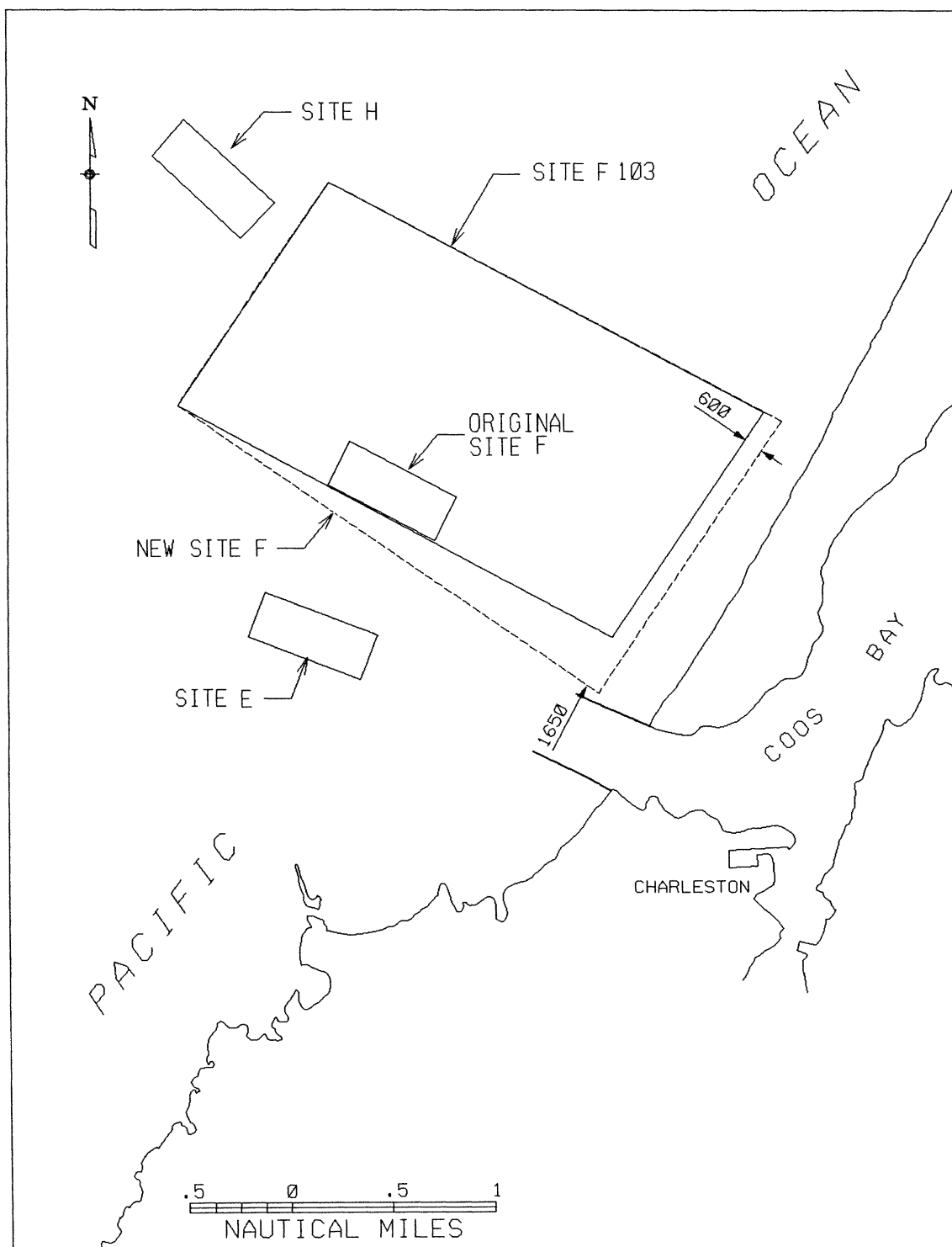


Figure 1. The Coos Sites, including Sites E and H, the de-designated (original) Site F, the 103 configured Site F and the new Site F

IV. What action is EPA taking?

This action corrects the typographical error in EPA's final rule, 71 FR 27396 (May 11, 2006) to amend 40 CFR 228.15 by revising paragraphs (n)(3) and (n)(4) to read as set forth in the regulatory text of this final rule.

This correction is an administrative action which replaces the currently codified coordinates for Site F at 40 CFR 228.15(n)(3) with the coordinates EPA inadvertently, through a typographical error, named 40 CFR 228.15(n)(4) at 71 FR 27396, (May 11, 2006). This correction also restores the coordinates for Site H at 40 CFR 228.15(n)(4) which were overwritten through EPA's typographical error.

This correction does not require re-consultation under the Endangered Species Act (ESA), 16 U.S.C. 1531 to 1544, the Magnuson-Stevens Act (MSA), 16 U.S.C. 1801 to 1891d, the Marine Mammal Protection Act of 1972 (MMPA), 16 U.S.C. 1361 to 1389; the Coastal Zone Management Act (CZMA), 16 U.S.C. 1451 to 1465; or the National Historic Preservation Act (NHPA), 16 U.S.C. 470 to 470a–2. Consultations under each of those acts were completed at the time EPA published the final rule in the **Federal Register** in 2006. The National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 to 4370f, does not apply to EPA designations of ocean disposal sites under the MPRSA because the courts have exempted EPA's actions under the MPRSA from the procedural requirements of NEPA through the functional equivalence doctrine. EPA's action to correct the placement of coordinates in the **Federal Register** is not an action under EPA's "Notice of Policy and Procedures for Voluntary Preparation of NEPA Documents," (Voluntary NEPA Policy), 63 FR 58045, (October 29, 1998), requiring the preparation of an environmental review document.

V. Statutory and Executive Order Review

This rule corrects a typographical error by replacing the currently codified coordinates for Site F at 40 CFR 228.15(n)(3) with the coordinates EPA inadvertently, through a typographical error, named 40 CFR 228.15(n)(4) at 71 FR 27396, (May 11, 2006) and by restoring the coordinates for Site H at 40 CFR 228.15(n)(4) which were overwritten through EPA's typographical error. This action complies with applicable executive orders and statutory provisions as follows:

A. Executive Order 12866

This action is not a "significant regulatory action" under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the Executive Order.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501, et seq., because this rule does not establish or modify any information or recordkeeping requirements for the regulated community.

C. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires Federal agencies to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions. For purposes of assessing the impacts of this rule on small entities, small entity is defined as: (1) A small business defined by the Small Business Administration's size regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. EPA determined that this action will not have a significant economic impact on small entities because the final rule will only have the effect of regulating the location of sites to be used for the disposal of dredged material in ocean waters. After considering the economic impacts of this final rule, I certify that this action will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act (UMRA) of 1995, 2 U.S.C. 1531 to 1538, for State, local, or tribal governments or the private sector. This action imposes no new enforceable duty on any State, local or tribal governments or the private sector. Therefore, this action is not subject to the requirements of sections 202 or 205 of the UMRA.

This action is also not subject to the requirements of section 203 of the UMRA because it contains no regulatory requirements that might significantly or uniquely affect small government entities. Those entities are already subject to existing permitting requirements for the disposal of dredged material in ocean waters.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It does 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 various levels of government, as specified in Executive Order 13132. Thus, Executive Order 13132 does not apply to this action.

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

This action does not have tribal implications, as specified in Executive Order 13175 because the correction of coordinates for Site F and the restoration of the appropriate coordinates for Site H will not have a direct effect on Indian Tribes, on the relationship between the federal government and Indian Tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes. Thus, Executive Order 13175 does not apply to this action.

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

EPA interprets Executive Order 13045 (62 FR 19885) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, "Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355) because it is not a "significant regulatory action" as defined under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law No. 104-113, section 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. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

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

Executive Order 12898 (59 FR 7629) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. EPA determined that this rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment.

K. Congressional Review Act

The Congressional Review Act (CRA), 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to the House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in

the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective sixty days from the date of publication in the **Federal Register** if no adverse comment is received.

List of Subjects in 40 CFR Part 228

Environmental protection, Water pollution control.

Authority: This action is issued under the authority of Section 102 of the Marine Protection, Research, and Sanctuaries Act, 33 U.S.C. 1401, 1411, 1412.

Dated: June 3, 2010.

Dennis J. McLerran,
Regional Administrator, Region 10.

■ For the reasons set out in the preamble, EPA amends chapter I, title 40 of the Code of **Federal Register** as follows:

PART 228—[AMENDED]

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

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

■ 2. Section 228.15 is amended by revising paragraphs (n)(3) and (n)(4) to read as follows:

§ 228.15 Dumping sites designated on a final basis.

* * * * *

(n) * * *

(3) Coos Bay, OR Dredged Material Site F

(i) *Location:* 43°22'54.8887" N., 124°19'28.9905" W.; 43°21'32.8735" N., 124°20'37.7373" W.; 43°22'51.4004" N., 124°23'32.4318" W.; 43°23'58.4014" N., 124°22'35.4308" W. (NAD 83).

(ii) *Size:* 4.45 kilometers long and 2.45 kilometers wide.

(iii) *Depth:* Ranges from 6 to 51 meters.

(iv) *Primary Use:* Dredged material determined to be suitable for ocean disposal.

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

(vi) *Restriction:* Disposal shall be limited to dredged material determined to be suitable for unconfined disposal; Disposal shall be managed by the restrictions and requirements contained in the currently-approved Site Management and Monitoring Plan (SMMP); Monitoring, as specified in the SMMP, is required.

(4) Coos Bay, OR Dredged Material Site H

(i) *Location:* 43°23'53" N., 124°22'48" W.; 43°23'42" N., 124°23'01" W.; 43°24'16" N., 124°23'26" W.; 43°24'05" N., 124°23'38" W.

(ii) *Size:* 0.13 square nautical mile.
(iii) *Depth:* Averages 55 meters.
(iv) *Primary Use:* Dredged material.
(v) *Period of Use:* Continuing use.
(vi) *Restriction:* Disposal shall be limited to dredged material in the Coos Bay area of type 2 and 3, as defined in the site designation final EIS.

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[FR Doc. 2010-14242 Filed 6-14-10; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[EPA-HQ-RCRA-2005-0017; FRL-9160-9]

RIN 2050-AG57

Withdrawal of the Emission-Comparable Fuel Exclusion Under RCRA

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This final action withdraws the conditional exclusion from regulations promulgated on December 19, 2008 under subtitle C of the Resource Conservation and Recovery Act (RCRA) for so-called Emission Comparable Fuel (ECF). These are fuels produced from hazardous secondary materials which, when burned in industrial boilers under specified conditions, generate emissions that are comparable to emissions from burning fuel oil in those boilers. EPA is withdrawing this conditional exclusion because the Agency has concluded that ECF is more appropriately classified as a discarded material and regulated as a hazardous waste. The exclusions for comparable fuel and synthesis gas fuel are not addressed or otherwise affected by this final rule.

DATES: This final rule is effective June 15, 2010.

ADDRESSES: The official public docket is identified by Docket ID No. EPA-HQ-RCRA-2005-0017. All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the RCRA Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave.,