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 significantly regulatory action under Executive Order 12866. This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060–0243. For additional information concerning these requirements, see 40 CFR part 70. 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.

In reviewing State operating permit programs submitted pursuant to Title V of the Clean Air Act, EPA will approve State programs provided that they meet the requirements of the Clean Air Act and EPA's regulations codified at 40 CFR part 70. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a State operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program , to use VCS in place of a State program that otherwise satisfies the provisions of the Clean Air Act. 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.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: September 28, 2001.

Sally Seymour,

Acting Regional Administrator, Region IX.

[FR Doc. 01–25410 Filed 10–9–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[FRL–7077–1]

Ocean Dumping; Proposed Site Modification

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA today proposes to modify the designation of an Ocean Dredged Material Disposal Site (ODMDS) in the Atlantic Ocean offshore Charleston, South Carolina. The proposed modification is to modify the restriction on use and shorten the site's name. This proposed action is necessary to allow for disposal activities to continue as previously planned by the site's Task Force for management and monitoring.

DATES: Comments must be received on or before November 26, 2001.

ADDRESSES: Send comments to: Wesley B. Crum, Chief, Coastal Section, Water Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, Atlanta, Georgia 30303.

FOR FURTHER INFORMATION CONTACT: Gary W. Collins, 404/562–9395.

SUPPLEMENTARY INFORMATION:

A. Background

Section 102(c) of the Marine Protection, Research, and Sanctuaries Act (MPRSA) of 1972, as amended, 33 U.S.C. 1401 *et seq.*, gives the Administrator of EPA the authority to designate sites where ocean disposal may be permitted. On December 23, 1986, the Administrator delegated the authority to the Regional Administrator of the Region in which sites are located. The EPA Ocean Dumping Regulations promulgated under MPRSA (40 CFR chapter I, subchapter H, § 228.11) state that use of disposal sites may be modified.

Two ODMDS's were ultimately designated for Charleston in 1987. One was a 12-square mile site for deepening material. The second site was 3-square miles and was placed within the 12-square mile site. During the 1980's, additional benthic and sedimentological studies were conducted by South Carolina Department of Natural Resources (SCDNR). In 1987, live bottoms were identified in the western portion of the 12-square mile site. Concerns regarding impacts to the living resources at the ODMDS encouraged EPA to place a restriction on the use of the 12-square mile site. The Final Rule regarding this restriction was published in the **Federal Register** March 5, 1991 stating, ''Disposal shall be limited to dredged material from the Charleston Harbor area. All dredged material, except entrance channel material, shall be limited to that part of the site east of the line between coordinates 32°39′04″ N, 79°44′25″ W and 32°37′24″ N, 79°45′30″ W unless the materials can be shown by sufficient testing to contain 10% or less of fine material (grain size of less than 0.074mm) by weight and shown to be suitable for ocean disposal.'' This bisecting line was an immediate effort by EPA to protect live bottom resources initially reported by fishermen. The line was set with limited knowledge of the exact location and extent of those resources, and was set in a location that was believed to be as protective as possible at that time.

During this same time frame, an interagency group (EPA, DNR, COE and State Ports Authority) began working together to develop a monitoring and management plan (MMP) for the ODMDS. As part of this MMP process, construction of an L-shaped berm was developed approximately midway within the ODMDS. The COE began construction of the L-shaped berm using consolidated material from the last (42-foot) deepening project. The berm was evident on 1993 bathymetry. Also, as part of the MMP, the interagency group began looking for an area within the ODMDS for disposal of dredged material which would have the least impacts on the live bottom resources located in the western region of the site. A 4-square mile area (disposal box) was identified within the eastern half of the 12-square mile designated ODMDS and placed in position with the L-shaped berm as part of the western boundary. This location was approved by all the agencies involved, and placed where it would impact minimal reef habitat. At that time, the bisecting line should have been moved, but due to an oversight, it was not.

In 1995, EPA de-designated the smaller 3-square mile site and modified the larger site to allow for continued disposal of all material, not just deepening material. However, the COE agreed not to place any material outside of the 4-square mile disposal box. During the 1999–2000 (deepening project) dredging, a number of unauthorized dumps occurred to the west of the 4-square mile site. To date, studies indicate that some fine-grained material is present to the west of the 4-square mile site. It is unknown at this time whether the disposal material is moving from the ODMDS over the berms, from the berms, is part of the unauthorized dumps that occurred in 1999 and 2000, whether it is from the dispersion of the material during disposal activities at the site, or whether it is some combination of these four possibilities. Subsequent investigation and studies conducted by SCDNR to date have not identified adverse impacts at index reef sites being monitored. Other samples of the sand bottom benthic communities in areas that now have muddy sediments are still being processed.

B. EIS Determination

EPA has voluntarily committed to prepare Environmental Impact Statements (EIS) in connection with the designation of ocean disposal sites (39 FR 16186 (May 7, 1974)). The need for an EIS in the case of modifications is addressed in 39 FR 37420 (October 21, 1974), section 1(a)(4). If the change is judged sufficiently substantial by the responsible official, an EIS is needed.

The continued use of the Charleston ODMDS is vital to the management goals of the Plan. EPA believes these changes do not warrant the preparation of an Environmental Impact Statement (EIS).

EPA's primary concern is to provide an environmentally acceptable ocean disposal site for Charleston Harbor area dredging projects on a continued basis.

C. Proposed Site Modification

The proposed site modification for the Charleston Harbor Deepening Project ODMDS is the removal of the line that restricts disposal of fine-grained material and the addition of four corner coordinates (4 square-mile disposal box) that will define where all dredged material must be placed within the ODMDS. In addition, the site's official name is being shortened to the Charleston ODMDS.

D. Regulatory Assessments

Under the Regulatory Flexibility Act, EPA is required to perform a Regulatory Flexibility Analysis for all rules that may have a significant impact on a substantial number of small entities. EPA has determined that this proposed action will not have a significant impact on small entities since the modification will only have the effect of providing an environmentally acceptable disposal option for dredged material on a continued basis. 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 proposed action will not result in an annual effect on the economy of $100 million or more or cause any of the other effects which would result in its being classified by the Executive Order as a ''major'' rule. Consequently, this Rule does not necessitate preparation of a Regulatory Impact Analysis.

This 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: September 12, 2001.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

In consideration of the foregoing, subchapter H of chapter I of Title 40 is proposed to be 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. 1412 and 1418.

2. Section 228.15(h)(5), the Period of Use and the Restriction on use of the Charleston Harbor Deepening Project, is proposed to be amended to read as follows:

§ 228.15 Dumping sites designated on a final basis.

* * * * *

(h) * * *

(5) Charleston, SC, Ocean Dredged Material Disposal Site.

* * * * *

(v) Period of Use: Continued use.

(vi) Restriction: Disposal shall be limited to dredged material from the Charleston Harbor area. All dredged materials must be placed within the box defined by the following four corner coordinates (NAD83): 32.65663° N, 79.75716° W; 32.64257° N, 79.72733° W; 32.61733° N, 79.74381° W; and 32.63142° N, 79.77367° W. Additionally, all disposals shall be in accordance with all provisions of disposal placement as specified by the Site Management Plan, which is periodically updated.

* * * * *

[FR Doc. 01–25411 Filed 10–9–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 571 and 587

[Docket No. NHTSA–01–10435]

RIN 2127–AI05

Federal Motor Vehicle Safety Standards; Side Impact Protection; Fuel System Integrity

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: Pursuant to the agency's grant of a petition for rulemaking from Mr. James E. Stocke, NHTSA proposes to update the Federal motor vehicle safety standards on side impact protection and fuel system integrity by requiring that radial tires of certain specifications, rather than bias ply tires, be used on the moving barriers specified in these standards. In conjunction with that proposal, NHTSA also proposes to delete certain outdated or incorrect specifications for the moving barriers in those standards.

DATES: You should submit your written comments so that they are received by December 10, 2001.

ADDRESSES: You may submit your comments in writing to: Docket Management, Room PL–401, 400 Seventh Street, SW, Washington, DC, 20590. Alternatively, you may submit your comments electronically by logging onto the Docket Management System (DMS) website at *http://dms.dot.gov.* Click on ''Help & Information'' or ''Help/Info'' to view instructions for filing your comments electronically. Regardless of how you submit your comments, you should mention the docket number of this document.

FOR FURTHER INFORMATION CONTACT:

For technical and policy issues: Dr. William Fan, Office of Crashworthiness Standards, NPS–11, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590. Telephone: (202) 366–4922. Fax: (202) 366–4329.

For legal issues: Nancy Bell, Attorney Advisor, Office of the Chief Counsel, NCC–20, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590. Telephone: (202) 366–2992. Fax: (202) 366–3820.

SUPPLEMENTARY INFORMATION:

I. Background

Federal Motor Vehicle Safety Standard (FMVSS) No. 214, Side impact protection (49 CFR 571.214), and FMVSS No. 301, Fuel system integrity (49 CFR 571.301), specify impact tests using moving barriers. Paragraph S6.10 of FMVSS No. 214 contains specifications for a moving deformable barrier. FMVSS No. 301 contains specifications for two 1,814 kilogram (4,000 pound) rigid moving barriers, a flat rigid moving barrier (Paragraphs S7.2 and S7.3) [1] and a contoured rigid

[1] The FMVSS No. 301 flat rigid moving barrier is identical to the moving barrier specified for the lateral moving barrier test in paragraph S8.2 of FMVSS No. 208, Occupant crash protection (49 CFR 571.208). At this time, the tire specifications in S8.2

Continued