

Commodity	Parts per million
Sugarcane, cane	0.50
Tomato	1.0

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[FR Doc. E8–29117 Filed 12–9–08; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Parts 220, 221, 222, 223, 224, 227, and 228**

[FRL–8748–4]

RIN 2040–AF01

Repeal of Obsolete Regulations Under the Marine Protection, Research, and Sanctuaries Act Regarding Interim Ocean Dumping Sites, Interim Ocean Dumping Permits, and Interim Ocean Dumping Criteria**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

SUMMARY: EPA is taking final action to repeal expired, and therefore, obsolete regulatory provisions regarding interim ocean dumping sites, interim ocean dumping permits, and interim ocean dumping criteria. Repeal of all reference to “interim” provisions is necessary based on legislation enacted since promulgation of the reference, EPA action since promulgation of the reference, or the passage of a date specified in a definition of the reference. This action does not make any substantive changes to EPA’s ocean dumping regulations. This is a housekeeping measure intended only to eliminate confusion by repealing obsolete regulatory text.

DATES: This rule is effective on January 9, 2009.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:**I. Overview**

Amendments enacted in 1992 to the Marine Protection, Research, and Sanctuaries Act (MPRSA) require that no permits for ocean dumping shall be issued for an EPA-established ocean dumping site after January 1, 1997, unless the site has received a final designation; therefore, interim ocean dumping sites that have not received a final designation are no longer available for use. Under EPA regulations, the authority to issue interim ocean dumping permits expired on April 23, 1978, and interim permits are no longer issued. Under EPA regulations, interim criteria for constituents prohibited as other than trace contaminants in material proposed for ocean dumping, as well as interim guidance used to determine the limiting permissible concentration for the suspended particulate and solid phases of the material proposed to be dumped, were applicable only until EPA announced the availability of acceptable procedures to evaluate materials for ocean dumping. On April 4, 1991, EPA and the U.S. Army Corps of Engineers announced the availability of a testing manual for dredged material entitled “Evaluation of Dredged Material Proposed for Ocean Disposal—Testing Manual,” which revised the 1977 EPA/U.S. Army Corps of Engineers document, “Ecological Evaluation of Proposed Discharge of Dredged Material into Ocean Waters.” In addition, EPA published “Bioassay Procedures for the Ocean Disposal Permit Program,” which outlines acceptable procedures for non-dredged material.

II. Background**A. Potentially Affected Entities**

Generally, ocean dumping sites and permits are used by persons, organizations, or government bodies seeking to dispose of dredged material or other material in ocean waters. However, there are no regulated entities potentially affected by this action, because all of the regulatory provisions being repealed have expired, and therefore, have become obsolete (see Section III below). Nothing in this action alters the jurisdiction or authority of EPA or the entities regulated under

the Marine Protection, Research, and Sanctuaries Act.

B. Marine Protection, Research, and Sanctuaries Act

The Marine Protection, Research, and Sanctuaries Act of 1972, as amended, also known as the Ocean Dumping Act, regulates the transportation and dumping of material into ocean waters. Under the MPRSA, no permit may be issued for ocean dumping where such dumping will unreasonably degrade or endanger human health or the marine environment. Most material ocean dumped today is dredged material (i.e., sediments) removed from the bottom of water bodies to maintain navigation channels and berthing areas. Other materials that are currently disposed of in the ocean include fish wastes, human remains, and vessels.

Ocean dumping cannot occur except pursuant to a permit under the MPRSA and its implementing regulations. The U.S. Army Corps of Engineers (USACE) issues permits for dumping dredged material in the ocean, using EPA’s environmental criteria and subject to EPA’s concurrence. For all other materials, EPA is the permitting agency. EPA also is responsible for designating recommended ocean dumping sites for all types of materials, including dredged material. EPA’s ocean dumping regulations at 40 CFR Part 228 establish procedures for the designation and management of ocean disposal sites and list the available EPA-designated ocean dumping sites by EPA Region (40 CFR 228.15).

C. Interim Ocean Dumping Sites, Permits, Criteria, and Guidance

When EPA originally promulgated the ocean dumping regulations in the 1970’s, the Agency made provisions for interim ocean dumping sites, interim ocean dumping permits, and interim ocean dumping criteria. These interim provisions were designed to be temporary measures that would expire under certain conditions, primarily when final sites were designated and criteria were established. As described in Section III below, all provisions related to interim ocean dumping sites, interim permits, interim criteria, and interim guidance have expired and are therefore obsolete.

III. This Final Rule

This final rule repeals expired and therefore obsolete regulatory references to interim ocean dumping sites, interim ocean dumping permits, interim ocean dumping criteria, and interim guidance. This rule does not make any substantive changes to EPA's ocean dumping regulations. This is a housekeeping measure intended only to eliminate confusion by repealing obsolete regulatory text.

A. Interim Ocean Dumping Sites

After the enactment of the MPRSA in 1972, EPA designated interim ocean dumping sites prior to the completion of environmental studies on the basis of historical uses. These "interim" designations were intended to facilitate a smooth transition to regulation under the MPRSA and to allow time for the necessary environmental studies to be completed. Once the necessary environmental studies were performed, many of the interim sites were designated by EPA as final designated sites if the sites met the MPRSA regulatory environmental criteria. Although EPA published the interim sites list when the Agency proposed the ocean dumping criteria in 1973, EPA did not publish the interim sites list in a separate regulation until 1977. In 1994, EPA codified the interim site list at 40 CFR 228.14.

Initially, the 1977 regulations stated "the list of interim sites will remain in force for a period not to exceed three years from the date of promulgation of this Part 228, except for those sites approved for continuing use or disapproved for use by promulgation in this Part." After a series of extensions to the expiration requirements for interim site designations, Congress amended the MPRSA in 1992 to require that no permits for ocean dumping shall be issued for an ocean dumping site after January 1, 1997, unless the site had received a final designation (section 506 of the Water Resources Development Act of 1992; codified at 33 U.S.C. 1412(c)(4)). In other words, ocean dumping permits could no longer be issued for interim dumping sites after January 1, 1997. Today's action repeals the list of interim ocean dumping sites found at 40 CFR 228.14, as well as the regulatory references to interim ocean dumping sites found at 40 CFR 228.2(a), 228.3(b), 228.4(b), and 228.5(c).

The 1992 MPRSA amendments that abolished interim ocean dumping sites, as well as subsequent amendments to the MPRSA, expressly retained the authority of EPA and the U.S. Army Corps of Engineers to issue permits for

use of a specific interim dredged material ocean dumping site near Newport Beach, California (known as "LA-3") beyond the 1997 deadline pending final site designation. Because EPA promulgated a final site designation for the LA-3 site (70 FR 53729), the interim site designation for LA-3 is unnecessary and has become moot. Today, EPA repeals the interim site designation for LA-3 along with the other interim site designations. Today's action does not prevent the U.S. Army Corps of Engineers, however, from using any site as an "alternative site" for the disposal of dredged material subject to the provisions of MPRSA section 103(b) even if that alternative site also had been designated previously as an interim site. Similarly, today's action does not preclude the use of any site designed for use at 40 CFR 227.15, even if that site had also been designated as an interim site previously.

B. Interim Ocean Dumping Permits

In 1977, EPA promulgated regulations establishing five types of ocean dumping permits: Special, general, interim, research, and emergency (42 FR 2468; 40 CFR 220.3). Under these regulations, interim permits could be issued prior to April 23, 1978, for the dumping of materials that did not comply with the environmental impact criteria published at 40 CFR part 227, subpart B, or that would have caused substantial adverse effects as determined in accordance with the criteria published at 40 CFR part 227, subparts D or E, or for which an ocean disposal site had not been designated on other than an interim basis (40 CFR 220.3(d)). EPA Regional Administrators had the discretion to exempt existing site users from the April 23, 1978, interim permit issuance deadline. The 1977 regulations also included an implementation schedule to allow phasing out of interim ocean dumping permits or compliance with all requirements necessary to receive a special permit by December 31, 1981, at the latest. Consequently, under certain circumstances, the Regional Administrators could only extend the deadline to December 31, 1981. Interim permits were required to specify an expiration date no later than one year from issuance.

The regulatory provisions regarding interim permits are expired and therefore obsolete. The authority to issue interim permits lapsed over 30 years ago. Any interim permit issued has long since expired. This action repeals the obsolete regulatory provisions regarding interim ocean dumping permits found in the 40 CFR

parts 220, 221, 222, 223, 224, 227 (especially subpart F), and 228.

C. Interim Ocean Dumping Criteria and Interim Guidance on Test Procedures

EPA promulgated "interim criteria" for constituents prohibited as other than trace contaminants in material proposed for ocean dumping (40 CFR 227.6(e)) in 1977. At that time, EPA and the Army Corps of Engineers had not yet completed the development of acceptable bioassay procedures to determine if material proposed for ocean dumping would cause unacceptable toxicity or bioaccumulation under 40 CFR 227.6(c)(2) and (3). The interim criteria allowed the use of numerical constituent levels for suspended particulate and solid phases of the material proposed for dumping until EPA announced the availability of acceptable bioassay procedures to implement the criteria found at 40 CFR 227.6(c)(2) and (3).

The regulations contain another "interim" reference relevant to the bioassay test procedures. A footnote to the regulation at 40 CFR 227.27(b) explains that EPA and the Army Corps of Engineers would develop an implementation manual regarding the use of bioassays to determine the limiting permissible concentration for the suspended particulate and solid phases of the material proposed to be dumped, and that announcement of the availability of the manual would be published in the **Federal Register**. The footnote explained how to obtain "interim guidance" on appropriate procedures until the manual was available. EPA is deleting the footnote because the manual has since been made available in the **Federal Register**, 56 FR 13826. That document, entitled "Evaluation of Dredged Material Proposed for Ocean Disposal—Testing Manual," revised the interim guidance (published in 1977) called "Ecological Evaluation of Proposed Discharge of Dredged Material into Ocean Waters."

In addition to the jointly developed implementation manual relevant to the testing of dredged material, EPA also has developed a guidance manual for the testing of non-dredged material called "Bioassay Procedures for the Ocean Disposal Permit Program." In publishing a 1980 final rule promulgating guidelines under the Clean Water Act section 403(c) (45 FR 65942), EPA explained that this guidance document was to be used to demonstrate that a discharge would not exceed the limiting permissible concentration for non-dredged material. EPA noted the availability of this

document again in 1996, in a proposed rule that clarified certain provisions of the Agency's ocean dumping regulations relating to requirements for bioassay testing. 61 FR 7765, 7767.

Because EPA has previously announced the availability of acceptable procedures to implement the criteria found at 40 CFR 227.6(c)(2) and (3), today's action repeals the obsolete regulatory provisions regarding interim ocean dumping criteria found in 40 CFR 227.6(e). For the same reason, the footnote to 40 CFR 227.27(b) and its reference to "interim guidance" have become obsolete and EPA is removing the footnote today. EPA is also removing the final clause of § 227.27(d) because the reference to "interim guidance" is no longer necessary.

IV. Statutory and Executive Order Reviews

A. Administrative Procedure Act

Under the Administrative Procedure Act (APA), agencies generally are required to publish a notice of proposed rulemaking and provide an opportunity for the public to comment on any substantive rulemaking action. Prior notice and comment is not required, however, when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest. 5 U.S.C. 553(b)(B).

EPA has determined that providing prior notice and opportunity for comment on the repeal of obsolete regulatory provisions from the Code of Federal Regulations regarding interim ocean dumping sites, interim ocean dumping permits, interim ocean dumping criteria, and interim guidance is unnecessary. The interim authority by which interim sites could be used expired in January 1997 according to Section 506 of the Water Resources Development Act of 1992, which rendered the regulatory references obsolete. The authority to issue interim permits and the authority for existing dumpers to use interim permits, lapsed over thirty years ago. The interim criteria became obsolete after EPA announced the availability of implementation manuals for the final criteria. The interim guidance identified in the footnote became obsolete for the same reason. Thus, withdrawing the regulatory references to interim sites, interim permits, interim criteria, and interim guidance from the Code of Federal Regulations has no legal impact and merely codifies the current legal status quo.

B. Paperwork Reduction Act

This final rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Burden is defined at 5 CFR 1320.3(b). This is because it merely conforms the published regulatory text with current legal requirements, as explained above. It does not establish or modify any information reporting, or recordkeeping requirements, and therefore is not subject to the requirements of the Paperwork Reduction Act.

C. Other Statutes and Executive Orders

This rule does not establish any new requirements, mandates, or procedures. As explained above, this final action merely repeals obsolete regulations regarding interim ocean dumping sites, interim ocean dumping permits, interim ocean dumping criteria, and interim guidance. This rule is a housekeeping measure to remove these obsolete provisions from the Code of Federal Regulations. The rule does not result in any additional or new regulatory requirements. Accordingly, it has been determined that this rule is not a "significant regulatory action" under Executive Order 12866, and therefore is not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty, contain any unfunded mandate, or impose any significant or unique impact on small governments as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). This rule also does not impose any federalism requirements or require prior consultation with tribal government officials as specified by Executive Order 13132 (64 FR 43255) or Executive Order 13175 (65 FR 67249). This rule does not involve special consideration of environmental justice-related issues as required by Executive Order 12898 (59 FR 7629). This rule is not subject to Executive Order 13211 (66 FR 28355) because it is not a significant regulatory action under Executive Order 12866. Because this action is not subject to notice-and-comment requirements under the APA or any other statute, and because it does not impose any new requirements on small entities, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) This rule is not subject to Executive Order 13045 (62 FR 19885) because it is not economically significant as defined under Executive Order 12866. Because this rule does not involve technical standards, EPA did not consider the use of any voluntary consensus standards. Therefore, this

rule is not subject to section 12(d) of the National Technology Transfer and Advancement Act of 1995, Public Law 104-113, section 12(d) (15 U.S.C. 272 note). Further, this rule is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

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 each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons stated, and established an effective date of January 9, 2009. Therefore, 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 this rule in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects

40 CFR Part 220

Environmental protection, Water pollution control.

40 CFR Parts 221, 222, and 223

Administrative practice and procedure, Environmental protection, Water pollution control.

40 CFR Part 224

Environmental protection, Reporting and recordkeeping requirements, Water pollution control.

40 CFR Part 227

Environmental protection, Environmental impact statements, Water pollution control.

40 CFR Part 228

Environmental protection, Water pollution control.

Dated: November 26, 2008.

Benjamin H. Grumbles,

Assistant Administrator for Water.

■ In consideration of the foregoing, Subchapter H of chapter I of title 40 is amended as follows:

PART 220—[AMENDED]

■ 1. The authority citation for part 220 continues to read as follows:

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

■ 2. Amend § 220.3 as follows:

■ a. By revising the introductory text.

■ b. By removing and reserving paragraph (d).

■ c. By revising paragraph (f).

§ 220.3 Categories of permits.

This § 220.3 provides for the issuance of general, special, emergency, and research permits for ocean dumping under section 102 of the Act.

* * * * *

(f) *Permits for incineration at sea.* Permits for incineration of wastes at sea will be issued only as research permits until specific criteria to regulate this type of disposal are promulgated, except in those cases where studies on the waste, the incineration method and vessel, and the site have been conducted and the site has been designated for incineration at sea in accordance with the procedures of § 228.4(b) of this chapter. In all other respects the requirements of parts 220 through 228 apply.

■ 3. Amend § 220.4 by revising paragraph (a) and paragraph (b) introductory text to read as follows:

§ 220.4 Authorities to issue permits.

(a) *Determination by Administrator.* The Administrator, or such other EPA employee as he may from time to time designate in writing, shall issue, deny, modify, revoke, suspend, impose conditions on, initiate and carry out enforcement activities and take any and all other actions necessary or proper and permitted by law with respect to general, special, emergency, or research permits.

(b) *Authority delegated to Regional Administrators.* Regional Administrators, or such other EPA employees as they may from time to time designate in writing, are delegated the authority to issue, deny, modify, revoke, suspend, impose conditions on, initiate and carry out enforcement activities, and take any and all other actions necessary or proper and permitted by law with respect to special permits for:

* * * * *

PART 221—[AMENDED]

■ 4. The authority citation for part 221 continues to read as follows:

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

■ 5. Amend § 221.1 by revising the introductory text to read as follows:

§ 221.1 Applications for permits.

Applications for general, special, emergency, and research permits under section 102 of the Act may be filed with the Administrator or the appropriate Regional Administrator, as the case may be, authorized by § 220.4 of this chapter to act on the application. Applications shall be made in writing and shall contain, in addition to any other material which may be required, the following:

* * * * *

PART 222—[AMENDED]

■ 6. The authority citation for part 222 continues to read as follows:

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

■ 7. Revise § 222.1 to read as follows:

§ 222.1 General.

Decisions as to the issuance, denial, or imposition of conditions on general, special, emergency, and research permits under section 102 of the Act will be made by application of the criteria of parts 227 and 228 of this chapter. Final action on any application for a permit will, to the extent practicable, be taken within 180 days from the date a complete application is filed.

■ 8. Amend § 222.3 by revising paragraphs (a) introductory text and (b)(1) introductory text as follows:

§ 222.3 Notice of applications.

(a) *Contents.* Notice of every complete application for a general, special, emergency and research permit shall, in addition to any other material, include the following:

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(b) * * * (1) *Special and research permits.* Notice of every complete application for special and research permits shall be given by:

* * * * *

PART 223—[AMENDED]

■ 9. The authority citation for part 223 continues to read as follows:

Authority: Secs. 102, 104, 107, 108, Marine Protection Research, and Sanctuaries Act of 1972, as amended (33 U.S.C. 1412, 1414, 1417, 1418).

■ 10. Amend § 223.1 as follows:

■ a. By revising the section heading.

■ b. By revising paragraph (a) introductory text.

■ c. By removing and reserving paragraph (c).

§ 223.1 Contents of special, emergency, general, and research permits; posting requirements.

(a) All special, emergency and research permits shall be displayed on the vessel engaged in dumping and shall include the following:

* * * * *

■ 11. Amend § 223.3 by revising paragraph (a) introductory text to read as follows:

§ 223.3 Preliminary determination; notice.

(a) General. Any general, special, emergency, or research permit issued pursuant to section 102 of the Act shall be subject to revision, revocation or limitation, in whole or in part, as the result of a determination by the Administrator or Regional Administrator that:

* * * * *

PART 224—[AMENDED]

■ 12. The authority citation for part 224 continues to read as follows:

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

■ 13. Amend § 224.1 by revising the introductory text to read as follows:

§ 224.1 Records of permittees.

Each permittee named in a special, emergency or research permit under section 102 of the Act and each person availing himself of the privilege conferred by a general permit, shall maintain complete records of the following information, which will be available for inspection by the Administrator, Regional Administrator, the Commandant of the U.S. Coast Guard, or their respective designees:

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PART 227—[AMENDED]

■ 14. The authority citation for part 227 continues to read as follows:

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

Subpart A—[Amended]

■ 15. Amend § 227.2 by revising paragraph (b) to read as follows:

§ 227.2 Materials which satisfy the environmental impact criteria of subpart B.

* * * * *

(b) If the material proposed for ocean dumping satisfies the environmental impact criteria set forth in subpart B, but the Administrator or the Regional

Administrator, as the case may be, determines that any one of the considerations set forth in paragraph (a)(1), (2) or (3) of this section applies, he or she, as the case may be, will deny the permit application.

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■ 16. Revise § 227.3 to read as follows:

§ 227.3 Materials which do not satisfy the environmental impact criteria set forth in subpart B.

If the material proposed for ocean dumping does not satisfy the environmental impact criteria of subpart B of this part, the Administrator or the Regional Administrator, as the case may be, will deny the permit application.

Subpart B—[Amended]

■ 17. Amend § 227.6 by revising paragraph (e) to read as follows:

§ 227.6 Constituents prohibited as other than trace contaminants.

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(e) The criteria stated in paragraphs (c)(2) and (3) of this section are mandatory. The availability of acceptable procedures was announced in the **Federal Register** in 1991 and 1996.

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Subpart F—[Amended]

■ 18. Amend part 227 by removing and reserving subpart F, consisting of § 227.23 through § 227.26.

Subpart G—[Amended]

■ 19. Amend § 227.27 by removing footnote 1 from paragraph (b) and revising paragraph (d) to read as follows:

§ 227.27 Limiting permissible concentration (LPC).

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(d) Appropriate sensitive benthic marine organisms means two or more species that together represent filter-feeding, deposit-feeding, and burrowing characteristics. These organisms shall be chosen from among the species that are most sensitive for each type they represent, and that are documented in the scientific literature and accepted by EPA as being reliable test organisms to determine the anticipated impact on the site.

PART 228—[AMENDED]

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

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

■ 21. Amend § 228.2 by revising paragraph (a) to read as follows:

§ 228.2 Definitions.

(a) The term disposal site means a finally approved and precise geographical area within which ocean dumping of wastes is permitted under conditions specified in permits issued under sections 102 and 103 of the Act. Such sites are identified by boundaries established by coordinates of latitude and longitude for each corner, or by coordinates of latitude and longitude for the center point and a radius in nautical miles from that point. Boundary coordinates shall be identified as precisely as is warranted by the accuracy with which the site can be located with existing navigational aids or by the implantation of transponders, buoys or other means of marking the site.

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■ 22. Amend § 228.3 by revising paragraph (b) to read as follows:

§ 228.3 Disposal site management responsibilities.

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(b) Each site, upon final designation, will be assigned to either an EPA Regional office or to EPA Headquarters for management. These designations will be consistent with the delegation of authority in § 220.4 of this chapter. The designated management authority is fully responsible for all aspects of the management of sites within the general requirements specified in § 220.4 and this chapter. Specific requirements for meeting the management responsibilities assigned to the designated management authority for each site are outlined in §§ 228.5 and 228.6.

■ 23. Amend § 228.4 by revising paragraph (b) to read as follows:

§ 228.4 Procedures for designation of sites.

* * * * *

(b) *Special permits.* Areas where ocean dumping is permitted subject to the specific conditions of individual special permits, will be designated by promulgation in this part 228, and such designation will be made based on environmental studies of each site, regions adjacent to the site, and on historical knowledge of the impact of waste disposal on areas similar to such sites in physical, chemical, and biological characteristics. All studies for the evaluation and potential selection of dumping sites will be conducted in accordance with the requirements of §§ 228.5 and 228.6. The Administrator may, from time to time, designate

specific locations for temporary use for disposal of small amounts of materials under a special permit only without disposal site designation studies when such materials satisfy the Criteria and the Administrator determines that the quantities to be disposed of at such sites will not result in significant impact on the environment. Such designations will be done by promulgation in this part 228, and will be for a specified period of time and for specified quantities of materials.

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§ 228.5 [Amended]

■ 24. Amend § 228.5 by removing and reserving paragraph (c).

■ 25. Revise § 228.8 to read as follows:

§ 228.8 Limitations on times and rates of disposal.

Limitations as to time for and rates of dumping may be stated as part of the promulgation of site designation. The times and the quantities of permitted material disposal will be regulated by the EPA management authority so that the limits for the site as specified in the site designation are not exceeded. This will be accomplished by the denial of permits for the disposal of some materials, by the imposition of appropriate conditions on other permits and, if necessary, the designation of new disposal sites under the procedures of § 228.4. In no case may the total volume of material disposed of at any site under special permits cause the concentration of the total materials or any constituent of any of the materials being disposed of at the site to exceed limits specified in the site designation.

■ 26. Amend part 228 by removing and reserving § 228.14.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 071106673–8011–02]

RIN 0648–XM17

Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pacific Cod in the Bering Sea and Aleutian Islands Management Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.