

has the greatest potential for impact would be shipwrecks. The most likely areas for shipwrecks would be in the shallow breaker zone and the mouth of the Columbia River entrance. Wrecks within these areas would likely have been torn apart due to the high-energy climate. At or near the proposed Deep Water site wrecks are less likely; however, the deeper water would buffer the high-energy wave climate and thus make shipwrecks there less prone to damage. Shipwrecks in deeper water would tend to have more cultural value than shipwrecks nearshore.

Undiscovered wrecks could occur in the area. Sidescan sonar surveys of the Deep Water Site have been conducted which should have identified any potential shipwrecks. None were identified. As additional sidescan sonar surveys are conducted in the future, and if potential shipwrecks are identified, EPA will require or undertake appropriate follow up action. No natural or cultural features of historical significance have been identified at either site proposed for designation in this rule.

G. Proposed Action—Proposal to De-Designate Existing ODMDS and Proposal to Designate Ocean Disposal Sites

The proposed action evaluated through this proposal is the proposed designation under Section 102(c) of the MPRSA of the Shallow Water and Deep Water sites. The primary purpose of the proposed designations is to provide environmentally acceptable locations for ocean disposal of dredged materials from Columbia River navigation projects. The evaluative processes, voluntary NEPA and an analysis of site suitability based on an assessment of the regulatory criteria, provide a thorough and objective evaluation and the information necessary to determine the suitability of an ocean disposal area for site designation. EPA's proposed site designation is being conducted in accordance with the MPRSA, the Ocean Dumping Regulations, and other applicable Federal environmental legislation and policy.

Ocean disposal site designation does not constitute or imply EPA's or the Corps' approval of ocean disposal of dredged material from any project. Before disposal of any dredged material at newly designated ODMDS may occur, EPA and the Corps must evaluate the proposed project according to the ocean dumping regulatory criteria (40 CFR part 227). EPA and the Corps will not allow ocean disposal of dredged material at newly designated ODMDS if either agency determines that the dredged material does not meet the

ocean dumping regulatory criteria. The Corps is required to evaluate all proposed dredging projects associated with Columbia River dredged materials in accordance with all applicable Federal law, *e.g.*, the Magnuson-Stevens Fishery Conservation and Management Act, the Coastal Zone Management Act, and the Endangered Species Act.

This proposed action also proposes to de-designate, pursuant to 40 CFR 228.11, three ODMDS, Sites A, B and F, originally designated by EPA in 1986. The sites are proposed for de-designation because use of the sites for disposal of dredged materials resulted in mounding of disposal materials. The resulting mounds threatened to create hazardous conditions for large ships and small craft due to waves refracting from and breaking over the mounds. A fourth ODMDS, Site E, as currently designated, inhibits the ability to minimize interference with other activities in the marine environment. This rule proposes to modify Site E pursuant to 40 CFR 228.11 by designating a new site, the Shallow Water site which would incorporate the 1986-designated Site E and appreciably expand it. This rule does not propose to impact sites selected by the Corps under the authority of Section 103 of the MPRSA. Those sites will terminate based on the requirements of Section 103.

H. Statutory and Executive Order Reviews

1. Executive Order 12866

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

- (1) 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;
- (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or
- (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this proposed action is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

2. Paperwork Reduction Act

The Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*, is intended to minimize the reporting and record-keeping 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 OPM. Since the proposed Rule does not establish or modify any information or record-keeping requirements, it is not subject to the provisions of the Paperwork Reduction Act.

3. Regulatory Flexibility

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA), 5 U.S.C. 601 *et seq.*, 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 today's rule on small entities, small entity is defined as: (1) A small business, as codified in the Small Business Size Regulations at 13 CFR part 121; (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 has determined that this action will not have a significant impact on small entities because the proposed ocean disposal site de-designations and designations will only have the effect of providing environmentally-acceptable and safe for marine traffic disposal options for dredged materials on a continuing basis. After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities.