

disposal projects. Potentially regulated categories and entities that may seek to use the proposed dredged material

disposal sites and would be subject to this Rule may include:

Category	Examples of potentially regulated 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 lists the types of entities that could potentially be regulated should the proposed rule become a final rule. EPA notes that nothing in this proposed rule alters the jurisdiction or authority of EPA or the types of entities regulated under the MPRSA. Questions regarding the applicability of this proposed rule to a particular entity should be directed to the contact person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

### C. EIS Development

Section 102(c) of the National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. 4321 *et seq.*, requires that Federal agencies prepare an environmental impact statement (EIS) on proposals for major Federal actions significantly affecting environmental quality. The objective of NEPA is to build into agency decision-making process careful consideration of all environmental aspects of proposed actions, including evaluation of reasonable alternatives to the proposed action. While NEPA does not apply to EPA activities in designating ocean disposal sites under the MPRSA, EPA has voluntarily agreed as a matter of policy to conduct a NEPA environmental review in connection with ocean dumping site designations. (See 63 FR 58045 (October 29, 1998), "Notice of Policy and Procedures for Voluntary Preparation of National Environmental Policy Act (NEPA) Documents.") Consistent with this policy, EPA, in cooperation with the U.S. Army Corps of Engineers, has prepared a DEIS entitled, "Draft Environmental Impact Statement for the Designation of Dredged Material Disposal Sites in Central and Western Long Island Sound, Connecticut and New York, dated August 2003" which considers the environmental aspects of site designation in central and western LIS. A Notice of Availability of the DEIS for public review and comment is being published concurrently with this Proposed Rule in today's **Federal Register**. Anyone wishing to review a

copy of the DEIS may do so in one of the ways described above (see **ADDRESSES**). The public comment period for this DEIS will close on October 27, 2003. The public comment period on the Proposed Rule Publication will also close on October 27, 2003. Comments may be submitted by one or more of the methods described above.

The purpose of the proposed action is to designate open water disposal sites that will meet long-term dredged material disposal needs in LIS. The appropriateness of open water disposal for any specific, individual dredging project is determined on a case-by-case basis under the permit/authorization process governing the open water disposal of dredged material.

Designation of an open water disposal site under 40 CFR part 228 is essentially a preliminary, planning measure. The practical effect of such a designation is only to require that if future ocean open water disposal activity is permitted under 40 CFR part 227, then such disposal should normally be consolidated at the designated sites (see 33 U.S.C. 1413(b)). Designation of open water disposal sites does not authorize any actual disposal and does not preclude EPA or the Corps from finding available and environmentally preferable alternative means of managing dredged materials, or from finding that certain dredged material is not suitable for open water disposal under the applicable regulatory criteria. Nevertheless, EPA has determined that it is appropriate to designate open water disposal sites for dredged materials in the central and western Long Island Sound now, because it appears unlikely that feasible alternative means of managing dredged material will be available to accommodate the projected dredged material of this region in the future.

Proposals for the open water disposal of dredged materials from individual projects are evaluated by EPA New England and the Corps' New England District on a case-by-case basis, taking into account all the alternatives

available at the time of permitting. Beneficial reuse alternatives will be preferred over open water disposal whenever they are practicable.

The DEIS describes the purpose and need for the proposed action and evaluates a number of alternatives to this action. EPA's analysis of alternatives considered several different potential open water disposal sites for dredged material from Connecticut and surrounding harbors, as well as potential alternative means of managing these dredged materials other than open water disposal. As described in the DEIS, the initial screening effort was established to consider the most environmentally sound, economically and operationally feasible area site designation. Alternatives evaluated included various marine sites, upland disposal, beneficial uses, and the no action alternative.

In addition to considering reasonable distances to transport dredged material, the open water disposal analysis considered areas of critical resources as well as areas of incompatibility for use as a disposal site. This included but was not limited to such factors as the sensitivity and value of natural resources, geographically limited habitats, fisheries and shellfisheries, natural resources, shipping and navigation lanes, physical and environmental parameters, and economic and operational feasibility. The analysis was carried out in a tiered process. The final tier involved further analysis of the no action alternative and the following four open water alternative sites: Central LIS (CLIS), Milford, Bridgeport and Western LIS (WLIS). These sites were evaluated and two sites were selected as preferred alternatives for potential site designation. Management strategies were developed for the preferred alternatives and are described in the SMMPs.

To obtain public input during the process, EPA and the Corps held public workshops and scoping meetings, as well as convened an EIS working group.