

this rulemaking, but EPA is allowing for extensions of the regulatory deadlines by which owners or operators are required to conduct performance tests when a force majeure is about to occur, occurs, or has occurred which prevents owners or operators from testing within the regulatory deadline. Therefore, NTTAA does not apply.

#### K. Congressional Review Act

The Congressional Review Act, 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. 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 on November 26, 2007.

#### List of Subjects in 40 CFR Part 65

Air pollution control, Environmental protection, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: August 17, 2007.

**Stephen L. Johnson,**  
Administrator.

■ For the reasons stated in the preamble, title 40, chapter I, part 65 of the Code of Federal Regulations are amended as follows:

#### PART 65—[AMENDED]

■ 1. The authority citation for part 65 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

#### Subpart A—[Amended]

■ 2. Section 65.2 is amended by adding, in alphabetical order, a definition for "Force majeure" to read as follows:

##### § 65.2 Definitions.

\* \* \* \* \*

*Force majeure* means, for purposes of § 65.157, an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents the owner or operator from complying with the regulatory requirement to conduct performance tests within the specified

timeframe despite the affected facility's best efforts to fulfill the obligation. Examples of such events are acts of nature, acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility.

\* \* \* \* \*

■ 3. Section 65.157 is amended as follows:

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

■ b. By adding paragraphs (c)(1)(viii) through (c)(1)(xi).

##### § 65.157 Performance test and flare compliance determinations.

\* \* \* \* \*

(c) Except as specified in paragraphs (c)(1)(viii), (c)(1)(ix), (c)(1)(x), and (c)(1)(xi) of this section, unless a waiver of performance testing or flare compliance determination is obtained under this section or the conditions of another subpart of this part, the owner or operator shall perform such tests specified in the following:

(1) \* \* \*

(viii) If a force majeure is about to occur, occurs, or has occurred for which the affected owner or operator intends to assert a claim of force majeure, the owner or operator shall notify the Administrator, in writing as soon as practicable following the date the owner or operator first knew, or through due diligence should have known that the event may cause or caused a delay in testing beyond the regulatory deadline, but the notification must occur before the performance test deadline unless the initial force majeure or a subsequent force majeure event delays the notice, and in such cases, the notification shall occur as soon as practicable.

(ix) The owner or operator shall provide to the Administrator a written description of the force majeure event and a rationale for attributing the delay in testing beyond the regulatory deadline to the force majeure; describe the measures taken or to be taken to minimize the delay; and identify a date by which the owner or operator proposes to conduct the performance test. The performance test shall be conducted as soon as practicable after the force majeure occurs.

(x) The decision as to whether or not to grant an extension to the performance test deadline is solely within the discretion of the Administrator. The Administrator will notify the owner or operator in writing of approval or disapproval of the request for an extension as soon as practicable.

(xi) Until an extension of the performance test deadline has been approved by the Administrator under

paragraphs (c)(1)(viii), (c)(1)(ix), and (c)(1)(x) of this section, the owner or operator of the affected facility remains strictly subject to the requirements of this part.

\* \* \* \* \*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 300

[EPA-R04-SFUND-2007-0719; FRL-8458-7]

### National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final notice of deletion of the Standard Auto Bumper Site from the National Priorities List.

**SUMMARY:** The Environmental Protection Agency (EPA) Region 4 is publishing a direct final notice of deletion of the Standard Auto Bumper Site (Site), located in Hialeah, Florida, from the National Priorities List (NPL).

The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being published by EPA with the concurrence of the State of Florida, through the Florida Department of Environmental Protection (FDEP) because EPA has determined that all appropriate response actions under CERCLA have been completed and, therefore, further remedial action pursuant to CERCLA is not appropriate.

**DATES:** This direct final deletion will be effective October 26, 2007 unless EPA receives adverse comments by September 26, 2007. If adverse comments are received, EPA will publish a timely withdrawal of the direct final deletion in the **Federal Register** informing the public that the deletion will not take effect.

**ADDRESSES:** Submit your comments, identified by EPA-R04-SFUND-2007-0613, by one of the following methods:

1. <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.
2. E-mail: [taylor.michael@epa.gov](mailto:taylor.michael@epa.gov).
3. Fax: (404) 562-8896.

4. *Mail*: EPA-R04-SFUND-2007-0719, Superfund Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960.

5. *Hand Delivery or Courier*: Michael Taylor, Remedial Project Manager, Superfund Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

*Instructions*: Direct your comments to EPA-R04-SFUND-2007-0719. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through <http://www.regulations.gov> or e-mail, information that you consider to be CBI or otherwise protected. The <http://www.regulations.gov> Web site is an "anonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

*Docket*: All documents in the electronic docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be

publicly available only in hard copy form. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the for further information contact section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding legal holidays.

Comprehensive information on this Site is available through the Region 4 public docket, which is available for viewing at the following repository location:

John F. Kennedy Memorial Library, Hialeah Public Library, 190 West 49th Street, Hialeah, Florida 33012, Hours: Monday through Thursday—10 a.m. until 8:45 p.m., and Friday-Saturday 9:30 a.m. until 4:45 p.m.

U.S. EPA Record Center, Attn: Ms. Debbie Jourdan, Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960, Phone: (404) 562-8862, Hours 8 a.m. to 4 p.m., Monday through Friday by appointment only.

**FOR FURTHER INFORMATION CONTACT:** Michael Taylor, Remedial Project Manager, Superfund Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960, Phone: (404) 562-8762, Electronic Mail: [taylor.michael@epa.gov](mailto:taylor.michael@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **Table of Contents**

- I. Introduction
- II. NPL Deletion Criteria
- III. Deletion Procedures
- IV. Basis for Site Deletion
- V. Deletion Action

##### **I. Introduction**

EPA Region 4 is publishing this direct final notice of deletion of the Standard Auto Bumper, Superfund Site from the NPL.

The EPA identifies sites that appear to present a significant risk to public health or the environment and maintains the NPL as the list of those sites. As described in the § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions if conditions at a deleted site warrant such action.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication of a notice of intent to delete. This action will be effective October 26, 2007 unless EPA receives adverse comments by

September 26, 2007 on this document. If adverse comments are received within the 30-day public comment period on this document, EPA will publish a timely withdrawal of this direct final deletion before the effective date of the deletion and the deletion will not take effect. EPA will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Standard Auto Bumper, Superfund Site and demonstrates how it meets the deletion criteria. Section V discusses EPA's action to delete the Site from the NPL unless adverse comments are received during the public comment period.

##### **II. NPL Deletion Criteria**

Section 300.425(e) of the NCP provides that releases may be deleted from the NPL where no further response is appropriate. In making a determination to delete a Site from the NPL, EPA shall consider, in consultation with the State, whether any of the following criteria have been met:

- i. Responsible parties or other persons have implemented all appropriate response actions required;
- ii. All appropriate Fund-financed (Hazardous Substance Superfund Response Trust Fund) response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or
- iii. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the deleted site above levels that allow for unlimited use and unrestricted exposure, CERCLA section 121(c), 42 U.S.C. 9621(c) requires that a subsequent review of the site be conducted at least every five years after the initiation of the remedial action at the deleted site to ensure that the action remains protective of public health and the environment. If new information becomes available which indicates a need for further action, EPA may initiate remedial actions. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

### III. Deletion Procedures

The following procedures apply to deletion of the Site:

(1) The EPA consulted with the State of Florida on the deletion of the Site from the NPL prior to developing this direct final notice of deletion.

(2) Florida concurred with deletion of the Site from the NPL.

(3) Concurrently with the publication of this direct final notice of deletion, a notice of the availability of the parallel notice of intent to delete published today in the "Proposed Rules" section of the **Federal Register** is being published in a major local newspaper of general circulation at or near the Site and is being distributed to appropriate federal, state, and local government officials and other interested parties; the newspaper notice announces the 30-day public comment period concerning the notice of intent to delete the Site from the NPL.

(4) The EPA placed copies of documents supporting the deletion in the Site information repositories identified above.

(5) If adverse comments are received within the 30-day public comment period on this document, EPA will publish a timely notice of withdrawal of this direct final notice of deletion before its effective date and will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

### IV. Basis for Site Deletion

The following information provides EPA's rationale for deleting the Site from the NPL:

#### *Site Location*

The Standard Auto Bumper Site is approximately 0.8 acres in size and located in an industrial/commercial area at 2500 West 3rd Court, Hialeah, Dade County, Florida.

#### *Site History*

The facility operated as a chrome plating facility from 1959 until the early 1990s. Prior to 1970 processed and

untreated electroplating waste was discharged on the property behind the main building along a drainage ditch west of the property. This discharged waste percolated into the soil and groundwater. In 1972, the facility began pretreating the waste water before discharging it into the septic tank. The treatment system was constructed to convert hexavalent chromium to trivalent chromium. Pretreated waste water was routed to the Hialeah waste water treatment system in 1979. In early 1993, Standard Auto Bumper ceased operations and abandoned the facility. The Site property was taken by Miami-Dade county in 2004 due to non payment of property taxes. The property was sold in July 2005 for the taxes owed to the county. In August of 1985, the EPA conducted a site inspection and field investigation at the site. During this multi-media investigation groundwater samples, surface and subsurface soil samples were collected. Analytical data later revealed contamination of soil and groundwater. Chromium and nickel, substances used in the facility process, were detected in the soil and groundwater. In addition, the analytical data indicated the presence of cadmium, lead, cyanide, and copper.

The site is in the recharge zone of the Biscayne Aquifer, which supplies drinking water for Dade County. Four municipal well fields, the Upper and Lower Miami Springs, the Hialeah, and the John E. Preston, that supply drinking water to over 750,000 people, are within three miles of the site.

The site was included on the National Priority List in October of 1989 based upon the Hazard Ranking System (HRS) package from 1987.

#### *Remedial Investigation and Feasibility Study (RI/FS)*

In February of 1990, an Administrative Order on Consent for a Remedial Investigation/Feasibility Study (RI/FS) was signed by the EPA and Standard Auto Bumper. This agreement was later withdrawn by Standard Auto Bumper which resulted in the EPA completing the required site work.

This Superfund site was addressed in two operable units. Operable unit one dealt with the soil. Operable unit two addressed issues dealing with the groundwater. In 1991, the EPA conducted soil, sediment, surface water and groundwater sampling as part of the RI/FS. The RI/FS for OU1 was completed in August of 1992. The RI/FS for OU2 was completed in September of 1992.

#### *Record of Decision Findings*

The Record Of Decision (ROD) for OU1 was signed by EPA on September 28, 1992. The ROD for OU1 describes the contamination at the Site and the approved cleanup method to be used at the Site. The remedial objective for OU1 was to prevent current or future exposure to the soil contaminated with nickel and chromium through treatment and/or containment, and to reduce the migration of these contaminants from the soil to groundwater. The ROD required all soils above the cleanup standards to be excavated and disposed at an offsite permitted landfill facility. The ROD also required up to five years of groundwater monitoring.

The ROD for OU2 was issued by EPA on December 10, 1993. The remedial objective for OU2 was to prevent current and future exposure to contaminated groundwater from nickel and other inorganic compounds. This remedy addressed groundwater contamination through natural attenuation, groundwater use controls, and groundwater monitoring for a minimum of 18 months. The remedy was designed to follow the OU1 source removal and the required groundwater monitoring was to be conducted as part of the OU1 groundwater monitoring plan.

#### *Characterization of Risk*

The OU1 soil posed a threat to human health and the environment due to ingestion of contaminated surface soils by children of potential future residents and the soil contamination's impact on the groundwater.

The OU2 groundwater posed a threat to human health and the environment due to ingestion of contaminated groundwater by future residents. The groundwater contaminants of concern identified in the site's baseline risk assessment were barium, manganese, nickel and zinc.

The environmental risks were also considered for site impact on the surrounding habitat. The site does not provide for many habitat resources for wildlife, due to the industrial setting of the site. Contamination from the site from surface water runoff is not likely due to local businesses, highways, and elevated railroad tracks that exist between the site and nearby canal.

#### *Response Actions*

An Administrative Order on Consent was signed on May 4, 1989, between the EPA and Standard Auto Bumper for a Removal action. This Order addressed soil contamination and not groundwater. Contaminated soil was excavated during the summer of 1989.

In October of 1992, the EPA issued a notice letter to the PRP pursuant to 122(a) of CERCLA for conducting the Remedial Design and Remedial Action (RD/RA) for OU1. There was no response from the PRP resulting in EPA conducting the OU1 RD/RA. The OU1 RD/RA conducted by EPA in 1993 and 1994 consisted of removal of the tanks, process water and drums along with approximately 10,000 tons of contaminated soils. Contaminated soils immediately adjacent to or underlying the Gilda Bakery and Quality manufacturing buildings as well as under West 3rd Court were inaccessible and left in place.

OU1 soil contamination remaining on site and off site in areas inaccessible for removal during OU1 are being addressed through institutional controls as required by CERCLA. Proper notification and facility information has been provided to potentially affected parties adjacent to the SAB site. A flagging system has been implemented through Florida Department of Environmental Resources Management (DERM) which utilizes the County permitting requirements for facility structural changes and improvements. Any permit request or change in structure on the adjacent properties will prompt notification to FDEP and the EPA to assure that appropriate steps are taken to address contaminated soils still remaining underneath the building foundations, where necessary. In addition to the flagging system, FDEP-Bureau of Waste Cleanup maintains a registry database for tracking former waste sites where remedial action includes use of institutional controls.

OU2 groundwater monitoring was conducted by EPA in 1994 and from May 1995 through February 2001 by FDEP as required under CERCLA. Groundwater sampling in February 2001 confirmed that groundwater met federal and state drinking water standards. The Pollution Remediation Section of the Florida Department of Environmental Resources Management (DERM) concurred that sufficient groundwater monitoring for the chemicals of concern has occurred in accordance with the requirements of Chapter 24, Code of Miami-Dade County. In addition, there are no further requirements to address groundwater contamination at the site.

The new owner agreed to place a restrictive covenant on the property deed that would maintain current and future property use consistent with the remedial action. In addition to the institutional control, the new owner agreed to close a monitoring well on site. Institutional controls have been initiated.

All appropriate Fund-financed response under CERCLA has been implemented. No further response action is necessary.

#### *Cleanup Standards*

The OU1 ROD determined that all soil concentrations for total chromium, hexavalent chromium or nickel above 519 ppm, 52 ppm or 370 ppm would be excavated and disposed at an offsite permitted landfill facility.

The OU1 ROD determined that monitoring was required to ensure that drinking water Maximum Contaminant Levels (MCLs) were achieved.

#### *Operation and Maintenance*

FDEP conducted the required operation and maintenance and groundwater monitoring activities at the site subsequent to completion of the removal and remedial actions at the site.

#### *Five-Year Review*

A statutory five-year review of the remedy was conducted in November of 1999 and determined that the remedy for the Site remained protective of human health and the environment. A second five-year review was conducted in 2005. The remedy for the Site continues to be protective of human health and the environment. Five-year reviews will be conducted in the future to assure the continued protectiveness of the remedy.

#### *Community Involvement*

Public participation activities have been satisfied as required in CERCLA section 113(k), 42 U.S.C. 9613(k), and CERCLA section 117, 42 U.S.C. 9617. Documents in the deletion docket which EPA relied on for recommendation of the deletion from the NPL are available to the public in the information repositories.

#### **V. Deletion Action**

The EPA, with concurrence of the State of Florida has determined that all appropriate responses under CERCLA have been completed, and that no further response actions, under CERCLA, are necessary. Therefore, EPA is deleting the Site from the NPL.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication. This action will be effective October 26, 2007 unless EPA receives adverse comments by September 26, 2007. If adverse comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final notice of deletion before the effective date of the deletion and it will not take effect and, EPA will prepare a

response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

#### **List of Subjects in 40 CFR Part 300**

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: August 13, 2007.

**J.I. Palmer, Jr.,**

*Regional Administrator, Region 4.*

■ 40 CFR part 300 is amended as follows:

#### **PART 300—[AMENDED]**

■ 1. The authority citation for part 300 continues to read as follows:

**Authority:** 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p.351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p.193.

#### **Appendix B—[Amended]**

■ 2. Table 1 of Appendix B to part 300 is amended by removing the entry for the “Standard Auto Bumper Corp” site in Hialeah, FL.

[FR Doc. E7–16685 Filed 8–24–07; 8:45 am]

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## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

#### **50 CFR Part 648**

[Docket No. 061020273–7001–03]

**RIN 0648–XC21**

#### **Fisheries of the Northeastern United States; Summer Flounder Fishery; Commercial Quota Harvested for Connecticut**

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS announces that the 2007 summer flounder commercial quota allocated to the State of Connecticut has been harvested. Vessels issued a commercial Federal fisheries permit for the summer flounder fishery may not land summer flounder in Connecticut for the remainder of