

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 77

[Docket No. 99-038-3]

Tuberculosis in Cattle, Bison, Goats, and Captive Cervids; State and Zone Designations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of reopening and extension of comment period.

SUMMARY: We are reopening and extending the comment period for our proposed rule that would amend the bovine tuberculosis regulations to establish new levels of tuberculosis risk classifications to be applied to States and zones within States. The proposed rule would also classify States and zones according to their tuberculosis risk with regard to captive cervids.

Additionally, it would amend the regulations to specify that the regulations apply to goats as well as to cattle, bison, and captive cervids, and would increase the amount of testing that must be done before certain cattle, bison, and goats may be moved interstate. This action will allow interested persons additional time to prepare and submit comments.

DATES: We invite you to comment on Docket No. 99-038-1. We will consider all comments that we receive by May 8, 2000.

ADDRESSES: Please send your comment and three copies to: Docket No. 99-038-1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737-1238.

Please state that your comment refers to Docket No. 99-038-1.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue,

SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690-2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

FOR FURTHER INFORMATION CONTACT: Dr. Joseph Van Tiem, Senior Staff Veterinarian, VS, APHIS, USDA, 4700 River Road Unit 43, Riverdale, MD 20737-1231; (301) 734-7716.

SUPPLEMENTARY INFORMATION:

Background

On March 7, 2000, we published in the **Federal Register** (65 FR 11912-11940, Docket No. 99-038-1) a proposal to amend the bovine tuberculosis regulations, contained in 9 CFR part 77. We proposed to: (1) Establish several new levels of tuberculosis risk classifications to be applied to States and zones within States; (2) classify States and zones according their tuberculosis risk with regard to captive cervids; (3) apply the regulations to goats as well as to cattle, bison, and captive cervids; and (4) increase the amount of testing required for the interstate movement of certain cattle, bison, and goats.

Comments on the proposed rule were required to be received on or before April 21, 2000. On March 24, 2000, we published in the **Federal Register** (65 FR 15877-15878, Docket No. 99-038-2) a correction to Docket No. 99-038-1. Comments on the proposed rule as corrected were required to be received on or before April 21, 2000.

Several commenters have requested that we extend the comment period on Docket No. 99-038-1 to allow additional time for members of the public to review the proposed rule and to submit comments. In response to these requests, we are reopening and extending the comment period on Docket No. 99-038-1 until May 8, 2000. This action will allow interested persons additional time to prepare and submit comments.

Authority: 21 U.S.C. 111, 114, 114a, 115-117, 120, 121, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.2(d).

Done at Washington, DC, this 26th day of April 2000.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 00-10809 Filed 4-28-00; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL-6585-2]

National Oil and Hazardous Substances Pollution Contingency Plan National Priorities List Update

AGENCY: Environmental Protection Agency.

ACTION: Notice of Intent to Delete the Tenth Street Superfund Site from the National Priorities List and Request for Comments.

SUMMARY: The Environmental Protection Agency (EPA) Region 6 announces its intent to delete the Tenth Street Superfund Site located in Oklahoma County, Oklahoma (Site) from the National Priorities List (NPL) and requests public comment on this proposed action. All public comments regarding this proposed action which are submitted within 30 days of the date of this notice, to the address indicated below, will be considered by EPA. The NPL, promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is codified at Appendix B to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR Part 300. The EPA and the State of Oklahoma, through the Oklahoma Department of Environmental Quality (ODEQ), have determined that the Site poses no significant threat to public health or the environment and, therefore, further remedial measures pursuant to CERCLA are not appropriate and the Site should be deleted from the NPL.

DATES: The EPA will consider comments received by May 31, 2000.

ADDRESSES: Comments may be mailed to: Mr. Donn Walters, Community Relations Coordinator (6SF-PO), U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733; (214) 665-6483 or 1-800-533-3508 (Toll Free).

Information Repositories:

Comprehensive information on the Site has been compiled in a public deletion docket which may be reviewed and copied during normal business hours at the following Tenth Street Superfund Site information repositories:

U.S. EPA Region 6 Library (12th Floor), 1445 Ross Avenue, Dallas, Texas 75202-2733, 1-800-533-3508 (Toll Free)

Ralph Ellison Library, 2000 N.E. 23rd Street, Oklahoma City, Oklahoma 73111, (405) 424-1437

FOR FURTHER INFORMATION CONTACT: Mr. Noel Bennett, Remedial Project Manager (6SF-AP), U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733; (214) 665-8514.

SUPPLEMENTARY INFORMATION:

Table of Contents

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

I. Introduction

This document was prepared by EPA Region 6 as Notice of Intent to Delete (NOID) the Tenth Street Superfund Site, Oklahoma City, Oklahoma County, Oklahoma (EPA Site Spill No. 0684; CERCLIS No. OKD980620967), from the National Priorities List (NPL). The EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of these sites. As described in 40 CFR 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions in the unlikely event that conditions at the site warrant such action.

The EPA will consider comments concerning this NOID which are submitted within thirty days of the date of this NOID. EPA has also published a notice of the availability of this NOID in the Daily Oklahoman.

Section II of this NOID explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Tenth Street Superfund Site and explains that the Site meets the deletion criteria.

II. NPL Depletion Criteria

The NCP, at 40 CFR 300.425(e), provides that releases may be deleted

from or recategorized on the NPL if 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 has been met:

- i. Responsible parties or other parties have implemented all appropriate response actions required;
- ii. All appropriate Fund-financed¹ response under CERCLA has been implemented, and no further 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, taking of remedial measures is not appropriate.

If, at the site of a release, EPA selects a remedial action that results in any hazardous substances, pollutants, or contaminants remaining at the site, CERCLA Subsection 121(c), 42 U.S.C. Section 121(c), requires that EPA review such remedial action no less often than each 5 years to ensure that human health and the environment are being protected by the remedial action. Since hazardous substances will remain at the Site,² EPA shall conduct such reviews. Whenever there is a significant release from a site deleted from the NPL, the site may be restored to the NPL without application of the Hazard Ranking System.³

III. Deletion Procedures

EPA followed these procedures regarding the proposed deletion:

- (1) EPA Region 6 made a determination that no further response action is necessary to ensure protection of human health and the environment and that the Site may be deleted from the NPL;
- (2) EPA has consulted with the appropriate environmental agency, the Oklahoma Department of Environmental Quality (ODEQ), and ODEQ concurs with EPA's proposed deletion decision;
- (3) EPA has published, in a major local newspaper of general circulation at or near the Site, a notice of availability of the NOID, which includes an announcement of a 30-day public

¹ The "Fund" referred to here is the Hazardous Substance Superfund established by section 9507 of chapter 98 of the Internal Revenue Code of 1986.

² Contaminated soil remains on the Site under a multi-media impermeable cap which covers approximately 3.5 acres of the Site. EPA considers the cap to be protective; nonetheless, since hazardous substances will remain on the Site, EPA is required to conduct the CERCLA-required five-year reviews.

³ The Hazardous Ranking System is the method used by EPA to evaluate the relative potential of hazardous substance releases to cause health or safety problems, or ecological or environmental damage.

comment period regarding the NOID, and EPA distributed the NOID to appropriate State, local and Federal officials, and to other interested parties; and

(4) EPA made copies of information supporting the proposed deletion (i.e., the public deletion docket) available for public review in the Site information repositories (the locations of these repositories are identified above).

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. As mentioned in Section II of this Notice, 40 CFR 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility of the site for future response actions.

For deletion of this Site, EPA Region 6 will accept and evaluate public comments on this NOID before making a final decision to delete. If necessary, EPA will prepare a Responsiveness Summary to address any significant public comments received.

A deletion occurs when the Regional Administrator places a final notice in the **Federal Register**. Generally, the NPL will reflect deletions in the final update following the Notice. Public notices and copies of the Responsiveness Summary will be made available to local residents by EPA Region 6.

IV. Basis for Intended Site Deletion

A. Site Location and Description

The Tenth Street Superfund Site (Site) is located at 3200 N.E. Tenth Street between Bryant Avenue and the North Canadian River and covers approximately 3.5 acres. The Site is located in Township 12N, Range 2W, Section 31 (the northeast corner of the Site is 35°28'42" north latitude and 97°27'14" west longitude). One residence is located adjacent to the west side of the Site. Residential subdivisions are located approximately one block to the north and approximately one block to the west of the Site.

B. Site History

Aerial photos have been used to identify early Site activities. These show that in 1951 a meander loop of the North Canadian River cut almost directly through the Site. Between 1951 and 1954, the River was channelized and levees constructed on both sides of the River. The Site, including the cutoff meander loop, was operated as a municipal landfill during this period. No activity at the Site is noted between 1954 and 1959. Beginning in 1959, Mr. Raymond Cobb leased the Site from Mr. Sullivan Scott and used the Site as a salvage yard, accepting materials such

as tires, solvents, and transformers. The dielectric fluids from the transformers contained Polychlorinated Biphenyls (PCBs). The fluids were drained from the transformers, then transferred to barrels and sold. During the recovery process, substantial quantities of transformer oil were spilled onto the ground. Mr. Cobb continued this operation until his death in 1979, when Mr. Rolling Fulbright began operating the Site as Deadeye's Salvage Yard, an automobile salvage yard.

Sampling by the EPA in 1984 and 1985 identified PCB concentrations up to 39,000 parts per million (ppm) in the soil at the Site. After reviewing the data, EPA determined that the contaminants posed an imminent and substantial endangerment to human health and the environment. As a result, the Regional Administrator for EPA Region 6 authorized the removal action in an Action Memorandum dated August 23, 1985. The EPA conducted a removal action for the Site from September 1985 until April 1987 to address direct human contact threats and the potential for offsite migration of contaminants. An exemption to allow continuation of the removal action beyond the six-month time limit was granted by the Regional Administrator on May 7, 1986.

The removal action consisted of the removal and disposal of the electrical equipment and drums containing hazardous substances; decontamination and relocation of automobiles and other salvage material; consolidation of contaminated soils to the center of the Site; grading of the Site for effective drainage and installation of a synthetic liner and clay cap, and erection of a security fence around the Site. The clay cap placed during the removal action was constructed as a temporary cap and not a permanent cap for a permanent remedy. The Site was proposed for the National Priorities List (NPL) in January 1987 (52 FR 2492) and placed on the NPL in July 1987 (52 FR 27620).

C. Characterization of Risk

The EPA initiated a Remedial Investigation/Feasibility Study (RI/FS) in 1989. The RI determined the types and amounts of contaminants present at the Site and discovered the extent of contamination. The RI indicated that PCBs were the contaminants of concern at the Site, based on concentration and risk; that contamination was limited to soil at the Site; and that no ground water or surface water contamination from the Site was detected. The predominant PCB species present was Aroclor 1260. The FS developed and evaluated a range of alternatives to remediate the contamination. The RI

was finalized in March 1990 and the FS was finalized in July 1990. A proposed plan for the Site was issued in August 1990, presenting the preferred remedial alternative of chemical dechlorination of the contaminated soil.

The Regional Administrator for EPA Region 6 signed a Record of Decision (ROD) on September 27, 1990. Through the ROD, EPA selected Alternative 4—Excavation, Onsite Chemical Treatment, as the remedy for the Tenth Street Superfund Site. As noted in the ROD in the "Statement of Basis and Purpose," the State of Oklahoma did not support the original remedy selected in the ROD.

The EPA issued an Alternative Remedial Contract Strategy (ARCS) work assignment to the Remedial Design (RD) contractor on March 28, 1991, for design of the onsite chemical treatment remedy. During the RD, problems with the implementation of this process which EPA had encountered at other Superfund sites became apparent. Problems that were experienced included: low production rates; severe odor problems given off from the treatment process and persisting in the soil after treatment; "soupy" (wet) physical condition of the treated soil and the ensuing need for stabilization before placement back on the ground as backfill; soil volume increases of 100% during treatment, causing space problems for backfilling on the site; and leaching of residual reagent from the soil following treatment.

In addition to the aforementioned technical problems posed by chemical dechlorination, treatment of the contaminated soil at this Site was further complicated by the existence of construction debris and other types of solid waste that had been dumped at the Tenth Street Site prior to the PCB spills. The PCB-contaminated soil became mixed with the solid waste at the Site. The materials handling problems resulting from such a mixture further complicated the treatment remedy and contributed to increased construction cost estimates.

As a result, EPA re-evaluated the remedial alternatives for the Site. On September 30, 1993, the Regional Administrator for EPA Region 6 executed an amendment of the ROD for the Site (ROD Amendment). The major components of the remedy selected in the ROD Amendment, which was concurred upon by the State, included: (1) Excavation and placement of contaminated soil, with PCB concentrations greater than 25 ppm, from the roadway right-of-way on the south side of N.E. Tenth Street onto the existing cap; (2) allowing the Oklahoma Department of Transportation's

widening of Tenth Street to cover contaminated soil in the roadway right-of-way on the north side of N.E. Tenth Street; (3) construction of a new cap meeting the technical requirements for caps under the Toxic Substances Control Act (TSCA), 40 CFR 761.75 (b) (1) and (2); and (4) maintenance of the cap and ground water monitoring. Cap maintenance will continue in perpetuity. Ground water monitoring will continue until PCB contamination is undetected in five consecutive years of annual monitoring.

The EPA determined that this alternative was protective of human health and the environment, complied with Federal and State requirements that are applicable or relevant and appropriate, was cost-effective compared to equally protective alternatives, and utilized permanent solutions and alternative treatment technologies to the maximum extent practicable. This remedy did not satisfy the statutory preference for treatment as a principal element.

In May 1994, EPA entered into an Interagency Agreement (IAG) with the U.S. Army Corps of Engineers (USCOE) (Tulsa District) to perform the Remedial Design (RD) for the Site based on the ROD Amendment. The EPA also entered into another IAG with the USCOE in April 1994, to perform the Remedial Action (RA) for the Site. Subsequently, the USCOE contracted with Abatement Systems, Inc., of Broken Arrow, Oklahoma to perform the RA for the Site. The contract with Abatement Systems, Inc., was awarded on April 26, 1995. The USCOE provided contract supervision and quality assurance during the RA.

The USCOE, at EPA's direction, issued the notice to proceed for the remediation contract on May 31, 1995. Actual remediation activities at the Site began August 28, 1995. The following operations were conducted according to design specifications set forth in the RD package as part of the remediation:

- Sampling and disposal of 26 drums.
- Over-drilling and grouting of three existing monitoring wells.
- Excavation and relocation of PCB contaminated soil from the perimeter of the Site.
- Installation and development of new monitoring wells.
- Placement of 3-foot thick clay barrier layer.
- Placement of geomembrane, drainage net, and geotextile.
- Installation of perimeter drain system.
- Placement of cover soil and topsoil layers.

Approximately 4,655 cubic yards of soil with PCB concentrations greater

than 25 ppm, the health-based performance standard, were excavated from the north and west perimeter and the south corner of the perimeter of the Site, and placed in the area to be capped. The above quantity included additional excavation of 275 cubic yards of soil which the USCOE determined to exceed cleanup standards after the initial excavation sampling. The completion of the selected remedy addressed the principal threat posed by the Site, by preventing direct contact of humans with the contaminated soil and by reducing the mobility of the contamination.

In January 1997, ODEQ began inspection, maintenance, and monitoring activities in accordance with the approved operation and maintenance (O&M) plan, issued May 1995. The ground water monitoring wells at the Site are being sampled annually. Monitoring will consist of sampling five monitoring wells, two up gradient and three down gradient, to verify that PCBs from this Site are not contaminating the ground water. In addition, ODEQ will mow the grass on the cap, inspect the cap for damage, and make any repairs to the cap necessitated by erosion or other damage.

The EPA issued the Final Close Out Report for the Site on July 3, 1997, after consultation with ODEQ. The Close Out Report concluded that the Site met all of the site completion requirements as specified in Close Out Procedures for National Priorities List Sites (OSWER Directive 9320.2-09). The EPA has determined that the remedy for the Site is operational and functional. Specifically, the EPA and ODEQ have determined that all analytical results

were accurate to the degree needed to assure satisfactory execution of the RA, and consistent with the ROD, as amended, and RD plans and specifications. All contaminated soil with more than 25 ppm PCBs has been placed under the clay barrier layer and the geomembrane as evidenced by confirmation sampling. Infiltration of precipitation will be retarded by this liner, thereby reducing possible leaching of the contaminants into the ground water. Additionally, protection of the ground water has been verified by the first sampling round, conducted at the completion of the RA, which found no detectable levels of PCBs in the samples collected from the five monitoring wells.

Consistent with Section 121(c) of CERCLA, 42 U.S.C. 9621(c), and the requirements of the OSWER Directive 9355.7-02 ("Structure and Components of Five-Year Reviews," May 23, 1991), a five-year review will be required at the Tenth Street Superfund Site. The EPA must conduct statutory five-year reviews at sites where, upon attainment of ROD cleanup levels, hazardous substances remaining within restricted areas onsite will not allow unlimited use of the entire site.

D. Community Involvement

The Site has been the object of considerable public interest from residents living in the vicinity of the Site. As a result, EPA conducted an active community relations effort to ensure that the residents were informed about the activities at the Site. A Technical Assistance Grant (TAG) was awarded to assist a local citizens group to be better informed and to have input

into project activities. Community meetings were conducted by EPA at major project milestones to keep the community informed about the project and to receive their input. Public participation activities have satisfied the requirements of CERCLA Subsection 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 upon in making this recommendation of Site deletion from the NPL have been made available to the public in the two information repositories referenced herein above.

E. Proposed Action

In consultation with ODEQ, the EPA has concluded that all appropriate response actions required at the Site have been completed (neither the CERCLA-required five-year reviews, nor operation and maintenance of the constructed remedy is considered further response action for these purposes), that all appropriate Fund-financed response actions under CERCLA have been implemented, and that no further remedial action is appropriate. Moreover, the EPA, in consultation with ODEQ, has determined that the Site now poses no significant threat to public health or the environment. Consequently, the EPA proposes to delete the Site from the NPL.

Dated: April 13, 2000.

Sam R. Becker,

Acting Regional Administrator, U.S. EPA Region 6.

[FR Doc. 00-10647 Filed 4-28-00; 8:45 am]

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