

for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: July 30, 2002.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 300

[FRL-7257-4]

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

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of intent to delete Standard Steel and Metals Salvage Yard Site from the National Priorities List.

**SUMMARY:** The Environmental Protection Agency (EPA), Region 10, announces its intent to delete the Standard Steel and Metals Salvage Yard Site (Site) from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, as amended. EPA and the State of Alaska Department of Environmental Conservation have determined that the remedial action for

the site has been successfully executed by the responsible parties and no further response under CERCLA is needed.

**DATES:** Comments concerning the proposed deletion of this Site from the NPL may be submitted on or before September 14, 2002.

**ADDRESSES:** Comments may be mailed to: Beverly Gaines, EPA Point of Contact, U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Mail Stop, ECL-110, Seattle, Washington 98101.

Comprehensive information on this Site is available through the Region 10 public docket which is available for reviewing at: U.S. Environmental Protection Agency, Region 10, Superfund Records Center, 1200 Sixth Avenue, Seattle, Washington 98101.

Information on the site and a copy of the deletion docket are available for viewing at the Information Repository which is located at: Alaska Resources Library & Information Services, 3150 C Street, Suite 100, Anchorage, Alaska 99513, (907) 272-7547.

#### FOR FURTHER INFORMATION CONTACT:

Beverly Gaines, EPA Point of Contact, U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Mail Stop, ECL-110, Seattle, Washington 98101, phone: (206) 553-1066, fax: (206) 553-0124, e-mail: gaines.beverly@epa.gov.

#### SUPPLEMENTARY INFORMATION:

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#### I. Introduction

The U.S. Environmental Protection Agency (EPA) Region 10 announces its intent to delete the Standard Steel and Metals Salvage Yard Site, which is located in Anchorage, Alaska, from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, as amended. 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. EPA and the State of Alaska Department of Environmental Conservation have determined that the remedial action for the site has been

successfully executed by the responsible parties and no further response under CERCLA is needed.

EPA will accept comments on the proposal to delete this site for thirty (30) days after publication of this document in the **Federal Register**.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses the procedures EPA is using for this action. Section IV discusses the Standard Steel & Salvage Yard Site and explains how the site meets the deletion criteria.

#### II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that sites may be deleted from, or recategorized on 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 parties have implemented all appropriate response actions required; or

(ii) All appropriate Fund-financed responses under CERCLA have been implemented, and no further action by responsible parties is appropriate, or

(iii) The Remedial Investigation has shown that the site poses no significant threat to public health or the environment and, therefore, remedial measures are not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants or contaminants remain at the site above levels that allow for unlimited use and unrestricted exposure, a subsequent review of the site will be conducted at least every five years after the initiation of the remedial action at the site to ensure that the site remains protective of public health and the environment. If new information becomes available which indicates a need for further action, EPA may initiate additional remedial actions. Whenever there is a significant release from a deleted site from the NPL, the site may be restored to the NPL without application of the Hazard Ranking System.

In the case of this site, the selected remedy is protective of human health and the environment, however, because the remedy leaves waste on site above levels that allow for unlimited use and unrestricted exposure, a review of the selected remedy will be conducted at least every five years from initiation of the remedial action.

#### III. Deletion Procedures

The following procedures were used for the intended deletion of this site: (1) Responsible parties have implemented all appropriate response actions

required; (2) the State of Alaska has concurred with the proposed deletion decision; (3) a notice has been published in the local newspapers and has been distributed to appropriate federal, state, and local officials and other interested parties announcing the commencement of a 30-day public comment period on EPA's Notice of Intent to Delete; and (4) all relevant documents have been compiled in the site deletion docket and made available in the local site information repositories.

Deletion of the site from the NPL does not in itself, create, alter or revoke any individual's rights or obligations. The NPL is designed primarily for informational purposes and to assist Agency management. As mentioned in section II of this document, § 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.

For deletion of this site, EPA's Regional Office will accept and evaluate public comments on EPA's Notice of Intent to Delete before making a final decision to delete. If necessary, the Agency 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 the Regional Office.

#### IV. Basis for Intended Site Deletion

The following site summary provides the Agency's rationale for the proposal to delete this Site from the NPL.

##### *Site Background and History*

The Standard Steel and Metals Salvage Yard Site was a 6.2 acre metal salvage yard in Anchorage, Alaska. The site is located near the intersection of Railroad Avenue and Yakutat Street, adjacent to Ship Creek. The site is zoned I-2, denoting a heavy industrial district, by the Municipality of Anchorage. The property is in the possession and control of the Alaska Railroad Corporation. The site is located within the City of Anchorage, where the majority of the population of the State of Alaska live. A residential area is located a half mile southeast of the site on the other side of Ship Creek and Elmendorf Air Force Base is a third of a mile to the North.

The first documented use of the site occurred in October 1950, when it was leased by a construction company for

maintenance and storage equipment. Beginning in 1955, various metal recycling and salvage business operated at the site. During recycling and salvage activities, electrical transformers and batteries were handled. Releases of hazardous substances occurred from these activities and inappropriate burial or burning of transformer oil.

From 1986 through 1988, EPA conducted a series of removal actions to address widespread contamination. EPA removed 1000 gallons of polychlorinated biphenyls (PCBs) contaminated oil, eighty-two 55 gallon drums of Resource Conservation and Recovery Act (RCRA) hazardous waste, 10,450 gallons of waste oil, 185 PCB-contaminated transformers, and 781,000 pounds of lead acid batteries. EPA proposed the site to the NPL on July 14, 1989. The site was finalized on the NPL on August 30, 1990.

An Remedial Investigation/Feasibility Study was completed in January 1996. The study identified polychlorinated biphenyls (PCBs), lead, and dioxin/furans as contaminants of concern at the site. The site posed potential threats to human health and the environment through ingestion, dermal contact, and inhalation of contaminated soils. Site groundwater was impacted by soil contamination. Off-site groundwater was not impacted. Dioxin/furans were determined to be a contaminant of concern; however, all detections of dioxin/furans were collocated with soils contaminated with 10 mg/kg or greater PCBs. Therefore, all actions taken to address PCBs would also address dioxin/furans.

##### *Selected Remedy*

On July 16, 1996, the Regional Administrator signed a Record of Decision (ROD) selecting the following remedy:

- Removal of regulated material currently stockpiled on-site and investigation derived wastes with subsequent disposal in a RCRA Subtitle C or D landfill, or recycling of the materials;
- Off-site disposal of remaining scrap debris by recycling or disposal in a RCRA Subtitle D landfill or, if the debris is a characteristic hazardous waste or contains greater than 50 mg/kg PCBs or 10ug/100cm<sup>2</sup> PCBs by standard wipe tests, treatment, and disposal in a RCRA Subtitle C or Toxic Substances Control Act (TSCA) landfill;
- Excavation and consolidation of all soils exceeding cleanup levels; the Settling Defendants chose to incorporate cleanup criteria stricter than the Record of Decision for soils

within three feet of the surface, namely; 1mg/Kg for PCBs and 250mg/Kg for lead.

- Treatment of all soils at or greater than 1000 mg/kg lead or 50 mg/kg PCB by stabilization/solidification;
- On-site disposal of treated soils and excavated soils between 10 mg/kg and 50 mg/kg PCBs in a TSCA landfill. Certain TSCA landfill requirements were waived subsequent to the remedial action due to design changes. The waivers were consistent with TSCA and were not implemented through CERCLA waiver provisions;
- Excavation of soils impacted above 1.0 mg/kg PCBs and 500 mg/kg lead from the flood plain and consolidation of these soils elsewhere on the site;
- Maintenance and repair of the erosion control structure on the bank of Ship Creek;
- Maintenance of treated soils and the landfill;
- Institutional controls to limit land uses of the site and, if appropriate, access;
- Monitoring of groundwater at the site to ensure the effectiveness of the remedial action.

##### *Response Actions*

On January 26, 1996, a Consent Decree to conduct a Remedial Action (RA) design and RA construction was entered into by Chugach Electric Association, Inc., J.C. Penney Company, Inc., Bridgestone/Firestone, Inc., Sears Roebuck and Company, and Westinghouse Electric Corporation. The Alaska Railroad Corporation signed the Consent Decree exclusively for the purpose of agreeing to provide access and implement institutional controls. The Settling Defendants agreed to perform the remedial design/remedial action selected in the ROD. The remedial design was conducted in conformance with the approved ROD and Statement of Work for the consent decree. The remedial action was formally initiated in March 1998. The contractor conducted the remedial actions pursuant to the approved remedial design/remedial action work plans. The only significant new contaminant encountered was potential unexploded ordnance. However, the work plans anticipated this possibility and remedial actions proceeded with some changes. All suspected unexploded ordnance was removed and treated by a U.S. Military Explosive Ordnance Detachment from Fort Richardson, Alaska.

The TSCA disposal cell is located on 2.5 acres of the 6.2 acre site along the

northwest boundary of the site. It is approximately 320 feet by 340 feet and extends to a depth of approximately 15 feet below finished grade. The cell holds approximately 55,000 tons of contaminated material, 22,272 of which was stabilized. The contaminated soils are covered with a closed cell foam insulation, 40 mil geomembrane cover, geocomposite drainage layer, and three feet of clean soil. The cell is designed to be utilized for vehicle/equipment storage or future building area. The cell is surrounded on three sides by a 14,000 ton rip rap barrier wall designed to protect against a 500 year (minimum) flood event.

The selected remedy was enhanced by the following approved design changes, which were implemented in 1998 and 1999:

- Excavating all upland surface soils outside the limits of the TSCA landfill which exceed 1.0 mg/Kg PCBs or 250 mg/Kg lead to a depth of three feet; and disposal in the on-site TSCA landfill.
- Including a geomembrane cover system consisting of a four-inch foam insulation layer, 40 mil liner, geonet drainage layer, filter fabric and three feet of clean soil over the landfill;
- Creation of a flood protection barrier on three sides of the landfill;
- Replacement of the rip rap erosion control wall adjacent to Ship Creek with an Alaska Department of Fish and Game requested natural erosion protection system. This system incorporates native vegetation and artificial logs to secure the stream bank and provide habitat. Based on these changes, an Explanation of Significant Differences was signed on November 18, 1998 to waive 40 CFR 761.75(b)(9)(i), which requires a fence around a TSCA landfill. A Remedial Action Report was signed on August 1, 1999 and a Final Closeout Report was signed on June 26, 2002 which documents that all work at the site has been completed and all cleanup levels established in the ROD have been achieved.

#### *Operation and Maintenance*

Pursuant to the Consent Decree, Chugach Electric Association, Inc., Westinghouse Electric Corporation, Sears, Roebuck and Company, J. C. Penney Company, Inc., and Bridgestone/Firestone, Inc. are responsible for the operation and maintenance procedures. The remedy requires maintenance of the landfill to ensure that it retains its structural integrity and prevents the release of PCBs and lead through erosion, leaching, and excavation. The Operation

and Maintenance requirements are presented in the Operations and Maintenance Plan (revised) July 2001 by Alta GeoSciences, Inc. Operation and maintenance has been happening properly, with the exception of damage to an up gradient well. EPA was notified of the damage and the well was restored.

#### *Institutional Controls*

The Site has institutional controls in place to restrict access, prevent use of groundwater, and land use on the property. The Alaska Railroad Corporation (ARRC) is the owner of an exclusive license to the property under the Alaska Railroad Transfer Act. ARRC executed and filed the Declaration of Restrictive Covenants per the Consent Decree requirements with the local land recording district office in Anchorage. ARRC's lease agreements for the property notify the lessee of the Institutional Controls which must be complied with. Additionally, notice of the remedy and the Declaration of Restrictive Covenants was provided to applicable state and local government agencies and all local utility companies.

The Institutional Controls contained in the RD/RA Consent Decree, Record of Decision and recorded through a Declaration of Restrictive Covenants are:

- Ensure that site use continues to be industrial or commercial and prevent use of the site for commercial developments that involve potential chronic exposures of children to soil (e.g., use of the site for a day care center);
- Restrict activities at the site that could potentially impair the integrity of the TSCA landfill;
- Prevent movement of soil containing greater than 1,000 mg/kg lead or 10mg/kg PCBs to the surface or within the top foot of soil where chronic long-term worker exposure could occur;
- Groundwater use restriction recorded with local, regional, and State agencies, departments and utilities.

#### *Five-Year Review*

Hazardous substances will remain at the site above levels that allow unlimited use and unrestricted exposure after the completion of the remedial action. Pursuant to CERCLA section 121(c) and provided in the current guidance on Five-Year Reviews, EPA must conduct a statutory five-year review to ensure that the remedy continues to provide adequate protection of human health and the environment. The Five-Year Review Report will be completed prior to March 2003.

#### *Community Involvement*

EPA held four public meetings, issued five fact sheets and published three public comment periods in the **Federal Register**. The meetings and fact sheets focused on CERCLA-required comment periods, informational meetings, publications of previous cleanup actions, enforcement actions, alternative analysis or schedule announcements, and public involvement sessions. There was not much public involvement at this site.

#### *Applicable Deletion Criteria*

One of the three criteria for deletion specifies that EPA may delete a site from the NPL if "responsible parties have implemented all appropriate response actions required." EPA, with the concurrence of the State of Alaska, believe that this criterion for deletion has been met. There is no significant threat to human health or the environment and; therefore, no further remedial action is necessary. Subsequently, EPA is proposing deletion of this site from the NPL. Documents supporting this action are available in the deletion docket at the information repositories.

#### *State Concurrence*

In a letter dated July 24, 2002, from the Alaska Department of Environmental Conservation (ADEC), ADEC concurs with the proposed deletion of the Standard Steel and Metals Salvage Yard Superfund Site from the NPL.

Dated: August 2, 2002.

**L. John Iani,**

*Regional Administrator, Region 10.*

[FR Doc. 02-20351 Filed 8-13-02; 8:45 am]

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## **FEDERAL COMMUNICATIONS COMMISSION**

### **47 CFR Part 73**

**[DA 02-1913, MM Docket No. 01-44, RM-10022]**

### **Digital Television Broadcast Service; Derby, KS**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission requests comments on a petition filed by Pappas Telecasting of America proposing the allotment of DTV channel 46 to Derby, Kansas. DTV Channel 46 can be allotted to Derby, Kansas at reference coordinates 37-54-12 N. and 97-37-06