that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action proposed does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen oxides, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compounds.

Authority: 42 U.S.C. 7401–7671q.

Dated: August 14, 1996.

Jack W. McGraw,

Acting Regional Administrator.

[FR Doc. 96–21910 Filed 8–27–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Parts 180 & 185

[OPP–300360B; FRL–5394–6]

RIN 2070–AB78

Pesticides; Extension of Time for Filing Objections and Requests for Hearing for Food Additive Revocations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of extension.

SUMMARY: EPA is extending by 30 days the time period for filing objections, requests for hearings and requests for stays pertaining to a final rule revoking the food additive tolerances for certain uses of acephate, iprodione, imazalil and triadimefon. EPA is also extending the effective date of the revocation by 30 days. EPA is taking this action under the provisions of the Food, Drug and Cosmetic Act, as modified by the recently enacted Food Quality Protection Act.

DATES: The effective date of September 27, 1996 of the final rule published at 61 FR 39528, July 29, 1996 is extended to October 28, 1996. The date for objections, requests for hearings, or stays is extended from August 28, 1996 to September 27, 1996.

FOR FURTHER INFORMATION CONTACT: Jean M. Frane, Policy and Special Projects Staff (7501C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 1113, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5944. e-mail: frane.jean@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the Federal Register of July 29, 1996 (61 FR 39528)(FRL–5388–2), EPA issued an order revoking six food additive tolerances for four pesticides. EPA revoked four tolerances based on the determination that the tolerances were inconsistent with the Delaney clause in section 409 of the Federal Food, Drug and Cosmetic Act (FFDCA), and two tolerances because they are not needed to prevent the adulteration of food. In the final rule, EPA set an effective date of September 27, 1996 for the revocations. Any person adversely affected by the July 29, 1996 Order was allowed 30 days to: (1) file written objections to the order, (2) file a written request for an evidentiary hearing on the objections, and (3) file a petition for a stay of the effective date. Under the original date, objections and requests for hearing were to be filed by August 28, 1996.

Subsequently, on August 3, 1996, the President signed the Food Quality Protection Act of 1996 (FQPA) (Pub.L. 104–170). Among other things, this new law revised the procedures for objecting to Agency decisions on tolerance regulations. FFDCA 408(g)(2)(A) now provides 60 days instead of 30 days for the filing of objections and requests for hearings. These provisions were effective immediately upon enactment.

EPA has received requests from Valent U.S.A., Bayer Corporation and Whitmire MicroGen, requesting that, in light of other provisions of the new FQPA, EPA should extend the time for filing objections and hearing requests, or should withdraw the revocations altogether. The requesters suggest that the Agency's basis for revocations under the Delaney clause of section 409 of the FFDCA has been nullified by the enactment of the FQPA, which takes pesticide tolerances out from under the provisions of section 409 entirely. EPA believes there is merit in this argument and is currently developing an appropriate regulatory order. Given that this order is not yet complete, however, EPA believes it is reasonable to extend the time for filing objections and requests for hearing in accordance with the new timeframes in section 408(g). EPA is taking this action in its discretion and upon its own initiative.

Accordingly, by this document, EPA is extending the date by which objections and requests for hearings and stays can be filed, and also extending the effective date of the final rule revoking the food additive tolerances for certain uses of acephate, iprodione, imazalil and triadimefon, published at 61 FR 39528, July 29, 1996.

Dated: August 22, 1996.

Susan H. Wayland,

Acting Assistant Administrator for Prevention, Pesticides, and Toxic Substances.

[FR Doc. 96–21821 Filed 8–27–96; 8:45 am]

BILLING CODE 6560–50–F

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40 CFR Part 300

[FRL–5554–7]

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

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent for partial deletion of the Commencement Bay Nearshore/Tideflats Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region 10 announces its intent to delete portions of the Commencement Bay Nearshore/Tideflats (CB/NT) Superfund Site from the National Priorities List (NPL) and requests public comment on this action. The NPL constitutes Appendix B to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR Part 300, which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

This proposal for partial deletion pertains only to portions of Operable Unit (OU) 1—CB/NT Sediments, and Operable Unit (OU) 5—CB/NT Sources. Specifically, it pertains to the sediments contained in and upland properties draining only to the St. Paul or Blair Waterways, and to four properties which were transferred to the Puyallup Tribe of Indians under the Puyallup Land Settlement Act of 1989 (''Puyallup Land Settlement Properties''). The four Puyallup Land Settlement Properties proposed for deletion are the: Taylor

Way Property, the East-West Road Property, the Blair Waterway Property, and the portion of the Blair Backup Property that drains only to the Blair Waterway.

DATES: The EPA will accept comments concerning its proposal for partial deletion for thirty (30) days after publication of this document in the Federal Register and a newspaper of record.

ADDRESSES: Comments may be mailed to: Jeanne O'Dell, Community Relations Coordinator, U.S. EPA, Region 10 (ECO–081), 1200 Sixth Avenue, Seattle, Washington, 98101, (1–800–424–4372 or (206) 553–6919).

Information Repositories

Comprehensive information on the CB/NT site as well as information specific to this proposed partial deletion is available for review at EPA's Region 10 office in Seattle, Washington. The Administrative Record for OU Nos. 1 and 5 and the Deletion Docket for this partial deletion are maintained at the following site document/information repositories: U.S. Environmental Protection Agency, 7th floor Records Center, 1200 Sixth Avenue, Seattle, Washington 98101, (206) 553–4494.

Citizens for a Healthy Bay, 771 Broadway, Tacoma, Washington 98402, (206) 383–2429.

FOR FURTHER INFORMATION CONTACT: Ms. Allison Hiltner, Remedial Project Manager, U.S. EPA, Region 10 (ECL–116), 1200 Sixth Avenue, Seattle, Washington, 98101, (206) 553–2140.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis For Intended Partial Site Deletion

I. Introduction

The United States Environmental Protection Agency (EPA) Region 10 announces its intent to delete a portion of the Commencement Bay Nearshore/Tideflats Superfund Site (CB/NT Site) located in Pierce County, Washington (Figure 1) from the National Priorities List (NPL), which constitutes Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR Part 300, and requests comments on this proposal.

This partial deletion of the CB/NT site is proposed in accordance with 40 CFR § 300.425(e) and the Notice of Policy Change: Partial Deletion of Sites Listed on the National Priorities List 60 Fed. Reg. 55466 (Nov. 1, 1995).

This proposal for partial deletion pertains only to portions of OU 1 (CB/NT Sediments), and OU 5 (CB/NT Sources). At the CB/NT site, sources are defined as releases of contaminants or problem chemicals from a site or facility to a problem area identified in the 1989 CB/NT Record of Decision (ROD). Once an ongoing source is identified, regulatory mechanisms and cleanup measures are implemented to control the release of contaminants to the marine environment and to ensure compliance with environmental regulations.

Specifically, this proposal pertains to the sediments contained in and upland properties draining only to the St. Paul Waterway or Blair Waterway, and to four properties which were transferred to the Puyallup Tribe of Indians under the Puyallup Land Settlement Act of 1989 (''Puyallup Land Settlement Properties''). The four Puyallup Land Settlement Properties proposed for deletion are: the Taylor Way Property, the East-West Road Property, the Blair Waterway Property, and the portion of the Blair Backup Property that drains only to the Blair Waterway.

EPA proposes to delete the above named portions of the sites because all appropriate CERCLA response activities have been completed in those areas. Environmental investigations and cleanup work at these portions of the site are consistent with the September 1989 CB/NT ROD that describes the cleanup plan for the site.

The properties that EPA proposes to delete are all encompassed within the CB/NT site but have utilized different regulatory pathways to arrive at this point:

- *St. Paul Waterway*. Cleanup of the St. Paul Waterway was required under the CB/NT Record of Decision (ROD) dated September 1989. Cleanup had actually been performed in 1988 under a state consent decree. The cleanup was approved by EPA under CERCLA pursuant to a federal consent decree in 1991. This federal decree also required long-term monitoring to ensure protectiveness of human health and the environment.
- *Blair Waterway*. Blair Waterway was not identified as a priority problem area within the CB/NT ROD. The dredging and restoration of portions of the Blair Waterway was completed pursuant to the Sitcum Waterway Consent Decree from late 1993 through early 1995. A settlement with the Port of Tacoma for injuries to natural resources in Blair Waterway and other portions of Commencement Bay was also part of the Consent Decree.
- *Puyallup Tribe Properties*. The Puyallup Tribe of Indians Land Claims Settlement Act of 1989 required transfer of seven commercial and industrial properties, along with a portion of the bed of the Puyallup River, to the Puyallup Tribe of Indians. Six of the properties, comprising approximately 215 acres, are within the CB/NT Superfund site. Consistent with CERCLA requirements, the Puyallup Land Claims Settlement Act of 1989, and the Puyallup Land Transfer Consent Decree among the United States, the Port of Tacoma and the Puyallup Tribe of Indians, the properties have now been transferred to the United States in trust for the Puyallup Tribe. Cleanup actions have been completed, where necessary, at the four properties within the CB/NT Superfund Site that are proposed for deletion.

This partial deletion does not include the remaining portions of OU 1 and OU 5, the other OUs of the site, or the other Puyallup Land Settlement Properties. This partial deletion does not include the portion of the Blair Backup Property that drains to the Hylebos Waterway. Response activities will continue at all areas of the site not contained in the partial deletion notice.

The NPL is a list maintained by EPA of sites that EPA has determined present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund).

Sites (or portions of sites) are deleted from the NPL when one or more of the deletion criteria have been satisfied (see next section). Deletion from the NPL does not mean that further regulatory actions are necessarily precluded or that all cleanup-related activities come to an end.

For example, any site or portion of a site deleted from the NPL remains eligible for Fund-financed remedial actions under § 104 of CERCLA if conditions at the site warrant such action. Other potential authorities that may be used to compel cleanup action if conditions warrant are enforcement authorities under § 106 of CERCLA or under applicable state or tribal law.

Cleanup-related activities that may continue after a site or portion of a site is deleted include those relating to maintaining the protectiveness of the remedy. Such activities may include the following:

- Long-term monitoring to ensure that the cleanup levels that have been attained are not exceeded again in the future.
- Operation and maintenance of cleanup measures or functions (e.g., a sediment cap or a landfill leachate collection system).
- Inspection (e.g., of an asphalt cap to ensure its continued integrity).

• Institutional controls (e.g., measures such as fish advisories or deed restrictions to restrict access or exposure to remaining contamination).

Other important requirements or activities that may be ongoing even at portions of the site deleted from the NPL include the following:

• Cost recovery from liable parties (note that deletion from the NPL does not extinguish the liability under CERCLA of potentially responsible parties connected with the site or portion of the site).

• The assessment of and recovery for damages to natural resources.

• Compliance with pollution control or other environmental requirements under applicable federal, tribal, state or local law (i.e., other than CERCLA). For example, under state law, Ecology may conduct investigations or require response actions at deleted upland and in-water portions of the site.

Finally, a partial deletion of a site from the NPL does not affect or impede the ability of EPA or the applicable state or Indian tribe to conduct response activities, including source control, at areas not deleted and remaining on the NPL.

EPA will accept comments concerning its intent for partial deletion for thirty (30) days after publication of this notice in the Federal Register and a newspaper of record.

II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR § 300.425(e), sites may be deleted from the NPL where no further response is appropriate to protect public health or the environment. In making such a determination pursuant to Section 300.425(e), EPA considers, in consultation with the State, with regard to the St. Paul and Blair Waterways, and with the Puyallup Tribe of Indians, with regard to the Puyallup Land Settlement Properties, whether any of the following criteria have been met:

Section 300.425(e)(1)(i). Responsible parties or other persons have implemented all appropriate response actions required; or

Section 300.425(e)(1)(ii). All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

Section 300.425(e)(1)(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.

III. Deletion Procedures

Deletion of a portion of a site from the NPL does not itself create, alter, or revoke any person's rights or obligations. The NPL is designed primarily for informational purposes and to assist Agency management.

The following procedures were used for the proposed partial deletion of the CB/NT site:

(1) EPA has recommended the partial deletion and has prepared the relevant documents.

(2) The State of Washington, with respect to the St. Paul and Blair Waterways, and the Puyallup Tribe of Indians, with respect to the Puyallup Land Settlement Agreement Properties, have been asked to concur on EPA's final determination regarding the partial deletion.

(3) Concurrent with this national Notice of Intent for Partial Deletion, a notice has been published in a newspaper of record and has been distributed to appropriate federal, tribal, State, and local government officials, and other interested parties. These notices announce a thirty (30) day public comment period on the deletion package, which commences on the date of publication of this notice in the Federal Register and a newspaper of record.

(4) EPA has made all relevant documents available at the information repositories listed previously.

This Federal Register notice, and a concurrent notice in a newspaper of record, announce the initiation of a thirty (30) day public comment period and the availability of the Notice of Intent for Partial Deletion. The public is asked to comment on EPA's proposal to delete portions of the site as described in this notice from the NPL. All critical documents needed to evaluate EPA's decision are included in the Deletion Docket and are available for review at the information repositories.

Upon completion of the thirty (30) day public comment period, EPA will evaluate all comments received before issuing the final decision on the partial deletion. EPA will prepare a Responsiveness Summary for comments received during the public comment period and will address concerns presented in the comments. The Responsiveness Summary will be made available to the public at the information repositories listed previously. Members of the public are encouraged to contact EPA Region 10 to obtain a copy of the Responsiveness Summary.

If, after review of all public comments, EPA determines that the partial deletion from the NPL is appropriate, EPA will publish a final notice of partial deletion in the Federal Register. Deletion will occur when the final Notice of Partial Deletion is published in the Federal Register.

IV. Basis for Intended Partial Site Deletion

The following provides EPA's rationale for deletion of portions of the CB/NT site from the NPL and EPA's finding that the criteria in 40 CFR § 300.425(e) are satisfied for this deletion.

General Site Description

The CB/NT Superfund site is located in Tacoma, Washington at the southern end of the main basin of Puget Sound. This proposal for partial deletion of the site from the NPL is with respect to: the Blair Waterway, the St. Paul Waterway, and four of the Puyallup Land Settlement Properties. The delineation of the areas proposed for partial deletion are further described below.

The CB/NT site was listed on the NPL on September 8, 1983. The entire CB/NT site encompasses an active commercial seaport and includes 10–12 square miles of shallow water, shoreline, an adjacent land, most of which is highly developed and industrialized. The upland boundaries of the site are defined according to the contours of localized drainage basins that flow into the marine waters. The marine boundary of the site is limited to shoreline, intertidal areas, bottom sediments and water of depths less than 60 feet below mean lower low water.

The deep water portion of the bay was proposed for listing on the NPL, however, was not listed on the final NPL because water quality studies indicated there was minimal contamination in the area.

Superfund response actions at the CB/NT site are managed under six operable units. The six operable units constitute a comprehensive remedial response to actual or threatened release of hazardous substances that are associated with the Tacoma Tar pits, the ASARCO smelter and the CB/NT marine environment. The six operable units are as follows:

OU 1—CB/NT Sediments
OU 2—ASARCO Tacoma Smelter
OU 3—Tacoma Tar Pits
OU 4—ASARCO Off-Property
OU 5—CB/NT Sources
OU 6—ASARCO Sediments

This proposal for partial deletion of the site from the NPL is with respect only to portions of two operable units: OU 1: CB/NT Sediments, and OU 5: CB/NT Sources. The cleanup of the other operable units are being addressed separately. More information can be obtained on these other cleanup activities from EPA.

Site History

The CB/NT Remedial Investigation, completed in 1985, characterized the nature and extent of sediment contamination in the site. The CB/NT Feasibility Study, completed in 1988,

described feasible alternatives for sediment remedial action at the site.

In September 1989, the Environmental Protection Agency published a ROD, or cleanup plan, that described the response actions necessary for Operable Units 1 and 5. The response actions described in the ROD are limited to eight of the nine contaminated marine sediment problem areas identified in the Remedial Investigation/Feasibility Study (RI/FS). The ninth area, the Ruston-Pt. Defiance Shoreline problem area, is being addressed in separate actions under Operable Unit 06: ASARCO sediments.

The eight contaminated marine sediment problem areas for which response actions are required under the ROD are:

Head of Hylebos Waterway
Mouth of Hylebos Waterway
Sitcum Waterway
St. Paul Waterway
Middle Waterway
Head of Thea Foss (formerly City) Waterway
Mouth of Thea Foss (formerly City) Waterway
Wheeler-Osgood Waterway

EPA recognized that cleanup of contaminated sediments could not proceed until major sources of contamination were controlled, because ongoing sources could recontaminate clean sediment. Consequently, the ROD describes a cleanup strategy that incorporates source control and sediment cleanup.

Source control activities under OU 05 are implemented by the Washington Department of Ecology under a Cooperative Agreement with EPA. Source control activities as defined in the CB/NT ROD and EPA's 1992 Source Control Strategy are for activities that pose an actual or potential threat to marine sediments by drainage to one of the eight sediment problem areas.

EPA is the lead agency for oversight of the sediment cleanup activities implemented under OU 1. Due to the considerable variation in the types and concentrations of chemical contaminants found in each sediment problem area, the ROD explains that cleanup of these areas would proceed based on progress made in source control as well as the schedule for cleanup set forth in the ROD.

Cleanup progress has been made in all areas of the site. The notice of intent to delete portions of the site are to recognize the cleanup accomplishments to date and to designate portions of the site that do not warrant further action under the federal Superfund program.

Areas For Partial Delection

The areas of the site that are proposed for partial deletion and for which EPA has determined that no further response action is required under the Superfund program are: St. Paul Waterway Sediments, Blair Waterway Sediments, sources draining only to the St. Paul Waterway, sources draining only to the Blair Waterway, and four of the Puyallup Land Settlement Properties. The four Puyallup Land Settlement Properties proposed for deletion are the: the Taylor Way Property, the East-West Road Property, the Blair Waterway Property, and the portion of the Blair Backup Property that drains only to the Blair Waterway.

Blair Waterway Sources and Sediments

EPA proposes that the shoreline, intertidal sediments, bottom sediments and waters of the Blair Waterway, and the areas and sources that drain only to the Blair Waterway be deleted from the NPL.

Sediment contamination at the Blair Waterway was studied under the CB/NT RI/FS. EPA concluded in the RI/FS and ROD that Blair Waterway was a low priority area of the site and did not warrant identification as a sediment problem area.

Although Blair Waterway was not identified as a priority problem area, the dredging and restoration of portions of Blair Waterway was completed by the Port of Tacoma under the Sitcum Waterway Consent Decree. Between October 1993 and December 1994, the Port of Tacoma dredged 2.4 million cubic yards of sediment from the Blair Waterway. As part of this work, the main navigation channel as well as certain adjacent areas within the waterway were dredged to an approximate depth of 45–48 feet below Mean Lower Low Water (MLLW). A settlement with the Port of Tacoma for injuries to natural resources in Blair Waterway and other portions of Commencement Bay was also part of the Sitcum Waterway Consent Decree.

Sources that drain only to the Blair Waterway are proposed for deletion from the NPL. This includes properties in the area which is bounded (relative to the waterway) by Alexander Avenue on the northeast, the new SR 509 (formerly East-West Road) on the south and Port of Tacoma Road on the southwest, and any other properties outside of the area described above that drain only to Blair Waterway. This partial deletion from the NPL does not affect pollution control requirements otherwise required under federal or applicable state or tribal law.

St. Paul Waterway Sources and Sediments

EPA proposes that the St. Paul Waterway, and upland sources that drain only to the St. Paul Waterway be deleted from the NPL.

In September 1988, the Simpson Tacoma Kraft Company completed source control activities and implemented sediment cleanup in the St. Paul Waterway Problem Area. Sediment cleanup actions, which were undertaken as part of a December 1987 Consent Decree with Ecology under the State of Washington's Model Toxics Control Act, consisted of the placement of clean sediments on top of contaminated sediments to isolate the contaminants from marine life and to restore intertidal and shallow subtidal habitats. The Superfund Completion Report for the St. Paul Waterway was approved by EPA in January 1991 and describes the source control and sediment cleanup efforts in the St. Paul Waterway. The work was formally approved by EPA in a federal Consent Decree in 1991 (No. C91–526DT). A corresponding amendment to the state consent decree has already removed this site from the state's Hazardous Sites List.

The sediment cap is functioning in accordance with the performance standards defined in the federal Consent Decree. The project is now in the long-term monitoring phase. Monitoring requirements are defined for ten years under the federal Consent Decree. For the past 8 years, Simpson Tacoma Kraft has performed annual monitoring to ensure that the sediment cap remains effective and that healthy marine communities live on the sediment cap. This physical, chemical, and biological sampling has shown that the sediment cap is functioning as planned, and that diverse biological communities are inhabiting the area.

On a larger scale, the project provides habitat that is supporting valuable ecological functions. Shorebirds utilize the site for feeding and rearing, and tide pools observed at low tide are abundant with invertebrates. Productive shoreline habitat exists at the project site where there was essentially no productive habitat prior to construction of the project.

Long-term monitoring will continue at the site, as required under the federal Consent Decree. Should the monitoring indicate any potential problem with or failure of the remedy, the federal Consent Decree provides a process for Early Warning, Contingency Planning, Contingency Response and Expedited Response that will address the situation and will be conducted with EPA oversight and approval. After 10 years, the need for monitoring requirements will be determined by EPA, the Puyallup Tribe of Indians, the

Muckleshoot Indian Tribe and federal and state natural resource trustees consulted as part of EPA's oversight of this project. EPA will continue to evaluate site performance to ensure protectiveness of the remedy.

Puyallup Tribe of Indians Land Settlement Properties

On August 27, 1988, the Puyallup Land Settlement Agreement (Agreement) was signed. The United States, the State of Washington, the Puyallup Tribe of Indians (Tribe) and the Port of Tacoma (Port) are among the parties to the Agreement. This landmark Agreement resolved historic land claim disputes among the Puyallup Tribe and public and private landowners in the Tacoma tideflats area. Congress formally incorporated the Settlement Agreement into federal law, the Puyallup Tribe of Indians Settlement Act of 1989, 25 U.S.C. 1773.

The Settlement Agreement provided for transfer of seven commercial and industrial properties, along with a portion of the bed of the Puyallup River, to the United States to be held in trust for the Puyallup Tribe. These lands will play a key role in future Tribal economic development plans and were a significant consideration in the Settlement Agreement. Six of these properties, comprising approximately 215 acres, are within the CB/NT Superfund Site. Under the Settlement Agreement, the Port was to complete environmental investigations and any necessary cleanup prior to property transfer. The Port completed cleanups by 1994, and the six properties have been transferred to the United States in trust for the Tribe.

The four properties proposed for deletion are: the Taylor Way Property, the East-West Road Property, the Blair Waterway Property, and the portion of the Blair Backup Property that drains only to the Blair Waterway. The legal descriptions for these properties are contained the Deletion Docket.

EPA believes that two of the Settlement properties and part of a third—the Inner Hylebos Property, the Upper Hylebos Property, and the portion of the Blair Backup Property that drains to the Hylebos Waterway—should not be deleted from the NPL at this time. The Inner Hylebos Property and the Upper Hylebos Property are adjacent to and drain to the Hylebos Waterway Sediment Problem Areas for which investigations are still underway. The need for sediment cleanup on both of these properties is an outstanding issue and will be settled as part of the Hylebos Waterway sediment cleanup. The portion of the Blair Backup Property that drains to the Hylebos Waterway is not proposed for delisting at this time because of the potential contributions of past owners and operators to the contamination in the Hylebos Waterway.

The environmental status of each property is described briefly below. EPA, Ecology, and the Puyallup Tribe reviewed and performed oversight of all environmental investigations, and approved all cleanup decisions. Environmental information on each Puyallup Land Settlement Property, including the long-term monitoring and land use obligations by the Port of Tacoma and the Puyallup Tribe, are described in the Puyallup Land Transfer Consent Decree (No. C94–5648). For all properties, the use of shallow groundwater for drinking water purposes is prohibited.

Taylor Way Property: At this 6-acre property, environmental investigations were completed in 1991 and no cleanup actions were required.

East-West Road Property: At this 2-acre property, environmental investigations were completed in 1991 and no cleanup actions were required for the soils. Although some shallow groundwater at the property is contaminated by sludges that are buried on an adjacent site, that groundwater cleanup, if necessary, will be done by third parties under state or tribal law.

Blair Waterway Property: This 43.4 acre site, including about 8 acres of marine sediments, borders Blair Waterway. The cleanup activities were completed in 1994 and included: removal of 37,000 cubic yards of previously dredged sediments that were being temporarily stored on the property, removal of about 16,450 cubic yards of slag and soil from the central portion of the site, removal of 100 cubic yards of arsenic contaminated soils and sediment lining a ditch, dredging of the marine portion of the property pursuant to the Sitcum Waterway Consent Decree, and containment of contaminated sediments in the Lincoln Avenue Ditch. A 1.7 acre wetlands mitigation project was required for filling the ditch and is located at the Outer Hylebos Property. For institutional controls at the site, the Tribe agrees to restrict future use of the site to industrial purposes under M2 or M3 of the City of Tacoma Zoning Code (or other commercial purposes if conditions are met).

Blair Backup Property: This is an 85 acre site between Taylor Way and Alexander Avenue. The cleanup activities were completed in 1994 and focused on the 17-acre former Ohio Ferro Alloys smelter area. Cleanup included removal of about 4,264 cubic yards of charcoal briquettes and contaminated soil for disposal in a landfill in Klickitat County. Other actions included incorporation of material removed from the Blair Waterway Property into a 7 acre portion of the Blair Backup Property which was then capped with asphalt. Ten acres of contaminated soils that surround the 7-acre asphalt cap were covered with 2 feet of sand and gravel. For institutional controls, the Tribe agrees to restrict future use of the site to industrial purposes under M2 or M3 of the City of Tacoma Zoning Code (or other commercial purposes if conditions are met), and restrict any construction activities that may damage the cap or cover. The Port is performing long-term monitoring in the capped and covered area.

Permit Exemption

Under CERCLA, response actions are exempt from obtaining federal, state or local permits where such actions are conducted on-site. On-site is defined as the areal extent of contamination and all suitable areas in very close proximity to the contamination necessary for the implementation of response actions. The substantive requirements otherwise contained in a permit must be complied with for the on-site response action under CERCLA even though the actual permit document is not obtained.

The reason for the permit exemption in CERCLA is to avoid duplication with requirements under permit processes and thus expedite cleanups and reduce costs. For example, CERCLA mandates public participation in connection with cleanup decision, on- and off-site. It would be unnecessarily time-consuming for a CERCLA action to also comply with public participation requirements under a permit process. Therefore, the CERCLA action is exempt from the nonsubstantive components of federal, state and local permits.

Although not anticipated at this time, there could be a need in the future for further response actions at deleted portions of the site. More likely, it may be necessary to use a deleted portion to implement a cleanup elsewhere at the site. For example, the deleted portion may be needed as a staging area. In either case, the same rationale for the permit exemption—to avoid duplication, expedite cleanup and reduce costs—would still exist. Accordingly, the permit exemption would be applicable so long as the response action taken at the deleted portion is performed in accordance with CERCLA.

Community Involvement

Public participation activities for the investigation and cleanup of Operable Units 1 and 5 of the CB/NT site were conducted as required under CERCLA Section 113(k), 42 U.S.C. § 9613(k), and Section 117, 42 U.S.C. § 9617. Public review included the following activities:

- A public comment period was held on the CB/NT RI and FS Reports and EPA's proposed cleanup plan from February 24 to June 24, 1989.
- A public comment period was held for the St. Paul Consent Decree, including EPA's acceptance of the 1987 state cleanup of the St. Paul Waterway, from July 5, 1991, to August 4, 1991.
- A public comment period for the Sitcum Waterway Consent Decree, which included the Blair Waterway dredging work, was held from August 26, 1993 to September 24, 1994.
- A public comment period on the Puyallup Land Transfer Consent Decree, which documented the Port of Tacoma's environmental investigations and cleanup actions at the properties to be transferred from the Port to the United States in trust for the Puyallup Tribe from December 6, 1994, to January 6, 1995.

Documents pertaining to all of these actions are available to the public at EPA Region 10 offices, and near the site at the Tacoma Public Library, and at Citizens for a Healthy Bay.

Conclusion

EPA's proposed deletion of these portions of the site is based on a determination by EPA, in consultation with the State of Washington and the Puyallup Tribe of Indians, that all appropriate actions under CERCLA have been implemented to protect human health, welfare and the environment at these portions of the site. EPA has determined that required cleanup actions have been successfully completed, or that no cleanup is required, at the St. Paul Waterway and sources draining only to the St. Paul Waterway, Blair Waterway and sources draining only to the Blair Waterway, and the following Puyallup Tribe Transfer Properties: the Taylor Way Property, the East-West Road Property, the Blair Waterway Property, and the portion of the Blair Backup Property that drains only to the Blair Waterway. There are no further CERCLA response actions planned or scheduled for these areas of the site. Long-term monitoring will continue at St. Paul Waterway as required under the St. Paul Consent Decree. Institutional controls will remain in place at the Blair Waterway, East-West Road, and Blair Backup Properties.

While EPA does not believe any further CERCLA response actions at these properties will be needed, if future conditions warrant such action, the proposed deletion areas of the CB/NT site remain eligible for future response actions. Furthermore, this partial deletion does not alter the status of other OUs or other portions of OUs 1 and 5 which are not proposed for deletion and remain on the NPL.

The State of Washington, through the Department of Ecology, and the Puyallup Tribe of Indians, with respect to those Puyallup Land Settlement Agreement Properties, have been asked to concur on EPA's final determination regarding the partial deletion.

Dated: August 8, 1996.

Jane S. Moore,

Acting Regional Administrator, U.S. Environmental Protection Agency, Region 10.

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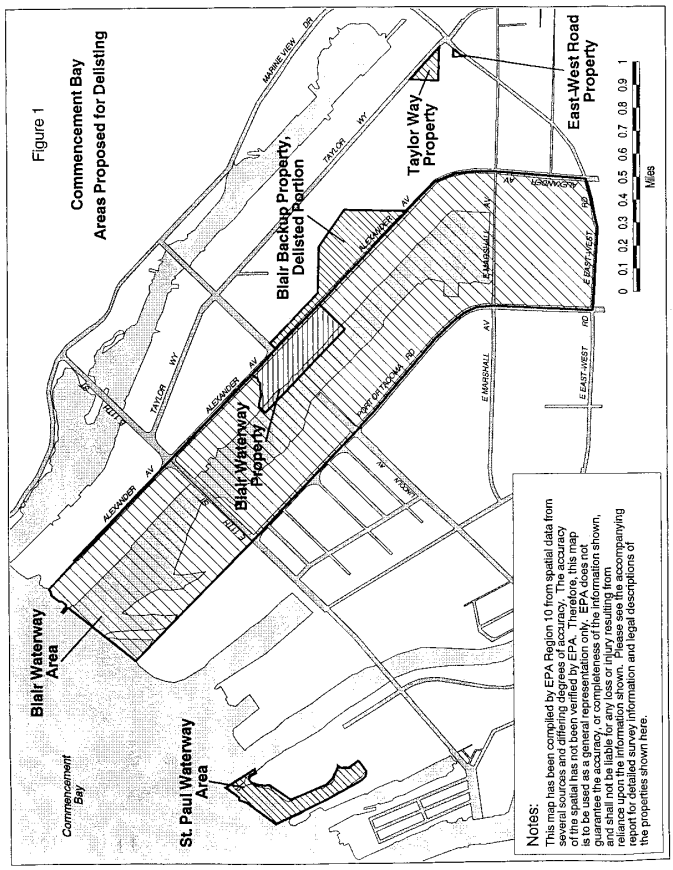

[FR Doc. 96–21629 Filed 8–27–96; 8:45 am]
BILLING CODE 6560–50–C

40 CFR Part 300

[FRL–5560–2]

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

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete the Sand Creek Industrial Site from the National Priorities List: Request for Comments.

SUMMARY: The Environmental Protection Agency (EPA), Region VIII announces its intent to delete the Sand Creek Industrial Site (Site) from the National Priorities List (NPL) and requests public comment on this action. The NPL constitutes Appendix B to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300. EPA, in consultation with the Colorado Department of Health and Environment (State), has determined that all appropriate response actions have been implemented at the Site and that no further response action by responsible parties is appropriate. Moreover, EPA after consultation with the State, has determined that remedial activities conducted at the Site are protective of public health, welfare, and the environment.

DATES: Comments concerning the proposed deletion of the Sand Creek Site may be submitted to EPA on or before September 27, 1996.

ADDRESSES: Comments may be mailed to: Erna Acheson, 8EPR–SR, U.S. Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2466.

Comprehensive information on this Site is available through the EPA, Region VIII public docket, which is located at EPA's Region VIII Administrative Records Center and is available for viewing from 8:00 a.m. to 4:30 p.m., Monday through Friday, excluding holidays. Requests for documents should be directed to the EPA, Region VIII Records Center.

The address for the Regional Records Center is: Administrative Records Center, U.S. Environmental Protection Agency, Region VIII, 999 18th Street, 5th Floor, Denver, Colorado 80202–2466, (303) 312–6473.

Background information from the Regional public docket is also available for viewing at the Sand Creek Industrial site information repositories located at the:

Colorado Department of Public Health and Environment, Hazardous Materials and Waste Management Division, 4300 Cherry Creek Drive South, Denver, Colorado 80222, (303) 692–3300, Hours: 8:00 a.m. to 5:00 p.m., Monday through Friday

Adams County Library, 7185 Monaco Street, Commerce City, CO 80022, (303) 287–0063

FOR FURTHER INFORMATION, CONTACT: Erna Acheson, 8EPR–SR, U.S. EPA, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2466, (303) 312–6762.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Intended Site Deletion
V. Community Relations
VI. Summary

I. Introduction

The Environmental Protection Agency (EPA), Region VIII announces its intent to delete the Sand Creek Industrial Site (Site) located in Commerce City, Colorado from the National Priorities List (NPL) and requests comments on this deletion. The NPL constitutes Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), Title 40 of the Code of Federal Regulations (40 CFR), as amended. EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as a list of those sites. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund Response Trust Fund (Fund). Pursuant to § 300.425(e)(3) of the NCP, any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that future conditions at the site warrant such action.

It is EPA's intent to delete the Sand Creek Industrial Site from the NPL. EPA will accept comments on this proposed deletion for thirty days following publication of this notice in the Federal Register.

Section II of this notice explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses how the Sand Creek Industrial site meets the deletion criteria.

Deletion of sites from the NPL does not itself create, alter, or revoke any individual's rights or obligations with regard to an individual site. The NPL is designed primarily for informational purposes and to assist EPA management.

II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR § 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making this determination, EPA will consider whether any of the following criteria have been met:

(i) EPA, in consultation with the State, has determined that responsible or other parties have implemented all appropriate response actions required; or

(ii) All appropriate Fund-financed responses under CERCLA have been implemented and EPA, in consultation with the State, has determined that no further cleanup by responsible parties is appropriate; or

(iii) Based on a remedial investigation, EPA, in consultation with the State, has determined that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

For all Remedial Actions (RA) which result in hazardous substances, pollutants, or contaminants remaining at the site above levels that allow for unlimited use and unrestricted exposure, it is EPA's policy that a review of such action be conducted no less than every five years after initiation of the selected RA. As stated under ''Basis for Intended Deletion,'' the selected remedy for the Sand Creek Industrial Site required the removal of the contaminated soils, rubble, and investigation-derived waste from the Site. There were also ground water and landfill gas components to the remedy. Site contaminants had affected the ground water aquifer. As a result of implementing this remedy, hazardous substances, pollutants, and contaminants were removed from the Site and eliminated as potential sources of contamination. The site has been remediated to allow industrial use only. Institutional Controls, groundwater monitoring, landfill gas monitoring, and operation and maintenance of the LFGES at OUs 3 & 6 are required to ensure that the remedies remain protective. In accordance with 40 CFR § 300.430(f)(4)(ii), five-year reviews are required for this Site. The first five-year review was completed on this site on September 20, 1995.

III. Deletion Procedures

EPA, Region VIII will accept and evaluate public comments before making a final decision to delete the Sand Creek Industrial Site. The following procedures were used for the intended deletion of this Site: