anti-abuse rule of paragraph (c)(1)(vi) of this section.

Example 4. Hedges counted only once. January 1, 1996, Corporation X owns a $100 million portfolio of stocks all of which would substantially overlap with a $100 million regulated futures contract (RFC) on a commonly used index (the Index). On January 15, Corporation X enters into a $100 million short position in an RFC on the Index with a March delivery date and enters into a $75 million long position in an RFC on the Index for June delivery. Also on January 15, 1996, Corporation X indicates in its books and records that the long and short RFC positions are intended to offset one another. Under paragraph (c)(5) of this section, $75 million of the short position in the RFC is not treated as diminishing the risk of loss on the stock portfolio and instead is treated as a straddle or a hedging transaction, as appropriate, with respect to the $75 million long position in the RFC, under section 1092. The remaining $25 million short position is treated as diminishing the risk of loss on the portfolio by holding a position in substantially similar or related property. The rules of paragraph (c)(1) determine how much of the portfolio is subject to this rule and the rules of paragraph (c)(3) determine which shares have their holding periods tolled.

(e) *Effective date*—(1) *In general.* The provisions of this section apply to dividends received on or after March 17, 1995, on stock acquired after July 18, 1984.

(2) *Special rule for dividends received on certain stock.* Notwithstanding paragraph (e)(1) of this section, this section applies to any dividends received by a taxpayer on stock acquired after July 18, 1984, if the taxpayer has diminished its risk of loss by holding substantially similar or related property involving the following types of transactions—

(i) The short sale of common stock when holding convertible preferred stock of the same issuer and the price changes of the two stocks are related, or the short sale of a convertible debenture while holding convertible preferred stock into which the debenture is convertible (or common stock), or a short sale of convertible preferred stock while holding common stock; or

(ii) The acquisition of a short position in a regulated futures contract on a stock index, or the acquisition of an option to sell the regulated futures contract or the stock index itself, or the grant of a deep-in-the-money option to buy the regulated futures contract or the stock index while holding the stock of an investment company whose principal holdings mimic the performance of the stocks included in the stock index; or alternatively, while holding a portfolio composed of stocks that mimic the performance of the stocks included in the stock index.

Par. 3. Section 1.1092(d)–2 is added to read as follows:

§ 1.1092(d)–2 Personal property.

(a) *Special rules for stock.* Under section 1092(d)(3)(B), personal property includes any stock that is part of a straddle, at least one of the offsetting positions of which is a position with respect to substantially similar or related property (other than stock). For purposes of this rule, the term *substantially similar or related property* is defined in § 1.246–5 (other than § 1.246–5(b)(3)). The rule in § 1.246–5(c)(6) does not narrow the related party rule in section 1092(d)(4).

(b) *Effective date*—(1) *In general.* This section applies to positions established on or after March 17, 1995.

(2) *Special rule for certain straddles.* This section applies to positions established after March 1, 1984, if the taxpayer substantially diminished its risk of loss by holding substantially similar or related property involving the following types of transactions—

(i) Holding offsetting positions consisting of stock and a convertible debenture of the same corporation where the price movements of the two positions are related; or

(ii) Holding a short position in a stock index regulated futures contract (or alternatively an option on such a regulated futures contract or an option on the stock index) and stock in an investment company whose principal holdings mimic the performance of the stocks included in the stock index (or alternatively a portfolio of stocks whose performance mimics the performance of the stocks included in the stock index).

Margaret Milner Richardson,

Commissioner of Internal Revenue.

Dated: March 3, 1995.

Approved: Leslie Samuels, Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 95–6693 Filed 3–17–95; 8:45 am]

BILLING CODE 4830–01–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–5173–4]

The National Priorities List for Uncontrolled Hazardous Waste Sites; Deletion Policy for Resource Conservation and Recovery Act Facilities

AGENCY: Environmental Protection Agency.

ACTION: Notice of policy statement.

SUMMARY: The Environmental Protection Agency (''EPA'') is announcing a policy relating to the National Oil and Hazardous Substances Contingency Plan (''NCP''), 40 CFR part 300, which was promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (''CERCLA'') (amended by the Superfund Amendments and Reauthorization Act of 1986 (''SARA'')) and Executive Order 12580 (52 FR 2023, January 29, 1987). CERCLA requires that the NCP include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants or contaminants throughout the United States, and that the list be revised at least annually. The National Priorities List (''NPL''), initially promulgated as Appendix B of the NCP on September 8, 1983 (48 FR 40658), constitutes this list.

This document describes a policy for deleting sites from the NPL and deferring them to the Resource Conservation and Recovery Act (''RCRA''), as amended by the Hazardous and Solid Waste Amendments of 1984 (''HSWA'') corrective action program, if they meet the eligibility criteria for deletion set out in the NCP. EPA requested public comment on this policy on December 21, 1988 (53 FR 51421). The policy applies to sites on the NPL that are RCRA-regulated facilities engaged in treatment, storage or disposal of hazardous waste (''TSDs'' under the RCRA program).

EFFECTIVE DATE: This policy is effective on April 19, 1995.

ADDRESSES: Comments received and the Agency's responses to them are contained in the Headquarters Superfund Docket. The Headquarters Superfund Docket is located at the U.S. Environmental Protection Agency, Crystal Gateway #1, 12th Floor, 1235 Jefferson Davis Highway, Arlington, VA. It is available for viewing by appointment only from 9:00 a.m. to 4:00

p.m., Monday through Friday, excluding Federal holidays, Telephone 703/603–8917.

FOR FURTHER INFORMATION CONTACT: The Superfund Hotline, phone 800/424–9346 (or 703/412–9810 in the Washington, DC metropolitan area).

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

A. Purpose of CERCLA

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601, *et seq.* (''CERCLA'' or ''the Act''), in response to the dangers of uncontrolled or abandoned hazardous waste sites. CERCLA was amended in 1986 by the Superfund Amendments and Reauthorization Act (''SARA''), Pub. L., No. 99–499, 100 Stat. 1613. To implement CERCLA, the Environmental Protection Agency (''EPA'' or ''the Agency'') promulgated the National Oil and Hazardous Substances Pollution Contingency Plan (''NCP''), 40 CFR part 300, on July 16, 1982 (47 FR 31180), pursuant to CERCLA section 105 and Executive Order 12316 (46 FR 42237, August 20, 1981). The NCP, further revised most recently by EPA on March 8, 1990 (55 FR 8664), sets forth guidelines and procedures for responding under CERCLA to releases and threatened releases of hazardous substances, pollutants, or contaminants.

The National Priorities List (''NPL''), initially promulgated as Appendix B of the NCP on September 8, 1983 (48 FR 40658), constitutes this list.

EPA requested public comment on this policy on December 21, 1988 (53 FR 51421).

B. Purpose of the NPL

Section 105(a)(8)(A) of CERCLA requires that the NCP include criteria for ''determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action and, to the extent practicable taking into account the potential urgency of such action.'' Section 105(a)(8)(B) of CERCLA requires that those criteria be used to prepare a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The list, which is Appendix B of the NCP, is the National Priorities List (''NPL''). A site may undergo Fund-financed remedial action only after it is placed on the NPL. *See* 40 CFR 300.425(b)(1).

The Hazard Ranking System (''HRS''), which EPA promulgated as Appendix A of the NCP (47 FR 31219, July 16, 1982), and amended (55 FR 51532, December 14, 1990), is the principal tool upon which the Agency relies to determine the priority sites for possible remedial actions under CERCLA. 40 CFR 300.425(c)(1). In addition to the HRS scoring method, a site also may be listed if designated as a state's highest priority, or if the Agency for Toxic Substances and Disease Registry (''ATSDR'') has issued a health advisory for the site, and EPA determines that the site poses a significant threat to public health and that it will be more cost effective to use the Agency's remedial authority than to use removal authority to respond to a release. *Id.* at 40 CFR 300.425(c) (2) and (3).

II. Policy for Deleting Sites from the NPL Based Upon RCRA Deferral

A. Purpose of Today's Notice

This notice announces the Agency's policy of deleting RCRA facilities from the NPL before a cleanup is complete, if the site is being, or will be, adequately addressed by the RCRA corrective action program under an existing permit or order. EPA must also be satisfied, based either on an evaluation of a petition from a person outside the Agency or via a unilateral Agency determination, that the site, as defined by the CERCLA program, falls within the criteria for deferral.

The terms ''deferral'' and ''deletion'' as used in the context of the NPL refer to the following: Deferral refers to the decision not to list a site on the NPL, or not retain a site on the NPL, to allow another authority (RCRA corrective action in this case) to handle the remediation of the site in lieu of CERCLA. Deletion is the act of taking a site off the NPL, which may occur because cleanup at a site is complete or because another authority (such as RCRA corrective action) can be used to bring about remediation at the site and further CERCLA action is not needed. Please see Appendix A for a summary of the development of deferral policies.

B. Rationale for Deleting Sites Based Upon RCRA Deferral Under NCP Deletion Criteria

EPA believes it is appropriate to delete sites from the NPL based upon deferral to RCRA under certain circumstances. Deletion of sites from the NPL to defer them to RCRA Subtitle C corrective action authorities would free CERCLA's oversight resources for use in situations where another authority is not available, as well as avoid possible duplication of effort and the need for an owner/operator to follow more than one set of regulatory procedures. Eliminating regulation under two separate authorities also will eliminate public and owner/operator confusion over which authority has primacy. Moreover, since the CERCLA and RCRA programs have comparable cleanup goals, RCRA Subtitle C facilities requiring remediation appropriately may be deferred to RCRA corrective action authorities unless deletion would interfere with the remediation of the site.

However, today's RCRA deletion policy does not pertain to Federal facility sites. Federal facility sites will not be deleted from the NPL based upon deferral to RCRA, even if such facilities are also subject to the corrective action authorities of Subtitle C of RCRA. One of the primary goals of deferral—maximizing the use of limited Fund monies—does not apply to Federal facility sites since Federal facilities typically are not eligible for Fund-financed remedial action. Furthermore, the goal of avoiding duplication of efforts can be resolved through the use of comprehensive Inter-Agency Agreements (54 FR 10522, March 13, 1989).

C. Proposed Criteria for Deleting Sites from the NPL Based on Deferral to RCRA

The following are the criteria proposed in the December 21, 1988 **Federal Register** notice for determining whether a site may be deleted from the NPL based upon deferral to another authority such as RCRA:

i. A site on the NPL is currently being addressed by another regulatory authority under an enforceable order or permit requiring corrective action or the PRPs have entered into a CERCLA consent order to perform the RD/RA;

ii. Response is progressing adequately;

iii. Deletion would not otherwise disrupt an ongoing CERCLA response action; and

iv. All criteria for deferral to that authority have been met (i.e., the requesting party must meet all conditions for deferral to that authority in addition to the three specific criteria set out above for deletion based upon deferral).

D. Final Criteria for Deleting Sites

EPA believes that it is appropriate to apply different and more stringent

criteria to actions to delete based on deferral to RCRA for sites that are on the NPL than to sites that are candidates for deferral prior to NPL listing. For NPL sites, EPA has completed its listing process, identified the site as a potential problem requiring further attention, and often has commenced CERCLA response actions. In addition, the listing itself has created public anticipation of a response under CERCLA. Thus, EPA and the public will generally have an interest in seeing that these sites are addressed by the Superfund program, particularly in cases where significant Superfund resources already have been expended at a site. Thus, it is in the best interest of the public to apply different and more stringent criteria.

In today's notice, EPA is finalizing the criteria enumerated below for use in identifying sites eligible for deletion based upon deferral to RCRA corrective action authorities. A site should satisfy all of these criteria to be eligible for deletion. Where there is uncertainty as to whether the criteria have been met, deletion generally will be inappropriate. The criteria are the following:

1. If evaluated under EPA's current RCRA/NPL deferral policy,[1] the site would be eligible for deferral from listing on the NPL.

2. The CERCLA site is currently being addressed by RCRA corrective action authorities under an existing enforceable order or permit containing corrective action provisions.

3. Response under RCRA is progressing adequately.

4. Deletion would not disrupt an ongoing CERCLA response action.

E. Discussion of Each Criterion

The first criterion states that sites generally will not be eligible for deletion from the NPL based upon deferral to RCRA corrective action if similarly situated sites would not be deferred from listing on the NPL.

Two types of sites may be eligible for deletion: 1) sites that would be eligible for deferral under current deferral criteria, but were not deferred because the deferral policy at the time of listing was different; and 2) sites that were not eligible for deferral when listed, but now may be eligible because of changed conditions at the site (e.g., they no longer are in bankruptcy, or they now are in compliance with a corrective action order). For RCRA facilities within the second category, the Agency will review the original listing rationale (e.g., unwillingness, bankruptcy) together with current information to ascertain whether conditions at the site have changed sufficiently to warrant deletion from the NPL. Where there is uncertainty about whether the criteria have been met, deletion generally will be inappropriate. Persons who submit petitions for deletion will have to bear the burden of demonstrating that they meet the current criteria for deletion based upon deferral, and that the conditions that justified the listing no longer exist and are not likely to recur.

The second criterion states that the site is being addressed by RCRA corrective action authorities under an existing order or permit. The criterion specifies that the requirement applies to sites as defined by CERCLA, and that the authority addressing the site is RCRA Subtitle C corrective action.

Under the second criterion, corrective action orders or permits issued by EPA or an authorized state program that address corrective action at the facility must generally be in place as a condition of deletion. This criterion serves as an objective indicator that contamination at a site is addressable under RCRA corrective action authorities. The term ''addressable'' in this context means that a CERCLA site is fully remediable by a permit or order with a schedule of compliance, whether or not actual cleanup has begun.

Corrective action permits or orders should require the cleanup of *all* releases at the CERCLA site (e.g., if contamination stemming from the CERCLA ''release'' extends beyond the boundaries of a particular RCRA facility, such releases must be addressed under RCRA sections 3004(v) and 3008(h) or other enforcement authority under RCRA);[2] otherwise, the CERCLA site would not be a candidate for deletion. There may be circumstances where modification of corrective action orders or permits may be necessary before a facility can be considered for deletion from the NPL. For example, a facility owner/operator who has been doing remedial work under CERCLA and intends to pursue deletion from the NPL, generally must obtain modification of RCRA permits or orders if existing permits and orders do not contain corrective action requirements for all operable units. Likewise, the implementing agency intending to unilaterally pursue deletion would need to modify orders or permits if necessary. This should enable the facility to meet the second criterion by ensuring that the entire CERCLA-defined facility is subject to RCRA corrective action.

Under the third criterion, EPA evaluates whether response under RCRA is progressing adequately. The RCRA/NPL deferral policy currently looks to compliance with corrective action orders or permits as the primary indicator of whether an owner/operator is willing to undertake corrective action. Under this criterion, noncompliance with corrective action orders and permits generally would be regarded as an indicator that response under RCRA is not progressing adequately. The Agency's evaluation may not end there, however. Even if an owner/operator is in compliance with a corrective action order or permit, EPA may determine that response is not progressing adequately based upon other factors. For example, the Agency may consider whether there has been a history of protracted negotiations due primarily to an uncooperative owner or operator.

Under the fourth criterion, EPA evaluates on a site-by-site basis whether deletion would disrupt an ongoing CERCLA response action. Consistent with the deletion criterion set forth in the NCP, the fourth criterion in today's notice is satisfied only where one of the following two circumstances exist: 1) no CERCLA response has been undertaken; or 2) CERCLA response has been discontinued (e.g., where CERCLA response action has reached a logical point of transfer to the RCRA program and has been discontinued). Response actions being undertaken under CERCLA generally will not be discontinued solely to allow for deletion.

In cases where EPA determines that a CERCLA response, or a CERCLA response combined with a RCRA response, is the most effective approach for addressing contamination at a site, the site will be retained on the NPL. In addition, a site generally will not be eligible for deletion based upon deferral to RCRA if such deletion would cause a significant delay in the response resulting in a threat to human health or the environment.

[1] The term ''current RCRA/NPL deferral policy'' refers to the policy in effect at the time the deletion decision is made. As past **Federal Register** notices demonstrate, the RCRA/NPL deferral policy has changed, and may continue to change based upon the Agency's continued evaluation of how best to implement the statutory authorities of RCRA and CERCLA.

[2] Under CERCLA, the term ''facility'' is meant to be synonymous with ''site'' or ''release'' and is not meant to suggest that the listing is geographically defined (56 FR 5600, February 11, 1991). The size or extent of a facility listed on the NPL may extend to those areas where the contamination has ''come to be located.'' (See CERCLA section 101(9)). On the other hand, a ''facility'' as defined under RCRA is ''all contiguous property under the control of the owner or operator seeking a Subtitle C permit'' (58 FR 8664, February 16, 1993). Thus, a RCRA site relates more to property boundaries, and a CERCLA site/facility/release includes contamination irrespective of RCRA facility boundaries.

F. Process for Deleting Sites From the NPL

In order for a site to be deleted from the NPL based upon deferral to RCRA, that site will be evaluated by EPA, as well as the relevant state authority. Deferral will be accomplished only after a coordinated review has occurred and concurrence has been achieved. As with any deletion, a decision to delete a site based upon deferral to RCRA would be made only after EPA publishes a Notice of Intent to Delete in the **Federal Register** and comment is taken. In addition, EPA's regulations allow a site to be deleted only if ''the state in which the release was located has concurred on the proposed deletion'' (40 CFR 300.425(e)(2)).

The process of deletion may begin either by a petition by a party outside the Agency, such as a facility owner/operator, or via a unilateral action from EPA. Petitions and inquiries about them should be directed to the appropriate Regional Administrator. The petitioner must demonstrate that the site has met the four criteria to the satisfaction of EPA, as well as the state in which the release has occurred. If necessary, the Agency may request additional information from the petitioner before making a decision.

Finally, if, after deletion, EPA later determines that a site is not being addressed adequately under RCRA, and that CERCLA remedial action is necessary at the site, the site would remain eligible for CERCLA Fund-financed remedial action. (40 CFR 300.425(e)(3)). Under such circumstances, and in accordance with the NCP, the site also may be eligible for relisting on the NPL.

III. Appendix A: Summary of NPL Deletion/Deferral Policies

1. NCP Criteria for Deleting Sites From the NPL

Section 300.425(e)(1) (i)–(iii) of the NCP addresses deletion of sites from the NPL. Pursuant to that section, releases may be deleted from the NPL where EPA determines that no further response is appropriate. In making that determination, EPA must 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 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, taking remedial measures is not appropriate.

2. Current Deferral Policies

When the initial NPL was promulgated (48 FR 40658, September 8, 1983), the Agency announced certain listing policies relating to sites that might qualify for the NPL, but instead could be ''deferred'' to another authority for cleanup. These deferral policies included sites that can be addressed by the corrective action authorities of RCRA Subtitle C, or that are subject to regulation by the Nuclear Regulatory Commission.[3] (*Id.* at 40661–62).

3. RCRA Deferral Policy

In the preamble to the final rule promulgating the initial NPL (48 FR 40662, September 8, 1983), EPA announced the RCRA/NPL deferral policy, which provided that ''where a site consists of regulated units of a RCRA facility operating pursuant to a permit or interim status, it will not be included on the NPL but will instead be addressed under the authorities of RCRA.'' Since that time, EPA has amended the RCRA/NPL deferral policy on a number of occasions. (For a more detailed discussion of the components of the RCRA/NPL deferral policy, see the **Federal Register** notice referenced below.[4])

Prior to enactment of the Hazardous and Solid Waste Amendments of 1984 (HSWA) only releases to ground water from regulated units, i.e. surface impoundments, waste piles, land treatment areas, and landfills were subject to corrective action requirements under RCRA. The enactment of HSWA greatly expanded RCRA Subtitle C corrective action authorities. For example, under RCRA section 3004(u), hazardous waste treatment, storage, and disposal facilities seeking RCRA permits must address all releases of hazardous constituents to any medium from solid waste management units, whether active or inactive. HSWA also provided new authority in RCRA section 3004(v) to address releases that have migrated beyond the facility boundary. In addition, section 3008(h) authorizes EPA to compel corrective action or any response necessary to protect human health or the environment when there is or has been a release of hazardous waste at a RCRA interim status facility.

In light of the new authorities, the Agency proposed in the preamble to the April 10, 1985 proposed rule (50 FR 14118), a revised policy for listing of RCRA-related sites on the NPL. Under the proposed policy, listing on the NPL of RCRA-related sites would be deferred until the Agency determined that RCRA corrective action measures were not likely to succeed due to factors outlined in the following paragraph.

On June 10, 1986 (51 FR 21057), EPA announced several new components of the RCRA/NPL deferral policy for placing RCRA-regulated facilities on the NPL. Certain RCRA facilities at which Subtitle C corrective action authorities are available would generally be listed if they had an HRS score of 28.50 or greater and fell within at least one of the following categories: (1) Facilities owned by persons who have demonstrated an inability to finance a cleanup as evidenced by their invocation of the bankruptcy laws; (2) facilities that have lost authorization to operate, or for which there are additional indications that the owner or operator will be unwilling to undertake corrective action; or (3) facilities, analyzed on a case-by-case basis, whose owners or operators have a clear history of unwillingness to undertake corrective action.

The Agency also recognized that facilities clearly not subject to RCRA Subtitle C corrective action authorities would be eligible for listing on the NPL, including those that ceased treating, storing or disposing of hazardous wastes prior to November 19, 1980 (the effective date of the RCRA hazardous waste regulations), and sites at which only material exempted from the statutory or regulatory definition of solid waste or hazardous waste are managed. *Id.* In addition, RCRA hazardous waste handlers to which Subtitle C corrective action authorities do not apply, such as hazardous waste generators or transporters not required to have interim status or a final RCRA permit, also are eligible for listing. *Id.*

On June 24, 1988 (53 FR 23980) and October 4, 1989 (54 FR 41004), EPA revised the NPL/RCRA deferral policy by identifying four new categories of RCRA sites eligible for listing on the NPL: (1) Non- or late filers; (2) pre-HSWA permittees; (3) protective filers;

[3] In 1988, the Agency proposed to defer to a number of other authorities, namely Subtitles D and I of RCRA, the Surface Mine Control and Reclamation Act (''SMCRA''), the Federal Insecticide, Fungicide, and Rodenticide Act (''FIFRA''), and States, and to allow responsible parties voluntarily to clean up sites under CERCLA without listing (53 FR 51415, December 21, 1988). Final decisions have not been made on those proposals, and they are not addressed in this notice.

[4] On March 13, 1989 (54 FR 10520), EPA announced the policy of including on the NPL Federal facility sites that may be eligible for listing (e.g., they have an HRS score of 28.5 or higher) even if such facilities are also subject to the corrective action authorities of Subtitle C of RCRA. The elements of the RCRA/NPL deferral policy are not revised in today's notice.

and (4) converters.[5] In the June 24, 1988, revision, EPA also recognized that sites where RCRA corrective action may not apply to all contamination are eligible for listing (53 FR 23982).

On August 9, 1988 (53 FR 30002), EPA proposed additional revisions to the policy concerning criteria to determine if an owner or operator is unable to pay for corrective action. No final Agency action has been taken on those proposed revisions.

On August 9, 1988 (53 FR 30005), in a separate **Federal Register** notice, EPA also further revised a portion of the NPL/RCRA deferral policy relating to the determination of unwillingness. The Agency specified that circumstances under which RCRA sites may be listed on the NPL if an owner/operator's unwillingness to undertake corrective action is established through noncompliance with one or more of the following: (1) A Federal or substantially equivalent state unilateral administrative order requiring corrective action, after the facility owner/operator has exhausted administrative due process rights; (2) a Federal or substantially equivalent State unilateral administrative order requiring corrective action, if the facility owner/operator did not pursue administrative due process rights within the specified time; (3) an initial Federal or State preliminary injunction or other judicial order requiring corrective action; (4) a Federal or State RCRA permit condition requiring corrective action after the facility owner/operator has exhausted administrative due process rights; or (5) a final Federal or State consent decree or administrative order on consent requiring corrective action after the exhaustion of dispute resolution procedures.

EPA also may depart from the above criteria on a case-by-case basis where CERCLA authorities are determined to be more appropriate than RCRA authorities for cleaning up a site. (*See, e.g.,* 56 FR 5602, February 11, 1991).

[5] Non- or late filers are facilities that were treating, storing or disposing of hazardous waste after November 19, 1980, but did not file a Part A permit by that date and have little or no history of compliance with RCRA. Pre-HSWA permittees are facilities that have permits in place that pre-date the 1984 corrective action requirements of HSWA. The protective filer category includes facilities which have filed Part A permit applications for treatment, storage and disposal of hazardous wastes as a precautionary measure only, and were never actually engaged in hazardous waste management activities subject to RCRA Subtitle C corrective action. Converters are facilities that at one time were treating or storing RCRA Subtitle C hazardous waste but have since converted to generator-only status, or are engaged in no other hazardous waste activity for which interim status is required (53 FR 22992, June 24, 1988).

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous materials, Intergovernmental relations, Natural resources, Oil pollution, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

Authority: 42 U.S.C. 9605; 42 U.S.C. 9620; 33 U.S.C. 1321(C)(2); E.O. 11735, 3 CFR, 1971–1975 Comp., p. 793; E.O. 12580, 3 CFR, 1987 Comp., p. 193.

Dated: March 8, 1995.

Elliott P. Laws,

Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 95–6673 Filed 3–17–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 300

[FRL–5174–2]

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

AGENCY: Environmental Protection Agency.

ACTION: Notice of deletion of a site from the national priorities list.

SUMMARY: The Environmental Protection Agency (EPA) announces the deletion of the Kent City Mobile Home Park Site in Kent City, Michigan from the National Priorities List (NPL). The NPL is Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Contingency Plan (NCP) which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1990 (CERCLA), as amended.

EFFECTIVE DATE: March 20, 1995.

FOR FURTHER INFORMATION CONTACT: Betty G. Lavis, Remedial Project Manager (HSE–5J); Waste Management Division; Emergency Response Branch; U.S. Environmental Protection Agency, Region 5; 77 West Jackson Boulevard; Chicago, IL 60604–3590. Phone (312) 886–7183.

SUPPLEMENTARY INFORMATION: The EPA identifies sites which appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Sites on the NPL may be the subject of Hazardous Substance Response Trust Fund (Fund) financed remedial actions. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action.

Section 300. 66(c)(8) of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL.

The site EPA deletes from the NPL is the Kent City Mobile Home Park Site in Kent City, Michigan.

An explanation of the criteria for deleting sites from the NPL was presented in section II of the November 8, 1994, Notice of Intent to Delete FR Doc. No. 94–27647. A description of the site and how it meets the criteria for deletion was presented in Section IV of that notice.

The closing date for comments on the Notice of Intent to Delete was December 7, 1994.

EPA received one comment on the deletion of the Kent City Mobile Home Park Site from the NPL.

Comment: Commenter states they are ''concerned by the proposal to abandon a carbon tetrachloride contaminated well'' at the site because ''groundwater is a valuable resource for present and future generations and that groundwater contamination should therefore be remediated whenever possible.''

Response: EPA appreciates the concern and strongly agrees that groundwater is a valuable resource; it is EPA's policy to promote protection of our groundwater resource and to restore usable goundwater to beneficial use whenever possible. However, at the Kent City site, the level of contamination is so low and the area of contamination so localized, that remediation is not practical.

List of Subjects in 40 CFR Part 300

Environmental protection, Hazardous waste.

PART 300—[AMENDED]

40 CFR part 300 is amended as follows:

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

Authority: 42 U.S.C. 9601–9657; 33 U.S.C. 1321(d); E.O. 11735, 38 FR 21243; E.O. 12580, 52 FR 2923; E.O. 12777, 56 FR 54757.

Appendix B—[AMENDED]

2. Table 1 of Appendix B to part 300 is amended by removing the entry for Kent City Mobile Home Park Site, Kent City, Michigan.

Dated: March 8, 1995.

David A. Ullrich,

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

[FR Doc. 95–6770 Filed 3–17–95; 8:45 am]

BILLING CODE 6560–50–P