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**SUPPLEMENTARY INFORMATION:** For additional information, see the Direct Final rule which is located in the Rules section of this **Federal Register**. Copies of the request and the EPA's analysis are available for inspection at the above address. (Please telephone Christos Panos at (312) 353-8328 before visiting the Region 5 Office.)

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

Dated: April 27, 2000.

**David A. Ullrich,**

*Acting Regional Administrator, Region 5.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 300

[FRL-6702-5]

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

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of intent to delete the Schofield Army Barracks site from the National Priorities List.

**SUMMARY:** The Environmental Protection Agency (EPA) Region 9 announces the intent to delete the Schofield Army Barracks site ("the 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 Hawaii Department of Health have determined that the remedial action for the site has been successfully executed.

**DATES:** Comments concerning the proposed deletion of the Site from the NPL may be submitted on or before June 21, 2000.

**ADDRESSES:** Comments may be mailed to: Mark Ripperda, USEPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105, Mail Code SFD-8-3.

Comprehensive information on this site is available through the Region 9 public docket which is available for viewing by appointment only. Appointments for copies of the background information from the

Regional public docket should be directed to the EPA Region 9 docket office at the following address: Superfund Records Center, USEPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105.

The deletion docket is also available at the following locations on Oahu: Wahiawa Public Library, 820 California Avenue, Wahiawa, Hawaii 96786; and Directorate of Public Works, Environmental Division, Bldg 105, 3rd Floor, Wheeler Army Airfield, Hawaii.

**FOR FURTHER INFORMATION CONTACT:**

Mark Ripperda, USEPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105, Mail Code SFD-8-3; phone (415) 744-2408.

**SUPPLEMENTARY INFORMATION:**

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#### I. Introduction

The U.S. EPA Region IX announces its intent to delete the Schofield Army Barracks site in Honolulu County, Hawaii, 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 Hawaii Department of Health have determined that the remedial action for the site has been successfully executed.

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 Schofield Army Barracks site and explains how the site meets the deletion criteria.

#### II. NPL Deletion Criteria

Section 300.425(e)(1) of the NCP provides that releases may be deleted from, or recategorized on the NPL where no further response is appropriate. In making a determination to delete a release from the NPL, EPA shall consider, in consultation with the

appropriate State, whether any of the following criteria have been met:

(i) Responsible parties or other persons have implemented all appropriate response actions required; or

(ii) All appropriate Fund-financed responses under CERCLA have 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, 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, EPA's policy is that 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 site deleted from the NPL, the site may be restored to the NPL without application of the Hazard Ranking System.

In the case of Schofield Army Barracks, the selected remedy is protective of human health and the environment. The Army will maintain the landfill cover and the water treatment system, and will perform long-term groundwater monitoring. The first five-year review will be conducted by EPA, the State of Hawaii Department of Health (HDOH), and the Army in the year 2002. Reviews will be conducted every five years thereafter.

#### III. Deletion Procedure

The following procedures were used for the intended deletion of this site: (1) All appropriate response under CERCLA has been implemented and no further action by EPA or the Army is appropriate; (2) HDOH 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 made available in the local site information repositories.

Deletion of the site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. The NPL is designed primarily for

informational purposes and to assist Agency management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions.

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 of Deletion 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 of 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*

Schofield Barracks was established in 1908 to provide a base for the Army's defense of Pearl Harbor and the entire Island of Oahu. Initial construction of the post occurred between 1909 and 1917.

Schofield Barracks is headquarters for the 25th Infantry Division and 45th Support Group, and currently houses approximately 21,000 individuals. General operations performed at Schofield Barracks include administration, training, and small-scale industrial operations (vehicle repair and maintenance, weapons refinishing, laundering, electrical equipment service, sewage treatment, and municipal activities).

Schofield Barracks is in the north-central plateau of the Island of Oahu in the State of Hawaii. Schofield Barracks encompasses a total area of approximately 27.7 square miles and is divided into two sections, the East Range and the Main Post. Wheeler Army Airfield lies between the two Schofield Barracks sections. The town of Wahiawa is immediately north of the East Range. The town of Mililani is approximately 2 miles south of the East Range.

The recent history of reported groundwater contamination at Schofield Barracks began in April 1985, when the Army informed the Hawaii Department of Health (HDOH) that the industrial solvent trichloro-ethylene (TCE) was detected in wells supplying drinking water to Schofield Barracks at a concentration of approximately 30 parts

per billion (ppb). In response to the detection of TCE in the water-supply wells, the Army installed an air-stripper treatment system in 1986 to remove TCE from the drinking water.

Schofield Barracks was placed on the NPL in September 1990 because of the risk posed to human health by the TCE contamination in a major drinking water aquifer. The Remedial Investigation identified two distinct plumes of TCE at Schofield; one originating from the on-base landfill and a larger plume originating in the East Range, several miles up-gradient from Schofield's municipal water supply wells. The East Range is a mountainous area marked by numerous deep ravines and heavy tropical vegetation. A distinct source was not found, though the general area of the source was defined by the monitoring well network and concentrations within the plume. The risk assessment concluded that the only risk to human health and the environment at Schofield under CERCLA was posed by the contaminated groundwater.

##### *Response Actions*

Overall, the remedial investigations and feasibility studies evaluated possible actions for four areas of the site: Operable Unit 1 (OU1) included the 10 most likely sources of the TCE contamination. Operable Unit 2 (OU2) included the groundwater plumes. Operable Unit 3 (OU3) included 34 additional possible sources of surface and subsurface contamination. Operable Unit 4 (OU4) included the Former Schofield Barracks Sanitary Landfill.

##### OU1 and OU3

The Record of Decision (ROD) for OU1, the most likely source areas, was signed by EPA on January 24, 1996. The ROD for OU3, the other possible source areas, was signed by EPA on November 8, 1996. Both RODs selected no action for these operable units because the remedial investigations showed that those areas were not currently sources of contamination to the groundwater. The remedial investigations produced no evidence that any of the sites in operable units 1 or 3 were originally sources of groundwater contamination. None of the sites in operable units 1 and 3 posed unacceptable risks to human health or the environment.

##### OU2

This operable unit consists of groundwater under Schofield Barracks that is contaminated with TCE. The Army, EPA and HDOH considered whether this contamination could be remedied within the aquifer or treated at

the wellhead prior to the water being distributed for public use. The objectives for remediation are reducing risks to human health and the environment and satisfying applicable or relevant and appropriate requirements (ARARs). EPA determined that the federal drinking water standards, known as maximum contaminant levels (MCLs), are relevant and appropriate requirements within the aquifer. However, EPA may waive an ARAR where a selected remedy protects human health and the environment and it is technically impracticable to satisfy the requirement.

Remediation within the aquifer can be pursued either through natural attenuation or with some type of active treatment. While natural attenuation appears effective at confining the plume to its current configuration, the concentrations of TCE within the plume are decreasing too slowly for it to be considered a viable remedy. Active treatment of the groundwater is not practicable because of the hydrogeological conditions at the site. The depth to the water table is over 500 feet, the aquifer is composed of fractured volcanic rock, the aquifer is over 1000 feet thick, and approximately 120 million gallons of groundwater flow through the aquifer per day. Because of these conditions, the Army, EPA and HDOH concluded that treating the groundwater to achieve the MCL for TCE within the aquifer is technically impracticable. Therefore, EPA granted a technical impracticability (TI) waiver to this ARAR for OU2. However, the final remedy is fully protective of human health and the environment because the water will be treated before being distributed for public use.

The ROD for OU2, the groundwater aquifer, was signed by EPA on February 7, 1997. The selected remedy included the following actions:

- Continued treatment of contaminants in the Schofield Barracks Water Supply Wells by air stripping at the wellhead;
- The Army must consult with EPA and DOH prior to abandoning the water supply wells, because production at these wells may help to control plume migration;
- The Army must conduct semi-annual sampling and analysis of water supply wells, agricultural wells and monitoring wells in the region;
- The Army prepared plans to implement the contingency of wellhead treatment on water supply wells throughout the region. The Army will be required to install treatment systems on any wells that are impacted by the plume from Schofield Barracks above

one-half the maximum contaminant level (MCL) as established under the Safe Drinking Water Act;

- The Army must upgrade the treatment system or pay any incremental costs caused by contamination from Schofield Barracks at wells that already have a treatment system in place;
- Conduct five year reviews with the State of Hawaii and EPA.

The following actions were taken to implement the remedy decision for OU2:

- The Army installed air-stripper treatment units on their four contaminated municipal water supply wells at Schofield and will continue to operate the treatment system as long as contaminants in the influent water are above maximum contaminant levels (MCLs) specified in the Safe Drinking Water Act.
- The Army has sampled drinking water wells, agricultural wells and monitoring wells semi-annually throughout the central plateau area of Oahu since 1993 and will continue to do so until such time as the Army, EPA and HDOH agree that contaminant levels throughout the plume are below action levels.

• The groundwater contaminant plume appears to be confined by a system of dike impoundments and natural attenuation. The EPA, HDOH and the Army believe that it will not impact any additional down-gradient wells. Therefore, the contingency remedy for additional wellhead treatment is not expected to be needed.

- Institutional controls have been implemented that will restrict the placement of new drinking water wells into the contaminant plume. The Honolulu Board of Water Supply controls the installation of drinking water wells via a permit process. They will require the installation of wellhead treatment, paid for by the Army, on any wells that are drilled into the plume area.

#### OU4

The ROD for OU4, the landfill, was signed by EPA on September 26, 1996. The selected remedy included the following actions:

- Access restrictions and site security to limit human exposure to the landfill contents, prevent trespassing, and protect the integrity of the cap;
- Semi-annual ground water monitoring to monitor the effectiveness of the landfill site cap and determine groundwater flow directions in the vicinity of the landfill;
- Regrade the existing landfill cover;

• Remove Guinea grass from the existing cover and revegetate to improve future cap maintenance;

- Perform long-term maintenance of the landfill cover;
- Maintain existing passive landfill gas venting; and
- Install additional gas monitoring points at the perimeter of the landfill.

The following actions were taken to implement the remedy decision for OU4:

- The Army installed chain-link fence around the perimeter of the accessible portions of the landfill as an access restriction and has installed signs warning of potential health risks. The Former Landfill is part of a military installation that has a guard stationed at the entrances to monitor access to the installation 24 hours per day.

• The Army completed regrading the cover, installing nine new multi-level gas probes, stabilizing the sideslopes, and replacing and improving the vegetative cover in June 1998.

• The Army has conducted semi-annual groundwater monitoring and quarterly gas probe monitoring since the completion of the remedial action in June 1998. The groundwater monitoring is conducted as part of the OU2 work and it shows that the groundwater plume around the landfill is stable and at low levels of TCE concentration. The gas probe monitoring typically detects methane in four out of the 27 gas probe sampling points. The highest detection during the February 2000 monitoring event was 0.2 percent, which is well below the acceptable limit of 5 percent.

On July 21, 1998, the Army, EPA and HDOH, conducted a final inspection and determined that the remedial action had been successfully executed for all OUs. EPA reclassified Schofield Barracks to construction complete status in September 1998.

#### Operation and Maintenance

The Army is responsible for conducting long-term maintenance and upkeep of the landfill cover and for monitoring landfill gas, groundwater, and drinking water wells, in accordance with the approved Long-Term Operation, Maintenance and Monitoring Plans for OUs 2 and 4.

#### Five Year Reviews

CERCLA requires a five-year review of all sites with hazardous substances remaining above the health-based levels for unrestricted use of the site. Since the cleanup of the site utilized containment of hazardous materials within the landfill and wellhead treatment for drinking water, the five-year review process will be used to ensure that

human health and the environment remain protected in the future. The first five-year review is scheduled for the year 2002.

#### Community Involvement

The Army published its final Community Relations Plan on January 31, 1997, after interviews with local residents and officials. An information repository was established at the Wahiawa Public Library and all reports and fact sheets were sent to the repository as they were completed.

The Army conducted public meetings prior to completing each of the four Records of Decision, and the public had no negative comments about any of the actions at Schofield.

#### Applicable Deletion Criteria and State Concurrence

EPA has determined that all appropriate responses under CERCLA at Schofield Army Barracks have been completed, and that no further CERCLA response is appropriate to protect human health and the environment. The Hawaii Department of Health concurred with the proposed deletion of the site from the NPL in a letter dated March 13, 2000. Therefore, EPA proposes to delete the site from the NPL. Documents supporting this action are available from the docket at the Region 9 office and in the Army's docket on Oahu.

Dated: April 25, 2000.

**Felicia Marcus,**

*Regional Administrator, Region IX.*

[FR Doc. 00-12520 Filed 5-19-00; 8:45 am]

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of Inspector General

#### 42 CFR Part 1001

RIN 0991-AB05

#### Medicare and State Health Care Programs: Fraud and Abuse; Ambulance Restocking Safe Harbor Under the Anti-Kickback Statute

**AGENCY:** Office of Inspector General (OIG), HHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This proposed rule would set forth a new safe harbor, as authorized under section 14 of the Medicare and Medicaid Patient and Program Protection Act of 1987, to protect certain arrangements involving hospitals that replenish drugs and medical supplies used by ambulance providers when