

Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

#### Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. A rule with tribal implications has a substantial direct effect on one or more Indian tribe, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### Environment

The Coast Guard has considered the environmental impact of implementing this temporary rule and concluded that, under figure 2-1, paragraph 34(g), of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket.

#### List of Subjects

Harbors, Marine safety, Navigation (water), Reports and record keeping requirements, Security measures, and Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

#### PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05(g), 6.04-1, 6.04-6 and 160.5; 49 CFR 1.46.

2. Add temporary § 165.T01-074 to read as follows:

#### § 165.T01-074 Safety Zone: Fireworks Display, Provincetown, MA.

(a) *Location.* The safety zone includes all waters within a five hundred (500) yard radius of the fireworks barge area located approximately 800 yards to the southeast of Provincetown Harbor, Provincetown, Massachusetts, approximate position 42°02'00" N, 070°10'00" W.

(b) *Effective date.* This section is effective from 8 p.m. until 10 p.m. on July 4, 2001. If the evolution is cancelled due to inclement weather, than this section is effective from 8 p.m. until 10 p.m. on July 5, 2001.

#### (c) Regulations.

(1) The general regulations governing safety zones contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: June 18, 2001.

**Mark G. VanHaverbeke,**

*Captain, U.S. Coast Guard, Captain of the Port, Marine Safety Office Providence.*

[FR Doc. 01-16588 Filed 6-29-01; 8:45 am]

**BILLING CODE 4910-15-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 300

[FRL-7004-3]

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

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final notice of deletion of the Arcanum Iron & Metal, Superfund Site from the National Priorities List.

**SUMMARY:** The Environmental Protection Agency (EPA) Region V is publishing a direct final notice of deletion of the Arcanum Iron & Metal, Superfund Site (Site), located near the Village of Arcanum, Twin Township, Darke County, Ohio from the National Priorities List (NPL). The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final notice of deletion is being published by EPA with the concurrence of the State of Ohio, through the Ohio Environmental Protection Agency because EPA has determined that all appropriate response actions under CERCLA have been completed and, therefore, further remedial action pursuant to CERCLA is not appropriate.

**DATES:** This direct final deletion will be effective August 31, 2001 unless EPA receives adverse comments by August 1, 2001. If adverse comments are received, EPA will publish a timely withdrawal of the direct final deletion in the **Federal Register** informing the public that the deletion will not take effect.

**ADDRESSES:** Comments may be mailed to: Kenneth Glatz, Remedial Project Manager (RPM), Glatz.Kenneth@EPA.Gov or Gladys Beard, State NPL Deletion Process Manager, *Beard.Gladys@EPA.Gov*, (SR-6J), U.S. EPA Region V, 77 W. Jackson, Chicago, IL 60604.

#### Information Repositories:

Comprehensive information about the Site is available for viewing and copying at the Site information repositories located at: U.S. EPA Region V Library, 77 W. Jackson, Chicago, IL, 60604 (312) 353-5821, Monday through Friday 8:00 a.m. to 4:00 p.m.; Arcanum Public Library, 101 North Street, Arcanum, Ohio (937) 692-8484; Monday through Thursday 9:00 a.m. to 8:00 p.m. and Friday and Saturday 9:00 a.m. to 5:00 p.m., Ohio Environmental Protection Agency, 122 S. Front Street, Lozarus Government Building, Columbus, OH 43215, (614) 644-3020, Monday through Friday 8 a.m. to 5 p.m.

#### FOR FURTHER INFORMATION CONTACT:

Kenneth Glatz, Remedial Project Manager at (321) 886-1434, Glatz.Kenneth@EPA.Gov or Gladys Beard, State NPL Deletion Process Manager at (312)886-7253, Beard.Gladys@EPA.Gov or 1-800-621-8431, (SR-6J), U.S. EPA Region V, 77 W. Jackson, Chicago, IL 60604.

#### SUPPLEMENTARY INFORMATION:

#### Table of Contents

- I. Introduction
- II. NPL Deletion Criteria
- III. Deletion Procedures
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- V. Deletion Action

#### I. Introduction

EPA Region V is publishing this direct final notice of deletion of the Arcanum Iron & Metal, Superfund Site from the NPL.

The EPA identifies sites that appear to present a significant risk to public health or the environment and maintains the NPL as the list of those sites. As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions if conditions at a deleted site warrant such action.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication of a notice of intent to delete. This action will be effective August 31, 2001 unless EPA receives adverse comments by August 1, 2001 on this notice on this notice of deletion. If adverse comments are received within the 30-day public comment period on this notice of deletion, EPA will publish a timely

withdrawal of this direct final notice of deletion before the effective date of the deletion and the deletion will not take effect. EPA will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Arcanum Iron & Metal, Superfund Site and demonstrates how it meets the deletion criteria. Section V discusses EPA's action to delete the Site from the NPL unless adverse comments are received during the public comment period.

## II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that releases may be deleted from 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 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 (Hazardous Substance Superfund Response Trust Fund) 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, the taking of remedial measures is not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the deleted site above levels that allow for unlimited use and unrestricted exposure, CERCLA section 121(c), 42 U.S.C. 9621(c) requires that a subsequent review of the site be conducted at least every five years after the initiation of the remedial action at the deleted site to ensure that the action remains protective of public health and the environment. If new information becomes available which indicates a need for further action, EPA may initiate remedial actions. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

## III. Deletion Procedures

The following procedures apply to deletion of the Site:

(1) The EPA consulted with Ohio on the deletion of the Site from the NPL prior to developing this direct final notice of deletion.

(2) Ohio concurred with deletion of the Site from the NPL.

(3) Concurrently with the publication of this direct final notice of deletion, a notice of the availability of the parallel notice of intent to delete published today in the "Proposed Rules" section of the **Federal Register** is being published in a major local newspaper of general circulation at or near the Site and is being distributed to appropriate federal, state, and local government officials and other interested parties; the newspaper notice announces the 30-day public comment period concerning the notice of intent to delete the Site from the NPL.

(4) The EPA placed copies of documents supporting the deletion in the Site information repositories identified above.

(5) If adverse comments are received within the 30-day public comment period on this notice of deletion, EPA will publish a timely notice of withdrawal of this direct final notice of deletion before its effective date and will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA 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, should future conditions warrant such actions.

## IV. Basis for Site Deletion

The following information provides EPA's rationale for deleting the Site from the NPL:

### Site Location

The Arcanum Iron & Metal (AIM) Site is located in west-central Ohio, approximately 25 miles northwest of Dayton, Ohio, in Twin Township, Darke County, Ohio. The site occupies about 4.5 acres and is just southeast of the Village of Arcanum, Ohio.

### Site History

The AIM Site is zoned for light industrial or commercial operations. There is a Federal Lien on 18.341 acres

of property owned by Mr. Harold M. Shane, which includes the 4.5 acre AIM Site. The lien is dated August 31, 1989, and was sent to the Darke County Recorder in Greenville, Ohio on September 19, 1989. EPA and the State of Ohio negotiated a Consent Decree in places of the lien on the property.

The AIM Site consisted of a lead battery reprocessing facility from the early 1960's until 1982. The AIM facility processed automobile and industrial batteries to recover the lead cores. This process generated by-product plastic, rubber casings and battery acid. The battery acid was dumped on the ground. The plastic and rubber by-products were recycled. An on-site lead smelter, used in the lead recovery step, may have emitted lead-containing particulates during operations.

During processing, lead oxide sludge from the batteries was stored on site.

During dry weather the lead oxide sludge dust was controlled by water sprays. Run-off from the pile, contaminated with lead oxide particulate and soluble lead salts, flowed to ground surface depressions. The battery casings were ground and stockpiled for recycling. The battery casing chips also contained high concentrations of lead. During rainstorms lead particles were washed into on-site surface ponds.

Approximately 3,200 cubic yards of battery casing chips were stored in the Saw Building, and about 800 cubic yards were in a pile at the southeastern portion of the Site, near the smelter building. A drainage pipe connecting the AIM Site to Sycamore Ditch also caused contamination of the ditch sediments.

The battery casing chips, lead oxide sludge, and contaminated soils were exposed and represented a continuing source of contamination at the AIM Site.

### Site History

- The earliest date the State of Ohio has on file regarding the AIM site is 1964, when a fish kill was reported in Painter Creek caused by contamination flowing from Sycamore Ditch.

- In 1972, the Ohio EPA personnel visited the AIM Site in response to another fish kill in the local watershed, and determined that the source of the fish kill came from the AIM Site.

- In October 1973, the Ohio EPA's Division of Waste Management and Engineering made the first of many site visits to investigate AIM's operation.

- Over the next ten years, the Ohio EPA conducted data collection activities and took legal actions against AIM to install on-site water treatment and waste storage systems.

- In January 1974, the Ohio EPA requested that the owner of the AIM Site apply for a permit to install an acid treatment system.

- The Ohio EPA was unable to get AIM to install the treatment system and adhere to the conditions and restrictions of the permit.

- In June 1979, the Ohio Attorney General on behalf of the Ohio EPA initiated enforcement proceedings against AIM.

- In October 1979, a Consent Decree was signed by the site owner to clean up the site. However, cleanup efforts were not satisfactorily completed to Ohio EPA's satisfaction. Subsequently, AIM was found to be in contempt of court in April 1980.

- From April 1980, the Ohio Attorney General's office continued to pursue legal actions for the cleanup of the AIM Site.

- In September 1980, a Citation and Notification of Penalty were issued to AIM for failure to install a treatment system.

- In April 1982, the Ohio EPA requested that legal action be taken to close the AIM facility.

- The AIM Company ceased operations at the AIM Site in December 1982.

- The processing equipment was removed from the site by the owner in January 1983.

- The Site was proposed for listing on the NPL on December 30, 1982, 47 FR 58476 and was made final on the NPL on September 8, 1983, 48 FR 40658.

- The owner of the AIM Site had also operated a downtown Arcanum facility AIM II as a battery processing plant, prior to startup of the present AIM facility location.

- In January and February of 1986 approximately 300 cubic yards of lead-contaminated soils from AIM II were placed on the AIM Site during an emergency removal action conducted by the owner of the two Sites.

#### *Remedial Investigation and Feasibility Study (RI/FS)*

Groundwater investigations at the AIM Site have shown historical groundwater contamination of up to 980 parts per billion lead. The 1985 Remedial Investigation (RI) detected lead in 2 of 8 residential wells and 8 of 15 ground-water monitoring wells sampled. Concentrations in three monitoring wells exceeded the interim primary drinking water standard (50 ug/l) at the time the Record of Decision (ROD) was signed on September 26, 1986. However, sampling logs indicated turbidity in these samples. The same sampling methodology was used in

1989, and lead was detected in 20 of 22 unfiltered monitoring well samples, but filtered samples taken during the same sampling event were found to be mostly non-detects, indicating that lead detections were attributable to turbidity. Based upon groundwater monitoring from 1995 through 2000 by the U.S. Army Corps of Engineers (USACE), using low flow purging and sampling methodology (not used previously) to minimize turbidity, there is no evidence of groundwater contamination at the AIM Site.

#### *Record of Decision Findings*

The Record of Decision (ROD) was signed on September 26, 1986. The remedy consisted of the excavation, treatment, and disposal of battery casing chips and cleaning up lead-contaminated soils to industrial/commercial cleanup levels. Lead-contaminated sediments in Sycamore Ditch were excavated, treated on-site, and disposed of in an off-site U.S. EPA-approved landfill. The office, smelter, and saw buildings were decontaminated, demolished and hauled to a U.S. EPA approved landfill. All equipment, on-site drums (left by previous contractors), two flat-bed trailers, and a 500 gallon tank were demolished and disposed of along with the demolition debris. A ROD Amendment was signed on June 18, 1997, after the completion of a new human health and ecological risk assessment. The RI investigations indicated that there were lead levels above drinking water standards in several of the residential wells in the area. The wells were resampled, post ROD, using EPA recommended low-flow sampling methods. A risk analysis was conducted by the USACE using the results from this study. It indicated that there was no unacceptable human health or ecological risk at the site. Based on the results of the risk analysis a ROD amendment was issued in June, 1997, removing the ground water remedy component from the ROD.

The ROD Amendment signed on June 18, 1997, did not specify any remedial activity for groundwater. Based upon eight separate groundwater monitoring events to date: 1985 RI, 1989 site investigation, plus five sampling events by the USACE between 1996 and 1998, and three by the Settling Defendants (two conducted post RA), there is no evidence of groundwater contamination above drinking water standards. The U.S. EPA in consultation with the Ohio EPA, concluded that no groundwater remediation is necessary. All groundwater monitoring wells have

been abandoned consistent with Ohio EPA guidelines.

The Consent Decree (CD) with the Settling Defendants was lodged on September 11, 1998, in the U.S. District Court for Southern District of Ohio, Western Division, Dayton, Ohio, for remedial design (RD) and remedial action (RA); and was entered by the Court on April 12, 1999. On October 19, 1999, the U.S. District Court entered a separated CD with Mr. Harold Shane, owner of the AIM Site property.

#### *Characterization of Risk*

The AIM Final Remedial Action Report was approved by EPA on July 26, 2000. The AIM Site remedial action performed by the AIM Settling Defendants, resulted in a clean closure. On December 1, 1999, the U.S. EPA, the Ohio EPA, and the USACE conducted the final inspection of the AIM Site. The Preliminary Close Out Report (PCOR) was issued in 1999. Since then two rounds of groundwater sampling have been completed, the groundwater monitoring wells have been properly abandoned, and two post excavation sampling events for Sycamore Ditch have confirmed that no contamination above clean-up levels has been left on or off the site. A Final Close-out Report was issued in March 2001.

#### *Response Actions*

- The RD/RA Work Plan was approved by the U.S. EPA on July 14, 1999.
- The Notice of Authorization to Proceed with RA was issued on July 14, 1999.
- The Pre-Construction Inspection Meeting was conducted on August 18, 1999.
- The RA construction commenced on Monday, August 30, 1999.
- The AIM Site was cleared of all trees and the cleared trees were disposed of in accordance with State of Ohio requirements.
- The drums left on-site by previous contractors, were cleaned, crushed, and disposed of along with the demolition debris.
- The office, smelter, and saw building were decontaminated, demolished and hauled to a U.S. EPA-approved landfill.
- All equipment, including the flat-bed trailers and a 500 gallon tank were demolished and disposed of along with the demolition debris from the buildings.
- No underground storage tanks were found on-site.
- Post-Excavation Confirmatory Soil Sampling was conducted to confirm that all soils with lead contamination above

400 parts per million, had been excavated and removed from the AIM Site.

- About 200 cubic yards of lead-contaminated sediments in Sycamore Ditch were excavated, treated on-site, and disposed of in an off-site U.S. EPA-approved landfill.

- Over 30,000 tons of treated battery casing chips, treated lead-contaminated soils, and construction debris were hauled off-site to a U.S. EPA-approved landfill.

- All areas disturbed during the RA were backfilled with clean backfill and a minimum of 6 inches of topsoil was placed over the backfill.

- The Site was regraded to promote positive drainage and prevent ponding of water.

- EPA, and the UACE conducted site inspections on August 18, 1999, September 22, 1999, October 20, 1999, and November 17, 1999.

- Air and groundwater monitoring were performed during the RA.

- The access road (Pop Rite Lane) to the AIM Site was resurfaced after completion of the AIM Site RA. The private road was used by contractor trucks to transport and dispose of the battery casing chips, contaminated soils, demolition debris, as well as to haul backfill to the AIM Site.

- Restrictive covenants that would limit land or water use will not need to be executed since the RA resulted in a clean up that allows unlimited use and unrestricted exposure. Cleanup Standards

A clean closure was implemented at the AIM Site. No hazardous substances remain on the AIM Site which present a health risk.

#### *Five-Year Review—If Applicable*

The selected RA utilized permanent solutions and considered the use of alternative treatment technologies to the maximum extent practicable. There is no health risk from remaining exposure to lead and therefore, the use of the AIM Site is not restricted. Consequently, a five-year review will not be required in accordance with section 121 of CERCLA.

#### *Community Involvement*

Public participation activities have been satisfied as required in CERCLA section 113(k), 42 U.S.C. 9613(k), and CERCLA section 117, 42 U.S.C. 9617. Documents in the deletion docket which EPA relied on for recommendation of the deletion from the NPL are available to the public in the information repositories.

## V. Deletion Action

The EPA, with concurrence of the State of Ohio, has determined that all appropriate responses under CERCLA have been completed, and that no further response actions, under CERCLA, are necessary. Therefore, EPA is deleting the AIM Site from the NPL.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication of a notice of intent to delete. This action will be effective August 31, 2001 unless EPA receives adverse comments by August 1, 2001. If adverse comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final notice of deletion before the effective date of the deletion and it will not take effect and, EPA will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

### List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: June 20, 2001.

**David A. Ullrich,**

*Acting Regional Administrator, Region V.*

For the reasons set out in this document, 40 CFR part 300 is amended as follows:

### **PART 300—[AMENDED]**

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

**Authority:** 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p.351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p.193.

### **Appendix B—[Amended]**

2. Table 1 of appendix B to part 300 is amended by removing the entry for “Arcanum Iron & Metal, Darke County, OH.”

[FR Doc. 01–16287 Filed 6–29–01; 8:45 am]

**BILLING CODE 6560–50–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 010112013–1160–05; I.D. 061401A]

RIN 0648–A082

### Fisheries of the Exclusive Economic Zone Off Alaska; Correction to the Emergency Interim Rule; Closure

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Correction to the emergency interim rule for Steller Sea Lion Protection Measures for the Groundfish Fisheries Off Alaska; Final 2001 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska; Closure.

**SUMMARY:** NMFS amends an emergency interim rule by removing the 150 metric ton (mt) of the seasonal allocation of Pacific halibut prohibited species catch (PSC) apportioned to the “shallow water trawl fishery” during June 10 to July 1. NMFS is also prohibiting directed fishing by vessels using trawl gear in the Gulf of Alaska (GOA) for species that comprise the shallow water species fishery, except for vessels fishing for pollock using pelagic trawl gear in those portions of the GOA open to directed fishing for pollock. This action is necessary to preserve limited bycatch amounts of Pacific halibut while NMFS reviews the seasonal allocation of GOA Pacific cod total allowable catch (TAC) recommended by the North Pacific Fishery Management Council (Council). **DATES:** Tables 24 and 25 to the preamble are effective 1200 hrs, Alaska local time (A.l.t.), June 27, 2001, through 2400 hrs, A.l.t., July 17, 2001. The closure for the shallow water species fishery by vessels using trawl gear in the GOA is effective 1200 hrs, A.l.t., June 27, 2001, through 1200 hrs, A.l.t., July 1, 2001.

**FOR FURTHER INFORMATION CONTACT:** Mary Furuness, 907–586–7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council (Council) under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations