

granted final full approval effective on January 31, 2002.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL-7136-6]

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

AGENCY: Environmental Protection Agency.

ACTION: Direct final notice of deletion of the Lake Linden parcel and Operable Unit 2 of Torch Lake 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 Lake Linden parcel and Operable Unit 2 from the Torch Lake Superfund Site (Site), located in Houghton County, Michigan, from the National Priorities List (NPL). Operable Unit 2 consists of all the submerged tailings, sediments, surface water and groundwater portions of the Torch Lake Superfund Site.

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 deletion is being published by EPA with the concurrence of the State of Michigan, through the Michigan Department of Environmental Quality, because EPA has determined that all appropriate response actions under CERCLA have been completed and, therefore, further remedial action pursuant to CERCLA is not necessary at this time.

DATES: This direct final notice of deletion will be effective April 8, 2002, unless EPA receives adverse comments by March 7, 2002. If adverse comments are received, EPA will publish a timely withdrawal of the direct final notice of deletion in the **Federal Register** informing the public that the deletion will not take effect.

ADDRESSES: Comments may be mailed to: Steven Padovani, Remedial Project Manager (RPM) at (312) 353-6755, *Padovani.Steven@EPA.Gov* or Gladys Beard, State NPL Deletion Process Manager at (312) 886-7253, *Beard.Gladys@EPA.Gov*, U.S. EPA

Region V, 77 W. Jackson, Chicago, IL 60604, (mail code: SR-6J) or at 1-800-621-8431.

Information Repositories:

Comprehensive information about the Site is available for viewing and copying at the site information repositories located at: EPA Region V Library, 77 W. Jackson, Chicago, IL 60604, (312) 353-5821, Monday through Friday 8 a.m. to 4 p.m.; Lake Linden Public Library, 601 Calumet Lake Linden, MI 49945 (906) 296-0698 Monday through Friday 8 a.m. to 4 p.m. and Tuesday and Thursday 6 a.m. to 8:30 p.m.; Portage Lake District Library, 105 Huron, Houghton, MI 49931, (906) 482-4570, Monday, Tuesday and Thursday 10 a.m. to 9 p.m., Wednesday and Friday 10 a.m. to 5 p.m. and Saturday 12 a.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT: Steven Padovani, Remedial Project Manager at (312) 353-6755, *Padovani.Steven@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.

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I. Introduction

EPA Region V is publishing this direct final notice of deletion of the Lake Linden parcel and Operable Unit 2 of the Torch Lake 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 section 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 non-controversial and routine, EPA is taking it without prior publication of a notice of intent to delete. This action will be effective April 8, 2002, unless EPA receives adverse comments by March 7, 2002, on this document. If adverse comments are received within the 30-day public comment period on this document, EPA will publish a timely withdrawal of this direct final 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 Lake Linden parcel and Operable Unit 2 of the Torch Lake 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) 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, 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 this Site:

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

(2) Michigan concurred with deleting these portions of the Site from the NPL.

(3) Concurrently with the publication of this direct final notice of deletion, a notice of intent to delete is published today in the "Proposed Rules" section of the **Federal Register**, as well as 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 document 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 a decision on the deletion based on 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 these Partial Site deletions from the NPL:

Site Description

The Torch Lake Superfund Site (the Site) is located on the Keweenaw Peninsula in Houghton County, Michigan. The Site includes Torch Lake, the west shore of Torch Lake, the northern portion of Portage Lake, the Portage Lake Canal, Keweenaw Waterway, the North Entry to Lake Superior, Boston Pond, Calumet Lake, and other areas associated with the Keweenaw Basin. Tailing piles and slag piles deposited along the western shore of Torch Lake, Northern Portage Lake, Keweenaw Waterway, Lake Superior, Boston Pond, and Calumet Lake are also included as part of the Site. Tailing piles are located at Lake Linden, Hubbell/Tamarack City, Mason,

Calumet Lake, Boston Pond, Michigan Smelter, Isle-Royale, Dollar Bay, and Gross Point. Slag piles are located at Quincy Smelter and Hubbell City.

Site History

Torch Lake was the site of copper milling and smelting facilities and operations for over 100 years. The lake was a repository of milling wastes, and served as the waterway for transportation to support the mining industry. The first mill opened on Torch Lake in 1868. At the mills, copper was extracted by crushing or "stamping" the rock into smaller pieces and driving them through successively smaller meshes. The copper and crushed rock were separated by gravimetric sorting in a liquid medium. The copper was sent to a smelter. The crushed rock particles, called "tailings," were discarded along with mill processing water, typically by pumping into the lakes.

Mining output, milling activity, and tailing production peaked in the Keweenaw Peninsula in the early 1900s to 1920. All of the mills at Torch Lake were located on the west shore of the lake and many other mining mills and smelters were located throughout the Keweenaw Peninsula. In about 1916, advances in technology allowed recovery of copper from tailings previously deposited in Torch Lake. Dredges were used to collect submerged tailings, which were then screened, recrushed, and gravity separated. An ammonia leaching process involving cupric ammonium carbonate was used to recover copper and other metals from conglomerate tailings. During the 1920s, chemical reagents were used to further increase the efficiency of reclamation. The chemical reagents included lime, pyridine oil, coal tar creosotes, wood creosote, pine oil, and xanthates. After reclamation activities were complete, chemically treated tailings were returned to the lakes. In the 1930s and 1940s, the Torch Lake mills operated mainly to recover tailings in Torch Lake. In the 1950s, copper mills were still active, but by the late 1960s, copper milling had ceased.

Over 5 million tons of native copper was produced from the Keweenaw Peninsula and more than half of this was processed along the shores of Torch Lake. Between 1868 and 1968, approximately 200 million tons of tailings were dumped into Torch Lake filling at least 20 percent of the lake's original volume.

In June 1972, a discharge of 27,000 gallons of cupric ammonium carbonate leaching liquor occurred into the north end of Torch Lake from the storage vats at the Lake Linden Leaching Plant. The

Michigan Water Resources Commission (MWRC) investigated the spill. The 1973 MWRC report discerned no deleterious effects associated with the spill, but did observe that discoloration of several acres of lake bottom indicated previous discharges.

In the 1970s, environmental concern developed regarding the century-long deposition of tailings into Torch Lake. High concentrations of copper and other heavy metals in Torch Lake sediments, toxic discharges into the lakes, and fish abnormalities prompted many investigations into long- and short-term impacts attributed to mine waste disposal. The International Joint Commission's Water Quality Board designated the Torch Lake basin as a Great Lakes Area of Concern (AOC) in 1983. Also in 1983, the Michigan Department of Public Health announced an advisory against the consumption of Torch Lake sauger and walleye fish due to tumors of unknown origin. The Torch Lake Site was proposed for inclusion on the National Priorities List (NPL) in October of 1984. The Site was placed on the NPL in June 1986. The Torch Lake Site is also on the list of sites identified under Michigan's Natural Resources and Environmental Protection Act 451 Part 201.

A Draft Remedial Action Plan (RAP) for the Torch Lake AOC was developed by Michigan Department of Natural Resources (MDNR) in October 1987 to address the contamination problems and to recommend the remedial action for Torch Lake. Revegetation of lakeshore tailings to minimize air-borne particulate matter was one of the recommended remedial actions in the RAP.

Attempts to establish vegetation on the tailing piles in Hubbell/Tamarack City have been conducted since the 1960s to stabilize the shoreline and to reduce air particulate from tailings. It has been estimated that 40 to 50 percent of tailings in this area are vegetated. The Portage Lake Water and Sewage Authority have been spray-irrigating sewage sludge on tailings in Mason City to promote natural vegetation.

Remedial Investigation and Feasibility Study (RI/FS)

On May 9, 1988, Special Notice Letters were issued to Universal Oil Products (UOP) and Quincy Mining Co. to perform a Remedial Investigation/Feasibility Study (RI/FS). UOP is the successor corporation of Calumet Hecla Mining Company which operated its milling and smelting on the shore of Lake Linden and disposed the generated tailings in the area. Quincy Mining Co. conducted smelting operations in the

Hubbell area and disposed of tailings. On June 13, 1988, a Notice Letter was issued to Quincy Development Company, which was the current owner of a tailing pile located on the lake shore of Mason City. Negotiations for the RI/FS Consent Order with these Potentially Responsible Parties (PRPs) were not successful due to issues such as the extent of the Site, and the number of PRPs. Subsequently, U.S. EPA contracted with Donohue & Associates in November 1988 to perform the RI/FS at the Site.

On June 21, 1989, U.S. EPA collected a total of eight samples from drums located in the Old Calumet and Hecla Smelting Mill Site near Lake Linden, the Ahmeek Mill Site near Hubbell City, and the Quincy Site near Mason. On August 1, 1990, nine more samples were collected from drums located above the Tamarack Site near Tamarack City. Based on the results of these samples, U.S. EPA determined that some of these drums may have contained hazardous substances. During the week of May 8, 1989, the U.S. EPA also conducted ground penetrating radar and a subbottom profile (seismic) survey of the bottom of Torch Lake. The area in which this survey was conducted is immediately off-shore from the Old Calumet and Hecla Smelting Mill Site. The survey located several point targets (possibly drums) on the bottom of Torch Lake. Based on the drum sampling results and seismic survey, U.S. EPA executed an Administrative Order by Consent, dated July 30, 1991, which required six companies and individuals to sample and remove drums located on the shore and lake bottom. Pursuant to the Administrative Order, these entities removed 20 drums with unknown contents off-shore from the Peninsula Copper Inc., and the Old Calumet and Hecla Smelting Mill Site in September 1991. A total of 808 empty drums were found in the lake bottom. These empty drums were not removed from the lake bottom. A total of 82 drums and minor quantities of underlying soils were removed from the shore of Torch Lake. The removed drums and soils were sampled, over packed, and disposed off-site at a hazardous waste landfill.

Due to the size and complex nature of the Site, three OUs have been defined for the Site. OU I includes surface tailings, drums, and slag piles on the western shore of Torch Lake. Approximately 500 acres of tailings are exposed surficially in OU I. The Lake Linden parcel is included in OU I, as well as the Hubbell/Tamarack and Mason parcels.

OU II includes groundwater, surface water, submerged tailings and sediment

in Torch Lake, Portage Lake, the Portage channel, and other water bodies at the site.

OU III includes tailing and slag deposits located in the north entry of Lake Superior, Michigan Smelter, Quincy Smelter, Calumet Lake, Isle-Royale, Boston Pond, and Grosse-Point(Point Mills).

Remedial Investigations (RIs) have been completed for all three operable units. The RI and Baseline Risk Assessment (BRA) reports for OU I was finalized in July 1991. The RI and BRA reports for OU III were finalized on February 7, 1992. The RI and BRA reports for OU II were finalized in April 1992. The Ecological Assessment for the entire Site was finalized in May 1992.

Record of Decision Findings

A Record of Decision (ROD) was completed to select remedial actions for OU I and III on September 30, 1992. A ROD was completed to select remedial actions for OU II on March 31, 1994.

The remedies primarily address ecological impacts. The most significant ecological impact is the severe degradation of the benthic communities in Torch Lake as a result of metal loadings from the mine tailings. The remedial action required that the contaminated stamp sands (tailings) and slag piles contributing to site-specific ecological risks at the Torch Lake Superfund Site (OUI & OUIII) be covered with a soil and vegetative cover as identified in the RODs for this Site and as documented in the Final Design Document dated September 10, 1998. No further response action was selected for OU II. OU II will be allowed to undergo natural recovery and detoxification.

In addition, the RODs for OU I and OU III required long-term monitoring of Torch Lake to assess the natural recovery and detoxification process after the remedy was implemented. Torch Lake was chosen as a worst-case scenario to study the recovery process. It was assumed that other affected water bodies would respond as well, or better, than Torch Lake to the implemented remedy.

Response Actions

A final design for OU I and OU III was completed in September 1998. Also in September 1998, U.S. EPA obligated \$15.2 million for the implementation of the selected remedies for OU I and OU III. As of January 1, 2001, the remedial actions at the Lake Linden and Hubbell/Tamarack City portions of OU I have been completed.

Operation and Maintenance

As mention above, the RODs for OU I & OU III required long-term monitoring of Torch Lake to assess the natural recovery and detoxification process after the remedy was implemented. Other O & M activities include site inspections, repairs and fertilization of the vegetative cover, if necessary. Based on site inspections conducted during Summer 2001, repairs and fertilization of the soil and vegetative cover at the Lake Linden parcel are no longer necessary.

Five-Year Review

Because hazardous substance will remain at the Site above levels that allow for unrestricted use and unlimited exposure. The EPA will conduct periodic reviews at this Site. The review will be conducted pursuant to CERCLA section 121 (c) and as provided in the current guidance on Five Year Reviews; OSWER Directive 9355.7-03B-P, Comprehensive Five-Year Review Guidance, June 2001. The first five-year review for the Torch Lake Site is scheduled for September 2003.

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 from the State of Michigan, has determined that all appropriate responses under CERCLA for the Lake Linden parcel and OU II have been completed, and that no further response actions under CERCLA are necessary. Therefore, EPA is deleting the Lake Linden parcel and Operable Unit 2 of the Torch Lake Superfund Site from the NPL.

Because EPA considers this action to be non-controversial and routine, EPA is taking it without prior publication. This action will be effective April 8, 2002, unless EPA receives adverse comments by March 7, 2002. 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. EPA will prepare a response to comments and as appropriate 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: January 18, 2002.
Gary V. Gulezian,
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 under Michigan “MI” by revising the entry for “Torch Lake” and the city “Houghton County, Michigan” to read as follows:

Appendix B to Part 300—National Priorities List

TABLE 1.—GENERAL SUPERFUND SECTION

State	Site name	City/County	(Notes) ^A
MI	Torch Lake	Houghton	P

A * * *
 P= Sites with partial deletion(s).

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 [FR Doc. 02–2507 Filed 2–4–02; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA–7777]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, FEMA.
ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register**.

EFFECTIVE DATES: The effective date of each community’s suspension is the third date (“Susp.”) listed in the third column of the following tables.

ADDRESSES: If you wish to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

FOR FURTHER INFORMATION CONTACT: Edward Pasterick, Division Director,

Program Marketing and Partnership Division, Federal Insurance Administration and Mitigation Directorate, 500 C Street, SW.; Room 411, Washington, DC 20472, (202) 646–3098.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the National Flood Insurance Program, 42 U.S.C. 4001 *et seq.*; unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59 *et seq.* Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency’s initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Associate Director finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications have been made, this final rule may take effect within less than 30 days.