

NW., Washington, DC, 20004. The docket will reopen on Tuesday, August 27, 2002. Beginning on that date, please call the new docket phone number, 202-566-2426, to schedule an appointment. For hand deliveries of comments on or after that date, submit such comments to the new address.

Additional information about the proposed rule is available on EPA's Web site at <http://www.epa.gov/waterscience/guide/construction/>.

Dated: August 1, 2002.

**Geoffrey H. Grubbs,**

*Director, Office of Science and Technology.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 300

[FRL-7257-2]

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

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of intent to delete the Del Norte County Pesticide Storage Area Superfund Site from the National Priorities List.

**SUMMARY:** The Environmental Protection Agency (EPA) Region IX is issuing a Notice of Intent to Delete the Del Norte County Pesticide Storage Area Superfund Site (Site) located in Crescent City, California, from the National Priorities List (NPL) and requests public comments on this Notice of Intent to Delete. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, is found at appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the State of California, through the California Department of Toxic Substances Control (DTSC), have determined that all appropriate response actions under CERCLA, other than Operation and Maintenance and Five-Year Reviews, have been completed. However, this deletion does not preclude future actions under CERCLA.

**DATES:** Comments concerning this Site must be received by September 9, 2002.

**ADDRESSES:** Written comments should be addressed to: Beatriz Bofill, Remedial Project Manager, U.S. EPA, Region IX,

SFD-7-2, 75 Hawthorne Street, San Francisco, CA 94105-3901, (415) 972-3260 or (800) 231-3075.

**Information Repositories:** Comprehensive information on this Site is available through the Region IX public docket which is available for viewing at the EPA Region IX Superfund Records Center, 95 Hawthorne Street, San Francisco, CA 94105-3901, (415) 536-2000 (Monday through Friday 8 a.m. to 5 p.m.); Crescent City Library, 190 Price Mall, Crescent City, CA 95531, (707) 464-9793 (Monday, Tuesday, Thursday and Friday 10 a.m. to 6 p.m., Wednesday 10 a.m. to 8 p.m., Saturday 10 a.m. to 2 p.m., Sunday closed).

#### FOR FURTHER INFORMATION CONTACT:

Beatriz Bofill, Remedial Project Manager, U.S. EPA, Region IX, SFD-7-2, 75 Hawthorne Street, San Francisco, CA 94105-3901, (415) 972-3260 or (800) 231-3075; or Viola Cooper, Community Involvement Coordinator, U.S. EPA, Region IX, SFD-3, 75 Hawthorne Street, San Francisco, CA 94105-3901, (415) 972-3243 or (800) 231-3075.

#### SUPPLEMENTARY INFORMATION:

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#### I. Introduction

The U.S. EPA Region IX is publishing this Notice of Intent to Delete the Del Norte County Pesticide Storage Area Superfund Site from the 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, which EPA promulgated pursuant to section 105 of CERCLA, as amended. The 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 those sites. As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial action in the unlikely event that conditions at the site warrant such action.

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 procedures that EPA is following specifically for this Site. Section IV discusses the Del Norte County Pesticide Storage Area

Superfund Site and demonstrates how it meets the deletion criteria.

Deletion of a 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 EPA management.

#### II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that sites may be deleted from the NPL where no further response is appropriate. In making a determination to delete a site from the NPL, EPA, in consultation with the State, shall consider 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 (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.

CERCLA section 101(25) defines response as removal and remedial actions, and does not include operation and maintenance activities.

Accordingly, a site may be deleted from the NPL where only operation and maintenance activities remain. 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 (40 CFR 300.425(e)(3)).

#### III. Deletion Procedures

The following procedures apply to deletion of the Site:

(1) A ROD Amendment documents the technical infeasibility of reaching the Maximum Contaminant Level (MCL) for 1,2-dichloropropane (1,2-DCP).

(2) All remedial action has been implemented as is documented in the

Final Close Out Report (FCOR), dated July 19, 2002.

(3) The EPA consulted with the State of California on the deletion of the Site from the NPL prior to developing this Notice of Intent to Delete.

(4) The State of California concurred with deletion of the Site from the NPL.

(5) A notice has been published in the local newspaper 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.

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

For deletion of this Site, EPA's Regional Office will accept and evaluate public comments before making a final decision to delete. If comments are received, EPA will prepare a Responsiveness Summary to address those comments. The Responsiveness Summary will be available for review in the Deletion Docket. The Deletion Docket is a compilation of documents containing all pertinent information supporting the deletion recommendation.

A deletion occurs when the Regional Administrator places a final notice 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 for Site Deletion

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

##### *Site Location*

The Del Norte County Pesticide Storage Area Site, located approximately one mile northwest of Crescent City, California, consists of less than one acre of land which had been contaminated with a variety of herbicides, pesticides, and other compounds. The Site is located in a rural area immediately south of McNamara Field, the airport that serves Del Norte County. The property is zoned manufacturing performance.

In December 1969, the Del Norte County Sanitarian notified the North Coast Regional Water Quality Control Board (NCRWQCB) of the County's intent to operate a pesticide container storage area. During 1970, the Site was designated by the NCRWQCB as a Class II-2 disposal site to serve as a County-wide collection point for interim or emergency storage of pesticide

containers generated by local agricultural and forestry-related industries.

The pesticide container storage area operated from 1970-1981. Soil and groundwater contamination was discovered in the fall of 1981, indicating that the pesticide containers had been rinsed on-site, and that the residues and rinseates were improperly disposed of in a bermed, unlined sump area. In 1982, approximately 1,150 containers were removed from the Site. Preliminary investigations from 1981-1983, by NCRWQCB and California Department of Health Services, identified soil and groundwater contamination with herbicides, pesticides and volatile and semivolatile compounds. Del Norte County's inability to fund further Site investigations initiated the process of listing the Site on the NPL in the fall of 1983.

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

EPA produced a Remedial Investigation/Feasibility Study (RI/FS) Final Report on September 13, 1985. The RI/FS established that operations at the storage area resulted in contamination of soil and groundwater with herbicides, pesticides, volatile and semi-volatile compounds. Because the contamination had reached the groundwater, use of the contaminated groundwater as a water supply would result in a significant health risk. One Contaminant of Concern (COC), 1,2-DCP, had migrated downgradient of the storage area to a distance of about 150 to 300 feet in the southeasterly direction from the sump area. There was no spread of soil contamination due to wind or runoff detected beyond the storage area boundaries. There was also widespread detection of chromium in soil and groundwater, both on- and off-site, which required further investigation to determine whether it was the highly toxic hexavalent form or whether it was trivalent chromium, which is much less toxic.

##### *Response Actions*

EPA's September 30, 1985 Record of Decision (ROD) selected a Site remedy of excavation and off-site disposal of contaminated soils as well as extraction and treatment of the contaminated groundwater. The selected groundwater remedy consisted of: (1) Carbon adsorption for removal of organics and pesticides and (2) coagulation and sand filtration for removal of chromium. The ROD utilized the drinking water MCL of 100 micrograms/Liter ( $\mu\text{g/L}$ ) as the groundwater cleanup goal for 2,4-

dichlorophenoxyacetic acid (2,4-D), and 50 parts per billion as the groundwater cleanup goal for Chromium. No MCL had been set for 1,2-DCP at that time, so a health-based advisory level of  $10\mu\text{g/L}$  was chosen as the cleanup goal for 1,2-DCP. EPA continued to monitor the contaminants and conditions at the Site.

In August 1987, EPA used removal authorities to perform a Removal Action in which 290 cubic yards of contaminated soils were excavated and disposed of off-site at a licensed hazardous waste disposal facility. This action removed the contaminated soils in the sump area, thereby eliminating the source of additional incremental groundwater contamination.

An Explanation of Significant Differences (ESD) dated September 21, 1989 clarified that the chromium found at the Site was in fact trivalent chromium, not the significantly more toxic hexavalent form. Furthermore, data collected at the Site led to the conclusion that chromium levels were consistent with naturally occurring background levels. Therefore, it was determined that treatment of chromium in groundwater was not necessary and the ESD removed the chromium cleanup standard from the Site remedy.

Additionally, levels of 2,4-D were only detected above the MCL in two samples during the RI/FS, Remedial Design and Removal phases of the project. By 1989, 2,4-D was detected in only one well at a concentration of  $20\mu\text{g/L}$ , supporting the conclusion that the cleanup criteria had been met. As a result, a 1998 ESD changed the original remedy of carbon filtration, coagulation, and sand filtration to aeration, which had not been selected in the 1989 ROD due to its ineffective removal of 2,4-D and chromium. The only COC remaining to be remediated was the presence of 1,2-DCP in the groundwater.

A pump and treatment system began extracting groundwater from one extraction well at the rate of 15 gallons per minute, and operated continuously from April 1990 to December 1994. After 1994, 1,2-DCP concentrations in the groundwater monitoring wells reached asymptotic levels ranging between  $15\mu\text{g/L}$  and  $40\mu\text{g/L}$ . In 1994, EPA installed an air sparging system to determine if the injection of air into the aquifer would enhance contaminant removal. No discernable changes in the levels of 1,2-DCP in groundwater were noted. The plume is stable and is not migrating vertically or laterally.

##### *Cleanup Standards*

Because treatment was no longer reducing the contaminant levels, an August 2000 ROD Amendment modified

the remedy to containment of the groundwater plume. In 1992, a MCL of 5µg/L was established, for 1,2-DCP. This MCL is an Applicable or Relevant and Appropriate Requirement (ARAR) for the groundwater cleanup at the Site. However, given the conclusions reached about the status of the 1,2-DCP plume, EPA's 2000 ROD Amendment concluded that the 5,000 foot plume was not migrating and that it was technically impracticable to restore the 1,2-DCP plume to the 5µg/L MCL. The 2000 ROD Amendment therefore waived this ARAR on the basis of Technical Impracticability.

#### *Operation and Maintenance*

On March 6, 2002, a Consent Decree (CD) was entered among EPA, DTSC and Del Norte County, which provides that Del Norte County will continue to provide monitoring at the Site with oversight by DTSC. Semiannual groundwater monitoring will be ongoing at the Site until levels of 1,2-DCP have dropped below the MCL and EPA makes a determination that monitoring is no longer necessary. Sampling methodology and protocol can be found in the Del Norte County Pesticide Storage Area Superfund Site Groundwater Monitoring Plan, dated June 6, 2001.

Institutional controls were established in the 2000 ROD Amendment and will be implemented through the CD. Controls for the Site include: (1) Restricting access to the Site to protect existing groundwater monitoring wells and to prevent use of contaminated groundwater; (2) Prohibiting use of contaminated groundwater; (3) Prohibiting the use of the Site (which is currently zoned for industrial purposes) for residences, hospitals for humans, public or private schools for persons under 21 years of age, or for day care centers for children; (4) Restricting the use of the Site to industrial/commercial purposes that do not interfere with the containment and monitoring of the contaminated groundwater, and that do not damage, alter, destroy, or compromise the integrity of the existing groundwater monitoring wells at the Site; (5) Prohibiting the installation and/or pumping of water-producing wells, including but not limited to water supply, irrigation and private wells on the Site; and (6) Prohibiting the installation and operation of any groundwater extraction wells in the area extending one mile from the boundary of the Site that would cause the plume of contaminated groundwater under the Site to move or that would cause contaminated groundwater under the Site to be brought to the surface. For any

proposed groundwater extraction wells within the one mile area described above all, necessary information must be provided to the lead agency to demonstrate that the restrictions are met.

#### *Five-Year Review*

Because contaminants remain at the Site above the MCL, Five-Year Reviews are required by statute. A Five-Year Review was completed at the Site on December 27, 2000, and found the remedy to be protective of human health and the environment. Five-Year Reviews will continue to be conducted at this Site until contaminant levels are below cleanup levels. The next Five-Year Review will be completed by December 27, 2005.

#### *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.

#### *Applicable Deletion Criteria/State Concurrence*

All the completion requirements for this Site have been met as described in the FCOR dated July 19, 2002. The NPL provides that a site is eligible for deletion where "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," and where "responsible parties or other parties have implemented all appropriate response actions required." The FCOR documents that Site monitoring and institutional controls have been implemented and ensure the protectiveness of the remedy. Site monitoring will continue, conducted under the supervision of DTSC, until levels of 1,2-DCP reach below the MCL.

EPA, with the concurrence of the State of California through its Department of Toxic Substances Control on July 22, 2002, finds that these criteria for deletion of the Site have been met. Consequently, EPA is proposing deletion of the Del Norte County Pesticide Storage Area Superfund Site from the NPL.

Dated: July 26, 2002.

**Keith Takata,**

*Acting Regional Administrator, Region IX.*

[FR Doc. 02-20099 Filed 8-7-02; 8:45 am]

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## **DEPARTMENT OF THE INTERIOR**

### **Fish and Wildlife Service**

#### **50 CFR Part 17**

**RIN 1018-AH33**

## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

#### **50 CFR Part 226**

**[I.D. 052002A]**

**RIN 0648-AQ03**

### **Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Gulf Sturgeon**

**AGENCIES:** Fish and Wildlife Service, Interior, and National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule; notice of availability (NOA) of draft economic analysis, and correction on public hearing location.

**SUMMARY:** The U.S. Fish and Wildlife Service and the National Marine Fisheries Service, collectively "the Services" are announcing the availability of a draft economic analysis of the proposal to designate critical habitat for the Gulf sturgeon (*Acipenser oxyrinchus desotoi*). We are soliciting public comments on both the proposal and the draft economic analysis. We also are correcting the address of a public hearing to be held in Defuniak Springs, FL on August 20, 2002.

**DATES:** *Comments:* We are extending the comment period announced in the proposed rule, published at 67 FR 39106, to allow a 60-day comment period following this NOA. The revised comment period on both the proposed critical habitat designation and the draft economic analysis is now open and will close on October 7, 2002. We must receive comments from all interested parties by the closing date. Any comments that we receive after the closing date will not be considered. Comments previously submitted need not be resubmitted as they have already been incorporated into the public record and will be fully considered in the final rule.