

specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

**VIII. Submission to Congress and the Comptroller General**

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

**List of Subjects in 40 CFR Part 180**

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 11, 2002.

**Peter Caulkins,**

*Acting Director, Registration Division, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is amended as follows:

**PART 180— [AMENDED]**

1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346(a) and 374.

2. Section 180.377 is amended as follows:

i. By removing the entries for "Cattle, meat byproducts"; "Goat, meat byproducts"; "Hog, meat byproducts"; "Horse, meat byproducts"; "Sheep, meat byproducts"; and "Walnut" from the table in paragraph (a)(1);

ii. By alphabetically adding the entries for "Almond, hulls"; "Cattle, meat byproducts"; "Fruit, stone, group 12, except cherries"; "Goat, meat byproducts"; "Grass, fodder, forage, and hay, group 17"; "Hog, meat byproducts"; "Horse, meat byproducts"; "Nut, tree, group 14"; "Pepper"; "Pistachio"; and "Sheep, meat byproducts" to the table in paragraph (a)(2); and

iii. By removing the text from paragraph (c) and reserving paragraph (c) with the heading.

The additions and revisions read as follows:

**§ 180.377 Diflubenzuron; tolerances for residues.**

- (a) *General.* (1) \* \* \*
- (2) \* \* \*

Commodity	Parts per million
Almond , hulls	6.0
Cattle, meat byproducts	0.15
Fruit, stone, group 12, except cherries	0.07
Goat, meat byproducts	0.15
Grass, forage, fodder, and hay, group 17	6.0
Hog, meat byproducts	0.15
Horse, meat byproducts	0.15
Nut, tree, group 14	0.06
Pepper	1.0
Pistachio	0.06
Sheep, meat byproducts	0.15

\* \* \* \* \*

[FR Doc. 02-23818 Filed 9-18-02; 8:45 am]

**BILLING CODE 6560-50-S**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 300**

[FRL-7377-4]

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

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final notice of deletion of the Basic Microelectronics, Incorporated (BMI)-Textron Superfund Site from the National Priorities List.

**SUMMARY:** The Environmental Protection Agency (EPA) Region 4 is publishing a direct final notice of deletion of the BMI-Textron Superfund Site (Site), located in Lake Park, West Palm Beach County, Florida, 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 deletion is being published by EPA with the concurrence of the State of Florida, through the Florida Department of Environmental Protection (FDEP (formerly FDER)) because EPA has determined 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 November 18, 2002, unless EPA receives adverse comments by October 21, 2002. If adverse comments are received, EPA will publish a timely withdrawal of the direct final deletion in the **Federal Register** informing the public the deletion will not take effect.

**ADDRESSES:** Comments may be mailed to: Jan Martin, Remedial Project Manager (RPM), U.S. EPA, Region 4 (4WD-SSMB), 61 Forsyth Street, SW., Atlanta, Georgia 30303, (404) 562-8593, *martin.jan@epa.gov*.

*Information Repositories:* Comprehensive information about the Site is available for viewing and copying at the Site information repositories located at:

U.S. EPA Record Center, 61 Forsyth Street, SW., Atlanta, Georgia 30365, Phone: (404) 562-8190, Hours: 8 a.m. to 5 p.m., Monday through Friday (By Appointment Only).

Lake Park Library, 529 Park Avenue, Lake Park, Florida 30403, Phone: (561) 881-3330, Hours: 9 a.m. to 8:30 p.m., Monday and Tuesday, 9 a.m. to 5:30 p.m., Wednesday through Friday, 9:30 a.m. to 2 p.m., Saturday.

**FOR FURTHER INFORMATION CONTACT:** Jan Martin, Remedial Project Manager (RPM), U.S. EPA, Region 4 (4WD-SSMB), 61 Forsyth Street, SW., Atlanta, Georgia 30303, (404) 562-8593, *martin.jan@epa.gov*.

**SUPPLEMENTARY INFORMATION:**

**Table of Contents**

- I. Introduction
- II. NPL Deletion Criteria
- III. Deletion Procedures
- IV. Basis for Site Deletion
- V. Deletion Action

**I. Introduction**

EPA Region 4 is publishing this direct final notice of deletion of the BMI-Textron Superfund Site (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 the § 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 November 18, 2002, unless EPA receives adverse comments by October 21, 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 EPA is using for this action. Section IV discusses the BMI-Extron, 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 Site 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 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 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 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 the State of Florida on the deletion of the Site from the NPL prior to developing this direct final notice of deletion.
2. Florida 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 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 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 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

### Site Location

The Basic Microelectronics, Incorporated (BMI)-Extron Site (Site) is an inactive 3.5 acre industrial site located within the Tri-City Industrial Park on Silver Beach Road in Lake Park, Palm Beach County, Florida. The Site consists of parcels 1 through 14 in Section C of the Tri-City Industrial Park. The boundaries include: Newman Road to the north, Silver Beach Road to the south, Reed Road to the east and Miller Way to the west. Adjacent properties on the north, east and west are businesses

and industrial sites. Residential areas are to the south.

### Site Background and History

Basic Microelectronics, Inc. began operations at the site in 1969. Textron, Inc. acquired Basic Microelectronics in 1981 and began operating as BMI-Extron. The company's main product was chrome backed glass plates which were used in the production of electronic components. During company operations, the Site included 6 domestic waste drain fields, 3 percolation ponds, 2 septic tanks, and settling basins. The present Site includes storage warehouses and small workshops. Most of the land is either paved or covered by buildings.

During site operations liquid waste from the process was disposed of on-site through a combination of percolation ponds and drain fields. The wastewater system was operated under a Florida Department of Environmental Regulation (FDER) permit. Prior to 1984, cyanide wastes were disposed of in Percolation Pond 1. This pond was abandoned in 1984. Hazardous wastes from facility operations were disposed of off-site at approved facilities.

In 1981, BMI-Extron obtained a FDER construction permit for a drain field for wastewater disposal. Four monitoring wells were installed as a permit requirement. The wastewater included chromium stripping operations wastewater, process wastewater from glass cleaning, coating, polishing and rinse waters, wastewater from a reverse osmosis water purification plant and domestic sanitary wastewater.

EPA and the Florida Department of Environmental Regulation (FDER) conducted several investigations and took enforcement actions between 1984 and 1990. These investigations/actions included:

1. A 1984 soil and groundwater assessment of percolation pond 1 revealed cyanide contamination and resulted in a consent order to remove contaminated soils from percolation pond 1.
2. A 1985-86 soil and groundwater assessment of percolation pond 2 revealed cyanide, nitrate and fluoride contamination.
3. A 1986 soil assessment of percolation pond 3 and the Reverse Osmosis drain field revealed cyanide, nitrate and fluoride contamination.
4. In 1987, a groundwater and soil investigation revealed barium, chromium and cyanide contamination. EPA investigated the site for placement on the NPL. The Groundwater Route

score was the major factor in the hazard ranking score of 37.93.

5. In 1988, FDER issued a consent order. Under this consent order, a soil investigation revealed cyanide, fluoride, nitrate and chromium contamination in the area of percolation pond 2.

In 1990, an *Interim Remedial Action Soil Disposal Plan* was approved by FDER. Soils from percolation pond 2 were removed and disposed of under this plan. The area of percolation pond 3 was backfilled with 4 feet of material and capped with asphalt.

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

In August 1990, the Site was listed on the NPL. In June 1992, BMI-Extron entered into an Administrative Order (AO) by consent with EPA to conduct a RI/FS. The RI/FS was conducted in 2 phases between February 1993 and August 1994. The results of the Remedial Investigation (RI) can be summarized as follows:

1. Groundwater was identified as the principal media of concern at the Site.
2. Groundwater at the Site was contaminated with elevated levels of arsenic, sodium, cyanide and fluoride, *i.e.* the Contaminants of Concern (COC).
3. Groundwater contamination was present only in the shallow aquifer in the northeast portion of the site.
4. Contaminated groundwater had not migrated off-site.
5. There were no private water wells near the site.
6. Surface water bodies were not impacted.
7. Air contamination was not a concern because most of the site was paved and the COCs were not present in surface soils.
8. No impacts to local plants and animals were expected or evaluated because of the industrial nature of the site.

The Feasibility Study (FS) resulted in several important points:

1. Previous soil excavations at percolation ponds 1 and 3 effectively remediated contaminated soils at these areas.
2. Soils remaining at the site did not pose a threat to groundwater quality.
3. The restriction of groundwater contamination to the upper surficial aquifer zone of percolation ponds 1 and 2 indicated a lack of vertical migration of the COCs and a lack of connectivity between the upper and intermediate aquifers.
4. Arsenic, sodium, cyanide and fluoride were detected at concentrations above Florida drinking water standards and required remedial action.
5. Potential cleanup criteria for these COCs were established.

The FS compared 4 remedial alternatives with available technologies and appropriate regulations.

#### *Record of Decision*

On August 11, 1994, EPA signed a Record of Decision (ROD) for the Site. The ROD describes the contamination and the remedy selected to address the Site.

In regard to use of the Site in 1994, the ROD determined there was no risk to human health based on the "then current use" of the site. The RI had determined the potable wells in the vicinity of the Site and down gradient were not contaminated from Site operations. The ROD determined groundwater was the only possible medium available for human contact with COCs on-site and off-site.

A future, hypothetical worst-case exposure scenario for groundwater was also considered. In the scenario, use of contaminated groundwater as a potable water source by future residents was considered. The cumulative, carcinogenic and non-carcinogenic risks associated with such use was determined to be unacceptable.

The primary remedial objective stated in the ROD was to remediate COCs to drinking water standards, *i.e.* Maximum Contaminant Levels (MCLs). Prior site data indicated natural attenuation of COCs in groundwater was already occurring at the Site. As the remedy, EPA chose natural attenuation of the COC (arsenic, cyanide, fluoride, and sodium) concentrations with groundwater monitoring to ensure drinking water MCLs were achieved through natural attenuation. The selected remedy involved:

1. Quarterly groundwater monitoring for one year including submission of quarterly monitoring reports,
2. Annual groundwater data review and monitoring frequency by the EPA for the remaining two years,
3. Use of existing institutional controls to protect against possible exposure to COCs (*i.e.* requirements for obtaining well permits from FDEP),
4. Use of existing wells for groundwater monitoring to ensure natural attenuation was occurring (a total of 30 wells existed on and off site), and
5. Site security (fenced area and locked gate).

The institutional controls described in the ROD included established regional well controls and use of existing well permitting regulations administered through the South Florida Water Management Department (SFWMD), the Palm Beach County Health Department (PBCHD) and FDEP.

In March 1995, a Groundwater Monitoring Work Plan (Groundwater Monitoring Plan) was approved which required three years of groundwater monitoring, with provisions for more monitoring if needed. The Groundwater Monitoring Plan selected 8 of the existing wells, 4 on-site and 4 off-site, for use as monitoring wells. The on-site wells were located in areas where RI sample data indicated contaminant levels had exceeded drinking water standards. The off-site wells were used to monitor for off-site migration of groundwater contamination. Under the terms of the Groundwater Monitoring Plan, all 8 wells were to be sampled for the COCs, *i.e.* fluoride, total cyanide, sodium and arsenic until the sample concentration met MCLs for 2 consecutive sampling events. After those 2 consecutive events, sampling could cease at the wells meeting the drinking water standards. Sampling at the Site continued until MCLs were met for all COCs at all 8 wells. The last sampling event occurred in July 2000.

Monitoring reports were submitted for sampling in April 1995, July 1995, October 1995, January 1996, July 1996, January 1997, July 1997 and January 1998, January 2000, April 2000 and July 2000. According to the data in these reports the MCLs have been achieved and the Remedial Action Objectives (RAOs) met.

#### *Five-Year Review*

A five-year review of the remedy was performed in June 2000 in accordance with EPA policy. The review findings are contained in the Final Superfund Five-Year Review Report which concluded the selected remedy remained protective of human health and the environment. Sampling data from groundwater monitoring reports demonstrated natural attenuation of COCs had occurred.

Attainment of the remedial goal for arsenic of 0.05 mg/L in the groundwater at the Site was first reported in the results from the April 1995 monitoring event. Additional monitoring events were performed after the initial attainment to ensure the arsenic in site groundwater met the remedial goal. The last sampling for arsenic was in January 1996.

Attainment of the remedial goal for sodium of 160 mg/L in the groundwater at the Site was first reported in the results from the January 1997 monitoring event. Two additional monitoring events were performed after the initial attainment to ensure the sodium in site groundwater met the remedial goal. The last sampling for sodium was in January 1998.

Attainment of the remedial goal for fluoride of 4 mg/L in the groundwater at the Site was first reported in the results from the October 1998 monitoring event. Two additional monitoring events were performed after the initial attainment to ensure the fluoride in site groundwater met the remedial goal. The last sampling for fluoride was in July 2000.

Attainment of the remedial for cyanide of 0.2 mg/L in the groundwater at the Site was reported in the results from January 2000 monitoring event. Two additional monitoring events were performed after the initial attainment to ensure the cyanide in site groundwater met the remedial goal. The drinking water standard for cyanide is based on the amenable cyanide concentration. The last sampling for cyanide was in July 2000.

EPA, with concurrence of FDEP, has determined all appropriate actions at the BMI-Extron Site, have been completed, and no further remedial action is necessary. Water well permitting regulations continue to be administered through the South Florida Water Management Department, the Palm Beach County Health Department and FDEP.

#### *Final Project Closeout Activities*

Between January 31, 2001 and February 15, 2001, Arcadis, Geragthy & Miller completed a final site inspection and closeout activities to ensure all associated equipment and items used to complete the site remedy were removed from the property and properly disposed of or properly abandoned.

On January 31, 2001 Arcadis, Geragthy & Miller observed and documented the proper abandonment (grouting of wells with neat cement, using a tremie pipe, from the bottom of the well to land surface) of 7 of the 8 remaining on and off-site monitoring wells (3, 35R, 36A, 37, 38, MW-93-4 and MW-93-6) by a state-licensed drilling contractor. Monitoring well 10A was not abandoned because it is part of a three-well cluster initially installed / owned by the FDEP which may be useful for monitoring groundwater in the area of the nearby Transcircuit Superfund site. The steel protective casings extending above grade on two of the wells were cut off a few inches below grade and the ground surface re-paved.

On February 15, 2001, Arcadis, Geragthy & Miller observed and documented the removal of the two above-ground steel storage tanks (ASTs) from the property. These ASTs were used over the past several years for the

storage of water purged from the monitoring wells.

#### *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 Florida, has determined all appropriate responses under CERCLA have been completed, and no further response actions under CERCLA are necessary. Therefore, EPA is deleting the Site from the NPL.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication. This action will be effective November 18, 2002, unless EPA receives adverse comments by October 21, 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 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: July 19, 2002.

#### **A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

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 Florida (FL) by

removing the entry for “BMI-Extron” and the city “Lake Park.”

[FR Doc. 02–23586 Filed 9–18–02; 8:45 am]

**BILLING CODE 6560–50–P**

## **DEPARTMENT OF TRANSPORTATION**

### **National Highway Traffic Safety Administration**

#### **49 CFR Part 572**

[Docket No. NHTSA–02–12541]

**RIN 2127–AI00**

#### **Anthropomorphic Test Devices; Six-Year-Old Crash Test Dummy**

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

**ACTION:** Final rule; correcting amendment.

**SUMMARY:** This document makes technical corrections to the final rule published in response to petitions for reconsideration on July 18, 2002. That rule amended an earlier rule, published on January 13, 2000, that had adopted a new, more advanced 6-year-old child dummy (HIII–6C). The changes made in today’s notice consist of corrections of typographical errors in the table in the preamble, the addition of a revised Figure N5, and minor revisions in the weight and length specifications of the head skin and upper arm molded assembly, respectively.

**DATES:** *Effective Date:* The amendments made in this rule are effective August 19, 2002.

*Petitions:* Petitions for reconsideration must be received by November 4, 2002.

**ADDRESSES:** Petitions for reconsideration should refer to the docket and notice number of this document and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** For non-legal issues, you may call Stan Backaitis, Office of Crashworthiness Standards, at 202–366–4912.

For legal issues, you may call Rebecca MacPherson, Office of the Chief Counsel, at 202–366–2992.

You may send mail to both of these officials at National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590.

**SUPPLEMENTARY INFORMATION:** NHTSA published a final rule on July 18, 2002 (67 FR 47321, Docket No. NHTSA–02–12541) that responded to various petitions for reconsideration of its