

docket where indicated under

#### ADDRESSES.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

#### Words of Issuance and Regulatory Text

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

#### PART 165—SAFETY ZONES AND SECURITY ZONES

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

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. A new § 165.768 is added to read as follows:

#### § 165.768 Security Zone; MacDill Air Force Base, Tampa Bay, FL.

(a) *Location.* The following area is a security zone which exists concurrent with an Army Corps of Engineers restricted area in § 334.635 of this title. All waters within Tampa Bay, Florida in the vicinity of MacDill Air Force Base, including portions of the waters of Hillsborough Bay, Old Tampa Bay, and Tampa Bay, encompassed by a line connecting the following coordinates: latitude 27°51'52.901" N., longitude 82°29'18.329" W., thence directly to latitude 27°52'00.672" N., longitude 82°28'51.196" W., thence directly to latitude 27°51'28.859" N., longitude 82°28'10.412" W., thence directly to latitude 27°51'01.067" N., longitude 2°27'45.355" W., thence directly to latitude 27°50'43.248" N., longitude 82°27'36.491" W., thence directly to latitude 27°50'19.817" N., longitude 82°27'35.466" W., thence directly to latitude 27°49'38.865" N., longitude 82°27'43.642" W., thence directly to latitude 27°49'20.204" N., longitude 82°27'47.517" W., thence directly to latitude 27°49'06.112" N., longitude 82°27'52.750" W., thence directly to latitude 27°48'52.791" N., longitude 82°28'05.943" W., thence directly to latitude 27°48'45.406" N., longitude 82°28'32.309" W., thence directly to latitude 27°48'52.162" N., longitude 82°29'26.672" W., thence directly to latitude 27°49'03.600" N., longitude 82°30'23.629" W., thence directly to latitude 27°48'44.820" N., longitude 82°31'10.000" W., thence directly to latitude 27°49'09.350" N., longitude 82°32'24.556" W., thence directly to

latitude 27°49'38.620" N., longitude 82°33'02.444" W., thence directly to latitude 27°49'56.963" N., longitude 82°32'45.023" W., thence directly to latitude 27°50'05.447" N., longitude 82°32'48.734" W., thence directly to latitude 27°50'33.715" N., longitude 82°32'45.220" W., thence directly to a point on the western shore of the base at latitude 27°50'42.836" N., longitude 82°32'10.972" W.

(b) *Definitions.* The following definition applies to this section.

*Designated representative* means Coast Guard Patrol Commanders including Coast Guard coxswains, petty officers and other officers operating Coast Guard vessels, and federal, state, and local officers designated by or assisting the Captain of the Port St. Petersburg (COTP), in the enforcement of regulated navigation areas, safety zones, and security zones.

(c) *Regulations.* In accordance with the general regulations in § 165.33 of this part, entry into, anchoring, mooring, or transiting this zone by persons or vessels is prohibited without the prior permission of the Coast Guard Captain of the Port St. Petersburg or a designated representative.

Dated: January 16, 2008.

**J.A. Servidio,**

*Captain, U.S. Coast Guard, Captain of the Port Sector St. Petersburg.*

[FR Doc. E8–1765 Filed 2–4–08; 8:45 am]

**BILLING CODE 4910–15–P**

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 300

[EPA–HQ–SFUND–1983–0002 Notice 4; FRL–8523–7]

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

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final notice of deletion of the Industrial Waste Control Superfund Site from the National Priorities List.

**SUMMARY:** The Environmental Protection Agency (EPA) Region 6 is publishing a direct final notice of deletion of the Industrial Waste Control Superfund Site (Site), located near Fort Smith, Arkansas 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 Arkansas, through the Arkansas Department of Environmental Quality (ADEQ), 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 notice of deletion will be effective April 7, 2008 unless EPA receives adverse comments by March 6, 2008. 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:** Submit your comments, identified by Docket ID No. EPA–HQ–SFUND–1983–0002 Notice 4, by one of the following methods:

*http://www.regulations.gov:* (Follow the on-line instructions for submitting comments).

*E-mail:* [walters.donn@epa.gov](mailto:walters.donn@epa.gov).

*Fax:* 214–665–6660.

*Mail:* Donn Walters, Community Involvement, U.S. EPA Region 6 (6SF–TS), 1445 Ross Avenue, Dallas, TX 75202–2733, (214) 665–6483 or 1–800–533–3508.

*Instructions:* Direct your comments to Docket ID No. EPA–HQ–SFUND–1983–0002 Notice 4.

EPA policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information, disclosure of which is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected. The *http://www.regulations.gov* Web site is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will automatically be captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA

cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption and be free of any defects or viruses.

*Docket:* All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information disclosure of which is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically at <http://www.regulations.gov> or in hard copy at the information repositories.

*Information Repositories:* Comprehensive information about the Site is available for viewing and copying during central standard time at the Site information repositories located at: U.S. EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, (214) 665-6617, by appointment only Monday through Friday 9 a.m. to 12 p.m. and 1 p.m. to 4 p.m.; Fort Smith Public Library, 3201 Rogers Avenue, Ft. Smith, AR 72903, (479) 783-0229, Monday through Thursday, 9 a.m. to 9 p.m., 9 a.m. to 6 p.m. Friday, 10 a.m. to 5 p.m. Saturday and 1 p.m. to 5 p.m. Sunday, Arkansas Department of Environmental Quality (ADEQ), 5301 Northshore Drive, North Little Rock, Arkansas 72118, (501) 682-0744, Monday through Friday 8 a.m. to 4:30 p.m.

**FOR FURTHER INFORMATION CONTACT:** Shawn Ghose M.S., P.E., Remedial Project Manager (RPM), U.S. EPA Region 6 (6SF-RA), 1445 Ross Avenue, Dallas, TX 75202-2733, (214) 665-6782 or 1-800-533-3508 or [ghose.shawn@epa.gov](mailto:ghose.shawn@epa.gov).

**SUPPLEMENTARY INFORMATION:**

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

**I. Introduction**

The EPA Region 6 office is publishing this direct final notice of deletion of the Industrial Waste Control Superfund Site from the NPL.

The EPA identifies sites that appear to present a significant risk to public health and 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 April 7, 2008 unless EPA receives adverse comments by March 6, 2008 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 notice of deletion before the effective date of the deletion, and the deletion will not take effect. The 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 Industrial Waste Control Superfund Site, and demonstrates how it meets the deletion criteria. Section V discusses EPA actions 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 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 that 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 ADEQ on the deletion of the Site from the NPL prior to developing this direct final notice of deletion.

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

(3) Concurrent with publication of this direct final notice of deletion, a notice of 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 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 this Site from the NPL.

#### Site Location

The IWC Site is 8 miles southeast of Ft. Smith, in Sebastian County, Arkansas. It is 1 mile west of the town of Jenny Lind and 4.5 miles east of the town of Bonanza. It can be reached by taking Highway 71 approximately 8 miles south of Ft. Smith, turning east on Bonanza Rd. for about one mile then turning south on the second entrance to Racetrack Road. The Site is the eight acre tract of elevated land enclosed within a six foot chain link fence at the south end of the Racetrack Rd loop less than a mile from Bonanza Rd.

#### Site History

The Site is located in a historic coal mining region which dates back to the late 1800's. There is an extensive network of abandoned underground coal mines north of the Site operated from the 1890s through 1932. In the mid-1940's, a surface strip mine was placed in operation at the Site to recover coal which was too shallow to mine by underground methods. The extent of the final narrow strip mine was approximately 40 feet deep and 2,000 feet long. The western half of this strip mine was ultimately converted into a commercial industrial waste landfill in the late 1960s.

A full permit to receive industrial waste at the Site was issued by the Arkansas Department of Pollution Control and Ecology (currently known as the Arkansas Department of Environmental Quality or ADEQ) to GNJ, Inc. on May 24, 1974. In August of 1974 the Site was sold and renamed the Industrial Waste Control Landfill (IWC).

The IWC operations included the landfill and surface impoundments. The facility received waste from industrial plants in and around Ft. Smith. The surface impoundments were constructed sometime in the late summer or early fall of 1975. They were used to store and evaporate liquid wastes received at the Site. Drums were deposited in two isolated drum disposal areas.

In response to ADEQ's directives concerning a surface impoundment release the operator stopped accepting liquid solvents in mid-1977. Closure activities were initiated shortly thereafter. On August 8, 1978 the ADEQ was notified that the landfill had been closed and covered with compacted material and graded to ensure adequate surface drainage.

The EPA initiated investigations at the Site in 1980 in response to an ADEQ 1979 report of a surface impoundment leachate problem. As a result, the IWC site was placed on the NPL on

December 30, 1982. The Site Remedial Action Master Plan was completed by the EPA on September 30, 1983. The EPA notified potentially responsible parties (PRPs) who organized into the IWC Steering Committee ("the Committee") in November of 1983. The Committee met with the regulatory agencies in November of 1983 to discuss voluntary remediation and the following studies were undertaken by the EPA and the Committee respectively.

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

The EPA's Remedial Investigation (RI) report and Endangerment Assessment (EA) were completed on March 31, 1986, and its Feasibility Study (FS) was completed on June 3, 1986. The EPA authorized the Committee under an agreed Administrative Order to conduct an independent remedial investigation referred to as the Hydrological and Waste Quantification Study (HWQS). The HWQS was conducted from March through July 1987. All field investigation activities conducted by the Committee were overseen by the EPA, and coordinated through the ADEQ. The HWQS report was submitted to the Agencies in October of 1987. A Supplemental Feasibility Study and Supplemental Endangerment Assessment were prepared by the Committee and submitted to the Agencies in February 1988.

The Endangerment Assessments (EA) were conducted to identify the potential risks to public health and the environment. The general EA conclusions were that the exposure pathways did not present an unacceptable risk; significant concentrations of constituents of concern (COC) had not migrated off site; most COC were non-carcinogens; and without a transport mechanism COC did not present an unacceptable risk to groundwater. The selected response action took these risk factors into account.

The Committee's FS evaluated remedy options and proposed a remedial action plan which included removing the surface impoundments and drum disposal areas, treating soils with constituents of concern above clean up criteria, placement of the treated soils in the surface impoundment excavation, controlling migration and infiltration by installing slurry wall/french drain system, covering the surface with a full RCRA cap and cover, and securing the entire Site within a secure 6 foot chain link fence topped with three barb wire strands and controlling access.

The EPA and the ADEQ determined that the proposed remediation alternative met the mandates of Superfund Amendments and Reauthorization Act (SARA). A press release and a fact sheet summarizing the alternative were distributed to the general local population and interested parties on April 19, 1988. A public meeting was held with the area residents and local officials on May 9, 1988 at the South Sebastian County Courthouse. Written comments and questions were received during the comment period which ended June 2, 1988. The EPA's Record of Decision (ROD) was signed on June 28, 1988.

#### Record of Decision

The Record of Decision (ROD) established remediation objectives. The objectives were to remove buried drums in Area C and D and dispose of all liquids in an offsite RCRA facility; treat contaminated soils above clean up criteria from Areas C, D, and 09B to pass the RCRA Toxicity Characteristic Leaching Procedure (TCLP) and solidify the treated soil in the Area C excavation; install a french drain to intercept and divert shallow groundwater around the Site, and a slurry wall to prevent migration of onsite groundwater. Groundwater encountered during remediation excavation was to be collected and treated to meet effluent limitations or mixed with the stabilized soils to meet TCLP limits. Solid and liquid wastes generated during RI were to be characterized and treated and disposed on or offsite as appropriate. A multi-layered RCRA cap was to be constructed to cover the entire site area. A surface drainage ditch was to be constructed on the upgradient side of the RCRA cap to divert surface run-on around the covered Site. Land use restrictions and a security fence were to be put in place to prevent development of the site. Upgradient and downgradient groundwater was to be monitored, and the effectiveness of the remedy was to be verified every five years.

The objectives of the ROD were to be implemented in accordance with the Remedial Action Plan (RAP), which outlined the general conceptual procedures to be followed including preparation of contingency, solid and waste management, health and safety, and QA/QC Plans. The RAP was prepared to comply with all applicable or relevant and appropriate requirements (ARARs) of the Federal, State and local rules and regulations.

### *Cleanup Standards*

The remedial action objectives were to minimize the potential for waste migration, protect human health and the environment, prevent future contamination of surface water and groundwater and minimize short-term air emissions resulting from remedial activities.

### *Response Actions*

The following actions were conducted in response to the ROD/RAP to minimize the potential risks to the water stored in the mine void reservoir:

Reduce toxicity and volume by excavating soils that exceeded Clean-up Criteria (1000ppm Total VOC) encountered in Areas B, C, D, 09B, and along the Slurry Wall and French Drain pathway and treating the soils using chemical fixation and stabilization to meet treatment standards based on EPA Toxicity Concentration Leachate Procedure (TCLP). The treated soils meeting TCLP standards were placed back into the excavation of Area C, solidified with concrete. Area C was then contained within a slurry wall keyed into the weathered bedrock and Site slurry wall and then capped with a RCRA Cap and Cover. Drums removed from Areas C and D that contained liquids were transported to an offsite permitted commercial disposal facility.

Mobility was reduced by removing the leachate transport mechanism by installing French Drain upgradient of the Site to intercept shallow rain infiltration above the weathered bedrock and divert it around the remediated area. A slurry wall was installed downgradient and parallel to the French Drain to cutoff backflow from the impacted Site soils into the French Drain, and to provide backup for the French Drain. The entire remediated area including the Landfill, French Drain, Site slurry wall and self contained Area C was covered with a multilayer RCRA Cap and Cover to prevent rainfall infiltration into the remediated area.

Long term security for the remediated site is provided by the Cap and Cover, site security fence and restricted site access and use. The Site is maintained, monitored and inspected regularly in accordance with the Post Closure Activity Plan.

### *Operation and Maintenance (O&M)*

The Post Closure Activity Plan (January 1991) as approved by the EPA specified the actions to be carried out once remediation construction was completed (3/29/91). The Post Closure Activity Plan (PCAP) included: monitor

well sampling on a quarterly then semiannual basis once baseline action levels were established; site inspections to coincide with monitor well sample events; site mowing and erosion control maintenance; monitor event reports and Five Year Reports to be submitted by the EPA and ADEQ.

The site monitoring has been conducted in compliance with the PCAP as amended, with minor occasional variances duly noted and reported. Monitor wells are sampled in accordance with standard EPA protocol. Sample results which exceed action limits are resampled to confirm conditions. Such occurrences have been infrequent and follow-up resample results have returned to below action limits. The Site vegetation and erosion control has been maintained. While significant site repair has not been necessary, occasional site maintenance has included: well repair and Area C evaluation, installation of additional downgradient monitor wells, repair of french drain and recharge well, regular site mowing, and topsoil replacement.

The Site is totally enclosed by a 6 foot chain link fence topped with three strands of barbed wire. Access is limited to two gates secured with a chain and lock to which only authorized agency and PRP personnel have keys. Over the course of the Post Closure Care period, there have been infrequent and minor instances of site disturbance and trespassing.

Institutional controls (ICs) are a necessary component of maintaining the long-term protectiveness of the remedy. ICs are legal and administrative measures that prevent exposure to contaminants that may remain at a site at concentrations above health-based risk levels. They are typically designed to limit activities at or near the Site, and include requirements for providing notice (i.e., deed recordation) in the real property records for properties where residual contamination will remain. For this Site, the ICs include a deed recordation with a notice that buried contaminants remain on the property, and a prohibition against any reuse, development or other activities that might disturb or damage the affected areas without the approval of EPA, ADEQ and the property owner. The requirement for institutional controls was met through deed recordation in the Official Public Records of Real Property in Sebastian County, Arkansas.

### *Five-Year Review*

The EPA must conduct a statutory five-year review of the remedy no less than every five years after the initiation of the remedial action pursuant to

CERCLA Section 121(c). Based on the five-year reviews, EPA will determine whether human health and the environment continue to be adequately protected by the implemented remedy. Five-year reviews for this Site were completed in February 1997, July 2002, and a revised version in September 2007. During the July 2002 five-year review, EPA had prepared Deletion document for the Site. However Deletion was put on hold as baseline contaminants were exceeded in three monitor wells. IWC Settling Defendants (PRPs) conducted a Site Assessment Study (SAS) which included statistical analysis, risk assessment and fate and transport studies of the contaminants in the offending monitor wells. Based on the data from SAS study by the IWC Settling Defendants, EPA has concluded that offsite migration of contaminants will not occur. Therefore Deletion of the Site from the National Priorities List (NPL) is appropriate at this time. The next five-year review will occur no later than September 2012.

### *Community Involvement*

Public participation activities required in CERCLA Section 113(k), 42 U.S.C. 9613(k), and CERCLA Section 117, 42 U.S.C. 9617, have been satisfied, and documents which EPA generated and/or relied on are available to the public in these information repositories.

### **V. Deletion Action**

The EPA, with concurrence of the State of Arkansas, has determined that all appropriate responses under CERCLA have been completed, and that no further response actions under CERCLA, other than O&M and five-year reviews, 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 April 7, 2008 unless EPA receives adverse comments by March 6, 2008. 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. The 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: September 28, 2007.

**Richard E. Greene,**

*Regional Administrator, EPA Region 6.*

■ For the reasons set out in the preamble, 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 Arkansas (“AR”) by removing the entry for “Industrial Waste Control.”

[FR Doc. E8–1964 Filed 2–4–08; 8:45 am]

**BILLING CODE 6560–50–P**