

public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. Send or deliver information identified as CBI only to the following address: Roberto Morales, OAQPS Document Control Officer (C404-02), U.S. EPA, Research Triangle Park, NC 27711, Attention Docket ID No. EPA-HQ-OAR-2003-0064.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

*B. Where can I get a copy of this document and other related information?*

In addition to being available in the docket, an electronic copy of this notice will also be available on the World Wide Web (WWW). Following signature by the EPA Administrator, a copy of this notice will be posted in the regulations and standards section of our NSR home page located at <http://www.epa.gov/nsr>.

Dated: May 10, 2010.

**Gina McCarthy,**

*Assistant Administrator, Office of Air and Radiation.*

[FR Doc. 2010-11578 Filed 5-13-10; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 300

[EPA-HQ-SFUND-1999-0006; FRL-9150-3]

#### National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Deletion of the Ruston Foundry Superfund Site

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) Region 6 is publishing a direct final Notice of Deletion of the Ruston Foundry Superfund Site (Site), located in Alexandria, Rapides Parish, Louisiana, 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 an appendix of 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 Louisiana, through the Louisiana Department of Environmental Quality (LDEQ), because EPA has determined that all appropriate response actions under CERCLA have been completed. However, this deletion does not preclude future actions under Superfund.

**DATES:** This direct final deletion is effective July 13, 2010 unless EPA receives adverse comments by June 14, 2010. If adverse comments are received, EPA will publish a timely withdrawal of the direct final deletion in the **Federal Register** informing the public that the deletion will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID no. EPA-HQ-SFUND-1999-0006, by one of the following methods:

- <http://www.regulations.gov>. Follow on-line instructions for submitting comments.
- *E-mail:* Katrina Higgins-Coltrain, Remedial Project Manager, U.S. EPA Region 6 [coltrain.katrina@epa.gov](mailto:coltrain.katrina@epa.gov).
- *Fax:* Katrina Higgins-Coltrain, Remedial Project Manager, U.S. EPA Region 6 (6SF-RL) 214-665-6660.
- *Mail:* Katrina Higgins-Coltrain, Remedial Project Manager, U.S. EPA Region 6 (6SF-RL), 1445 Ross Avenue, Dallas, TX 75202-2733.
- *Hand delivery:* U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733. Such deliveries are only accepted

during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. Instructions: Direct your comments to Docket ID no. EPA-HQ-SFUND-1999-0006. EPA's 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 whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. 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 be automatically 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 whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in the hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at: U.S. EPA Region 6 Library, 7th Floor, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733, (214) 665-6424; Rapides Parish Public Library, 411 Washington Street, Alexandria, Louisiana 71301, (318) 442-1840; Louisiana Department of Environmental Quality Public Records Center, Galvez Building Room 127, 602 N. Fifth Street, Baton Rouge, Louisiana 70802, (225) 219-3168, *E-mail:* [publicrecords@la.gov](mailto:publicrecords@la.gov),

Web page: <http://www.deq.louisiana.gov/pubrecords>.

**FOR FURTHER INFORMATION CONTACT:**

Katrina Higgins-Coltrain, Remedial Project Manager (RPM), U.S. EPA Region 6 (6SF-RL), 1445 Ross Avenue, Dallas, TX 75202-2733, (214) 665-8143 or 1-800-533-3508 ([coltrain.katrina@epa.gov](mailto:coltrain.katrina@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 6 is publishing this direct final Notice of Deletion of the Ruston Foundry Superfund Site (Site), from the NPL. The NPL constitutes Appendix B of 40 CFR part 300, which is the NCP, which EPA promulgated pursuant to section 105 of CERCLA of 1980, as amended. EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund. As described in 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for Fund-financed remedial actions if future conditions warrant such actions.

Because EPA considers this action to be noncontroversial and routine, this action will be effective July 13, 2010, unless EPA receives adverse comments by June 14, 2010. Along with this direct final Notice of Deletion, EPA is co-publishing a Notice of Intent to Delete in the "Proposed Rules" section of the **Federal Register**. If adverse comments are received within the 30-day public comment period on this deletion action, EPA will publish a timely withdrawal of this direct final Notice of Deletion before the effective date of the deletion, and the deletion will not take effect. EPA will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of the Notice of Intent to Delete and the comments already received. There will be no additional opportunity to comment.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Ruston Foundry 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**

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making such a determination pursuant to 40 CFR 300.425(e), EPA will 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 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.

Pursuant to CERCLA section 121(c) and the NCP, EPA conducts five-year reviews to ensure the continued protectiveness of remedial actions where hazardous substances, pollutants, or contaminants remain at a site above levels that allow for unlimited use and unrestricted exposure. EPA conducts such five-year reviews even if a site is deleted from the NPL. EPA may initiate further action to ensure continued protectiveness at a deleted site if new information becomes available that indicates it is appropriate. 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. Based on confirmation sample results, hazardous substances above health based levels have been removed from the Ruston Foundry Superfund Site, which allows for unlimited use and unrestricted exposure of the Site property. Therefore, neither a policy nor a statutory review will be necessary for the Site to ensure that the remedy is, or will be, protective of human health and the environment. Pursuant to CERCLA section 121(c), 42 U.S.C. 9621(c), and as provided in the current guidance on Five-Year Reviews: EPA 540-R-01-007, OSWER No. 9355.7-03B-P, *Comprehensive Five-Year Review Guidance*, June 2001, EPA will not need to conduct a statutory five-year review for the Site.

**III. Deletion Procedures**

The following procedures apply to deletion of the Site:

(1) EPA consulted with the state of Louisiana, through the LDEQ, prior to developing this direct final Notice of Deletion and the Notice of Intent to Delete co-published today in the "Proposed Rules" section of the **Federal Register**.

(2) EPA has provided the state 30 working days for review of this notice and the parallel Notice of Intent to Delete prior to their publication today, and the state, through the LDEQ, has concurred on the 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 is being published in the major local newspaper, Alexandria Town Talk. 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 proposed deletion in the deletion docket and made these items available for public inspection and copying at the Site information repositories identified above.

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

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

**IV. Basis for Site Deletion**

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

*Site Background and History*

Ruston Foundry operated from 1908 until 1985. From the beginning of operation until October 1983, it was operated under the name Ruston Foundry and Machine Shops, Ltd and manufactured, bought, and sold hardware, articles of tin, copper, and

sheet iron, agricultural implements, castings of all kinds, furniture and other articles of wood; manufactured, repaired, bought, and sold locomotives, engines, machinery, and all kinds of railroad and mill supplies; and conducted general foundry and machinery operations. By the mid-1950s, Ruston Foundry and Machine Shops, Ltd., had added boiler, dragline, sugar mill, paper mill, saw mill, and oil refinery repairs; casting services for "grey iron and brass," including manhole covers and drainage grates; welding and "metalizing"; steel fabrication.; and the distribution of "Trussless Steel Wonder Buildings" to their business operations. In 1983, the facility was reincorporated and began operating under the name Ruston Foundry and Machine Shops, Inc. In November 1990, the Ruston Foundry and Machine Shops, Inc. corporation charter was revoked by the Louisiana Secretary of State for failure to file its corporate annual report.

The Ruston Foundry Superfund Site is located in an urban area with mixed development within the city limits of Alexandria, Louisiana. The Site encompasses approximately 6.6 acres, and prior to remedial action consisted primarily of dilapidated structures and building foundations overgrown with thick brush. The Site is bordered by a series of abandoned railroad tracks to the west, Chatlin Lake Canal to the northeast and east, and Mill Street Ditch to the south and southeast. Residential property is located to the north, south, and east of the Site. Historical and active industrialized areas lie further west and north of the Site.

During the 1990s, LDEQ and EPA conducted a series of Site investigations. On January 19, 1999 (64 FR 2950), the Site was proposed to the NPL, and on May 10, 1999 (64 FR 24949), EPA formally announced the addition of the Site to the NPL in the **Federal Register**. The EPA Site identification number is LAD985185107.

Foundry operations resulted in metals contaminated waste which was dispersed throughout the property as fill material. As a result of this disposal activity, foundry-derived process wastes (slag, foundry sand piles, metal scrap, and castings) covered most of the Site and had contaminated the soil. Also present at the Site was an underground storage tank (UST) with unknown contents, asbestos containing material (ACM), and slag waste identified as a characteristic hazardous waste because it exceeded toxicity characteristic leaching procedure (TCLP) criteria for lead. Elevated concentrations of lead, and organic compounds benzene,

ethylbenzene, toluene, m-xylene, and oxylene were detected in samples collected from the sludge materials contained in drums. A Time-Critical Removal Action was performed on August 11, 1999, to transport and dispose of the drums offsite.

Through the Reuse Grant awarded by the Government in September 2000, the city of Alexandria developed a future reuse plan. It was anticipated that the selected remedy would provide community revitalization impacts because the implemented remedy would not result in hazardous substances, pollutants, or contaminants remaining onsite above levels that allow for unlimited use and unrestricted exposure. Therefore, five-year reviews, operation and maintenance, and institutional controls restricting Site use or access would not be required for this remedial action. This remedy would be compatible with Alexandria's Site reuse plan and allow for restoration of the Site to beneficial uses.

In support of the city's redevelopment plan, Kansas City Southern Railway (KCS), the potentially responsible party (PRP), has provided access to the 30-acre property adjacent to the Site with the intention of deeding the property to the city once the city has completed its investigation. On February 17, 2009, the city completed a Phase 1 investigation of this property. The city applied for and was granted a Brownfields Grant related to the 30-acre property on September 22, 2008. This grant will be used to assist with costs related to additional investigations of the 30-acre property and support future redevelopment activities for the area.

#### *Remedial Investigation and Feasibility Study*

The field investigation was considered a comprehensive approach that addressed the Site as one operable unit. The field activities included surface soil grid sampling, sampling of soil/sediment on transects across the canals, sampling of waste piles, air monitoring, sampling of surface soil hot spots, sampling of surface water and sediment in the canals, stratigraphic profiling with cone penetrometer testing, subsurface soil grid sampling with direct-push and conventional drilling, monitor well installation, ground water sampling, and aquifer testing.

Foundry operations resulted in metals contaminated waste which was dispersed throughout the property as fill material. As a result of this disposal activity, foundry-derived process wastes (slag, foundry sand piles, metal scrap, and castings) covered most of the Site

and had contaminated the soil. When present, the material ranged in thickness from about 1 inch to about 5 ft in the southwest corner of the main Site area. Concentrations present in samples taken from the permanent ground water monitoring wells exceeded the screening criteria for one constituent [bis(2-ethylhexyl)phthalate], which is a common plasticizer used in well construction material and a common laboratory contaminant. Concentrations are most likely associated with Site monitoring well installation since the facility operated as a metals foundry. Currently, public water supply is provided to the Site vicinity and is expected to be provided onsite in the future. Ground water was not identified as a media of concern. The majority of surface soil samples contained visible foundry waste materials and, as a result, surface soil samples tended to demonstrate the highest concentrations of Site-related contaminants of concern. Also present at the Site was a UST with unknown contents, ACM, and slag waste identified as a characteristic hazardous waste because it exceeded lead TCLP criteria. Through the human health and ecological risk assessments, the identified contaminated media of most concern were surface soil and sediment that contain lead and antimony, and the exposure routes of most concern were direct contact and ingestion. Children were found to be the most sensitive and vulnerable to the effects of lead.

The EPA determined that it was appropriate to apply the presumptive remedy for metals in soil based on the soil and contaminant characteristics found at the Site and guidance provided in the directive, Presumptive Remedies for Metals-in-Soil Sites (EPA 540-F-98-054, OSWER-9355.0-72FS, September 1999). Following the guidance, the EPA has a goal of resource conservation, thereby making reclamation/recovery the preferred treatment technology for metals-in-soil sites. This approach was determined to be inappropriate for the Site. Slag waste is the primary contaminated media/matrix encountered throughout the Site, and reclamation/recovery is generally not effective for treatment of slag waste. The concentration of metals in the slag is too low to warrant reclamation and recovery, and the physical and chemical nature of the slag material that binds the metals would make reclamation or recovery of metal from the waste physically and economically impractical. Therefore, the second preferred treatment technology alternative of immobilization

(solidification/stabilization) was used. In addition to the presumptive remedies, the Feasibility study evaluated a no action alternative, as required by the NCP for inclusion as a baseline of Site conditions for comparison, and an excavation and offsite disposal alternative.

### Selected Remedy

#### Record of Decision Dated June 24, 2002

The ROD was signed on June 24, 2002. The principal threat waste at the Site was to be addressed through the excavation and offsite disposal of contaminated soil and sediment, removal and offsite disposal of ACM and the UST, and the excavation, treatment, and offsite disposal of hazardous wastes.

The remedial action objectives (RAOs) for the Site included the following:

- RAO No. 1—Prevent direct human contact (trespassers, adult recreators, and child recreators) with surface soils and waste piles containing lead at concentrations that would result in a greater than 5 percent chance that a child's blood lead value would exceed 10 micrograms per deciliter ( $\mu\text{g}/\text{dL}$ ).
- RAO No. 2—Prevent direct human contact (trespassers, adult recreators, and child recreators) with surface soils and waste piles containing antimony at concentrations which have a hazard index greater than 1.
- RAO No. 3—Prevent leaching and migration of lead from surface soils and waste piles into the ground water at concentrations exceeding 0.015 milligrams per liter.
- RAO No. 4—Prevent leaching and migration of antimony from surface soils and waste piles into the ground water at concentrations exceeding 0.006 milligrams per liter.
- RAO No. 5—Prevent direct human contact with asbestos containing material at concentrations greater than 1 percent by weight.
- RAO No. 6—Prevent direct contact with the underground storage tank, its contents, and surrounding contaminated soils.
- RAO No. 7—Prevent direct human contact (trespassers, adult recreators, and child recreators) with slag pile material with toxicity characteristic leaching procedure lead concentrations greater than 5 milligrams per liter and handle as hazardous waste in accordance with all applicable federal, state, and local regulations.
- RAO No. 8—Prevent migration of contaminants to deeper soils and ground water through the former onsite water supply well and from the existing buildings, slabs, sump, and trash.

Because there are no Federal or State cleanup standards for soil contamination, the EPA established the RAO cleanup levels (CLs) based on the baseline risk assessment to reduce the excess noncancer risk associated with exposure to contaminated wastes, the excess risk of exceeding 10  $\mu\text{g}/\text{dL}$  blood lead level, and the potential for migration of contaminants into the ground water. The CL for antimony was established as 150 milligrams per kilogram ( $\text{mg}/\text{kg}$ ), and the CL for lead was established as 500  $\text{mg}/\text{kg}$ .

The major components of the original remedy were:

1. *Stabilization*—Approximately 1300 cubic yards ( $\text{yd}^3$ ) of hazardous waste would be excavated and stabilized. The material would be stabilized until sampling verified that it no longer exceeded TCLP for lead. After verification, the waste would be disposed offsite at a Resource Conservation and Recovery Act (RCRA) regulated Subtitle D facility.
2. *ACM*—Materials would be consolidated onsite, contained, and transported offsite to a disposal facility licensed to accept ACM. Methods to control airborne dispersion of asbestos would be implemented during remediation. The estimated total volume of material was 22  $\text{yd}^3$ .
3. *UST*—The UST, its contents, and the surrounding petroleum wastes would be characterized during the remedial design to determine whether the contents would be cleaned up under CERCLA or Oil Pollution Act authority. The surrounding polychlorinated biphenyl contaminated soils would be removed and disposed offsite in accordance with federal, state, and local regulations. The total volume of tank contents was estimated at 5,000 gallons. The volume of associated contaminated soil was included in the soil/sediment estimated volume of 15,000  $\text{yd}^3$ .
4. *Building debris and water supply well*—The onsite well would be plugged and abandoned in accordance with federal, state, and local regulations. Portions of the Site would be cleared, where necessary, and the existing buildings and foundations would be demolished, removed and disposed offsite.
5. *Soil/sediment*—Approximately 15,000  $\text{yd}^3$  of lead and antimony contaminated soil and sediment would be excavated and disposed offsite in a RCRA Subtitle D facility.
6. *Air Monitoring*—During remedial action, efforts would be made to control dust and run-off to limit the amount of materials that may migrate to a potential receptor. Air monitoring would be conducted during times of remediation

to ensure that control measures are working to regulate Site emissions.

7. *Short-term monitoring*—Monitoring of the surface water and ground water during remedial action may be necessary to ensure that run-off control measures are working.

#### Explanation of Significant Differences (ESD) Dated September 28, 2004

The EPA issued the ESD on September 28, 2004, to document post-ROD changes. Post-ROD negotiations between EPA and KCS indicated that the use of stabilization may not be the most efficient and cost effective method for addressing the slag waste. In addition, post-ROD discussions between the city and the community resulted in changing the proposed future Site reuse from recreational to industrial. Based on this information, EPA issued an ESD in September 2004 to document future Site use as industrial and to include a contingency remedy for the hazardous waste.

This new information significantly changed a component of the selected remedy and added a contingency remedy; however, it did not fundamentally alter the overall cleanup approach, which was stabilization and offsite disposal. The change in land use required revisions to the risk assessment, which in turn revised the soil/sediment CLs, the estimated waste volume to be addressed, and the estimated remedial costs. This change also required future operation and maintenance (O&M) activities, Five-year Reviews, and Institutional Controls (ICs).

The Revised RAOs for the Site included:

- RAO No. 1—Prevent direct human contact (pregnant adult woman worker) with surface soils and waste piles containing lead at concentrations that would result in a greater than 5 percent chance that a fetus's blood lead value would exceed 10  $\mu\text{g}/\text{dL}$ .
- RAO No. 2—Prevent direct human contact (adult workers) with surface soils containing antimony at concentrations which have a hazard index greater than 1.
- RAO No. 3—Prevent direct human contact with asbestos containing material at concentrations greater than 1 percent by weight.
- RAO No. 4—Prevent direct contact with the underground storage tank, its contents, and surrounding contaminated soils.
- RAO No. 5—Prevent direct human contact (pregnant adult woman worker and adult workers) with slag pile material with toxicity characteristic leaching procedure lead concentrations

greater than 5 milligrams per liter and handle as hazardous waste in accordance with all applicable federal, state, and local regulations.

- RAO No. 6—Prevent migration of contaminants to deeper soils and ground water through the former onsite water supply well and from the existing buildings, slabs, sump, and trash.

The EPA established the RAO CLs based on the revised baseline human health risk assessment for an industrial reuse scenario to reduce the excess noncancer risk associated with exposure to contaminated wastes and the excess risk of exceeding 10 µg/dL blood lead level. The CL for antimony was established as 820 mg/kg, and the CL for lead was established as 1400 mg/kg. During this time, the LDEQ conducted a Site-specific evaluation of the leaching data and determined that soil data did not exceed the calculated Site-specific CL for protection of ground water. As a result, it was removed as a cleanup criteria for the Site.

*The major components of the 2004 ESD were:*

1. *Stabilization*—Approximately 1300 yd<sup>3</sup> of hazardous waste would be excavated and stabilized. The material would be stabilized until sampling verified that it no longer exceeded TCLP for lead. After verification, the waste would be disposed offsite at a RCRA regulated Subtitle D facility.

2. *ACM*—Materials would be consolidated onsite, contained, and transported offsite to a disposal facility licensed to accept ACM. Methods to control airborne dispersion of asbestos would be implemented during remediation. The estimated total volume of material was 22 yd.<sup>3</sup>

3. *UST*—The UST, its contents, and the surrounding petroleum wastes would be characterized during the remedial design to determine whether the contents would be cleaned up under CERCLA or Oil Pollution Act authority. The surrounding polychlorinated biphenyl contaminated soils would be removed and disposed offsite in accordance with federal, state, and local regulations. The total volume of tank contents was estimated at 5,000 gallons.

4. *Building debris and water supply well*—The onsite well would be plugged and abandoned in accordance with federal, state, and local regulations. Portions of the Site would be cleared, where necessary, and the existing buildings and foundations would be demolished, removed and disposed offsite.

5. *Soil/sediment*—Approximately 1,766 yd<sup>3</sup> of lead and antimony contaminated soil and sediment would

be excavated and disposed offsite in a RCRA Subtitle D facility.

6. *Air Monitoring*—During remedial action, efforts would be made to control dust and run-off to limit the amount of materials that may migrate to a potential receptor. Air monitoring would be conducted during times of remediation to ensure that control measures are working to regulate Site emissions.

7. *O&M and ICs*—The implementation of ICs and O&M would be necessary to restrict land use and ensure protectiveness.

8. *Five-Year Reviews*—Because hazardous substances would remain on the Site above levels that allow for unlimited use and unrestricted exposure, reviews of the remedy would be conducted no less than every five years to ensure that the remedy functions as designed, and remains protective of human health and the environment.

9. *Contingency Remedy*—Excavation and Offsite Disposal was added as a contingency for the hazardous waste. The implementation of this contingency was dependent on the completion of a treatability analysis of the stabilization process.

*Explanation of Significant Differences Dated January 2, 2008*

As part of the Consent Decree negotiations and remedial design activities, the PRP, through a treatability evaluation, researched and reviewed options related to stabilization of the slag waste. Information gathered during the treatability evaluation was submitted by KCS in a letter dated September 13, 2007. The evaluation supported the use of the contingency remedy documented in the 2004 ESD as being a more efficient and cost effective approach for remediation of the hazardous slag waste. Therefore, the 2008 ESD was issued to document the information that significantly changed a component of the selected remedy and to invoke the Contingency Remedy as outlined in the 2004 ESD. The contingency remedy, Excavation and Offsite Disposal, included the removal of the 1,300 yd<sup>3</sup> of hazardous slag waste from the Site with subsequent offsite disposal in a hazardous waste landfill. All other components of the remedy remain unchanged.

*The major components of the 2008 ESD were:*

1. *Hazardous Waste*—Approximately 1300 yd<sup>3</sup> of hazardous waste would be excavated and disposed offsite at a RCRA regulated Subtitle C facility.

2. *ACM*—Materials would be consolidated onsite, contained, and transported offsite to a disposal facility

licensed to accept ACM. Methods to control airborne dispersion of asbestos would be implemented during remediation. The estimated total volume of material was 22 yd<sup>3</sup>.

3. *UST*—The UST, its contents, and the surrounding petroleum wastes would be characterized during the remedial design to determine whether the contents would be cleaned up under CERCLA or Oil Pollution Act authority. The surrounding polychlorinated biphenyl contaminated soils would be removed and disposed offsite in accordance with federal, state, and local regulations. Total volume of tank contents was estimated at 5,000 gallons.

4. *Building debris and water supply well*—The onsite well would be plugged and abandoned in accordance with federal, state, and local regulations. Portions of the Site would be cleared, where necessary, and the existing buildings and foundations would be demolished, removed and disposed offsite.

5. *Soil/sediment*—Approximately 1,766 yd<sup>3</sup> of lead and antimony contaminated soil and sediment would be excavated and disposed offsite in a RCRA Subtitle D facility.

6. *Air Monitoring*—During remedial action, efforts would be made to control dust and run-off to limit the amount of materials that may migrate to a potential receptor. Air monitoring would be conducted during times of remediation to ensure that control measures are working to regulate Site emissions.

7. *O&M and ICs*—The implementation of ICs and O&M would be necessary to restrict land use and ensure protectiveness.

8. *Five-Year Reviews*—Because hazardous substances would remain on the Site above levels that allow for unlimited use and unrestricted exposure, reviews of the remedy would be conducted no less than every five years to ensure that the remedy is functioning as designed, and remains protective of human health and the environment.

*Explanation of Significant Differences Dated November 9, 2009*

This ESD documented the results from the remedial action activities for the Site that support the Site's unlimited use and unrestricted exposure scenario. Overall Site excavation and offsite disposal activities resulted in the removal of contaminated media to levels below the established CLs for the recreational/residential scenario. Because the Site meets unlimited use and unrestricted exposure, the ESD removed the ICs, O&M, and five-year reviews as components of the overall

Site remedy documented in the 2004 ESD and the 2008 Contingency ESD.

#### Response Actions

The Consent Decree between EPA and KCS was entered by the court on January 14, 2008. A notice to proceed was issued to the KCS on January 22, 2008. The Site RD/RA was completed as an EPA enforcement-lead project with LDEQ acting as the supporting agency, and KCS performing the work. The final Remedial Design and Implementation Work Plan was submitted by KCS on February 21, 2008, and was accepted by the Agencies as final on February 28, 2008.

Prior to implementing the response actions, a Louisiana-licensed asbestos abatement contractor completed a survey of and sampled potential ACM on January 28, 2008. Following receipt of the results of the asbestos sampling program, a second more local licensed contractor filed the required notification form on February 19, 2008, completed the abatement work on March 5, 2008, and disposed of 30 yd<sup>3</sup> on March 7, 2008.

The KCS construction contractor mobilized personnel, equipment and operations trailers to the Site on February 25, 2008. Between March 5 and 14, 2008, the areas of interest (AOIs) and slag piles were identified and marked. From March 14 through May 20, 2008, clearing and grubbing, soil excavation, slag removal, confirmation sampling, backfilling, and seeding activities were completed.

A preliminary project closeout meeting/Site walk was held on May 10, 2008, by EPA, LDEQ, and KCS. A punch list was created at that time. KCS completed hydroseeding, water system construction, and punch list items between May 11 and 20, 2008, along with a pre-final inspection with EPA and LDEQ on May 14, 2008. A formal Site closeout walk with the same parties was conducted on June 17, 2008. No additional punch list items were identified.

While performing Site remedial activities, KCS determined that minimal effort and cost would be required to address Site contamination to levels well below the CLs established for lead and antimony under an industrial scenario as described in the 2004 ESD. KCS was back at the Site on July 9, 2008, collecting soil samples from locations identified in the Remedial Investigation with lead concentrations between 500 mg/kg and 1400 mg/kg. In addition, KCS collected confirmation soil samples within AOIs that were excavated to native clay visually, to establish that lead concentrations were

below 500 mg/kg. A single sample location south of the drainage ditch was above the unrestricted use standard of 500 mg/kg. KCS remobilized to the Site on August 18, 2008, to complete excavation of this area. Using visual removal as the criteria, contamination was excavated from approximately 0.9 acres followed by the collection of confirmation samples. The excavation area was backfilled and seeded. EPA and KCS conducted a final Site walk of the south supplemental excavation on August 22, 2008. This supplemental work was completed on August 24, 2008. The Preliminary Close Out Report was signed on September 3, 2008, documenting the completion of onsite construction.

Review of the draft remedial action report noted that an area along the southern boundary, just north of the canal may not have been fully addressed. On May 15, 2009, EPA and KCS performed a Site inspection to verify whether field activities were completed in this area. Visual inspection of the area confirmed that additional excavation would be required.

KCS mobilized to the Site during the week of May 25, 2009, and began clearing the canal bank. Excavation of contaminated soil and slag began during the week of June 1, 2009, and was completed on June 23, 2009. EPA and LDEQ were onsite June 23, 2009, to conduct a Site inspection with KCS. Seeding of the canal bank was completed on July 2, 2009, and later inspected jointly by LDEQ and KCS on July 22, 2009. During the inspection, it was noted that significant erosion had taken place due to heavy rains. These areas were repaired with riprap and inspected by KCS and LDEQ on August 25, 2009.

Details related to the remedial action are found in the final Ruston Foundry Superfund Site Remediation Report dated March 9, 2009, and the Ruston Foundry Superfund Site Remediation Report Addendum dated September 10, 2009.

After completion and acceptance of the final remedial action documents, the final Close Out Report for the was finalized on January 29, 2010, documenting completion of remedial action activities.

#### Cleanup Goals

The quality assurance/quality control (QA/QC) program for the Site was conducted in accordance with the work plan prepared to implement the remedial action construction activities. The EPA, in conjunction with LDEQ, conducted regular oversight throughout

the implementation of the remedial action, reviewed and commented on all project plans for the Site, and participated in the Pre-final and Final Construction Inspections.

The quality assurance project plan incorporated EPA and State comments and requirements. The EPA and LDEQ reviewed the remedial action construction work for compliance with QA/QC protocols. Construction activities at the Site were determined to be consistent with the ROD, ESDs, and the Remedial Design and Implementation Work Plan and specifications. Deviations or non-adherence to QA/QC protocols or specifications were properly documented and resolved.

All monitoring equipment was calibrated and operated in accordance with the manufacturer's instructions and protocols established in the quality assurance project plan. During sampling, equipment was properly decontaminated prior to each use. The EPA analytical methods and contract laboratory program-like procedures and protocols were used for all confirmation and monitoring samples for soil and air analyses during the RA using a private laboratory contracted by the PRP. Air sample analyses followed EPA protocols in the *Compendium of Methods for the Determination of Toxic Compounds in Ambient Air*. The EPA and the State determined that analytical results were accurate to the degree needed to assure satisfactory execution of the RA.

Monitoring activities implemented during 2008 and 2009 remedial action are presented in the following paragraphs.

1. *ACM*—A Louisiana-licensed asbestos abatement contractor visually identified building debris that potentially contained asbestos. The contractor collected 6 samples of building debris material and mapped the area around the former foundry building where the debris was located. Asbestos was positively identified in three samples, two of cement board building debris and one of black flashing building debris. The ACM was localized about the former foundry building with no evidence of burial. Prior to excavation activities, the ACM debris was consolidated onsite, contained, and transported offsite to a disposal facility licensed to accept ACM. Methods to control airborne dispersion of asbestos were implemented during remediation. The final total volume of material disposed offsite was 30 yd<sup>3</sup>. After removal of the ACM, the underlying soil within the ACM area was incorporated into the overall slag and soil excavation areas. At

a minimum, 6 inches of soil were removed during remediation, and the area was backfilled with clean fill upon completion.

2. *Slag*—Slag piles were visually identified, outlined and surveyed. Slag was either handpicked and moved with wheelbarrows or shoveled using heavy equipment. After removal of the slag, the underlying soil was incorporated into the overall soil excavation areas. At a minimum 6 inches of soil were removed during remediation, and the area was backfilled with clean fill upon completion. Approximately 745.94 tons of hazardous waste from the northern portion and 45 yd<sup>3</sup> of hazardous waste from the canal bank were excavated and shipped to a permitted RCRA hazardous waste landfill.

3. *UST*—The UST was found about 2 feet below ground level with an approximate 500-gallon capacity. The UST was filled with soil and a few gallons of rainwater. No staining was evident in the surrounding soil; however, the rainwater had a petroleum-like odor. Two soil samples were collected from the base of the excavation area and analyzed for total petroleum hydrocarbons by EPA Method 8015 diesel range organics and kerosene. Results were below LDEQ UST standards. The UST was decontaminated and disposed offsite. The surrounding soil was incorporated into the overall soil excavation areas.

4. *Water Supply Well*—All 5 onsite monitoring wells, designated MW-1 through MW-5, were closed by a licensed Louisiana contractor in accordance with LDEQ State requirements.

5. *Building Debris*—The concrete slabs were broken with jackhammers, stockpiled with the excavator, and pressure washed to remove loose soil. After decontamination, an estimated 550 yd<sup>3</sup> of concrete was transported offsite and donated to a local concrete recycler. All other domestic trash dumped on the property was removed and disposed offsite. Remnants of four remaining structures and a large amount of miscellaneous scrap metal were consolidated into piles, power washed, and loaded onto trailers. Approximately 43 tons of steel and other metal debris were recycled.

6. *Confirmation Samples*—Approximately 7,220 yd<sup>3</sup> [6,140 yd<sup>3</sup> from the northern portion, 1069.5 tons (713 yd<sup>3</sup>) from the southern portion, and 550 tons (367 yd<sup>3</sup>) from the canal bank] of lead and antimony contaminated soil and sediment were excavated and disposed offsite in a RCRA Subtitle D facility. Excavation progressed to the underlying native clay with depths

ranging from 6 inches to 4 ft below original ground surface.

Five-point composites were collected from 25 by 25-foot grids used across the northern portion of the property. These grid locations were supplemented with six additional confirmation sample locations in areas where soil and slag locations overlapped. The southern portion of the property was sampled based on sample locations from the RI and the estimated location of the historic foundry building footprint. All confirmation sample results show levels of lead and antimony to be less than the CLs required for unlimited use and unrestricted exposure as determined by the Site-specific risk assessment. Lead concentrations are less than 500 mg/kg, with the highest concentration left onsite at 342 mg/kg, and antimony concentrations are less than 150 mg/kg, with the highest concentration left onsite at 18.9 mg/kg. The concentrations are consistent with accepted unlimited use and unrestricted exposure scenarios. In addition, identified ACM, hazardous waste (slag), and the UST were removed and disposed offsite.

7. *Backfill*—Six (6) composite samples were taken of the stockpiled native clay placed on the adjacent KCS property by the city of Alexandria during drainage ditch construction. Two (2) composite samples were collected from an offsite borrow source used for backfill during the 2008 and 2009 remedial activity. All samples were analyzed for RCRA metals. Results were consistent with background, and specifically met the CLs for lead and antimony. Approximately 9,185 yd<sup>3</sup> of backfill (7,800 yd<sup>3</sup> on the northern portion, 1,185 yd<sup>3</sup> on the southern portion, and 200 yd<sup>3</sup> on the canal bank) were used to fill excavation areas and grade the Site for proper drainage.

8. *Air*—During remedial action, efforts were made to control dust and run-off to limit the amount of materials that may migrate to a potential receptor. Work areas were continually wetted down to control potential dust emissions. Air monitoring was conducted during times of remediation upgradient, downgradient, and within the excavation areas as well as on personnel working within the exclusion zone. Air monitoring results did not exceed the Site-specific action levels for lead, antimony, or total suspended particulates.

Based on Site construction activity and subsequent confirmation sampling, all remedial action objectives have been met as well as the criteria for unlimited use and unrestricted exposure. The excavation areas were backfilled with suitable materials meeting Site-specific

CLs, graded for proper drainage, and seeded.

#### *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. Throughout the Site's history, the community has been interested and involved with Site activity. The EPA has kept the community and other interested parties updated on Site activities through informational meetings, fact sheets, and public meetings. The EPA worked closely with the local Lower Third Neighborhood Group. 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.

#### *Determination That the Site Meets the Criteria for Deletion in the NCP*

The NCP [40 CFR 300.425(e)] states that a site may be deleted from the NPL when no further response action is appropriate. EPA, in consultation with the State of Louisiana, has determined that all appropriate response action under CERCLA has been implemented, and no further response action by the PRP is appropriate.

#### **V. Deletion Action**

The EPA, with concurrence of the State of Louisiana, through the LDEQ, has determined that all appropriate response actions under CERCLA, have been completed. 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 *July 13, 2010* unless EPA receives adverse comments by *June 14, 2010*. 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 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: April 29, 2010.

**Lawrence E. Starfield,**

*Deputy Regional Administrator, Region 6.*

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

#### **PART 300—[AMENDED]**

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

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

#### **APPENDIX B—[AMENDED]**

■ 2. Table 1 of Appendix B to part 300 is amended by removing the entry “Ruston Foundry, Alexandria, LA.” [FR Doc. 2010–11306 Filed 5–13–10; 8:45 am]

**BILLING CODE** 6560–50–P

## **FEDERAL COMMUNICATIONS COMMISSION**

### **47 CFR Part 73**

[MB Docket Nos. 07–294; 06–121; 02–277; 04–228, MM Docket Nos. 01–235; 01–317; 00–244; FCC 10–49]

### **Promoting Diversification of Ownership in the Broadcasting Services**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; correction and correcting amendments.

**SUMMARY:** The Federal Communications Commission published in the **Federal Register** of May 16, 2008 (73 FR 28361), a Report and Order concerning steps the Commission took to increase participation in the broadcasting industry by new entrants and small businesses, including minority- and women-owned business. This document corrects the Report and Order by substituting the word “ethnicity” for “gender” in explaining the requirements for broadcasters to certify that their advertising contracts do not discriminate on the basis of race or ethnicity and that such contracts contain nondiscrimination clauses. In this document, the FCC also corrects the rules in 47 CFR 73.3555 and 73.5008 published at 73 FR 28361, May 16, 2008, related to steps the Commission took to increase participation in the broadcasting industry by eligible entities, including minority- and women-owned businesses.

**DATES:** The amendments to 47 CFR 73.3555 and 73.5008 in this rule are

effective May 14, 2010, and Form 303–S will become effective 30 days after the Commission publishes a document in the **Federal Register** announcing approval by the Office of Management and Budget.

#### **FOR FURTHER INFORMATION CONTACT:**

Amy Brett, (202) 418–2703.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission’s Third Erratum, FCC 10–49, adopted March 29, 2010 and released March 29, 2010. In FR Doc. E8–11039 the Federal Communications Commission published a Report and Order in the **Federal Register** of May 16, 2008 (73 FR 28361) in FCC 07–217.

On page 28364, in the first column, paragraph 11, the Commission inadvertently used the word “gender” instead of “ethnicity.” This document corrects that error and revises the language to read as follows:

The Commission finds that discriminatory practices have no place in broadcasting and concludes that it is appropriate for the Commission to require broadcasters renewing their licenses to certify that their advertising contracts do not discriminate on the basis of race or ethnicity and that such contracts contain nondiscrimination clauses.

Also, in this document the Commission amends Note 2(i) of 47 CFR 73.3555 and 47 CFR 73.5008(c), published at 73 FR 28361, May 16, 2008, so the rules accurately reflect the Commission’s intent.

#### **Need for Correction**

As published, the final regulations contain inadvertent errors which need to be corrected.

#### **List of Subjects in 47 CFR Part 73**

Radio, Television.

Federal Communications Commission.

**Bulah Wheeler,**

*Acting Associate Secretary.*

■ Accordingly, 47 CFR part 73 is corrected by making the following correcting amendments:

#### **PART 73—RADIO BROADCAST SERVICES**

■ 1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, 336, and 339.

■ 2. Revise paragraph i. of Note 2 to § 73.3555, to read as follows:

#### **§ 73.3555 Multiple ownership.**

\* \* \* \* \*

i.1. Notwithstanding paragraphs e. and f. of this Note, the holder of an equity or debt interest or interests in a broadcast licensee, cable television

system, daily newspaper, or other media outlet subject to the broadcast multiple ownership or cross-ownership rules (“interest holder”) shall have that interest attributed if:

A. The equity (including all stockholdings, whether voting or nonvoting, common or preferred) and debt interest or interests, in the aggregate, exceed 33 percent of the total asset value, defined as the aggregate of all equity plus all debt, of that media outlet; and

B.(i) The interest holder also holds an interest in a broadcast licensee, cable television system, newspaper, or other media outlet operating in the same market that is subject to the broadcast multiple ownership or cross-ownership rules and is attributable under paragraphs of this note other than this paragraph i.; or

(ii) The interest holder supplies over fifteen percent of the total weekly broadcast programming hours of the station in which the interest is held. For purposes of applying this paragraph, the term, “market,” will be defined as it is defined under the specific multiple ownership rule or cross-ownership rule that is being applied, except that for television stations, the term “market,” will be defined by reference to the definition contained in the local television multiple ownership rule contained in paragraph (b) of this section.

2. Notwithstanding paragraph i.1. of this Note, the interest holder may exceed the 33 percent threshold therein without triggering attribution where holding such interest would enable an eligible entity to acquire a broadcast station, provided that:

i. The combined equity and debt of the interest holder in the eligible entity is less than 50 percent, or

ii. The total debt of the interest holder in the eligible entity does not exceed 80 percent of the asset value of the station being acquired by the eligible entity and the interest holder does not hold any equity interest, option, or promise to acquire an equity interest in the eligible entity or any related entity. For purposes of this paragraph i.2, an “eligible entity” shall include any entity that qualifies as a small business under the Small Business Administration’s size standards for its industry grouping, as set forth in 13 CFR 121.201, at the time the transaction is approved by the FCC, and holds:

A. 30 percent or more of the stock or partnership interests and more than 50 percent of the voting power of the corporation or partnership that will own the media outlet; or