

equipment and materials, storing of equipment or setting up temporary trailers to house construction management or staff and contractor personnel.; or

(ii) Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

\* \* \* \* \*
Forestry or silvicultural activities means those activities associated with regeneration, growing, and harvesting of trees and timber including, but not limited to, preparing sites for new stands of trees to be either planted or allowed to regenerate through natural means, road construction and road maintenance, fertilization, logging operations, and forest management techniques employed to enhance the growth of stands of trees or timber.

- \* \* \* \* \*
■ 4. Section 49.153 is amended by:
■ a. Revising paragraphs (a)(3)(ii) and (iii);
■ b. Revising paragraphs (c) introductory text and (c)(3); and
■ c. Adding paragraphs (c)(8) through (13).

The revisions and additions read as follows:

§ 49.153 Applicability.

- (a) \* \* \*
(3) \* \* \*
(ii) If you wish to begin construction of a new synthetic minor source and/or a new synthetic minor HAP source or a modification at an existing synthetic minor source and/or synthetic minor HAP source, on or after August 30, 2011, you must obtain a permit pursuant to § 49.158 prior to beginning construction.

(iii) If you own or operate a synthetic minor source or synthetic minor HAP source that was established prior to the effective date of this rule (that is, prior to August 30, 2011) pursuant to the FIPs applicable to the Indian reservations in Idaho, Oregon and Washington or under an EPA-approved rule or permit program limiting potential to emit, you do not need to take any action under this program unless you propose a modification for this existing synthetic minor source and/or synthetic minor HAP source on or after August 30, 2011. For these modifications, you need to obtain a permit pursuant to § 49.158 prior to beginning construction.

\* \* \* \* \*
(c) What emissions units and activities are exempt from this program?

At a source that is otherwise subject to this program, this program does not apply to the following emissions units and activities that are listed in paragraphs (c)(1) through (13) of this section:

\* \* \* \* \*
(3) Cooking of food, except for wholesale businesses that both cook and sell cooked food.

\* \* \* \* \*
(8) Single family residences and residential buildings with four or fewer dwelling units.

(9) Emergency generators, designed solely for the purpose of providing electrical power during power outages:

(i) In nonattainment areas, the total maximum manufacturer's site-rated horsepower of all units shall be below 500;

(ii) In attainment areas, the total maximum manufacturer's site-rated horsepower of all units shall be below 1,000.

(10) Stationary internal combustion engines with a manufacturer's site-rated horsepower of less than 50.

(11) Furnaces or boilers used for space heating that exclusively use gaseous fuel, with a total maximum heat input (i.e., from all units combined) of:

(i) In nonattainment areas, 5 million British thermal units per hour (MMBtu/hr) or less;

(ii) In attainment areas, 10 MMBtu/hr or less.

(12) Air conditioning units used for human comfort that do not exhaust air pollutants in the atmosphere from any manufacturing or other industrial processes.

(13) Forestry and silvicultural activities.

- \* \* \* \* \*
■ 5. Section 49.158 is amended by revising paragraph (c)(1) to read as follows:

§ 49.158 Synthetic minor source permits.

\* \* \* \* \*
(c) \* \* \*
(1) If your existing synthetic minor source and/or synthetic minor HAP source was established pursuant to the FIPs applicable to the Indian reservations in Idaho, Oregon and Washington or was established under an EPA-approved rule or permit program limiting potential to emit, you do not need to take any action under this program unless you propose a modification for this existing synthetic minor source and/or synthetic minor HAP source on or after August 30, 2011. For these modifications, you need to obtain a permit pursuant to § 49.158 before you begin construction.

■ 6. Section 49.160 is amended by revising paragraph (d)(1) to read as follows:

§ 49.160 Registration program for minor sources in Indian country.

\* \* \* \* \*
(d) \* \* \*
(1) Report of relocation. After your source has been registered, you must report any relocation of your source to the reviewing authority in writing no later than 30 days prior to the relocation of the source. Unless otherwise specified in an existing permit, a report of relocation shall be provided as specified in paragraph (d)(1)(i) or (ii) of this section, as applicable. In either case, the permit application for the new location satisfies the report of relocation requirement.

(i) Where the relocation results in a change in the reviewing authority for your source, you must submit a report of relocation to the current reviewing authority and a permit application to the new reviewing authority.

(ii) Where the reviewing authority remains the same, a report of relocation is fulfilled through the permit application for the new location.

\* \* \* \* \*
[FR Doc. 2013-13057 Filed 6-3-13; 8:45 am]
BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300
[EPA-HQ-SFUND-2003-0010; FRL-9818-6]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Partial Deletion of the Omaha Lead Superfund Site

AGENCY: Environmental Protection Agency (EPA).
ACTION: Proposed rule; notice of intent.

SUMMARY: The Environmental Protection Agency (EPA) Region 7 is issuing a Notice of Intent to Delete the 1,154 parcels (of the Omaha Lead Superfund Site (Site) located in the eastern part of the city of Omaha, Nebraska, from the National Priorities List (NPL) and requests public comments on this proposed action. 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). The EPA and the State of Nebraska, through the

Nebraska Department of Environmental Quality (NDEQ), have determined that all appropriate response actions under CERCLA and other lead abatement activities at these identified parcels have been completed. However, this deletion does not preclude future actions under Superfund.

This partial deletion pertains to soils, dust and deteriorating lead-based paint, where applicable, of the 1,154 residential parcels. These types of properties include single and multi-family dwellings, apartment complexes, child-care facilities, vacant lots in residential areas, schools, churches, community centers, parks, greenways, and any other areas where children may be exposed to site-related contaminated media. A listing of the parcels by address can be found in Table 1 in the deletion docket. Figure 1 also shows a map of the Omaha Lead site and identifies the parcels proposed for deletion. Approximately 12,800 residential parcels and associated soil, dust and deteriorating lead-based paint will remain on the NPL and is/are not being considered for deletion as part of this action.

**DATES:** Comments must be received by July 5, 2013.

**ADDRESSES:** Submit your comments, identified by Docket ID no. EPA-HQ-SFUND-2003-0010, by one of the following methods:

- <http://www.regulations.gov>. Follow on-line instructions for submitting comments.

- *Email:* france-isetts.pauletta@epa.gov Fax: 913-551-7066

- *Mail:* Environmental Protection Agency, 8600 NE Underground Dr., Pillar 253., Kansas City, Missouri 64161 Attention: Pauletta France-Isetts, Superfund Division Hand delivery: 11201 Renner Boulevard, Lenexa, Kansas 66219. 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-2003-0010. 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://](http://www.regulations.gov)

[www.regulations.gov](http://www.regulations.gov) or email. 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 email comment directly to EPA without going through <http://www.regulations.gov>, your email 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:

EPA Region 7, 11201 Renner Boulevard., Lenexa, Kansas 66219 open from 8 a.m. to 4 p.m.

EPA Public Information Center (north), 3040 Lake Street, Omaha, NE 68111 open from 8 a.m. to 4 p.m. call (402) 991-9583 to ensure staff are available; EPA Public Information Center (south) 4909 S. 25th Street, Omaha, NE 68107, open from 8 a.m. to 4 p.m. call (402) 731-3045 to ensure staff are available; W. Dale Clark Library, 215 S. 15th Street; Omaha, NE 68102

**FOR FURTHER INFORMATION CONTACT:** Pauletta France-Isetts, Remedial Project Manager, U.S. Environmental Protection Agency, Region 7, Superfund Division, 8600 NE Underground Drive, Pillar 253, Kansas City, Missouri 64161, (913)-339-8105, email: france-isetts.pauletta@epa.gov

#### **SUPPLEMENTARY INFORMATION:**

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- I. Introduction
- II. NPL Deletion Criteria
- III. Deletion Procedures

#### IV. Basis for Intended Partial Site Deletion

##### **I. Introduction**

EPA Region 7 announces its intent to delete the 1,154 residential parcel(s) (identified in Table 1 and Figure 1 of the deletion docket) of the Omaha Lead Superfund Site (Site), from the National Priorities List (NPL) and request public comment on this proposed action. The NPL constitutes Appendix B of 40 CFR part 300, which is the Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, as amended. EPA maintains the NPL as those 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 (Fund). This partial deletion of the Omaha Lead Superfund Site is proposed in accordance with 40 CFR 300.425(e) and is consistent with the Notice of Policy Change: Partial Deletion of Sites Listed on the National Priorities List. 60 FR 55466 (Nov. 1, 1995). As described in 300.425(e)(3) of the NCP, a portion of a site deleted from the NPL remains eligible for Fund-financed remedial action if future conditions warrant such actions.

EPA will accept comments on the proposal to partially delete portions of this site for thirty (30) days after publication of this document in the **Federal Register**.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the 1,154 residential parcel(s) of the Omaha Lead Superfund Site and demonstrates how each activity completed at the parcels meet the deletion criteria.

##### **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.

### III. Deletion Procedures

The following procedures apply to deletion of [Enter description of parcel(s)] of the Site:

(1) EPA consulted with the State before developing this Notice of Intent for Partial Deletion.

(2) EPA has provided the state 30 working days for review of this notice prior to publication of it today.

(3) In accordance with the criteria discussed above, EPA has determined that no further response is appropriate.

(4) The State of Nebraska, through the Nebraska Department of Environmental Quality, has concurred with the deletion of the 1,154 parcel(s) identified in Table 1 and Figure 1 of the Omaha Lead Superfund Site, from the NPL.

(5) Concurrently, with the publication of this Notice of Intent for Partial Deletion in the **Federal Register**, a notice is being published in a major local newspaper, Omaha World Herald and Nuestro Mundo. The newspapers announce the 30-day public comment period concerning the Notice of Intent for Partial Deletion of the Site from the NPL.

(6) The EPA placed copies of documents supporting the proposed partial deletion in the deletion docket and made these items available for public inspection and copying at the Site information repositories identified above.

If comments are received within the 30-day comment period on this document, EPA will evaluate and respond accordingly to the comments before making a final decision to delete the 1,154 parcel(s) identified in Table 1 and Figure 1. If necessary, EPA will prepare a Responsiveness Summary to address any significant public comments received. After the public comment period, if EPA determines it is still appropriate to delete the 1,154 parcel(s) identified in Table 1 and Figure 1 of the Omaha Lead Superfund Site, the Regional Administrator will publish a final Notice of Partial Deletion in the **Federal Register**. Public notices, public submissions and copies of the Responsiveness Summary, if prepared, will be made available to interested parties and included in the site information repositories listed above.

Deletion of a portion of a site from the NPL does not itself create, alter, or revoke any individual's rights or

obligations. Deletion of a portion 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 Partial Site Deletion

The following information provides EPA's rationale for deleting the 1,154 residential property parcel(s) identified in Table 1 and Figure 1 of the Omaha Lead Superfund Site from the NPL:

#### *Site Background and History*

The Omaha Lead Site (OLS or Site [CERCLIS ID #NESFN0703481]) includes surface soils present at residential properties, child-care centers, and other residential-type properties in the city of Omaha, Douglas County, Nebraska, that have been contaminated as a result of air emissions deposition from historic lead smelting and refining operations. The OLS encompasses the eastern portion of the greater metropolitan area in Omaha, Nebraska. The site extends from the Douglas-Sarpy County line on the south, north to Read Street and from the Missouri River on the east to 56th Street on the west. The Site is centered around downtown Omaha, Nebraska, where two former lead-processing facilities operated. American Smelting and Refining Company, Inc. (ASARCO) operated a lead refinery at 500 Douglas Street in Omaha, Nebraska, for over 125 years. Aaron Ferer & Sons Company (Aaron Ferer), and later the Gould Electronics, Inc., (Gould) operated lead battery recycling plant were located at 555 Farnam Street.

Both ASARCO and Aaron Ferer/Gould facilities released lead-containing particulates into the atmosphere from their smokestacks which were deposited on surrounding residential properties. Douglas County Health Department (DCHD) monitored ambient air quality around the ASARCO facility beginning in 1984. This air monitoring routinely measured ambient air lead concentrations in excess of the ambient air standard.

The DCHD has compiled statistics on the results of blood lead screening of children less than seven years of age for more than 25 years. Blood lead screening of children living in zip codes located east of 45th Street have consistently exceeded the 10 microgram per deciliter ( $\mu\text{g}/\text{dl}$ ) health-based

threshold more frequently than children living elsewhere in the county.

In 1998, the Omaha City Council requested assistance from the EPA to address the high frequency of children found with elevated blood lead levels by the DCHD. At that time, the EPA began investigating the lead contamination in the Omaha area under the authority of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

The OLS includes those residential properties where the U.S. Environmental Protection Agency (EPA) determines through soil sampling that soil lead levels represent an unacceptable risk to human health. Residential properties where soil sampling indicates that soil lead concentrations are below a level that represent an unacceptable risk, they are not considered part of the Site. Residential properties include those with high accessibility to sensitive populations (children seven years of age and younger [0 to 84 months] and pregnant or nursing women). These types of properties include single and multi-family dwellings, apartment complexes, child-care facilities, vacant lots in residential areas, schools, churches, community centers, parks, greenways, and any other areas where children may be exposed to site-related contaminated media. Commercial and industrial properties are also excluded from the defined Site. The EPA established a 27 square-mile Final Focus Area to evaluate potentially impacted properties.

The OLS was proposed to be included on the National Priorities List (NPL) on February 26, 2002 (67 FR 8836). The Site was listed on the NPL on April 30, 2003 (68 FR 23094).

The residential properties proposed for partial deletion were addressed under both removal and remedial authority. Regardless of the authority used for the remediation of yards, the cleanup levels for soils (developed using the IEUBK model) for all the properties proposed for deletion are the same. The response decision documents and activities will be discussed in the following sections.

#### *Removal Activities*

The EPA began sampling residential properties that were used to provide licensed child-care services in March 1999. Due to the high concentrations of lead detected in yard soils, the EPA initiated a removal action to address lead-contaminated soils that exceed criteria for a time-critical removal action in 1999. The removal response involves the excavation and replacement of lead-

contaminated soil where action levels identified in the Action Memorandum are exceeded. These response actions levels were:

- A child seven years of age or younger (0 to 84 months) residing at the property is identified with an elevated blood level exceeding 10 µg/dl and any non-foundation sample collected from the property exceeds 400 ppm;
- A property is a child-care facility, and any non-foundation sample collected from the property exceeds 400 ppm; or
- Any non-foundation sampled exceeds 1,200 ppm at any residential or residential-type property.

A second removal action was initiated in August 2002 with the signing of a second Action Memorandum. This second removal action included all other residential type properties where the maximum non-foundation soil lead concentration exceeded an action level of 2,500 ppm. The 2002 Action Memorandum explicitly identifies the possibility of lead-based paint as a potential contributor to lead contamination of soils within 30 inches of the foundation of a painted structure. Because of the potential contribution of deteriorating lead-based paint near the foundations of structures, the soil lead level in the drip zone (areas near structure foundations) alone would not trigger soil removal. However, if any mid-yard soil sample exceeded the action level, soil from all areas of the property exceeding the 400 ppm cleanup level would be removed and replaced, including drip zone soils if they exceeded 400 ppm.

Properties determined to be eligible for response under either of the Action Memoranda had soils with lead concentrations greater than the cleanup level excavated and replaced with clean soil and disturbed areas were revegetated. The action level, which triggered response for typical residential properties under the second removal action, was reduced to 1,200 ppm in November 2003. In 2005, the two removal actions were combined into a single response. Throughout the implementation of both removal actions, the lead cleanup level remained at 400 ppm.

#### *Remedial Investigation/Feasibility Study*

Throughout the implementation of the removal action, lead levels in residential soils were evaluated and actions were taken where action levels were exceeded, per the removal Action memoranda. A Human Health Risk Assessment was developed for the site using site-specific information collected during the OLS Remedial Investigation.

Lead was identified in the risk assessment as the primary contaminant of concern. Arsenic was also identified as a potential contaminant of concern, but was eliminated after considering its relatively low overall risk to residents and lack of connection to the release from the industrial sources being addressed by this Superfund action.

The risk assessment for lead focused on young children under the age of seven (0 to 84 months) who are site residents. Young children are most susceptible to lead exposure because they have higher contact rates with soil or dust, absorb lead more readily than adults, and are more sensitive to the adverse effects of lead than are older children and adults. The effect of greatest concern in children is impairment of the nervous system, including learning deficits, lowered intelligence, and adverse effects on behavior. The Integrated Exposure Uptake Biokinetic (IEUBK) model for lead in children was used to evaluate the risks posed to young children (0 to 84 months) as a result of the lead contamination at the site. Because lead does not have a nationally-approved reference dose (RfD), cancer slope factor, or other accepted toxicological factor which can be used to assess risk, standard risk assessment methods cannot be used to evaluate the health risks associated with lead contamination. The modeling results determined that there was an unacceptable risk to young children from exposure to soils above 400 ppm.

In October 2008, EPA released a draft Final Remedial Investigation, which presented results of all site investigations including soil sampling performed at more than 35,000 residential properties. Based on the 2008 data set, EPA established the Final Focus Area for the Site, which defined the area of residential properties that are targeted for sampling. This area is generally bounded by Read Street to the north, 56th Street to the west, Harrison Street (Sarpy County line) to the south, and the Missouri River to the east, and encompasses 17,290 acres (27.0 square miles).

Through completion of the OLS Final Remedial Investigation, soil sampling had been completed at 37,076 residential properties, including 34,565 within the Final Focus Area's boundary. In total, 34.2 percent of properties sampled through completion of the 2008 RI had at least one mid-yard sample with a soil lead level exceeding 400 ppm. Based on the data trends, the OLS Final Feasibility Study (FS) estimates that soil lead levels will exceed 400 ppm at a total of 14,577 properties when

soil sampling is completed at all properties within the Final Focus Area.

In addition to soil sampling, 159 residences were sampled during the OLS Remedial Investigation for interior dust to support the OLS Human Health Risk Assessment conducted by the EPA and the Nebraska Health and Human Services System. The EPA recognizes that there may be additional sources of lead exposure to residents at the site. These other sources, which could include interior and exterior lead-based paint and drinking water, are generally outside the scope of CERCLA response authority. The focus of the EPA sampling efforts focused on lead-contaminated surface soils related to historic industrial emissions at the site, in accordance with procedures established in the EPA Residential Sites Handbook. The handbook does allow for characterization of potential sources of lead exposure in addition to soil and interior dust. In accordance with the EPA Residential Sites Handbook, the selected remedy in this ROD includes an expanded sampling program to characterize other potential lead exposure sources in addition to soil and interior dust.

#### *Selected Remedy*

As the soil cleanup under CERCLA removal authority was ongoing, planning for continued response under CERCLA remedial authority was proceeding. EPA organized the work remaining following completion of CERCLA removal response into these two operable units:

- Operable Unit 1: Response at high child impact properties and the most highly contaminated OLS properties exceeding 800 ppm soil lead.
- Operable Unit 2: Response at remaining properties that exceed risk-based soil lead levels established during final remedy selection process.

For OU1, EPA selected an interim remedy on December 15, 2004. The Remedial Action Objective was to reduce the risk of exposure of young children to lead such that an individual child, or group of similarly exposed children, have no greater than a 5 percent chance of having a blood-lead concentration exceeding 10 µg/dl. The selected remedy included:

- Excavation and replacement of soils at properties with greatest human health risk
  - Excavation of soils exceeding 800 ppm at any residential-type property
  - Excavation of soils exceeding 400 ppm in high child-impact areas
  - Excavation of soils exceeding 400 ppm at properties with a child exhibiting an elevated blood-lead level

- Final management of excavated materials
- Stabilization of loose and flaking exterior lead-based paint
  - High efficiency interior cleaning
  - Participation in comprehensive program addressing all potential lead sources
- Health Education

The pre-established soil remediation level of 400 ppm was determined to be the cleanup level for this interim remedial action. In order to prevent the re-contamination of the clean soil placed in yards after excavation, loose and flaking exterior lead-based paint that threatens the continued protectiveness of the remedy at these properties will be stabilized on affected structures prior to soil excavation. Only those homes and other structures where lead-based paint is visibly flaking and deteriorating will be addressed. At residences where soil cleanup actions are conducted, sampling will be performed to assess lead concentrations and loadings in interior dust. Homes that exceed the EPA and HUD standards for lead in interior dust will be eligible for a thorough interior cleaning using high-efficiency equipment. Interior cleaning of affected residences will be provided, in accordance with HUD procedures, on a voluntary basis for willing residents, after the soil cleanup is completed in the yard.

For OU2, EPA selected a final site remedy on May 13, 2009. The Remedial Action Objective is to reduce the risk of exposure of young children to lead such that an individual child, or group of similarly exposed children, have no greater than a 5 percent chance of having a blood-lead concentration exceeding 10 µg/dl.

The selected final remedy continues the ongoing remedial response being implemented under the December 15, 2004, Interim ROD for the OLS with the following modifications:

- The final OLS soil lead action level was lowered to 400 ppm for all residential and residential-type properties. High child impact properties continue to be prioritized for response.
- Soil sampling will continue to determine eligibility for remedial action at properties inside the Final Focus Area where sampling has not been performed. Soil sampling, outside the focus area, will be discontinued unless requested. Requests for soil sampling outside the focus area will be considered by EPA and decisions made on a case-by-case basis.
- An institutional control involving the operation of a local lead hazard registry containing information about the status of EPA investigation and

response and other lead hazards identified at individual Omaha properties.

- Participating residents at eligible properties will be offered high-efficiency household vacuum equipment, training on the maintenance and importance of proper usage, and education on mitigation of household lead hazards. In addition, samples of interior dust are collected and the results provided to the residents. Residents at properties qualifying for soil remediation will be offered interior dust response. The interior dust response is not mandatory and the resident may choose to decline. Dust and interior floor wipe sampling are performed when access is granted. The analytical data is provided to the resident/tenant and informs them if HUD criteria are exceeded. Follow-up efforts are conducted by the Douglas County Health Department at any residence that has interior dust levels exceeding HUD criteria.

#### *Response Actions*

The initial EPA response was conducted under CERCLA removal authority. In 2005, following issuance of the Interim Record of Decision, the action level for removal response during the transitional period was lowered to 800 ppm for consistency with the upcoming remedial response.

Beginning with the construction season of 2005, the scope of the EPA response was expanded under the 2004 Interim ROD to include: (1) Stabilization of deteriorating exterior lead-based paint at properties where the continued effectiveness of the soil remediation was threatened, (2) response to interior dust at properties where interior dust lead levels exceeded appropriate criteria, (3) public health education, and (4) participation in a comprehensive remedy with other agencies and organizations that addresses all identified lead hazards in the Omaha community.

#### *Excavation and Replacement of Soils*

Excavation of soils was accomplished using lightweight excavation equipment and hand tools the portions of the yard where the surface soil exceeded 400 ppm lead. Excavation continued in all quadrants, play zones, and drip zone areas exceeding 400 ppm lead until the residual lead concentration measured at the exposed surface of the excavation was less than 400 ppm in the initial foot, or less than 1,200 ppm at depths greater than one foot. Typically, soil excavation depths were between 6 and 10 inches in depth. Soils in garden areas were excavated until reaching a residual

concentration of less than 400 ppm in the initial two feet from the original surface, or less than 1,200 ppm at depths greater than two feet.

After confirmation sampling verified that cleanup goals were met, the excavated areas were backfilled with clean soil to original grade and sod was placed over the remediated areas.

EPA did not utilize soil from any protected Loess Hills area as backfill for the OLS.

The contaminated soils removed from the remediated yards was stockpiled at staging areas, sampled and then transported to an off-site Subtitle D solid waste landfill for use as daily cover and/or disposal.

#### *Stabilization of Loose and Flaking Exterior Lead-Based Paints*

The lead-based paint assessment protocol, presented in the Final Lead-Based Paint Recontamination Study Report prepared for the OLS, was used to determine eligibility for exterior lead-based paint stabilization at those properties where soil lead concentrations exceed 400 ppm. At those properties where the exterior lead-based paint assessment identified a threat from deteriorating paint to the continued protectiveness of the soil remediation, the owner of the property was offered stabilization of painted surfaces on structures located on the property. Exterior lead-based paint stabilization is not mandatory and was provided to those qualifying property owners who choose to have their exterior paint stabilized. Lead-safe practices identified in the EPA's Renovate, Repair and Painting Rule were followed. Removal of loose and flaking lead-based paint was performed using lead-safe practices, which includes wet scraping and collection of paint chips using plastic sheeting. Scraped areas were primed and all previously painted surfaces had two coats of paint applied.

#### *Interior Dust Response*

As part of the final remedy, residents at eligible properties are given the opportunity to have interior dust sampled. Upon agreement, the residents are given a high-efficiency household vacuum cleaner, training on the maintenance and the importance of proper usage of the vacuum, and education on mitigation of household lead hazards. In addition, samples of interior dust are collected and analyzed for lead. The resident/tenant is provided the analytical results. The letter transmitting the data also indicates whether the interior dust collected has lead above the HUD criteria.

The Douglas County Health Department provides the training and education regarding the need to mitigate interior dust. Interior dust response is offered to all residents with a qualifying property (soil lead concentrations greater than 400 parts per million). The resident does not have to agree and participation in the dust response is voluntary by the residents. At properties where soil remediation has been conducted, interior floor wipe sampling indicates that, typically, HUD criteria are not exceeded.

Exterior lead-based paint stabilization and interior dust response were provided retroactively to properties where soil cleanups have been performed under CERCLA removal authority, as well as to properties addressed under CERCLA remedial authority.

#### Participation in Comprehensive Program to Address Potential Lead Sources

There are a number of identified lead hazards within the OLS, not all of which are connected to the contaminant source of OLS. In order to better address all potential lead sources within the OLS, a health education program was developed and continues to be implemented to raise awareness and mitigate exposure. An active educational program continues in cooperation with agencies and organizations that includes ATSDR, NDHHS, DCHD, local non-governmental organizations, and other interested parties throughout the duration of the EPA remedial action.

#### Health Education

The following, although not an exhaustive list, indicate the types of educational activities provided at the Site:

- Support for in-home assessments for children identified with elevated blood lead levels.
  - Development and implementation of lead poisoning prevention curriculum in schools.
  - Support for efforts to increase community-wide blood lead monitoring.
  - Physicians' education for diagnosis, treatment, and surveillance of lead exposure.
  - Operation of EPA Public Information Centers to distribute information and respond to questions about the EPA response activities and lead hazards in the community.
  - Use of mass media (television, radio, internet, print media, etc.) to distribute health education messages.
- Development and distribution of informational tools such as fact sheets,

brochures, refrigerator magnets, etc., to inform the public about lead hazards and measures that can be taken to avoid or eliminate exposure.

#### Institutional Controls

The lead hazard registry, identified as the Omaha Lead Education and Discussion (Omaha LEAD), provides interested parties with on-line access to lead hazard information at individual properties, including the status of EPA investigations and response actions and other lead hazard information including HUD-funded lead hazard control and abatement activities. Information available through the lead hazard registry includes initial soil lead sampling results from individual quadrants and residual soil lead levels remaining at properties following soil remediation. EPA notifies residents and property owners about the information that is available through the lead hazard registry as part of the transmittal sent at the completion of soil remediation at individual properties. Residents and property owners will receive a second notification when the lead hazard registry is complete and operational at the conclusion of the OLS remedial action. The final notification will describe information available through the lead hazard registry and again advise property owners that records of potential lead hazards received from EPA should be retained for compliance with state and Federal disclosure requirements.

After the issuance of the 2009 Final ROD, response efforts identified as Operable Unit 2 began. Operable Unit 2 work efforts began with the 2009 construction season and included all remaining remedial response work at the OLS. All work remaining under Operable Unit 1 not completed was performed under Operable Unit 2. Properties identified with time-critical conditions, including residences with elevated blood-lead levels in children and high child-impact areas, continue to receive prioritized response during the final remedy implemented under Operable Unit 2.

The precise scope of work remaining to be completed at the OLS site (under OU1 and OU2) is not known with certainty since sampling has not been completed to determine eligibility for soil remediation, exterior lead-based paint stabilization, and interior dust response. However, those properties not addressed to date are not part of this partial deletion.

Information on activities completed at each property can be found in the deletion docket and at the Omaha Lead Education and Discussion

("OmahaLEAD") Web site. Omaha LEAD is a Geographic Information Systems ("GIS")-based Web site ([www.omahalead.org](http://www.omahalead.org)) that increases the public's awareness of lead hazards and acts as a *virtual library* of lead hazard mitigation activities, including activities conducted by private property owners, the City of Omaha, and the US EPA. The Web site is operational.

#### Cleanup Goals

Final cleanup levels for lead in residential soil at Superfund sites generally are based on a consideration of the PRG derived by the IEUBK model results, taking the uncertainty in the value into account, and also considering the nine criteria in accordance with the CERCLA regulations contained in the National Contingency Plan (NCP). Under most circumstances, EPA selects a residential soil lead cleanup level that is within the range of 400 ppm to 1,200 ppm. EPA selected a soil action level for lead in residential soils at the site of 400 ppm.

For lead contamination that may be addressed under CERCLA, these cleanup levels allow for unrestricted use. Therefore, operation and maintenance, institutional controls and five-year reviews are not required for these parcels.

#### Community Involvement

EPA has worked extensively with the Omaha community through a variety of communication vehicles, including but not limited to local speaking engagements, participation in citizens' groups and city council meetings, local public access television, public service announcements on local cable television, coverage on radio and television and in local and national newspapers, mass mailings of informational materials, public outreach by telephone, by conducting public meetings, and through the EPA Web site.

EPA has been performing outreach to Omaha citizens, elected officials, school officials, health officials, the media, nonprofit groups, and others since becoming involved in the project in 1998 in an effort to convey information about the hazards of lead poisoning, particularly how lead affects the health of children. The EPA has participated in numerous formal and informal meetings to explain EPA's role and commitment in Omaha, convey information about the Superfund process, and provide general information about the site and lead contamination. EPA responds to inquiries on a daily basis regarding the site and individual property owner's sampling results.

In January 2004, a Community Advisory Group (CAG) was formed for the site. A CAG is a committee, task force, or board made up of residents affected by a Superfund site. They provided a public forum where representatives of diverse community interests can present and discuss their needs and concerns related to the site and the cleanup process. The last CAG meeting was held in October 2011. A new group, Child Lead Poisoning Prevention Group, formed. The first meeting of the Child Lead Poisoning Group was held at City Hall in May 2012. The purpose of the new group remains the same.

#### *Determination That the Criteria for Deletion Have Been Met*

In accordance with 40 CFR 300.425(e), Region 7 of the EPA finds that the 1,154 residential parcels of the Omaha Lead site (the subject of this deletion) meet the substantive criteria for partial NPL deletions. EPA has consulted with and has the concurrence of the State of Nebraska. All responsible parties or other persons have implemented all appropriate response actions required. All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate.

#### **List of Subjects in 40 CFR Part 300**

Environmental protection, Hazardous substances, Intergovernmental relations, Superfund.

**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.

Dated: May 16, 2013.

**Karl Brooks,**

*Regional Administrator, Region 7.*

[FR Doc. 2013–12969 Filed 6–3–13; 8:45 am]

**BILLING CODE 6560–50–P**

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## **DEPARTMENT OF THE INTERIOR**

### **Fish and Wildlife Service**

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

**[FWS–R6–ES–2013–0068]**

**RIN 1018–AY56**

#### **Endangered and Threatened Wildlife and Plants; Revision of Critical Habitat for Salt Creek Tiger Beetle**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, propose to revise critical habitat for the Salt Creek tiger beetle (*Cicindela nevadica lincolniana*) under the Endangered Species Act. If we finalize this rule as proposed, it would extend the Act's protections to lands designated as revised critical habitat for this subspecies. This designation fulfills our obligations under a settlement agreement. The effect of this regulation is to conserve the habitat of Salt Creek tiger beetles in eastern Nebraska under the Endangered Species Act.

**DATES:** We will accept comments received or postmarked on or before August 5, 2013. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES** section, below) must be received by 11:59 p.m. Eastern Time of the closing date. We must receive requests for public hearings, in writing, at the address shown in **ADDRESSES** by July 19, 2013.

**ADDRESSES:** You may submit comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: <http://www.regulations.gov>. In the Search box, enter Docket No. FWS–R6–ES–2013–0068, which is the docket number for this rulemaking. You may submit a comment by clicking on “Comment Now!”

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R6–ES–2013–0068; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

We request that you send comments only by the methods described above. We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

The coordinates or plot points or both from which the maps are generated are included in the administrative record for this critical habitat designation and are available at <http://www.fws.gov/nebraskaes>, or <http://www.regulations.gov> at Docket No. FWS–R6–ES–2013–0068, and at the Nebraska Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**). Any additional tools or supporting information that we may develop for this critical habitat designation will also be available at the Fish and Wildlife Service Web site and Field Office set out above, and may also be included in the preamble and/or at <http://www.regulations.gov>.

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

Michael D. George, Field Supervisor, U.S. Fish and Wildlife Service, Nebraska Ecological Services Field Office, 203 W 2nd St., Grand Island, NE 68801; telephone 308–382–6468. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800–877–8339.

#### **SUPPLEMENTARY INFORMATION:**

##### **Executive Summary**

##### *Why We Need To Publish a Rule*

This is a proposed rule to revise the designation of critical habitat for the endangered Salt Creek tiger beetle. This revision will fulfill the terms of a settlement agreement reached on June 7, 2011 (see Previous Federal Actions). Under the Endangered Species Act of 1973, as amended (Act; 16 U.S.C. 1531 *et seq.*), any species that is determined to be threatened or endangered requires critical habitat to be designated, to the maximum extent prudent and determinable. Designations and revisions of critical habitat can only be completed by issuing a rule.

##### *This Rule Will Propose Revised Critical Habitat for the Endangered Salt Creek Tiger Beetle*

In total, we are proposing 1,110 acres (ac) (449 hectares (ha)) for designation as critical habitat for the Salt Creek tiger beetle in Lancaster and Saunders Counties in Nebraska. This proposed revised critical habitat includes saline wetlands and streams associated with Little Salt Creek and encompasses all three habitat areas occupied by the subspecies at the time of listing. It also includes saline wetlands and streams associated with Rock Creek and Oak Creek (Capitol Beach) that are currently unoccupied, but supported the subspecies less than 20 years ago. Our designation also includes segments of Haines Branch Creek because this area has the potential to provide suitable habitat for the Salt Creek tiger beetle and its inclusion will reduce the risk of species extinction by providing redundancy in available habitat throughout multiple creeks. Due to the presence of suitable habitat, we believe that the Salt Creek tiger beetle occurred in this area historically; however, they have not been documented in this location due to minimal survey effort relative to the annual surveys done at Little Salt, Rock, and Oak Creeks.

##### *The Basis for Our Action*

Under the Act, any species that is determined to be a threatened or