

**14.2.2 Eligible Matter**

*[Revise 14.2.2 as follows:]*

Special handling service is available only for Express Mail, Priority Mail (excluding Critical Mail), First-Class Mail, First-Class Package Service, Standard Post, Package Services, and Parcel Select (except Parcel Select Lightweight) pieces.

\* \* \* \* \*

*[Revise title of 14.2.4 and text as follows:]*

**14.2.4 Bees, Day-Old Poultry and Adult Birds**

Special handling is required for shipments containing day-old poultry, adult birds and bulk shipments of bees (e.g. a queen bee packaged with an attending swarm), regardless of the class of mail purchased.

\* \* \* \* \*

*[Delete item 14.2.6 in its entirety]*

\* \* \* \* \*

**600 Basic Standards for All Mailing Services****601 Mailability**

\* \* \* \* \*

**9.0 Perishables**

\* \* \* \* \*

**9.3 Live Animals**

\* \* \* \* \*

*[Revise the second sentence of 9.3.2 as follows.]*

**9.3.2 Day-Old Poultry**

\* \* \* Live day-old chickens, ducks, emus, geese, guinea fowl, partridges, pheasants (pheasants may be mailed only from April through August), quail, and turkeys are acceptable in the mail only if:

\* \* \* \* \*

*[Revise the text of item f as follows:]*

f. The shipment bears special handling postage in addition to regular postage.

\* \* \* \* \*

*[Revise and reformat 9.3.3 to include a new last sentence, and a new item a and b as follows:]*

**9.3.3 Small Cold-Blooded Animals**

\* \* \* The following also apply:

a. Reptiles (e.g. lizards, skinks, and baby alligators and caimans not more than 20 inches long) must be mailed by Express Mail, Priority Mail (excluding Critical Mail), First-Class Mail (parcels only), or First-Class Package Services.

b. Amphibians (e.g. toads, frogs, and salamanders) must be mailed by Express Mail, Priority Mail (excluding Critical Mail), First-Class Mail (parcels only), or First-Class Mail Package Services.

*[Revise title and introductory text of 9.3.4 as follows:]*

**9.3.4 Adult Birds**

Disease-free adult birds, weighing no more than 25 pounds, may be mailed domestically. Mailers must be compliant with all applicable governmental laws and regulations, including the Lacey Act, the Endangered Species Act (ESA), and regulations of the U.S. Department of Agriculture, U.S. Fish and Wildlife Service, and any state, municipal or local ordinances. Mailings must also be compliant with the guidelines provided in USPS Publication 14, *Prohibitions and Restrictions on Mailing Animals, Plants, and Related Matter*, Chapter 5. In addition, each container or package must be marked as required by U.S. Fish and Wildlife Service under 50 CFR 14. Adult birds areailable as follows:

*[Revise 9.3.4a as follows:]*

a. The mailer must send adult fowl by Express Mail, including Special Handling service, in secure containers approved by the manager, Product Classification (see 608.8.0 for address).

\* \* \* \* \*

**9.3.7 Bees**

*[Revise the second sentence of 9.3.7 as follows:]*

\* \* \* Bulk shipments of bees (e.g. a queen bee packaged with an attending swarm) must include postage for special handling service. \* \* \*

\* \* \* \* \*

We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes if our proposal is adopted.

**Stanley F. Mires,**

*Attorney, Legal Policy & Legislative Advice.*

[FR Doc. 2013-09603 Filed 4-23-13; 8:45 am]

**BILLING CODE P**

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 300**

**[EPA-HQ-SFUND-2005-0011; FRL-9805-7]**

**National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Deletion of the Koppers Co., Inc. (Florence Plant) Superfund Site**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule; notice of intent.

**SUMMARY:** The Environmental Protection Agency (EPA) Region 4 is issuing a Notice of Intent to Delete the Koppers

Co., Inc. (Florence Plant) Superfund Site (Site) located in Florence, South Carolina, 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 South Carolina Department of Health and Environmental Control (SCDHEC) have determined that no further response activities under CERCLA are appropriate. However, this deletion does not preclude future actions under Superfund.

**DATES:** Comments must be received by May 24, 2013.

**ADDRESSES:** Submit your comments, identified by Docket ID no. EPA-HQ-SFUND-2005-0011, by one of the following methods:

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

- *Email:* [jones.yvonneo@epa.gov](mailto:jones.yvonneo@epa.gov).

- *Fax:* 404-562-8788 Attention: Yvonne Jones.

- *Mail:* Yvonne Jones, Remedial Project Manager, Superfund Remedial Section, Superfund Remedial Branch, Superfund Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303-8960.

- *Hand delivery:* U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional EPA Office is open for business Monday through Friday, 8:30 a.m. to 4:00 p.m., excluding Federal Holidays.

*Instructions:* Direct your comments to Docket ID no. EPA-HQ-SFUND-2005-0011. 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 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 where 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:

Regional Site Information Repository:  
U.S. EPA Record Center, Attn: Ms. Anita Davis, Atlanta Federal Center, 61 Forsyth Street SW., Atlanta, Georgia 30303-8960. Hours of Operation (by appointment only): 8:30 a.m. to 4:00 p.m., Monday through Friday.

Local Site Information Repository:  
Florence County Library, 509 S. Dargan Street, Florence, SC 29506. Hours of Operation: 9:00 a.m.–8:30 p.m., Monday through Thursday. 9:00 a.m.–5:30 p.m., Friday through Saturday. 2:00 p.m.–6:00 p.m., Sunday.

### FOR FURTHER INFORMATION CONTACT:

Yvonne Jones, Remedial Project Manager, Superfund Remedial Section, Superfund Remedial Branch, Superfund Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303-8960, (404) 562-8793, Electronic mail at: [jones.yvonneo@epa.gov](mailto:jones.yvonneo@epa.gov).

### SUPPLEMENTARY INFORMATION:

#### Table of Contents

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

### I. Introduction

EPA Region 4 announces its intent to delete the Koppers Co., Inc. (Florence Plant) Superfund Site (Site) from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, as amended. As a general matter, deletion of the Koppers Co., Inc. (Florence Plant) Superfund Site from the NPL will clarify that the South Carolina Department of Health and Environmental Control (SCDHEC), Bureau of Land and Waste Management Resource Conservation and Recovery Act ("RCRA") Program will have primary responsibility for ensuring that the hazardous wastes released at the Site are appropriately remediated. Notwithstanding any such deletion of this Site from the NPL, in the event that conditions at this Site warrant additional remedial corrective action, this Site remains eligible for Fund-financed remedial action. Pursuant to section 300.425(e)(3) of the NCP, 40 CFR 300.425(e)(3): "All releases deleted from the NPL are eligible for further Fund-financed remedial actions should future conditions warrant such action. Whenever there is a significant release from a site deleted from the NPL, the site shall be restored to the NPL without application of the [Hazard Ranking System]." Therefore, deletion of this, or any other, site from the NPL does not preclude eligibility for subsequent Fund-financed remedial action if future conditions warrant such action.

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

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Koppers Co., Inc. (Florence Plant) Superfund Site and demonstrates how it meets 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.

Consistent with Section 300.425(e) of the NCP, 40 CFR 300.425(e), EPA proposes deletion of the Koppers Co., Inc. (Florence Plant) Site because, as explained further below, no further CERCLA response is appropriate. This determination is based on a policy that EPA has adopted for implementation of the NPL deletion criteria. This policy, entitled "The National Priorities List for Uncontrolled Hazardous Waste Sites; Deletion Policy for Resource Conservation and Recovery Act Facilities," was published in the **Federal Register** on March 20, 1995 (60 FR 14641). This policy sets forth the following criteria and their general application for deleting RCRA facilities from the NPL:

1. If evaluated under EPA's current RCRA/NPL deferral policy (which refers to the policy in effect at the time the deletion decision is made. As past **Federal Register** notices demonstrate, the RCRA/NCP deferral policy has changed, and may continue to change based upon the Agency's continued evaluation of how best to implement the statutory authority of RCRA and CERCLA), the site would be eligible for deferral from listing on the NPL;

2. The CERCLA site is currently being addressed by RCRA corrective action authorities under an existing enforceable order, or permit, containing corrective action provisions;

3. Response under RCRA is progressing adequately; and

4. Deletion would not disrupt an ongoing CERCLA action.

### III. Deletion Procedures

The following procedures apply to deletion of the Site:

(1) EPA consulted with the State of South Carolina before developing this Notice of Intent to Delete.

(2) The State of South Carolina, through SCDHEC, has concurred with deletion of the Site from the NPL.

(3) Concurrently with the publication of this Notice of Intent to Delete in the **Federal Register**, a notice is being published in a major local newspaper,

Florence Morning News. 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.

If adverse comments are received within the 30-day public comment period on this document, EPA will evaluate and respond appropriately to the comments before making a final decision to delete. 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 Site, the Regional Administrator will publish a final Notice of 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 will be placed in the site information repositories listed above.

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.

##### A. Site Background

The Koppers Co., Inc. (Florence Plant) Superfund Site (Facility) (EPA CERCLIS Identification Number SCD003353026) is situated within an approximate 200-acre tract located along North Koppers Street in Florence, Florence County, South Carolina. The Facility is within an area that is currently zoned industrial. The surrounding property is used for a mixture of industrial, commercial, residential, and transportation purposes. Private residential development borders the northwest portion of the Facility. CSX Transportation owns and operates a rail yard immediately south of the Facility. Areas to the north, west, and east are relatively undeveloped. The Florence

City-County Airport is located south of the Facility across U.S. Highway 76/301.

Constructed by the American Lumber and Treating Company, the Facility has been in operation since 1946. Koppers Company, Inc. (KCI) acquired the property in 1954. On December 29, 1988, KCI sold certain of its business assets, including the Koppers Facility in Florence, as well as the right to use the "Koppers" trade name, to Koppers Industries, Inc., (now known as Koppers Inc. [KI]). Shortly thereafter, in January 1989, KCI changed its name to "Beazer Materials and Services, Inc.," and then again changed its name, in April 1990, to "Beazer East, Inc." (Beazer), its current name. KI currently owns the Florence Wood Treating Facility. The Facility produces treated wood products, including telephone poles, railroad ties, and fencing materials for the utilities, railroad, and construction industries. The primary wood preserving processes at the Facility are pressure treatment with creosote, pressure treatment with pentachlorophenol (PCP), and treatment with chromated-copper arsenate. A fire retardant was previously (prior to 1988) used at the Facility. While the Facility is currently owned and operated by KI, Beazer retains responsibility for addressing certain environmental conditions caused by site activities occurring before December 1988.

Past practices at the Facility led to contamination of the soil, sediment and groundwater. From the beginning of plant operations until 1979, creosote and PCP wastes at the Facility were stored in lagoons located in the southwest corner of the Facility. In 1979, the use of these lagoons was discontinued and the waste was land-farmed using a process called spray irrigation. Prior to closure of the impoundments and the spray irrigation field, wastewater flowed to three RCRA surface impoundments. In 1980, a local resident notified SCDHEC that water from his well had a creosote odor and a foul taste. Other residents of the same area indicated similar taste and odor problems with their well water. SCDHEC officials tested the well water in this area and determined that it contained a significant level of creosote. In response to the findings at the Facility, in October 1981, SCDHEC issued Consent Order 81-56-W requiring KCI (now known as Beazer) to proceed with studies to investigate groundwater conditions. Following additional negotiations with SCDHEC, KCI (now known as Beazer) provided public water to a neighborhood directly downgradient of the Facility by funding

water main extensions to the City of Florence water supply system.

From 1981 to the present, various investigations have been performed at the Facility. Contaminants identified as being of concern included PCP and other chlorinated phenols, polycyclic aromatic hydrocarbons, copper, chromium, arsenic, and varied constituents of creosote. As an interim measure, KCI constructed a groundwater containment and recovery system at the Facility in August 1983. Due to the presence of groundwater contamination, EPA also proposed the Site on the NPL on September 8, 1983 (48 FR 40674) and finalized the Site on the NPL on September 21, 1984 (49 FR 37070).

Facility-wide investigations began in 1986, with EPA conducting the RCRA Facility Assessment (RFA). The RFA identified thirty-three solid waste management units (SWMUs) located throughout the Facility. To simplify the response efforts, EPA, SCDHEC, and KCI (now known as Beazer) agreed to implement a Facility-wide approach to address historical releases from all former Facility sources and the thirty-three SWMUs. To further address the Site, in February 3, 1988, EPA issued a RCRA 3008(h) Consent Order (Docket Number 88-03-R) (RCRA CO) requiring KCI (now known as Beazer) to perform a RCRA Facility Investigation, Health and Ecological Risk Assessment and a Corrective Measures Study (RFI/HERA/CMS) at the Facility.

Concurrent with the RFI/HERA/CMS, in September 1995, SCDHEC issued the Post-Closure Care Hazardous Waste Permit (Permit Number SCD 003 353 026) requiring KI and Beazer to conduct long-term monitoring and maintenance activities necessary to protect the surrounding environment and population from releases of hazardous constituents. The 1995 Post-Closure Care Hazardous Waste Permit incorporates the RCRA CO.

Pursuant to the RCRA CO and the 1995 Post-Closure Care Hazardous Waste Permit, the CMS was finalized in August 2006. The findings of the RFI/HERA/CMS identified potential risks from several areas at the Facility and required corrective measures for the following media to address those risks:

*On-site Facility Soils:* Consists of potentially impacted surface and subsurface soils within the property boundary of the Facility known as the Inactive Non-Process Area (INPA). The INPA is located in a wooded area immediately west of the active portion of the Facility approximately 100 feet upstream of Outfall 001.

*Off-site Facility Soils:* Consists of potentially impacted surface soil within

the drainage ditch downgradient of Outfall 001. The Outfall 001 channel area is located adjacent to the southwest corner of the Facility on property owned by the CSX Corporation.

*Off-site Facility Sediment:* Consists of potentially impacted stream sediments in Two-Mile Creek, downgradient, and near the stormwater detention pond. Two Mile Creek is located approximately 400 feet east of the Site entrance.

*Groundwater:* Consists of on-site Facility and off-site Facility potentially impacted groundwater present within the upper unconfined water-bearing zone.

Taking into consideration regulatory requirements and the results of the HERA, the following Corrective Action Objectives (CAOs) were developed:

#### On-Site CAOs

- Soils—Mitigate unacceptable exposures to Site-related constituents in soils for potential on-site Facility receptors.
- Groundwater—Mitigate potential future exposure to Site-related groundwater constituents that exceed the safe drinking water standards or acceptable risk levels.
- Manage dense non-aqueous phase liquid (DNAPL) in accordance with EPA guidance on NAPLs.

#### Off-Site CAOs

- Surface Soils/Sediments—Mitigate unacceptable exposures to Site-related constituents in surface soils and sediments for potential off-site Facility receptors.
- Groundwater—Mitigate potential exposure to groundwater constituents that exceed the safe drinking water standards or acceptable risk levels. Manage DNAPL in accordance with EPA guidance on NAPLs.

#### Additional CAOs

- Perform comprehensive corrective actions that integrate the components of the Facility-wide and the regulated unit corrective measures;
- Optimize long-term operations and maintenance (O&M); and
- Establish appropriate Institutional Controls to ensure that future use is consistent with the CAOs.

To achieve the CAOs, the facility completed the Corrective Measures (CM) Work Plan in December 2011. The CM Work Plan presents the approach to implement corrective measures at the following areas:

#### Inactive Non-Process Area (INPA)

The area of excavation is approximately 5,200 square feet in size.

Six inches of soil, [approximately 100 cubic yards (cy)] will be excavated from this area and placed in the on-site Corrective Action Management Unit (CAMU). Imported fill material will be used to restore the excavated area to original contours. Once the area has been backfilled and graded, the area will be revegetated (seeded and mulched). Mulching will consist of the placement of an erosion control mulch blanket.

#### Channel Below Outfall 001

The area of excavation is approximately 93,300 square feet. Two feet of soil (approximately 6,900 cy) will be excavated from this area and placed in the on-site CAMU. Imported fill material will be used to restore the excavated area to near-original contours. Once the area has been backfilled and graded, the area will be revegetated.

#### Two Localized and Nearby Segments Within Two Mile Creek

Two areas totaling approximately 2,300 square feet will be excavated within the streambed. One foot of soil (approximately 85 cy) will be excavated from these areas, which are located on the north and south sides of North Koppers Street, and placed in the on-site CAMU. Imported fill material with a gradation similar to the existing channel substrate will be used to restore the channel bottom. Once the streambed has been reestablished, any areas adjacent to the creek that were disturbed in order to provide access to the work areas will be revegetated.

The construction activities described in the CM Work Plan commenced on April 23, 2012 and concluded in November 2012. A construction completion report will be submitted to SCDHEC for review and approval. In addition, beginning at the end of the fifth year of operation and maintenance and monitoring, the system effectiveness will be evaluated at 5-year intervals. In addition, a Corrective Measure completion report will be submitted to SCDHEC when the corrective measure criteria have been satisfied.

The Facility is subject to environmental investigation and remedial obligations pursuant to CERCLA, the requirements of the RCRA CO and the corrective action requirements of the South Carolina Hazardous and Solid Waste Amendments (HSWA) portion of the Post-Closure Care Permit. EPA and SCDHEC have agreed that the RCRA Program has primary responsibility for the ongoing activities at the Site.

#### *B. Determination That the Site Meets the RCRA Deferral Criteria Set Forth in EPA's March 20, 1995, Policy*

1. If evaluated under EPA's current RCRA/NPL deferral policy, the Site would be eligible for deferral from listing on the NPL.

At the time of the NPL listing, the Site posed a threat to human health and the environment that was not being addressed under CERCLA, or RCRA corrective action authorities. At that time, EPA determined that the most expeditious way to address the contamination at the Site was through the use of CERCLA authorities. Prior to the enactment of the HSWA in 1984 only releases to groundwater from regulated units, i.e. surface impoundments, waste piles, land treatment areas, and landfills, were subject to corrective action requirements under RCRA. The enactment of HSWA greatly expanded RCRA Subtitle C corrective action authorities. As a result, KCI (now known as Beazer) and EPA on February 3, 1988, entered into a RCRA CO and the order has been addressing all of the contamination at the Site pursuant to section 3008(h) of RCRA. In addition, in September 1995, SCDHEC issued the Post-Closure Care Hazardous Waste Permit requiring KI and Beazer to conduct long-term monitoring and maintenance activities necessary to protect the surrounding environment and population from releases of hazardous constituents. This 1995 Post-Closure Care Hazardous Waste Permit included post-closure care of the three former RCRA surface impoundments and the thirty-three SWMUs. Furthermore, the 1995 Post-Closure Care Hazardous Waste Permit incorporates the RCRA CO. KCI (now known as Beazer) is fulfilling the conditions of the RCRA CO, and is in compliance with the RCRA CO, and the Post-Closure Care Hazardous Waste Permit. Consequently, if this Site was evaluated for NPL listing under the current conditions, the Site would qualify for deferral to RCRA.

2. The CERCLA Site is currently being addressed by RCRA corrective action authorities under an existing enforceable order, and permit containing corrective action provisions.

As described previously, EPA and Beazer (previously known as KCI) entered into a RCRA CO, pursuant to section 3008(h) of RCRA, on February 3, 1988. Under the terms of that RCRA CO, Beazer (then known as KCI) was required to complete an on-site and off-site investigation of the nature and extent of the release of hazardous wastes from the Site, and to conduct a study to evaluate various cleanup alternatives.

Beazer is fulfilling the conditions of the RCRA CO, and is currently in compliance with the RCRA CO, and the Post-Closure Care Hazardous Waste Permit.

As also described previously, the 1988 RCRA CO will remain in effect until such time when SCDHEC determines that the terms of this order have been satisfied. All known contaminated media (groundwater and soils), on and off-site, are being addressed through SCDHEC, and EPA's exercise of its corrective action authorities pursuant to RCRA.

3. Response under RCRA is progressing adequately.

Corrective action is progressing satisfactorily under the RCRA CO, as described above. Pursuant to the RCRA CO, Beazer has completed the RFI, HERA, CMS, and is implementing the selected remedy at the Facility. To prevent off-site migration of groundwater contamination, and treat contaminated groundwater, Beazer (previously known as KCI) constructed a groundwater containment and recovery system at the Facility in August 1983. Operation and monitoring activities for the groundwater containment and recovery system are ongoing. The construction activities required to address the soil contamination concluded in November 2012. Approximately 7000 cubic yards of soil have been excavated from the Inactive Non-Process Area, and the Channel below Outfall 001. This soil was placed in the on-site CAMU. Imported fill material was used to restore the excavated areas to original contours. In addition, completion of the construction activities included excavation of two areas within Two Mile Creek. There has been no history of protracted negotiations due to lack of cooperation.

4. Deletion would not disrupt an ongoing CERCLA action.

The RCRA Program is implementing the evaluation and remedy selection activities normally covered during the Remedial Investigation/Feasibility Study process under CERCLA, under the RCRA CO. In a deferral memorandum dated October 26, 1987, EPA issued a decision to transfer the Facility from Dual CERCLA/RCRA Coordination to 'Exclusive RCRA Lead and Responsibility'. There are no ongoing CERCLA actions. In addition, EPA and SCDHEC have agreed that response activities at the Facility will continue to proceed through RCRA.

The EPA has received concurrence from SCDHEC. The EPA concludes that this Site meets the criteria under the NPL deletion policy, and announces its

intention to delete the Site from the NPL. The EPA believes it is appropriate to delete sites from the NPL based upon the deferral policy to RCRA under these established circumstances. Deletion of this Site from the NPL, to defer it to RCRA Subtitle C corrective action authorities, avoids possible duplication of effort, and the need for Beazer to follow more than one set of regulatory procedures. Moreover, EPA and SCDHEC have determined that remedial actions conducted at the Facility to date and scheduled in the future under RCRA, have been and will remain protective of public health, and the environment.

#### 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.

**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: March 13, 2013.

**Gwendolyn Keyes Fleming,**

*Regional Administrator, Region 4.*

[FR Doc. 2013–09540 Filed 4–23–13; 8:45 am]

**BILLING CODE 6560–50–P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 1, 2, 27 and 90

[PS Docket No. 12–94; PS Docket No. 06–229; and WT Docket No. 06–150; FCC 13–31]

### Implementing Public Safety Broadband Provisions of the Middle Class Tax Relief and Job Creation Act of 2012

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Federal Communications Commission (Commission) sought comment on certain proposals to implement provisions of the Middle Class Tax Relief and Job Creation Act of 2012 (Public Safety Spectrum Act) governing deployment of a nationwide public safety broadband network in the 700 MHz band under a nationwide license issued to the First Responder Network Authority (FirstNet). In particular, the Commission considered the adoption of initial rules to protect against harmful radio frequency interference in the

spectrum designated for public safety services, as well as other matters related to FirstNet's license and to facilitating the transition directed under the Public Safety Spectrum Act. The proposals considered in the document are intended to provide a solid foundation for FirstNet's operations, taking into account FirstNet's need for flexibility in carrying out its statutory duties under the Public Safety Spectrum Act to establish a nationwide public safety broadband network.

**DATES:** Submit comments on or before May 24, 2013. Submit reply comments on or before June 10, 2013.

#### FOR FURTHER INFORMATION CONTACT:

Gene Fullano, Federal Communications Commission, Public Safety and Homeland Security Bureau, 445 12th Street SW., Room 7–C747, Washington, DC 20554. Telephone: (202)–418–0492, email: [genaro.fullano@fcc.gov](mailto:genaro.fullano@fcc.gov).

**SUPPLEMENTARY INFORMATION:** In the *Notice of Proposed Rulemaking (NPRM)*, FCC 13–31, adopted March 7, 2013, and released March 8, 2013, the Commission seeks comment on certain proposals to implement provisions of the Middle Class Tax Relief and Job Creation Act of 2012 ("Public Safety Spectrum Act" or "Act")<sup>1</sup> governing deployment of a nationwide public safety broadband network in the 700 MHz band under a nationwide license issued to the FirstNet. The *NPRM* addresses technical service rules for the new public safety broadband network to be established pursuant to the Public Safety Spectrum Act. It then considers the Commission's statutory responsibilities as they relate to oversight of FirstNet. Finally, it addresses different classes of incumbents now occupying portions of the spectrum licensed to FirstNet. These proposals are based on the Commission's established authority under the Communications Act to regulate use of the spectrum consistent with the public interest, convenience and necessity, including the authority to prescribe power limits and prevent interference between stations licensed by the Commission,<sup>2</sup> as well as its licensing authority over FirstNet provided by the Public Safety Spectrum Act,<sup>3</sup> and its authority under that Act "to take all actions necessary to facilitate the transition" of the existing public safety broadband spectrum to FirstNet.

<sup>1</sup> See Middle Class Tax Relief and Job Creation Act of 2012, Public Law 112–96, 126 Stat. 156 (2012).

<sup>2</sup> See, e.g., 47 U.S.C. 303(c), 303(e)–(g), 303(r), 337(d). See also *id.* sec. 151, 154(i).

<sup>3</sup> See Public Safety Spectrum Act 6201(a)–(b).