

Department of Environmental Quality, Office of Spill Response and Remediation, Underground Storage Tank Program, 4949-A Cox Road, Glen Allen, Virginia 23060, unless insufficient public interest is expressed. The public may also submit written comments on EPA's tentative determination until September 4, 1998. Copies of the State's application are available for inspection and copying at the locations indicated in the **ADDRESSEES** section of this document.

EPA will consider all public comments on its tentative determination received at the public hearing, if a hearing is held, and during the public comment period. Issues raised by those comments may be the basis for a decision to deny approval to the State. EPA will give notice of its final decision in the **Federal Register**; the document will include a summary of the reasons for the final determination and a response to all significant comments.

C. Compliance With Executive Order 12866

The Office of Management and Budget has exempted this action from the requirements of section 6 of Executive Order 12866.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104-4, establishes requirements for Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments and the private sector. Under sections 202 and 205 of the UMRA, EPA generally must prepare a written statement of economic and regulatory alternatives analyses for proposed and final rules with Federal mandates, as defined by the UMRA, that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. The section 202 and 205 requirements do not apply to today's action because it is not a "Federal mandate" and because it does not impose annual costs of \$100 million or more.

Today's rule contains no Federal mandates for State, local or tribal governments or the private sector for two reasons. First, today's action does not impose new or additional enforceable duties on any State, local or tribal governments or the private sector because the requirements of the Virginia program are already imposed by the State and subject to State law. Second, the Act also generally excludes from the definition of a "Federal mandate" duties that arise from participation in a voluntary Federal program. Virginia

participation in an approved UST program is voluntary.

Even if today's rule did contain a Federal mandate, this rule will not result in annual expenditures of \$100 million or more for State, local, and/or tribal governments in the aggregate, or the private sector. Costs to State, local and/or tribal governments already exist under the Virginia program, and today's action does not impose any additional obligations on regulated entities. In fact, EPA's approval of state programs generally may reduce, not increase, compliance costs for the private sector.

The requirements of section 203 of UMRA also do not apply to today's action. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, section 203 of the UMRA requires EPA to develop a small government agency plan. This rule contains no regulatory requirements that might significantly or uniquely affect small governments. The Agency recognizes that although small governments may own and/or operate USTs, they are already subject to the regulatory requirements under existing state law which are being approved by EPA, and, thus, are not subject to any additional significant or unique requirements by virtue of this program approval.

E. Certification Under the Regulatory Flexibility Act

EPA has determined that this approval will not have a significant economic impact on a substantial number of small entities. Such small entities which own and/or operate USTs are already subject to the regulatory requirements under existing State law which are being approved by EPA. EPA's approval does not impose any additional burdens on these small entities. This is because EPA's approval would simply result in an administrative change, rather than a change in the substantive requirements imposed on these small entities.

Therefore, EPA provides the following certification under the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act: Pursuant to the provision at 5 U.S.C. 605(b), I hereby certify that this approval will not have a significant economic impact on a substantial number of small entities. This rule approves regulatory requirements under existing State law to which small entities are already subject. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

F. Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by an information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

G. Compliance With Executive Order 13045

Executive Order 13045 applies to any rule that the Office of Management and Budget determines is "economically significant" as defined under Executive Order 12866, and that EPA determines that the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The Agency has determined that the proposed rule is not a covered regulatory action as defined in the Executive Order because it is not economically significant and does not address environmental health and safety risks. As such, the proposed rule is not subject to the requirements of Executive Order 13045.

Authority: This notice is issued under the authority of Section 9004 of the Resource Conservation and Recovery Act as amended 42 U.S.C. 6991c.

Dated: July 17, 1998.

Thomas Voltaggio,

Acting Regional Administrator, Region 3.

[FR Doc. 98-20412 Filed 7-29-98; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL-6131-3]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of Intent to Delete the Frontera Creek Site from the National Priorities List; Request for Comments.

SUMMARY: The Environmental Protection Agency (EPA), Region II, announces its intent to delete the Frontera Creek Superfund Site (Site) from the National

Priorities List (NPL) and requests public comment on this action. The NPL, 40 CFR Part 300, Appendix B was promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) and the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR Part 300. EPA and the Puerto Rico Environmental Quality Board (PREQB) have determined that all appropriate response/remedial actions have been completed and no further remedial action is appropriate under CERCLA. In addition, EPA and PREQB have determined that remedial activities conducted to date at the Site have been protective of public health, welfare, and the environment.

DATES: Comments concerning the deletion of the Site from the NPL may be submitted on or before August 31, 1998.

ADDRESSES: Comments should be submitted to: Luis E. Santos, Remedial Project Manager, U.S. Environmental Protection Agency, Region II, Caribbean Environmental Protection Division, Centro Europa Building, Suite 417, 1492 Ponce de León Ave., Stop 22, San Juan, Puerto Rico 00907-4127.

Comprehensive information on the Site is contained in the EPA public docket and is available for viewing, by appointment only, at: U.S. Environmental Protection Agency, Region II, Caribbean Environmental Protection Division, Centro Europa Building, Suite 417, 1492 Ponce de León Ave., Stop 22, San Juan, Puerto Rico 00907-4127, Phone: (787) 728-6951, extension 223, Hours: 8:30 A.M. to 4:30 P.M.—Monday through Friday (excluding holidays); Contact: Luis E. Santos.

Information on the Site is also available for viewing at the Site Administrative Record Repositories located at: P.R. Environmental Quality Board, National Plaza Bank, 431 Ponce de León Ave., Hato Rey, Puerto Rico 00917, Contact: Mr. Genarro Torres, Phone: (787) 766-2823, Hours: 8:30 A.M. to 4:30 P.M.—Monday through Friday (excluding holidays); and the Humacao Town Hall, Humacao, Puerto Rico, Contact: Mayor's Office Secretary, Phone: (787) 852-3066.

FOR FURTHER INFORMATION CONTACT: Luis E. Santos, (787) 728-6951 Ext. 223.

SUPPLEMENTARY INFORMATION:

Table of Contents

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

I. Introduction

The Environmental Protection Agency (EPA) Region II announces its intent to delete the Frontera Creek Site, Humacao, Puerto Rico from the National Priorities List (NPL), 40 CFR Part 300, and requests public comment on this deletion. The NPL is Appendix B to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which the EPA promulgated pursuant to Section 105 of CERCLA, as amended. The EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of those sites. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (the Fund). Pursuant to § 300.425(e)(3) of the NCP, any site deleted from the NPL remains eligible for Fund-financed remedial actions, if conditions at the site warrant such action.

The EPA will accept comments on the proposal to delete this Site from the NPL for 30 days after publication of this document in the **Federal Register** until August 31, 1998.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that the EPA is using for this action. Section IV discusses how the Site meets the NPL deletion criteria.

II. NPL Deletion Criteria

The NCP establishes the criteria that the Agency uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e)(1)(i)–(iii), sites may be deleted from the NPL where no further response is appropriate. In making this determination, EPA, in consultation with PREQB, will consider whether any of the following criteria have been met:

- (i) Responsible or other persons have implemented all appropriate response actions required; or
- (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 to the environment and, therefore, taking remedial measures is not appropriate.

III. Deletion Procedures

The NCP provides that the EPA shall not delete a site from the NPL until the Commonwealth of Puerto Rico has concurred, and the public has been afforded an opportunity to comment on the proposed deletion. Deletion of a site from the NPL does not affect responsible

party liability or impede agency efforts to recover costs associated with response efforts. The NPL is designed primarily for information purposes and to assist Agency management.

EPA Region II will accept and evaluate public comments before making a final decision to delete the site. The Agency believes that deletion procedures should include public notice and comment at the local level. Comments from the local community may be pertinent to deletion decisions. The following procedures were used for the intended deletion of the Site:

1. EPA determined the appropriate remedies at this site in a Record of Decision dated September 30, 1991.

2. Responsible parties conducted the site clean-up as documented in a Remedial Action Completion Report dated May 1995.

3. EPA determined in a September 1997 Superfund Site Close Out Report that all construction activities at this site have been completed.

4. PREQB has concurred with the deletion decision in letter dated March 27, 1998.

5. A Notice has been published in a local newspaper and distributed to appropriate federal, Commonwealth and local officials, and other interested parties announcing the commencement of a 30-day public comment period on EPA's Notice of Intent to Delete.

6. All relevant documents have been made available for public review in the local Site information repositories.

The comments received during the comment period will be evaluated before any final decision is made. EPA Region II will prepare a Responsiveness Summary, if necessary, which will address the comments received during the public comment period.

If after consideration of these comments, the EPA decides to proceed with the deletion, the EPA Regional Administrator will place a Notice of Deletion in the **Federal Register**. The NPL will reflect any deletions in the next final update. Public notices and copies of the Responsiveness Summary, if any, will be made available to local residents by EPA Region II.

IV. Basis for Intended Site Deletion

The following summary provides the Agency's rationale for recommending deletion of the Frontera Creek Site, Humacao, Puerto Rico, from the NPL:

The Frontera Creek Site is located on the eastern coast of Puerto Rico approximately 1.5 miles east of the City of Humacao. As defined in the Remedial Investigation/Feasibility Study (RI/FS) Administrative Order on Consent, the Frontera Creek Site includes Frontera

Creek downstream of Route 925, the Frontera Lagoons, Madri Canal south of Route 3, the Ciudad Cristiana housing development (Cristiana), the 13 industries adjacent or in close proximity to the creek, and the suspected dredge spoil piles allegedly located on the bank of Frontera Creek adjacent to Ciudad Cristiana.

Industrial wastewaters from industries within the Site were discharged into the creek from 1971 to 1981. Public concern about the site arose in 1977 following the death of thirty cows that grazed in the area. Since that time, the area has been investigated by the EPA, PREQB and several industries located in the vicinity. This investigation confirmed the presence of contaminants including mercury in sediments and surface water samples. As a result of the potential threat to public health, in August 1983, the Frontera Creek Site was included on the EPA's National Priorities List.

In February 1985, the Puerto Rico Department of Health (PRDOH) found elevated levels of mercury in blood and urine samples from a number of residents in the Ciudad Cristiana development. In addition, the PREQB found mercury in soil samples. As a result, the Governor of Puerto Rico ordered the evacuation of the residents of the development. In March 1985, the PRDOH requested that the EPA evaluate the Ciudad Cristiana development for mercury contamination. The residents had alleged that during the construction of their homes, the area was contaminated. In response to this request, and in coordination with the Agency for Toxic Substances and Disease Registry (ATSDR), the EPA conducted a Focused Remedial Investigation to assess mercury contamination in the Ciudad Cristiana development. Soil samples from the Ciudad Cristiana development were analyzed for mercury contamination. ATSDR concluded that the mercury levels found did not present an immediate health threat to the residents of Ciudad Cristiana.

On October 3, 1986, an Administrative Order on Consent (Consent Order) was issued by the EPA pursuant to Section 106(a) of CERCLA. The Consent Order required Miles Diagnostics Corporation; Miles, Inc.; Cooper Development Company; and Revlon, Inc. ("Settling Defendants") to undertake a Remedial Investigation/Feasibility Study (RI/FS) covering the entire Frontera Creek Superfund Site.

A Remedial Investigation (RI) was performed from January 1988 through August 1989. The RI data indicated that elevated concentrations of mercury

occurred primarily in surface soils at the Technicon property and in sediments in the Technicon ditch. The sampling done at the Ciudad Cristiana development and in the Frontera Creek itself did not find mercury levels of concern.

A Record of Decision (ROD), which selected the remedy for the Site, was signed in September 1991. The selected remedy called for the excavation and proper disposal of all Site soils and sediments with mercury concentration in excess of 35 parts per million (ppm). On July 8, 1992, Miles Diagnostics Corporation; Miles Inc.; Cooper Development Company; and Revlon, Inc. ("Settling Defendants") signed a Consent Decree with the EPA for implementation of the selected remedy.

Remedial Action was implemented according to the approved Final Remedial Design Report document, dated December 27, 1994. Excavation activities, initiated on March 7, 1995 were substantially completed as of March 30, 1995. Off-site transportation for disposal of rollofs containing excavated waste, was initiated on April 18, 1995 and completed on April 22, 1995.

The remediated Site areas, as required by the ROD, were two areas within the Technicon ditch (known as Areas 1 and 2) and one area near the former raw materials storage area at the Technicon facility (known as Area 3). The volumes and media removed in each were Area 1—83 cubic yards of Technicon Ditch sediments, Area 2—49 cubic yards of Technicon Ditch sediments and Area 3—159 cubic yards of soils and 32 yards of concrete. The Area 2 excavation was expanded to remove an additional 33.5 cubic yards of sediments based on the results of the post-excavation sampling and analysis.

All the completion requirements for this Site have been met as described in the "Superfund Site Close Out Report" dated September 1997. Activities at the Site have resulted in the removal of mercury contaminated soils and sediments from the Site and have provided for the off-site disposal of contaminated soils and sediments. EPA has determined that responsible parties have completed all appropriate response action necessary under CERCLA at this site and that no further construction activities by responsible parties are necessary. In addition, for the activities undertaken at this Site under CERCLA, EPA identified an air release of methylene chloride. EPA determined the source of the air release to be the Squibb facility located within the Site. Squibb voluntarily reduced emissions of methylene chloride to acceptable levels. Consequently, EPA is proposing

deletion of this Site from the NPL. Documents supporting this action are available in the docket.

The EPA and PREQB have determined that the remedy implemented at the Site is protective of human health and the environment and that no further cleanup by responsible parties is appropriate. Hazardous substances were cleaned up to levels that would allow for unlimited use and unrestricted access, therefore the five-year review requirement of Section 121(c) of CERCLA, as amended, is not applicable. On September 30, 1997, the EPA signed the Superfund Site Close Out Report for the Site, prepared in accordance with OSWER Directive 9320.2-09, "Close Out Procedures for National Priorities List Sites".

Dated: June 18, 1998.

William J. Muszynski,

Acting Regional Administrator, Region II.

[FR Doc. 98-20153 Filed 7-29-98; 8:45 am]

BILLING CODE 6560-50-U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL-6131-2]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of Intent to Delete the U.S. Navy, Naval Security Group Activity Superfund Site from the National Priorities List. Request for comments.

SUMMARY: The Environmental Protection Agency (EPA) Region II Office announces its intent to delete the United States Navy, Naval Security Group Activity Superfund Site (Site) from the National Priorities List (NPL) and requests public comment on this action. The NPL, 40 CFR Part 300, Appendix B was promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) and the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR Part 300. EPA and the Puerto Rico Environmental Quality Board (PREQB) have determined that all appropriate actions have been completed and no further response action is appropriate under CERCLA. In addition, EPA and PREQB have determined that response actions conducted to date at the Site