

**List of Subjects in 40 CFR Part 180**

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 4, 2008.

**Lois Rossi,**

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

**PART 180—[AMENDED]**

1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346a and 371.

2. Section 180.430 is amended by adding text to paragraph (b) to read as follows:

**§ 180.430 Fenoxaprop-ethyl; tolerances for residues.**

(a) \* \* \*

(b) *Section 18 emergency exemptions.* Time-limited tolerances are established for combined residues of the herbicide

fenoxaprop-ethyl, [(±)-ethyl 2-[4-[(6-chloro-2-benzoxazolyl)oxy]phenoxy]propanoic acid], and its metabolites (2-[4-[(6-chloro-2-benzoxazolyl)oxy]phenoxy]propanoic acid and 6-chloro-2,3-dihydrobenzoxazol-2-one), each expressed as fenoxaprop-ethyl, in connection with use of the pesticide under section 18 emergency exemptions granted by EPA, in or on the food commodities in the following table. The tolerances expire and are revoked on the dates specified in the following table.

Commodity	Parts per million	Expiration/revocation date
Grass, forage .....	0.05	12/31/10
Grass, hay .....	0.05	12/31/10

\* \* \* \* \*

[FR Doc. E8-13372 Filed 6-12-08; 8:45 am]

BILLING CODE 6560-50-S

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 300**

[EPA-HQ-SFUND-1989-0008, Notice 3; FRL-8578-7]

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

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct Final Notice of deletion of the Double Eagle Refinery Co. Superfund site from the National Priorities List.

**SUMMARY:** The Environmental Protection Agency (EPA) Region 6 is publishing a direct final Notice of Deletion of the Double Eagle Refinery Co. Site (Site), located in Oklahoma City, Oklahoma County, Oklahoma from the National Priorities List (NPL). The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended is Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being published by EPA with the concurrence of the State of Oklahoma, through the Oklahoma Department of Environmental Quality (ODEQ), because EPA has determined that all appropriate response actions under CERCLA, other than operation and maintenance and five-year reviews, have been completed

However, this deletion does not preclude future actions under Superfund.

**DATES:** This direct final deletion will be effective August 12, 2008 unless EPA receives adverse comments by July 14, 2008. If adverse comments are received, EPA will publish a timely withdrawal of the direct final deletion in the **Federal Register** informing the public that the deletion will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID no. EPA-HQ-SFUND-1989-0008, Notice 3, by one of the following methods:

- <http://www.regulations.gov>. Follow on-line instructions for submitting comments.
- *E-mail:* [walters.donn@epa.gov](mailto:walters.donn@epa.gov).
- *Fax:* 214-665-6660.
- *Mail:* Donn Walters, Community Involvement, U.S. EPA Region 6 (6SF-TS), 1445 Ross Avenue, Dallas, TX 75202-2733, (214) 665-6483 or 1-800-533-3508.

**Instructions:** Direct your comments to Docket ID No. EPA-HQ-SFUND-1989-0008, Notice 3. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you

provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in the hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the following information repositories: U.S. EPA Online Library System at <http://www.epa.gov/natlibra/ols.htm>; U.S. EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, (214) 665-6617, by appointment only Monday through Friday 9 a.m. to 12 p.m. and 1 p.m. to 4 p.m. Ralph Ellison Library, 2000 Northeast 23, Oklahoma City, OK 73111, (409) 643-5979, Monday through

Wednesday 9 a.m. to 9 p.m., Thursday and Friday 9 a.m. to 6 p.m., Saturday 10 a.m. to 4 p.m.

Oklahoma Department of Environmental Quality (ODEQ), 707 North Robinson, Oklahoma City, Oklahoma 73101, (512) 239-2920, Monday through Friday 8 a.m. to 5 p.m.

**FOR FURTHER INFORMATION CONTACT:**

Bartolome Canellas (6SF-RL), Remedial Project Manager, U.S. Environmental Protection Agency, Region 6, U.S. EPA, 1445 Ross Avenue, Dallas, Texas 75202, (214) 665-6662 or 1-800-533-3508 or [canellas.bart@epa.gov](mailto:canellas.bart@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**Table of Contents**

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

**I. Introduction**

The EPA Region 6 office is publishing this direct final notice of deletion of the Double Eagle Refinery Co. Site, Oklahoma City, Oklahoma County, Oklahoma from the NPL. 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 a list of sites that appear to present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). As described in 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions if conditions at the deleted sites warrant such actions.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication of a notice of intent to delete. This action will be effective August 12, 2008 unless EPA receives adverse comments by July 14, 2008. Along with the direct final Notice of Deletion, EPA is co-publishing a Notice of Intent to Delete in the "Proposed Rules" section of the **Federal Register**. If adverse comments are received within the 30-day public comment period on this document, EPA will publish a timely withdrawal of this direct final deletion before the effective date of the deletion and the deletion will not take effect. EPA will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of the

notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

Section II of this notice explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Double Eagle Refinery Co. Superfund Site and demonstrates how it meets the deletion criteria. Section V discusses EPA actions to delete the Site from the NPL unless adverse comments are received during the public comment period.

**II. NPL Deletion Criteria**

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 to protect public health and the environment. In making 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 (Hazardous Substance Superfund Response Trust Fund) response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or
- iii. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the deleted site above levels that allow for unlimited use and unrestricted exposure, CERCLA section 121(c), 42 U.S.C. 9621(c) requires that a subsequent review of the site be conducted at least every five years after the initiation of the remedial action at the deleted site to ensure that the action remains protective of public health and the environment. If new information becomes available which indicates a need for further action, EPA may initiate remedial actions. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

**III. Deletion Procedures**

The following procedures apply to deletion of the Site:

- (1) EPA consulted with the state of Oklahoma prior to developing this direct final Notice of Deletion and the

Notice of Intent to Delete copublished today in the "Proposed Rules" section of the **Federal Register**.

(2) EPA has provided the state 30 working days for review of this notice and the parallel Notice of Intent to Delete prior to their publication today, and the state, through the Oklahoma Department of Environmental Quality, has concurred on the deletion of the Site from the NPL.

(3) Concurrent with the publication of this direct final Notice of Deletion, a notice of availability is being published in *The Oklahoman* and is being distributed to appropriate federal, state and local government officials and other interested parties. The newspaper notice announces the 30-day public comment period concerning the Notice of Intent to Delete the Site from the NPL.

(4) The EPA placed copies of documents supporting the deletion in the Site information repositories identified above.

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

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

**IV. Basis for Site Deletion**

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

*Site Background and History*

The Site occupies the Southeast Quarter (SE ¼) of section 35, Township 12 North, Range 3 West, Indian Meridian, Oklahoma County, Oklahoma City, Oklahoma. Located at 301 N Rhode Island (generally South of NE 4th Street and West of Martin Luther King Boulevard), the Site extends over approximately 12 acres. The Double Eagle Refinery collected, stored, and re-refined used oils and distributed the

recycled product. The refinery was active as early as 1929.

In 1986 through 1988, EPA conducted investigations of the Site. The sampling results revealed elevated levels of volatile organic compounds, semi-volatile organic compounds, and metals found in surface water, soil, sediment, and ground water. The Site also was found to contain acidic sludges in on-site lagoons or pits.

The data from these sampling efforts resulted in the Site being proposed for the Superfund NPL on June 24, 1988, 53 FR 23978, and the Site was included on the NPL on March 31, 1989, 54 FR 10512.

#### *Response Actions*

The May 1992 Remedial Investigation (RI) reported potential additional lifetime cancer risks to on-site workers that may have access to the Site of  $1.2 \times 10E-04$ , which is two orders of magnitude higher than the criterion of acceptability. Due to the unsecured nature of the site, other unacceptable risks were possible to trespassers and the resident of one nearby house. The shallow ground water was not considered a potential source of drinking water and was reported of limited potential beneficial use due to the high value of Total Dissolved Solids (TDD), however concerns of potential contamination to the deeper Garber-Wellington aquifer, triggered further investigations into the ground water to ensure protection of this source. Regionally, Oklahoma City receives its public water supply from reservoirs surrounding the city.

The Site was divided into two operable units, a source control operable unit and a ground water operable unit. EPA issued a Record of Decision on September 28, 1992 for the source control operable unit. The remedial action activities for the source control operable unit, initiated in August 1997, consisted of asbestos abatement and demolition of existing structures, on-site neutralization and stabilization of wastes, and off-site disposal at a permitted landfill. The remedial action was completed in March 2000.

EPA issued a ground water Record of Decision on April 19, 1994. The remedial action activities for the ground water operable unit, initiated in December 1996, consisted of quarterly ground water monitoring for three years followed by semi-annual monitoring for three years. EPA issued an Explanation of Significant Difference in January 2006, and documented a final decision to discontinue further semi-annual monitoring.

EPA issued a Final Close Out Report on March 7, 2006, which affirmed that the remedial action activities for the source control operable unit and ground water operable unit had been completed and were consistent with CERCLA, as amended, and to the extent practicable, the NCP.

EPA issued a second Explanation of Significant in May 2008 to clarify the final decision for clean up levels and document the need for Institutional Controls and Five-Year Reviews.

#### *Institutional Controls*

An element of the selected remedy is to place notices to the property deed warning of the site hazards. These notices were filed pursuant to Oklahoma Statutes, Title 27A (2000 Supp.), Section 2-7-123(B), by the Oklahoma Department of Environmental Quality in 2001. These notices declare the sites considered appropriate for activities associated with industrial/commercial uses, the anticipated future land use according to the ROD. Furthermore, the Oklahoma City Zoning maps indicate the land use for the sites as classified for industrial.

A component of the ground water ROD is to ensure future potential users of the lower Garber-Wellington aquifer are not exposed to contaminants from the site. As part of Operation and Maintenance activities, the State maintains the institutional controls and reviews records of wells drilled in the area to ensure shallow ground water is not used, and additional wells are not installed in the area.

#### *Cleanup Goals*

The remedial action cleanup activities at the Double Eagle Refinery Site are consistent with the objectives of the NCP and will provide protection to human health and the environment. The source control operable unit cleanup goals were to provide for commercial/industrial reuse of the Site. During the remedial action confirmation samples were collected to ensure that all materials left at the Site were below the cleanup goals. The remedial action objectives for the ground water operable unit, to ensure that future potential users of the lower Garber-Wellington aquifer are not exposed to contaminants from the Site and to ensure that the North Canadian River is not impacted by contaminants from the Site, have also been met by the remedial actions at the Site.

The Remedial Investigation identified the shallow aquifer as a Class III aquifer (the water is not suitable for human consumption). As indicated through the ground water monitoring events, and

the additional investigations conducted, it was confirmed that the shallow ground water in the alluvium is not usable as a drinking water source. During a 1996 investigation, additional wells were drilled below 200 feet in depth to document the presence of a shale aquitard, which is approximately 160+ feet deep. This shale within the Garber Sandstone acts as an "aquitard" to separate the upper and lower ground water aquifers, and provides protection to the lower aquifer from the migration of contaminants in the shallow ground water. The deeper ground water of the Garber-Wellington aquifer below the shale aquitard is below cleanup goals.

The remedial action objective "to ensure future potential users of the deeper Garber-Wellington aquifer are not exposed to contaminants from the site" is achieved through the State monitoring of the installation of any additional wells in the area.

#### *Operation and Maintenance*

The ODEQ has committed to performing Operation and Maintenance (O&M) activities at the Site. In March 2006, the ODEQ submitted the Site O&M Plan to EPA, which defines the long-term O&M activities for the Site. O&M activities consist of maintaining the institutional controls on the Site and semi-annual search of well drilling records to ensure that no drinking water wells are installed on or near the Site.

#### *Five-Year Review*

Hazardous substances remain at the Site above levels that allow for unlimited use and unrestricted exposure. Therefore, the EPA must conduct a statutory five-year review of the remedy no less than every five years after the initiation of the remedial action pursuant to CERCLA section 121(c), and as provided in the current guidance on Five-Year Reviews (OSWER Directive 9355.7-03B-P, Comprehensive Five-Year Review Guidance, June 2001). Based on the five-year reviews, EPA will determine whether human health and the environment continue to be adequately protected by the implemented remedy. Five-year reviews for this Site were completed in July 29, 2002 and May 15, 2007. The reviews found that the remedy remains protective of human health and the environment, and that the Site appears to have been properly maintained during the period between reports. The next five-year review will occur no later than May 15, 2012.

#### *Community Involvement*

Public participation activities have been satisfied as required in CERCLA

section 113(k), 42 U.S.C. 9613(k), and CERCLA section 117, 42 U.S.C. 9617. Documents in the deletion docket which EPA relied on for recommendation of the deletion from the NPL are available to the public in the information repositories.

A Public Comment period was established when the site was proposed to the National Priorities List, and Public Meetings were conducted on July 1992 and August 1993 to discuss the proposed remedies for the soil and the groundwater operable units. With this Notice of Deletion, a 30-day public comment period is established before making this deletion final.

#### V. Deletion Action

The EPA, with concurrence of the State of Oklahoma, has determined that all appropriate responses under CERCLA have been completed, and that no further response actions under CERCLA, other than O&M and five-year reviews, are necessary. Therefore, EPA is deleting the Site from the NPL.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication. This action will be effective August 12, 2008 unless EPA receives adverse comments by July 14, 2008. If adverse comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final notice of deletion before the effective date of the deletion and it will not take effect and, EPA will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

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

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: May 23, 2008.

**Richard E. Greene,**

*Regional Administrator, Region 6.*

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

#### PART 300—[AMENDED]

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

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

#### Appendix B—[Amended]

■ 2. Table 1 of appendix B to part 300 is amended under Oklahoma (“OK”) by removing the site name “Double Eagle Refinery Co.” and the city “Oklahoma City.”

[FR Doc. E8–13338 Filed 6–12–08; 8:45 am]

**BILLING CODE 6560–50–P**

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 300

[EPA–HQ–SFUND–1989–0008, Notice 4; FRL–8579–1]

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

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct Final Notice of deletion of the Fourth Street Abandoned Refinery Superfund site from the National Priorities List.

**SUMMARY:** The Environmental Protection Agency (EPA) Region 6 is publishing a direct final Notice of Deletion of the Fourth Street Abandoned Refinery Site (Site), located in Oklahoma City, Oklahoma County, Oklahoma, from the National Priorities List (NPL). The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is Appendix B of 40 CFR Part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being published by EPA with the concurrence of the State of Oklahoma, through the Oklahoma Department of Environmental Quality (ODEQ), because EPA has determined that all appropriate response actions under CERCLA, other than operation and maintenance and five-year reviews have been completed. However, this deletion does not preclude future actions under Superfund.

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**ADDRESSES:** Submit your comments, identified by Docket ID no. EPA–HQ–SFUND–1989–0008, Notice 4, by one of the following methods:

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

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

• *Fax:* 214–665–6660.

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

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**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 the information repositories.

U.S. EPA Online Library System at <http://www.epa.gov/natlbra/ols.htm>; U.S. EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733,