DATES: Comments on this proposed action must be received in writing by December 1, 2003.

ADDRESSES: Comments may be submitted either by mail or electronically. Written comments should be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. Electronic comments should be sent either to *kaiser.wayne@epa.gov.* or to *http://www.regulations.gov,* which is an alternative method for submitting electronic comments to EPA. To submit comments, please follow the detailed instructions described in ''What action is EPA taking'' in the **SUPPLEMENTARY INFORMATION** section of the direct final rule which is located in the rules section of the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551–7603, or by e-mail at *kaiser.wayne@epa.gov.*

SUPPLEMENTARY INFORMATION: In the final rules section of the **Federal Register**, EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the rules section of this **Federal Register**.

Dated: October 17, 2003.

William W. Rice,

Acting Regional Administrator, Region 7.

[FR Doc. 03–27262 Filed 10–29–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7579–2]

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

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent for partial deletion of the Del Monte Corporation (Oahu Plantation) Superfund Site from the National Priorities List.

SUMMARY: The United States Environmental Protection Agency (''EPA'') Region IX announces its intent to delete the Poamoho Section of the Del Monte Corporation Superfund Site (''the site''), located in Oahu, Hawaii, from the National Priorities List (''NPL'') and requests public comment on this proposed action. The NPL constitutes appendix B to the National Oil and Hazardous Substances Pollution Contingency Plan (''NCP''), 40 CFR part 300, which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA'') of 1980, as amended. The remaining portion of the site will remain on the NPL. EPA and the State of Hawaii Department of Health have determined that, based on the Remedial Investigation, taking remedial measures on the Poamoho Section of the site would not be appropriate. The Remedial Investigation results indicate no response action is necessary to protect human health, welfare or the environment related to hazardous substances released on the Poamoho Section.

DATES: Comments concerning the proposed partial deletion of the Site from the NPL may be submitted on or before December 1, 2003.

ADDRESSES: Comments may be mailed to Janet Rosati, USEPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Mail Code SFD–8–2, (415) 972–3165 or (800) 231–3075.

Information Repositories: Comprehensive information on the Poamoho Section as well as information specific to this proposed partial deletion is available through the Region IX public docket which is available for viewing by appointment only. Appointments for copies of the background information from the Regional public docket should be directed to the EPA Region 9 docket office at the following address: Superfund Records Center, USEPA Region 9, 95 Hawthorne Street, San Francisco, CA. The Record Center's hours of operation are 8 a.m.–5 p.m., Monday-Friday, and the Records Center staff can be reached at (415) 536–2000. Another information repository where the public docket is available for public review is the Wahiawa Public Library, 820 California Avenue, Wahiawa, HI 96786.

FOR FURTHER INFORMATION CONTACT: Janet Rosati, (415) 972–3165.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

The U.S. EPA Region IX announces its intent to delete the Poamoho Section of the Del Monte Corporation Superfund Site, located in Oahu, Hawaii, from the National Priorities List (''NPL''), which constitutes appendix B of the National Oil and Hazardous Substances PollutionContingency Plan (''NCP''), 40 CFR part 300, and requests public comment on this proposed action. 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 these sites. EPA and the State of Hawaii Department of Health have determined, based on the Remedial Investigation, taking remedial measures on the Poamoho Section would not be appropriate. The Remedial Investigation results indicate no response action is necessary to protect human health, welfare or the environment related to hazardous substances released on the Poamoho Section.

EPA will accept comments on the proposal to partially 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 the procedures EPA is using for this action. Section IV discusses the Poamoho Section of the site and explains how this section meets the partial 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)(1), sites may be deleted from the NPL where no further response is appropriate to protect human health or the environment. In making such a determination pursuant to

§ 300.425(e)(1), EPA will consider, in consultation with the State, whether any of the following criteria have been met:

Section 300.425(e)(1)(i): Responsible parties or other persons have implemented all appropriate response actions required; or

Section 300.425(e)(1)(ii): All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

Section 300.425(e)(1)(iii): The remedial investigation has shown that the release poses no significant threat to human health or the environment and, therefore, taking of remedial measures is not appropriate.

Deletion of a portion of a site from the NPL does not preclude eligibility for subsequent Fund-financed actions at the area deleted if future site conditions warrant such actions. Section 300.425(e)(3) of the NCP provides that Fund-financed actions may be taken at sites that have been deleted from the NPL. A partial deletion of a site from the NPL does not affect or impede EPA's ability to conduct CERCLA response activities at areas not deleted and remaining on the NPL. In addition, deletion of a portion of a site from the NPL does not affect the liability of responsible parties or impede Agency efforts to recover costs associated with response efforts.

III. Deletion Procedures

Deletion of a portion of a site from the NPL does not itself create, alter, or revoke any person's rights or obligations. The NPL is designed primarily for informational purposes and to assist Agency management.

The following procedures were used for the proposed deletion of the Poamoho lands at the site:

(1) EPA has recommended the partial deletion and has prepared the relevant documents.

(2) The State of Hawaii, through the Hawaii Department of Health, concurs with this partial deletion.

(3) Concurrent with this national Notice of Intent for Partial Deletion, a notice has been published in a newspaper of record and has been distributed to appropriate federal, state and local officials, and other interested parties. These notices announce a thirty (30) day public comment period on the deletion package, which commences on the date of publication of this notice in the **Federal Register** and a newspaper of record.

(4) EPA has made all relevant documents available at the information repositories previously listed.

This **Federal Register** document, and a concurrent notice in a newspaper of record, announce the initiation of a thirty (30) day public comment period and the availability of the Notice of Intent for Partial Deletion. The public is asked to comment on EPA's proposal to delete the Poamoho Section from the NPL. All critical documents needed to evaluate EPA's decision are included in the deletion docket and are available for review at the EPA Region IX information repositories.

Upon completion of the thirty (30) day public comment period, EPA will evaluate all comments received before issuing the final decision on the partial deletion. EPA will prepare a Responsiveness Summary for comments received during the public comment period and will address concerns presented in the comments. The Responsiveness Summary will be made available to the public at the information repositories listed previously. Members of the public are encouraged to contact EPA Region IX to obtain a copy of the Responsiveness Summary. If, after review of all public comments, EPA determines that the partial deletion from the NPL is appropriate, EPA will publish a final notice of partial deletion in the **Federal Register**. Deletion of the Poamoho Section does not actually occur until the final Notice of Partial Deletion is published in the **Federal Register**.

IV. Basis for Intended Partial Site Deletion

The following provides EPA's rationale for deletion of the Poamoho Section from the NPL and EPA's finding that the criteria in 40 CFR 300.425(e) are satisfied.

Site Background and History

The Site is an active pineapple plantation that consists of two major sections, known as Kunia and Poamoho. The Kunia Section is located in the general vicinity of the Kunia Well, a public water supply well. The Poamoho Section is geographically separated from the Kunia Section by Schofield Army Barracks, a site formerly on the NPL which was deleted in 2000 and Wheeler Field. The southern and northern boundaries of the Poamoho Section are located 3 miles south and 4.5 miles north, respectively, of the Kunia Well. The Poamoho Section is bounded by Wahiawa Reservoir (Lake Wilson) to the south, Kaukonahua Gulch to the east and Poamoho Gulch to the north. State Highways 80, 82 and 99 cross the Poamoho Section.

In April 1977, there was a spill of approximately 495 gallons of ethylene dibromide (''EDB'') within 60 feet of the Kunia Well, which was, at that time, used as a source of drinking water. Additionally, EDB and other pesticides and fumigants, including 1, 2–Dibromo–3–chloropropane (''DBCP''), are known to have been stored in the same general vicinity. The Kunia Well was sampled one week after the spill, and EDB was not detected. The Kunia Well was sampled again in 1980, and EDB and DBCP were detected above safe drinking water standards. The Kunia Well was immediately disconnected from the drinking water supply system. In December 1994, EPA listed the site on the NPL primarily because of concerns with contamination to groundwater, which is a source of drinking water.

On September 28, 1995, Del Monte Fresh Produce (''DMFP'') entered into an administrative order on consent (''AOC'') with EPA. Under the AOC, DMFP prepared and EPA approved the Remedial Investigation and Feasibility Study (''RI/FS'') Work Plan. The RI/FS Work Plan included plans to investigate two potential sources of concern on the Poamoho Section: a former fumigant drum burial site (''drum site'') and a closed underground storage tank site (''tank site'').

In the early 1970s, empty soil fumigant drums were buried behind an area known as the Poamoho Crateyard. Soil samples were collected at three locations within the burial area which measured 25 feet by 65 feet. Samples were collected at varying depths directly beneath the buried material. Soil analysis demonstrated that no EDB, DBCP or other chemicals of potential concern (''COPCs'') associated with fumigant drum burial were present in the soils. Heptachlor at 2.3 micrograms per kilogram (''µg/kg'') was detected in one sample at 12 to 14 feet below ground surface (bgs). This level is well below EPA's residential health-based guideline for heptachlor of 99 µg/kg. A soil gas sample was also collected from each of the three sampling locations at the base of the buried debris. The compounds detected in soil gas were low and do not represent a risk to human health or the environment. Because soil gas vapors can migrate to ground surface and disperse into the air, an analysis was conducted to estimate the potential health risk from inhalation. The analysis showed that the levels of chemicals in the air that people might breath were far lower than EPA's health-based guidelines. The soil gas and soil concentrations do not pose a risk to groundwater due to the low concentrations detected and the great depth to the aquifer (600—700 feet bgs).

In 1987, DMFP removed two 6,000 gallon steel underground fuel storage tanks (''USTs'') that previously contained either diesel fuel or gasoline. In March 1997, soil beneath the two former USTs was sampled. The samples were analyzed for petroleum and associated constituents. No petroleum or associated constituents were detected in these samples.

Further information regarding the investigations conducted at the drum burial area and the underground storage tank area can be found in the November 1998 Remedial Investigation Report.

In August 2002 DMFP informed EPA of two additional Other Potential Source Areas recently identified to them by a retired Del Monte Corporation employee. The areas are the Former Fumigant Mixing Area near the Karsten Warehouse and the Rag Disposal Area near the southern end of Field 202A. The former fumigant mixing area near the Karsten warehouse was used during the late 1950s and early 1970s for mixing of previously registered soil fumigants with diesel fuel. The soil fumigants included EDB and possibly Shell DD (a mixture of 1,2–dichloropropane, 1,3–dichloropropene, 2,3–dichloropropene, 3,3–dichloropropene and traces of trichloropropane). Occasionally, mixing operations in this area resulted in spills of EDB onto the soil. Rags used to wipe down the fumigant drums were discarded in the Rag Disposal Area which was a debris disposal and burn area operated by the City and County of Honolulu. Soil samples were collected in these newly identified areas in September and October 2002.

The boundary of the Former Fumigant Mixing Area measures approximately 30 feet by 45 feet. Soil samples were collected at varying depths within this area and analyzed for volatile organic compounds (VOCs). The only compound detected in any of the samples at a concentration greater than the EPA's residential health-based guideline was 1,2,3–trichloropropane (TCP). TCP was detected at 10 micrograms per kilogram (µg/kg) at 15 feet bgs. EPA's residential health-based guideline for TCP is 5 µg/kg. Additional sampling at depths below 15 feet was conducted in February 2003 to determine the extent of TCP. The highest level detected was 4.4 µg/kg. Since soils shallower than 5 feet did not contain TCP at concentrations above residential health-based guidelines, risks via skin contact, ingestion, inhalation, dust entrainment or surface runoff should not be present. The limited extent and relatively low concentrations of TCP, and the extensive depth to groundwater (approximately 700 feet) indicate that risks to groundwater from soil leaching are not applicable.

Sixteen test pits were dug to identify the boundaries of the refuse disposal and burn site where rags used to wipe down fumigant drums were discarded. The test pits identified an oblong area approximately 100 feet wide by 130 feet long at the top edge of a natural gulch. The burn debris consisted of broken glass, ash, and traces of burned metal mixed with soil. The type and construction of the glass bottles found within the burn debris indicated that the debris likely originated during the time frame when the DMC employee indicated rags were discarded in the area. The age of the burn debris, combined with the location, indicate that the burn debris material represents the Rag Disposal Area.

Sampling at the Rag Disposal Area differed from the Former Fumigant Mixing Area, because the depth of the debris was unknown, and most critical samples would be the soil samples beneath the disposal area. The base of the debris would be the most likely area for potential accumulation of chemicals due to their downward migration through the unconsolidated debris. Soil core samples were collected within the debris until the underlying soil was encountered. Soil samples were collected from the soil immediately beneath the debris and approximately 3 to 5 feet beneath the bottom of the debris.

The drilling indicated that the burn debris is fairly consistent in composition and varied in depth relative to distance from the gulch. The closer to the gulch, the deeper the burn debris. Debris was detected as deep as 57 feet in one sample. A total of 19 soil samples were collected in the Rag Disposal Area and analyzed for VOCs. Six of these samples were also analyzed for TPH-diesel and Lindane, Toxaphene and Heptachlor. No compounds were detected at concentrations above EPA's residential health-based guidelines.

Further information regarding the investigations conducted at the Former Fumigant Mixing Area and the Rag Disposal Area can be found in the March 2003 Investigation Results for Additional Other Potential Source Areas.

Community Relations Activities

EPA mailed fact sheets to farm workers, nearby residents and other interested parties throughout the Remedial Investigation and Feasibility Study phases. EPA also conducted public meetings on April 30, 1997 and January 27, 1999 which were well attended.

During the Remedial Investigation phase of the project, community interest in the site was high due to health concerns in the Village Park subdivision 5 miles south of the Del Monte site. The residents were concerned that their drinking water supply may have been contaminated by the Del Monte spill and their subdivision may have been built on contaminated soil transported to the subdivision when Del Monte excavated contaminated soil in the Kunia Village area. The Remedial Investigation found that Del Monte's Kunia Camp well is in a different aquifer than the drinking water wells that serve Village Park. An EPA civil investigator examined the Village Park construction records. The construction contractor's Soils Reports for the subdivision states that fill material used in Village Park came from the subdivision itself. In addition, EPA collected soil samples from the on-site field where Del Monte's records showed the excavated Kunia Village area soil was spread. The soil in the field matched the soil from the excavation area. Community interest in the site has subsided since these findings were discussed with the public through fact sheets and community meetings. Very few community members attended the April 2, 2003 Public Hearing on the Proposed Plan for cleanup of the Kunia Section.

Current Status

EPA has determined that there are two zones of contaminated groundwater at the Kunia Section; the basal (deep) aquifer, which is approximately 800 feet bgs and the perched (shallow) aquifer which is approximately 100 feet bgs. In the Poamoho Section, basal groundwater is approximately 600–700 feet bgs and no perched groundwater was encountered. The basal aquifer flows south. While the perched aquifer flows north, it is a small and localized groundwater body in the immediate vicinity of the Kunia Well. Since the Poamoho Section is located several miles north of the Kunia Well, EPA does not anticipate that groundwater contamination will migrate to the Poamoho Section.

EPA has determined the Poamoho Section is not a source of release that poses a potential threat to human health or the environment. Further, because the deep aquifer beneath the Poamoho Section is upgradient of the Kunia Well, the groundwater contamination in the vicinity of the well has not migrated to it, and is not expected to do so. Therefore, EPA proposes to delete the

Poamoho Section of the site from the NPL. The Kunia Section will remain on the NPL and is not the subject of this partial deletion. A Record of Decision (ROD) describing the selected cleanup plan for the Kunia Section was signed on September 25, 2003.

In a letter dated June 19, 2003, the State of Hawaii through its Department of Health, concurred with EPA's decision to delete the Poamoho Section of the site.

Dated: October 16, 2003.

Debra Jordan,

Acting Regional Administrator, Region 9.

[FR Doc. 03–27161 Filed 10–29–03; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Parts 67 and 68

[USCG 2001–10048]

Vessel Documentation: ''Sold Foreign''

AGENCY: Coast Guard, DHS.

ACTION: Proposed rule; withdrawal.

SUMMARY: The Coast Guard withdraws the proposed rule published on September 12, 2001, in which we sought comments on our interpretation of the term ''sold foreign,'' which may disqualify certain vessels whose ownership has become ''foreign'' in technical ways from eligibility for coastwise trade. While some affected parties claimed that this interpretation imposes a harsh penalty for slight, often unintended involvement, others feel that it just preserves the privilege of coastwise trade for the domestic fleet.

DATES: The proposed rule is withdrawn as of October 30, 2003.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Willis, Director, National Vessel Documentation Center, telephone 304–271–2506.

SUPPLEMENTARY INFORMATION:

Background

On September 12, 2001, we published a request for comments notice in the **Federal Register** (66 FR 47431), inviting comments on how to interpret the term ''sold foreign''. We received ten comments. After review of these comments, we decided not to take any further action.

Discussion of Comments

The request for comments posed several specific questions:

1. Should the Coast Guard issue a formal letter-ruling addressing the proposed reorganization of a business entity before the entity undertakes the reorganization?

2. a. If a qualified owner sells a vessel to an owner unqualified because foreign, should the unqualified owner be able to cure the defect through its own reorganization?

b. Should the Coast Guard count as accomplishing a ''sale'' the reorganization of an owner that, until the reorganization, qualified to document vessels in accordance with 46 U.S.C. 12102? If so, should the owner be able to cure the defect through a second reorganization?

c. If a business entity can reorganize to satisfy 46 U.S.C. 12102, so as to avoid a permanent loss of the privilege of coastwise trade, should a vessel sold to a natural person other than a citizen be able to regain the privilege upon the naturalization of that person?

3. Should there be a time by which the reorganization posited in paragraph 2.a, the second reorganization posited in paragraph 2.b, or the naturalization posited in paragraph 2.c must either start or finish?

We received six comments from maritime-industry associations representing a large number of U.S. owners and operators, three comments from vessel owners, and one joint comment from two law firms. All six associations opposed any change in the Coast Guard's current rule. They also opposed allowing reorganizations to cure defects after the fact, pointing out that affected vessel owners may seek legislative redress in a process that allows a public venue to evaluate the appropriate action to take. Two of the vessel owners, both eligible to own and operate coastwise-qualified vessels, affirmed their support for the associations; the third, which qualifies to document vessels, though not for purposes of coastwise trade, proposed an unrestricted right of cure when there is no accompanying transfer of flag.

The joint comment from the two law firms opposes the current Coast Guard interpretation and petitions for rulemaking. The Coast Guard notes, however, that that comment in part mischaracterizes its rules. For example, the comment states that these rules permanently bar a vessel from coastwise privileges if sold to an owner that is not ''both a U.S. citizen and a person permitted to document vessels pursuant to 46 CFR 68.'' In fact, the rules provide for loss of coastwise privileges under two circumstances: (1) the vessel is being sold to a person who is not a U.S. citizen eligible for full coastwise privileges (or, if the more limited coastwise privileges for a vessel operating under the Bowaters amendment or as an oil spill response vessel, to a person who is not qualified under the applicable statutes); or (2) the vessel is being sold to a person not permitted to document vessels pursuant to 46 U.S.C. 12102, and 46 CFR part 68. However, permanent loss of coastwise privileges results only if the vessel is sold to a person not eligible to document vessels. The comment also states that these rules fail to include vessels financed under 46 U.S.C. 12106(e) as vessels which would not be deemed sold foreign. Because vessels financed under 46 U.S.C. 12106(e) must be owned by persons eligible to document vessels under 46 U.S.C. 12102, the Coast Guard does not understand the comment.

The joint comment also petitions for a rulemaking on the grounds that 46 CFR 67.19(d) directly contradicts the plain language of the Bowaters amendment in 46 U.S.C. app. 883–1, creating a limited privilege to engage in coastwise trade. The Coast Guard disagrees that 46 CFR 67.19(d) contradicts the Bowaters privilege. The comment in this regard appears to assume that 46 CFR 67.19(d) requires U.S. ''citizenship'' (by which it apparently means that the vessel must also be fully coastwise-qualified) and that it be qualified pursuant to the Bowaters amendment. However, this is not true. The Coast Guard holds that the vessel must (1) be eligible for documentation, that is, the corporation owning it must be qualified as a U.S. documentation citizen pursuant to 46 U.S.C. 12102, as implemented by 46 CFR 67.39(a), and (2) either meet the requirements of the Bowaters amendment pursuant to a certificate's so stating and having been filed with the Coast Guard pursuant to 46 CFR 67.39(d) (in which case it will qualify for a Bowaters coastwise endorsement), or meet the requirements specified in 46 CFR Subpart 68.05 (in which case it will qualify for a limited coastwise endorsement to engage in oil-spill cleanup and training). By confusing these two separate and distinct requirements, this comment has misstated the Coast Guard's position. It cites *Conoco* v. *Skinner,* 970 F.2d 1206 (DC Cir. 1992), in support of its position. However, a close reading of that case reveals that it does not support that position. Rather, the case (1) upholds the Coast Guard rules at issue as reasonable exercises of discretion committed to agencies (here, the Coast Guard and the Maritime