

Dated: December 29, 2006.

Gary Gulezian,

Acting Regional Administrator, Region 5.

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Particulate matter, Reporting and recordkeeping requirements.

Part 52 of chapter I, title 40, Code of Federal Regulations, is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart YY—Wisconsin

2. Section 52.2570 is amended by revising paragraph (c)(98) to read as follows:

§ 52.2570 Identification of plan.

* * * * *

(c) * * *

(98) On November 6, 1996, the State of Wisconsin submitted rules pertaining to requirements under the Prevention of Significant Deterioration program. Wisconsin also submitted rule packages as revisions to the state implementation plans for particulate matter and revisions to the state implementation plans for clarification changes.

(i) Incorporated by reference. The following sections of the Wisconsin Administrative Code (WAC) are incorporated by reference. Both rule packages, AM-27-94 and AM-9-95, were published in the (Wisconsin) Register in April 1995, No. 472, and became effective May 1, 1995. AM-27-94 modifies Chapter NR, Sections 400.02(39m), 404.05, 405.02, 405.07, 405.08, 405.10, 405.14, and 484.04 of the WAC. AM-9-95 modifies Chapter NR, Sections 30.03, 30.04, 400 Note, 400.02, 400.03, 401.04, 404.06, 405.01, 405.02, 405.04, 405.05, 405.07, 405.08, 405.10, 406, 407, 408, 409, 411, 415, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 429, 436, 438, 439, 447, 448, 449, 484, 485, 488, 493, and 499 of the WAC.

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[FR Doc. E7-521 Filed 1-17-07; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA-HQ-SFUND-1989-0008; FRL-8268-6]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final notice of deletion of the Berkley Products Company Dump Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region III is publishing a direct final notice of deletion for Berkley Products Company Dump Superfund Site (Site), located in West Cocalico Township, Lancaster County, Pennsylvania from the National Priorities List (NPL).

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). This direct final deletion is being published by EPA with concurrence of the Commonwealth of Pennsylvania, through the Pennsylvania Department of Environmental Protection (PADEP) because EPA has determined that all appropriate response actions under CERCLA, other than operation and maintenance and five-year reviews, have been implemented to protect human health, welfare and the environment. However, this deletion does not preclude future actions under Superfund.

DATES: This direct final deletion will be effective March 19, 2007 unless EPA receives adverse comments by February 20, 2007. 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, by one of the following methods:

www.regulations.gov: Follow the on-line instruction for submitting comments.

- Email: schrock.roy@epa.gov.
Fax: 215-814-3002
Mail: Mr. Roy Schrock, Remedial Project Manager (3HS22), U.S. EPA, Region 3, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029.

Hand Delivery: 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-HQ-SFUND-1989-0008. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at 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 www.regulations.gov or e-mail. The 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 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 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 hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the EPA's Region III, Regional Center for Environmental Information (RCEI) 2nd floor, 1650 Arch Street, Philadelphia, Pennsylvania, 19103-1029, (215) 814-5254 or (800) 553-2509, Monday through Friday 8 a.m. to 5 p.m. excluding legal holidays and at the West Cocalico Township Municipal Building, 156B West Main, West Cocalico Township, Reinholds, Pennsylvania

17569, (717) 336-8720, Monday through Friday 8 a.m. to 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Roy Schrock, Remedial Project Manager (3HS22), U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029; telephone number: 1-800-553-2509 or (215) 814-3210; fax number: 215-814-3002; e-mail address: schrock.roy@epa.gov.

SUPPLEMENTARY INFORMATION:

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- II. NPL Deletion Criteria
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I. Introduction

EPA Region III is publishing this direct final notice of deletion of the Berkley Products Company Dump Superfund Site from the NPL.

EPA identifies sites that appear to present a significant risk to public health or the environment and maintains the NPL as the list of those sites. As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions in the unlikely event that future conditions warrant such action.

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 March 19, 2007 unless EPA receives adverse comments on this document by February 20, 2007. If adverse comments on this document are received within the 30-day public comment period, 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, as appropriate, 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.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses the procedures that EPA is using for this action. Section IV discusses the Berkley Products Company Dump Superfund Site and explains how the Site meets the deletion criteria. Section V discusses EPA's action to delete the Site from the NPL unless adverse comments are received during the public comment period.

II. NPL Deletion Criteria

Section 300.425(e)(1) of the NCP provides that sites may be deleted from the NPL where no further response is appropriate. In making a determination to delete a site from the NPL, EPA shall consider, in consultation with the State, whether any of the following criteria have been met:

(i) The responsible parties or other parties have implemented all appropriate response actions required; or

(ii) All appropriate Fund-financed (Hazardous Substance Superfund Response Trust Fund) responses under CERCLA have been implemented and no further action by responsible parties is appropriate; or

(iii) The remedial investigation has shown that the site poses no significant threat to public health or the environment and, therefore, remedial measures are not appropriate.

Even if a site is deleted from the NPL, if hazardous substances, pollutants, or contaminants remain at the 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 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 such 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 were used for the intended deletion of this Site:

1. EPA consulted with PADEP on the deletion of the Site from the NPL prior to developing this direct final notice of deletion.

2. PADEP has concurred with the deletion of the Site from the NPL.

3. Concurrently with the publication of this direct final notice of deletion, a notice of the availability of the parallel notice of intent to delete published today in the "Proposed Rules" Section of the **Federal Register** is being published in a major local newspaper of general circulation at or near the Site 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. EPA Region III has placed copies of documents supporting the deletion in the Site information repositories identified above.

5. If adverse comments on this notice or the companion notice of intent to delete also published in today's **Federal Register** are received within the 30-day public comment period, EPA will publish a timely notice of withdrawal of this direct final notice of deletion before the effective date. 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.

Deletion of the 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 summary provides EPA's rationale for the deleting this Site from the NPL:

Site Location

The Berkley Products Company Dump Site (Site) is located one and a half miles northeast of Denver, Pennsylvania, in West Cocalico Township, Lancaster County. Also known as Schoeneck Landfill, the Site is east of Wollups Hill Road, north of Swamp Bridge Road.

The Site is approximately 1,000 feet west of Cocalico Creek. The headwaters of Cocalico Creek are in the valley south of South Mountain near Blue Lake. This valley is located a few miles north of the Site. Conestoga Creek, along with its tributaries, Muddy Creek, Little Conestoga Creek, and Cocalico Creek, drains the northeastern and north-central portion of Lancaster County and eventually enters the Susquehanna River. Seasonally, wet springs located immediately north of the Site discharge into Cocalico Creek to the north. On the southern side of the Site, a seep was located on the slope of the landfill material. The seep was related to rain events.

The land use in the immediate vicinity of the Site is residential in nature. The Site is near dense woods and several single family homes. A few open areas have been converted into farm land by the local residents

Site History

The Site was used as a municipal waste dump from approximately 1930 until 1965. In 1965, the Lipton Paint Company (Lipton), a subsidiary of Berkley Products Company, purchased the property. The operation continued to receive household trash from neighboring communities as well as paint wastes from Berkley Products Company. The property was closed by Lipton due to a lack of available fill area, and was covered with soil. Then, in September 1970, the property was sold to private owners and has been used as a residence since that time.

Prior to 1965, the dump received paper, wood, cardboard and other domestic trash from the northeastern corner of Lancaster County. The only commercial wastes identified during that period were from local shoe companies. Those wastes included leather scraps and empty glue and dye pails.

During the period from 1965 to 1970, different sources estimate that the dump received a total of 650 to 40,000 gallons of paint wastes from Berkley Products Company. These wastes included primarily pigment sludges and wash solvents. EPA has learned that the solvents were sometimes used to burn the household trash and that the sludges were disposed of in five gallon pails. Information gathered about the final years of operation of the Site indicates that the municipal trash was dumped to the south of the access road, toward the hillside, while the paint wastes were deposited in the northern part of the dump.

The Berkley Products Company produced paints and varnishes with solvents, ethyl cellulose resin and pigments with lead oxide and lead chromate. The solvents included toluene, xylene, aliphatic naphthas, mineral spirits, methyl ethyl ketones, methyl isobutyl ketones, ethyl acetate, butyl acetate, glycol ether, butyl celasol, methyl alcohol and isopropyl alcohol.

This Site was originally investigated by the Pennsylvania Department of Environmental Resources (PADER) in 1984. In March of that year, PADER completed a Potential Hazardous Waste Site Identification form and the Site was included on EPA's CERCLIS, a list of potentially hazardous waste sites. A Preliminary Assessment (PA) was also completed in 1984, by EPA, and the Site was scheduled for further investigation pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended, (CERCLA), 42 U.S.C. 9601-9675.

In July 1984, EPA collected field samples and the results were presented in a Site Investigation (SI) report dated March 5, 1986. The information from the SI was used to score the Site using the Hazard Ranking System. The Site was nominated for the National Priorities List (NPL) of Superfund sites in 1986 with a score of 30.00 and was finalized as an NPL site in March 1989. The regulations enacted pursuant to CERCLA generally require that a Remedial Investigation and Feasibility Study (RI/FS) be conducted at each NPL site and subsequently, a remedial response action selected to address the problems identified.

During the search for potentially responsible parties (PRP) for the Site EPA conducted interviews with former owners, operators and employees of the Site. Company records were also obtained and deed information was researched. That information has been compiled and reviewed to determine liability and also to estimate types and quantities of wastes disposed at the Site and to determine disposal practices during operations. Based on the findings of the PRP search, EPA sent Notice Letters to two parties, Berkley Products Company and the landowner that had purchased the closed landfill. These Notice Letters identified the parties as PRPs, but waived the sixty day moratorium, established at CERCLA Sections 122(a) and 122(e), to negotiate a Consent Order to perform the RI/FS. These waivers were issued pursuant to CERCLA Section 122(a) because the Berkley Products Company did not have the financial assets to pay for the remedy, and the current landowners had purchased the property after landfill operations had ceased.

EPA initiated the RI/FS in 1990 to identify the types, quantities and locations of contaminants, to evaluate the potential risks, and to develop and evaluate remedial action alternatives to address the contamination problems at this Site. A CERCLA removal action was completed at the Site in May 1992 to address some preliminary findings of the RI. During the field investigation of the RI, buried drums containing paint wastes were uncovered in the northeastern portion of the Site. This area was excavated, and 59 drums were overpacked and removed. An additional seven drums were overpacked and removed from the southern slope of the landfill. A 35-foot-long by 15-foot-deep exploration trench uncovered no additional drums. The wastes were classified as Polychlorinated Biphenyl (PCB) flammable liquids, solids, and paint solvents.

The field investigations, data analysis and evaluation of alternatives that comprise the RI/FS were completed in June 1996 for the Site.

Record of Decision Findings

The Remedial Investigation found the Site to be a landfill covering approximately 4½ acres situated on the crest of a hill. The landfill materials were composed of primarily municipal trash and debris along with an area of buried steel drums and residues of apparent dumping of organic compounds as well as paint and organic solvents.

The risks involved a direct contact threat and possible impacts on residential well water supplies in the area. The Site also showed the potential for ecological risks.

Monitoring wells at the perimeter of the landfill contained organic compound and a variety of compounds were detected. Some of the compounds identified were lead, benzene, trichloroethylene (TCE), tetrachloroethylene (PCE), polyaromatic (PAHs) hydrocarbons and polychlorinated biphenyls (PCBs).

On June 28, 1996, EPA issued a ROD for the Site which required the following components:

- Pre-design investigations and activities.
- Site preparation.
- Consolidation of landfill wastes.
- Site grading.
- Cover system placement, with the following components as determined necessary for compliance with the relevant sections of Pennsylvania's Hazardous Waste Regulations:
 - Subgrade.
 - Gas vent system.
 - Barrier layers.
 - Drainage layer.
 - Top layer (vegetated).
- Security fencing.
- Removal actions as determined to be necessary during consolidation activities, and to be conducted in compliance with all state and local laws, to the extent not inconsistent with federal laws.
 - Erosion control measures.
 - Long-term monitoring to include groundwater, surface runoff, leachate spring and seep monitoring (annual), reside residential well monitoring (semi-annual) and monitoring wells (quarterly).
 - Institutional controls to restrict new well installation in the contaminated zone.
 - Long-term operation and maintenance of the remedy.
 - Five-year reviews.

On August 20, 1999 an Explanation of Significant Differences was issued which revised the remedy. The ROD anticipated that the bulk of the consolidated wastes at the Site would be incorporated into the on-site landfill and capped in place. During the design of the cap, the volume of the waste to be consolidated was determined to exceed the capacity of the cap being designed for the designated landfill area. Therefore, the ESD required excavation, characterization, and offsite disposal of the excess waste materials. Then the on-site landfill could be capped as described in the ROD.

Operation and Maintenance

The first round of surface water and groundwater monitoring occurred in October 2002. After this sampling event, sampling the surface water and springs was discontinued because no contaminants were detected in the seeps and creek north of the landfill and upgradient from the Site. Sampling the leachate seep from the landfill was also discontinued because the cover eliminated the seep.

Operation and Maintenance (O&M) activities were transferred to the Pennsylvania Department of Environmental Resources (PADEP) after this sampling event since there was no responsible party capable of performing the work for the Site. URS Corporation (URS) was contracted in June 2003 by the PADEP to complete the post-closure operations and maintenance. Quarterly site inspections and monitoring were initiated in 2003.

A number of monitoring wells are located at the Site and between the landfill and the residential wells. There are approximately 14 residential wells that are also monitored under the O&M plan.

Groundwater monitoring and sampling was conducted during the spring of 2004, the fall of 2004, the spring of 2005 and the spring of 2006. Activities performed by URS also include inspections of both sediment basins.

Mowing the vegetation on the cap is conducted under a separate contract issued by PADEP on a yearly basis.

Five Year Review

CERCLA requires a five-year review of all sites where hazardous substances remain above health-based levels which prevents unlimited use and unrestricted exposure. The first five-year review for the Site was completed in August 2005. The five-year review found that the objectives of the ROD and ESD were met by the implemented remedy. Periodic monitoring conducted by EPA and

PADEP indicate that the selected remedies have been effective in eliminating the environmental threats posed by the landfill to the surrounding environment and human populations. Five-year reviews will continue to be conducted.

Institutional Controls

The institutional controls to restrict new well installation in the contaminated zone were established on June 8, 2001 by an Access Order issued during the construction phase of the remedial action and are still in effect. The Access Order required that the property owner shall not interfere with the operation, alter or disturb the integrity, of any structures or devices now or hereinafter built, installed or otherwise placed by EPA and/or its Representatives on the Site or Property. This effectively prevents any well installation through the cap, which covers the contaminated zone. Maintenance of the institutional control is part of the O&M activities conducted by PADEP pursuant to the State Superfund Contract (SSC).

Community Involvement

Public participation activities have been satisfied as required by CERCLA Sections 113(k) and 117, 42 U.S.C. 9613(k) and 9617. Documents upon which EPA relied to make this recommendation to delete the Site from the NPL are available to the public in the information repositories.

V. Deletion Action

EPA, with the concurrence of the Commonwealth of Pennsylvania, has determined that all appropriate responses under CERCLA have been completed, and that no further response action, other than operation and maintenance 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 of a notice of intent to delete. This action will be effective March 19, 2007 unless EPA receives adverse comments by February 20, 2007. 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. EPA will also 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 relation, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: November 16, 2006.

Donald Welsh,

Regional Administrator, Region III.

■ For the reasons set out in this document, 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. 21777, 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 Pennsylvania (“PA”) by removing the entry for “Berkley Products Co. Dump”.

[FR Doc. E7–537 Filed 1–17–07; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 060216045–6045–01; I.D. 011107A]

Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel Lottery in Areas 542 and 543

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notification of fishery assignments.

SUMMARY: NMFS is notifying the owners and operators of registered vessels of their assignments for the 2007 A season Atka mackerel fishery in harvest limit area (HLA) 542 and/or 543 of the Aleutian Islands subarea of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to allow the harvest of the 2007 A season HLA limits established for area 542 and area 543 pursuant to the 2006 and 2007 harvest specifications for groundfish in the BSAI.