

responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure “meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.” “Policies that have federalism implications” is defined in the Executive Order to include regulations that have “substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.” This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of the FFDCFA. For these same reasons, the Agency has determined that this rule does not have any “tribal implications” as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” “Policies that have tribal implications” is defined in the Executive Order to include regulations that have “substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.” This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VIII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General

of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

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

Dated: September 25, 2003.

Debra Edwards,

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), 346(a) and 371.

■ 2. Section 180.284 is amended by adding commodities to the table in paragraph (a) and removing the following entries from the table in paragraph (b): “barley, grain,” “barley, hay,” “barley, straw,” “beet, sugar, roots,” “beet, sugar, tops,” “potato,” “timothy, forage,” “timothy, hay,” “wheat, grain,” “wheat, hay,” and “wheat, straw” to read as follows:

§ 180.284 Zinc phosphide; tolerances for residues.

(a) General. * * *

Commodity	Parts per million
Alfalfa, forage	0.2
Alfalfa, hay	0.2
Barley, grain	0.05
Barley, hay	0.2
Barley, straw	0.2
Bean, dry, seed	0.05
Beet, sugar, roots	0.05
Beet, sugar, tops	0.2
Potato	0.05
Timothy, hay	0.5
Timothy, forage	0.5
Wheat, forage	0.05
Wheat, grain	0.05
Wheat, hay	0.05
Wheat, straw	0.05

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL-7564-9]

National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List Update

AGENCY: Environmental Protection Agency.

ACTION: Notice of deletion for the Celtor Chemical Works Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region IX is issuing a Notice of Deletion for the Celtor Chemical Works Superfund Site (Site) located in Hoopa, California, from the National Priorities List (NPL). The NPL is 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 of 1980 (CERCLA), as amended. The EPA, Hoopa Valley Tribe and the State of California, through the California Department of Toxic Substances Control, have determined that all appropriate response actions under CERCLA have been completed. However, this deletion does not preclude future actions under Superfund.

EFFECTIVE DATE: September 30, 2003.

FOR FURTHER INFORMATION CONTACT: Debbie Schechter, Section Chief, U.S. EPA, Region IX, SFD-7-2, 75 Hawthorne Street, San Francisco, CA 94105-3901, (415) 972-3230 or (800) 231-3075.

SUPPLEMENTARY INFORMATION: The Site to be deleted from the NPL is the Celtor Chemical Works Superfund Site, in Hoopa, California.

A Notice of Intent to Delete for this Site was published in the **Federal Register** on August 18, 2003 (68 FR 49406). The closing date for comments on the Notice of Intent to Delete was September 17, 2003. A Responsiveness Summary was prepared for comments received regarding delisting of the site; those responses are part of the NOD below. EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment, and it maintains the NPL as the list of those

sites. Section 300.425(e)(3) of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL in the unlikely event that conditions at these sites warrant such actions.

Deletion of a site from the NPL does not affect responsible party liability or impede EPA's efforts to recover costs associated with response efforts.

Public Comments Received During August 13, 2003 Public Meeting on Proposed De-listing

Question: What was the basis for the cleanup levels in the 1985 Record of Decision?

Response: The Maximum Contaminant Levels (MCLs) or the Drinking Water Regulations (DWRs) are the basis for the water quality criteria for the gully, the surface water running into the gully, and the ground water. Action levels for the Trinity River were based upon Water Quality Criteria for the Protection of Freshwater Aquatic Life (WQCAL). Action levels for contaminants in soil were primarily based on the acceptable range of contaminant levels in soil as derived from the EPA National Ambient Water Quality Criteria for Protection of Human Health (WQCHH). An acceptable daily dose was computed by multiplying the WQCHH or MCL for a given contaminant by two liters, which is the maximum daily ingestion rate for the WQCHH or MCL to protect human health. This computed dose was then divided by 10 grams or 0.1 grams, which is the United States Center for Disease Control's (CDC) maximum estimated ingestion rate of soil for a child or an adult, respectively. The result is a range of contaminant concentrations in soil which will fully protect human health. Other considerations were also evaluated in setting the action levels. The action level for arsenic was based upon an advisory from the CDC. In our most recent comprehensive sampling, we compared the results to the Primary Remediation Goals for residential non-cancer standards. The action level for cadmium was based upon a cleanup level for unrestricted residential use. The action levels for copper and zinc were established at the California Assessment Manual Total Threshold Limit Concentrations (CAM TTLC).

Question: After de-listing, would Celtor Chemical be put back on the National Priorities List if contaminants were found?

Response: Deletion of a site from the NPL does not preclude eligibility for subsequent Fund-financed remedial action. If future conditions warrant, the NCP (40 CFR 300.425(e)(3)) provides that Fund-financed remedial actions

may be taken at sites deleted from the NPL. When there is a significant release from a site deleted from the NPL, the site may be restored to the NPL without rescoring the site.

Question: Orange-colored soil has been seen on the gravel bar. Is this contamination from the Site?

Response: Orange stained sediments appear on the Trinity River's gravel bar on occasion. It is unknown whether these stained sediments are associated with the Celtor Site. No visible connection to a source has been identified. Stains were sampled by EPA in 1996, but the stains were not present during the 1998, 2001 and 2003 site visits. Some samples of the 1996 orange colored sediments had elevated levels of contaminants. Other samples did not show elevated levels of contaminants. Areas of the gravel bar were sampled to determine if contamination was present in the absence of the orange stains, and no elevated levels of contaminants were found. The Trinity River flows through a highly mineralized area, and there are upstream mining operations that could be the source of the stains. The orange color is also an indication of oxidation (rusting) and is not necessarily associated with contamination. No orange colored sediments have been seen on the gravel bar by EPA or the Tribe since 1996.

Question: Has the contamination affected the river water?

Response: When the processor was operating, there were large quantities of tailings released to the Trinity River that caused fish kills. Current samples of surface water do not show elevated levels of contaminants entering the river.

Question: Is it safe to grow a garden in the pasture?

Response: The pasture was sampled for site related contamination. There were no elevated levels of contaminants found in the soil. There is no unacceptable risk from growing a garden in the pasture with respect to site related contamination.

Question: There is a concern that fill from an area by the gravel bar of the Trinity River near the site was used as fill for yards. Is there a potential health risk for the people who live in these houses?

Response: According to sources from the Tribal Environmental Protection Agency (TEPA), it is not known if this fill was actually used in the yards of homes, or if it was, in what houses it may have been used. There is no reason to suspect that fill used in yards taken from near the gravel bar had elevated levels of site related contaminants. The area where the fill is located was not at

the site of the remedial action, but further down the river access road behind the gravel bar.

List of Subjects in 40 CFR Part 300

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

Dated: September 19, 2003.

Deborah Jordan,

Acting Regional Administrator, Region IX.

■ 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 by removing the entry for the Celtor Chemical Works Superfund Site in Hoopa, California.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 365, 374, 387, 391, 393, and 396

Motor Carrier Safety Regulations; Miscellaneous Technical Amendments

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Final rule; miscellaneous technical amendments.

SUMMARY: This rule makes technical amendments to the Federal Motor Carrier Safety Regulations (FMCSRs). These technical amendments were needed to correct inadvertent errors and omissions, update mailing addresses, remove obsolete references, and make minor editorial changes to improve clarity and consistency. No substantive changes have been made to the FMCSRs. The corrections are minor and will not have a significant impact on a substantial number of small entities.

DATE: The technical amendments in this final rule are effective September 30, 2003.

FOR FURTHER INFORMATION CONTACT: Ms. Janet Nunn, Office of Policy Plans and