

inundated or contaminated areas and temporary loss of function. This upland portion included mitigation at a ratio of 2:1 for the permanently inundated areas in the East Marsh plus an additional 1:1 compensation for natural resource damage agreed to in negotiations with the FDEP.

The Site's post-soil treatment groundwater was monitored on four occasions, in order to determine whether the groundwater treatment component of the ROD would need to be implemented. These results indicated that further groundwater recovery and treatment would not be necessary.

Due to the treatment of contaminated soil and sediment, hazardous substances have been immobilized, allowing for unlimited use of part of the Site. Excluded from unlimited use are the areas of the treated soil and the remediated wetlands, which are the subject of a conservation easement. In order to confirm that the Site is protective of public health and the environment, limited maintenance of the solidified monolith will be required, as well as Five Year Reviews.

EPA, with concurrence of FDEP, has determined that all appropriate actions at the Schuylkill Metals Corporation Site have been completed, and no further remedial action is necessary. Therefore, EPA is proposing deletion of the Site from the NPL.

Dated: March 26, 2001.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 01-14470 Filed 6-11-01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL-6964-5]

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

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent for partial deletion of the Tobyhanna Army Depot Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region 3 announces its intent to delete a portion of the Tobyhanna Army Depot Site, located in Monroe County, Pennsylvania, from the National Priorities List (NPL) and requests public comment on this 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). This partial deletion for the Tobyhanna Army Depot Site is proposed in accordance with 40 CFR 300.425(e) and the Notice of Policy Change: Partial Deletion of Sites Listed on the National Priorities List. 60 FR 55466 (Nov. 1, 1995).

This proposal for partial deletion pertains to all portions of the Tobyhanna Army Depot Site except for contaminated groundwater plumes at Operable Units 1 and 5 (OU1 and OU5) [Excluded Areas], which are undergoing natural attenuation and long-term monitoring. These Excluded Areas will remain on the NPL until the performance standards specified in the Records of Decision are met. EPA bases its partial deletion proposal on the determination by EPA, the Army, and the Pennsylvania Department of Environmental Protection that all appropriate actions under CERCLA have been completed to protect human health, welfare and the environment.

DATES: EPA will accept comments concerning its proposal for partial deletion for thirty (30) days after publication of this document in the **Federal Register** and a local newspaper of record (the Pocono Record).

ADDRESSES: Comments may be mailed to Lorie Baker, Superfund Site Manager, U.S. EPA, Region 3 (3HS34), 1650 Arch Street, Philadelphia, PA, 19103; PHONE: 215-814-3355; FAX: 215-814-3001; EMAIL: baker.lorie@epamail.epa.gov.

Information Repositories: Comprehensive information on the Tobyhanna Army Depot Site as well as the Deletion Docket is available for review at the following two information repository locations:

Coolbaugh Township Municipal Building, Route 611, Tobyhanna, PA 18466. The Coolbaugh Township office hours are 8 a.m. to 4:30 p.m., Monday-Friday. The telephone number is (570) 984-8490.

Tobyhanna Army Depot, Public Affairs Office, 11 Hap Arnold Boulevard, Tobyhanna, PA 18466-5076. The Public Affairs Office hours are 7:30 a.m. to 4 p.m., Monday-Friday. The telephone number is (570) 895-6552.

The Deletion Docket is also available for review at the U.S. EPA Region 3 Regional Center for Environmental Information (RCEI), 1650 Arch Street (3PM52), Philadelphia, PA 19103-2029. The RCEI office hours are 8 a.m. to 5

p.m., Monday-Friday. The telephone number is (215) 814-5254.

FOR FURTHER INFORMATION CONTACT:

Lorie Baker, U.S. EPA, Region 3 (3HS34), 1650 Arch Street, Philadelphia, PA 19103; PHONE: 215-814-3355; FAX: 215-814-3001; EMAIL: baker.lorie@epamail.epa.gov

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I. Introduction

The United States Environmental Protection Agency (EPA) Region 3 announces its intent to delete a portion of the Tobyhanna Army Depot Site, located in Monroe County, Pennsylvania, from the National Priorities List (NPL), which constitutes Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR Part 300, and requests comments on this proposal. This proposal for partial deletion pertains to all portions of the Tobyhanna Army Depot Site except for contaminated groundwater plumes at Operable Units 1 and 5 (OU1 and OU5) [Excluded Areas], which are undergoing natural attenuation and long-term monitoring. These Excluded Areas will remain on the NPL until the performance standards specified in the Records of Decision are met. EPA proposes to delete the Tobyhanna Army Depot Site except for the Excluded Areas as defined above because all appropriate CERCLA response activities have been completed in those areas.

The NPL is a list maintained by EPA of sites that EPA has determined present a significant risk to human health, welfare, or the environment. Pursuant to 40 CFR 300.425(e) of the NCP, any site or portion of a site deleted from the NPL remains eligible for remedial actions if conditions at the site warrant such action.

EPA will accept comments concerning its intent for partial deletion for thirty (30) days after publication of this notice in the **Federal Register** and a newspaper of record.

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 human health or the environment. In making such 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: 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 Tobyhanna Army Depot site:

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

(2) The Commonwealth of Pennsylvania through the Pennsylvania Department of Environmental Protection 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 listed previously.

This **Federal Register** document, and a concurrent notice in a newspaper of record, announces 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 a portion of the Tobyhanna Army Depot site 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 aforementioned 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 3 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**. The partial deletion 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 Tobyhanna Army Depot (TYAD) site, except for the Excluded Areas, from the NPL and EPA's finding that the criteria in 40 CFR 300.425(e) are satisfied.

Background

TYAD is located in the Pocono Mountains of northeastern Pennsylvania, approximately 20 miles southeast of Scranton, PA, in Coolbaugh Township, Monroe County. The installation covers approximately 2.2 square miles, measuring 1.6 miles east to west and 2.2 miles north to south at the widest point. The area surrounding TYAD is rural with the village of Tobyhanna bordering the installation at the southeast corner. Tobyhanna State Park and Gouldsboro State Park are adjacent to the installation on the northeast and northwest sides, respectively. Tobyhanna was established when the United States purchased 33 square miles of land in 1909. Tobyhanna was primarily used for machine gun and field artillery training

beginning in 1913, and as an ambulance and tank regiment training center and an ordnance storage depot during World War I. Tobyhanna was inactive until 1932, except for Army and National Guard Field Artillery training. From 1932 to 1938, Tobyhanna was a Conservation Corps camp area, and from 1938 to 1941, Tobyhanna, was used by West Point cadets for field artillery training. In 1942, Tobyhanna was reactivated and converted for storage and supply uses. Tobyhanna artillery ranges were deactivated in 1946. In 1949, the Commonwealth of Pennsylvania purchased approximately 21,000 acres from the United States, and in 1952, approximately 1,293 acres were deeded back to the United States government for the modern depot construction in 1953. Tobyhanna is currently a communication-electronics maintenance and supply depot. On August 30, 1990 (55 FR 35502), Tobyhanna was added to the National Priorities List due to the discovery of groundwater contaminated with elevated levels of volatile organic compounds. The contaminated groundwater was affecting one of the Tobyhanna Army Depot drinking water supply wells in addition to several nearby residential wells. The Department of the Army is considered the lead agency.

Tobyhanna Army Depot has five Operable Units: OU1 (Areas A and B), OU2 (Former PCB Transformer Area), OU3 (Former Hazardous Waste Storage Areas), OU4 (Powder Ridge UXO Area), and OU5 (Inactive Sanitary Landfill). In addition to the OUs, the Army also investigated fifty-eight (58) additional potential areas of concern (AOCs) identified in the November 1990 Tobyhanna site-specific Federal Facility Agreement (FFA), all of which have since been formally closed out and require no further action. These determinations were documented in three AOC Closeout Documents in 1998, 1999, and 2000. Therefore, no further CERCLA investigations or response actions are planned or anticipated. Long-term CERCLA and RCRA operation and maintenance (O&M) monitoring activities and five-year reviews will continue.

Remedial Action

A Record of Decision (ROD) for OU1 was signed on September 30, 1997. OU1 consists of a former burning area and a former hazardous waste staging area that resulted in volatile organic compounds (VOCs) leaching into the groundwater and contaminating several off-base private wells. The Army began supplying bottled water to the affected

residences in 1987, and in 1991, connected the residences to the Depot water supply. In 1996, the Army excavated the source material and surrounding soils as a Removal Action. The OU1 remedy consists of monitored natural attenuation and institutional controls (ICs). The Army monitors groundwater on a semi-annual basis, and VOC concentrations continue to decrease. The ICs will limit future use of the groundwater while contaminants remain above Maximum Containment Levels (MCLs) promulgated under the Safe Drinking Water Act, which are the performance standards as identified in the ROD. The expected duration of the monitored natural attenuation remedy is fifteen (15) years.

The ICs implemented at TYAD are designed to prevent human consumption of contaminated groundwater. An IC previously implemented by TYAD includes a waterline agreement with the residents to ensure that future residents will not be exposed to groundwater contaminated at levels above the MCLs. This ongoing interim measure includes supplying potable water to residences/businesses, which have wells with VOC concentrations above MCLs. The agreement specifies that individual residential wells will not be used for any purpose except for monitoring by the U.S. Army.

Another previously implemented IC is an agreement with the Coolbaugh Township Zoning Office to notify TYAD of new construction involving potable water. This control will ensure that new wells are not placed in areas of known or suspected contamination and will allow the resident to be connected to the TYAD potable water supply. Additionally, a control prohibiting the construction of any on-post drinking water well in the plume of groundwater contamination has been implemented. This IC has been incorporated into the TYAD Master Plan.

A ROD for OU2 was signed on September 27, 1996. OU2 consists of the former PCB transformer building. PCB-contaminated soils were removed from the site and residual contamination is below risk-based levels providing for unlimited use and unrestricted exposure. The selected remedy for the OU2 ROD was No Further Action.

A ROD for OU3 was signed on July 12, 1996. OU3 consists of two (2) former hazardous waste storage buildings, which were remediated according to an approved RCRA closure plan. The residual contamination was below risk-based levels providing for unlimited use and unrestricted exposure. The selected

remedy for the OU3 ROD was No Further Action.

A ROD for OU4 was signed on September 19, 2000. OU4 consists of a 400-acre area where artillery range use resulted in residual unexploded ordnance. In September 2000, the Army completed construction of a fence and hazard warning signs around the OU4 area as a Removal Action. The OU4 remedy consists of ICs and Operation and Maintenance (O&M) activities necessary to maintain the integrity of the physical controls constructed during the Removal Action. The ICs and O&M activities that comprise this remedy include the following: maintenance of the physical controls (i.e., fencing and signs); increased security patrols to minimize trespassing on TYAD property, and specifically OU4; proprietary controls such as deed restrictions to be placed on the land if it is ever transferred outside of the Government; public education to inform TYAD personnel and visitors with business in the vicinity of OU4 of the potential for UXO in the area; and periodic review to ensure that this remedial action remains effective in protecting the public. No remedial construction was required and the Army has implemented the IC and O&M procedures.

A ROD for OU5 was signed on September 28, 2000. OU5 consists of groundwater emanating from the inactive (RCRA) sanitary landfill. The landfill was closed with an engineered soil cover in accordance with a state- and EPA-approved RCRA closure plan, permit and O&M plan. The OU5 remedy consists of monitored natural attenuation and ICs. The expected duration of the monitored natural attenuation remedy is thirty (30) years. The Army will continue to monitor groundwater on a semi-annual basis, and ICs will prevent exposure to contaminated groundwater until monitoring data indicate that the remediation goals have been met. The ICs for OU5 are similar to those implemented at OU1, such that an agreement between TYAD and the Coolbaugh Township Zoning Office will ensure that future residents will not be exposed to groundwater with constituents above MCLs. In addition, construction of any onpost drinking water well in the area of groundwater contamination at OU5 will be prohibited until groundwater remediation goals have been met. This prohibition has been incorporated into the TYAD Master Plan. Also, ongoing public education regarding potential hazards associated with consumption of contaminated groundwater in OU5 and

results of long-term monitoring will be presented to all employees in articles in the installation newspaper.

Because hazardous substances, pollutants or contaminants that will remain onsite at OU-4, the UXO Area, do not allow unlimited use of, or unrestricted access to the site, the Army, as lead agency, will conduct five-year reviews as required by CERCLA. Five-year reviews will also be conducted in the Excluded Areas at OU1 and OU5, which are not being considered for deletion due to long term groundwater monitoring, until such time that it has been determined that cleanup goals have been attained.

Operation and maintenance (O&M) activities at the areas proposed for deletion will only be necessary at OU4, the UXO area. The O&M activities include continuing security patrols and maintenance of the fencing and the signs around the perimeter of OU4.

Community Relations Activities

Community interest in this site is currently low. Initially, community interest was very high when the VOC-contaminated groundwater plume was found to be migrating offsite to residential wells in the village of Tobyhanna. Since the affected residents have been connected to the Depot water supply, the interest in other sites at Tobyhanna has remained low. In March 1995, a Restoration Advisory Board (RAB) was formed. The RAB includes representatives of the Army, Monroe County, Coolbaugh Township, former TYAD employees, and other interested parties. The Army keeps the RAB well informed by providing members with copies of pertinent CERCLA documents for review and comment, and by holding periodic meetings to discuss ongoing CERCLA investigations and actions.

Applicable Deletion Criteria

The final ROD for the Tobyhanna Army Depot site was signed on September 28, 2000. All remedies are in place, including the institutional controls specified in the RODs for OU1, OU4, and OU5. Natural attenuation and long-term monitoring for the Excluded Areas, the groundwater at OU1 and OU5, is underway. One of the three criteria for site deletion specifies that EPA may delete a site from the NPL if "responsible parties or other persons have implemented all appropriate response actions required." 40 CFR 300.425(e)(1)(i). At TYAD, EPA believes that the Army has implemented all appropriate response actions and therefore, EPA, with the concurrence of the Commonwealth of Pennsylvania, is

proposing deletion of this Site, except for the previously defined Excluded Areas, from the NPL. Documents supporting this action are available in the Deletion Docket.

While EPA does not believe that any future response actions in the areas to be deleted from the NPL will be necessary, if future conditions warrant such action, the proposed deletion areas of the Tobyhanna Army Depot site remain eligible for future Fund-financed response areas of the Tobyhanna Army Depot site remain eligible for future Fund-financed response actions. Furthermore, this partial deletion does not alter the status of the Excluded Areas, the groundwater plumes at OU1 and OU5, which are not proposed for deletion and remain on the NPL.

State Concurrence

In a letter dated January 11, 2001, the Commonwealth of Pennsylvania through its Department of Environmental Protection has concurred on EPA's final determination regarding the partial deletion.

Dated: March 30, 2001.

Thomas C. Voltaggio,

Acting Regional Administrator, U.S.
Environmental Protection Agency, Region 3.
[FR Doc. 01-14620 Filed 6-11-01; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[ET Docket 99-231; FCC 01-158]

Spread Spectrum Devices

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Commission's rules to improve spectrum sharing by unlicensed devices operating in the 2.4 GHz band (2400-2483.5 MHz), provide for introduction of new digital transmission technologies, and eliminate unnecessary regulations for spread spectrum systems. We take these actions to facilitate the continued development and deployment of new wireless devices for businesses and consumers.

DATES: Comments must be filed on or before August 27, 2001, and reply comments must be filed on or before September 25, 2001.

ADDRESSES: Comments filed through the Commission's Electronic Comment Filing System (ECFS) can be sent as an

electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Parties who chose to file comments by paper should send comments to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 Twelfth Street SW., TW-A325, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Neal McNeil, Office of Engineering and Technology, (202) 418-2408, TTY (202) 418-2989, e-mail: nmcneil@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Further Notice of Proposed Rule Making and Order*, ET Docket 99-231, FCC 01-158, adopted May 10, 2001 and released May 11, 2001. The full text of this document is available for inspection and copying during regular business hours in the FCC Reference Center (Room CY-A257), 445 12th Street, SW, Washington, DC 20554. The complete text of this document also may be purchased from the Commission's duplication contractor, International Transcription Service, Inc., (202) 857-3800, 1231 20th Street, NW., Washington, DC 20036.

Summary of Further Notice of Proposed Rulemaking and Order

1. The *Further Notice of Proposed Rulemaking and Order* ("FNPRM") propose to amend part 15 of the Commission's rules to improve spectrum sharing by unlicensed devices operating in the 2.4 GHz band (2400-2483.5 MHz), provide for introduction of new digital transmission technologies, and eliminate unnecessary regulations for spread spectrum systems. Specifically, this FNPRM proposes to revise the rules for frequency hopping spread spectrum systems operating in the 2.4 GHz band to reduce the amount of spectrum that must be used with certain types of operation, and to allow new digital transmission technologies to operate pursuant to the same rules as spread spectrum systems. It also proposes to eliminate the processing gain requirement for direct sequence spread spectrum systems, which will provide manufacturers with increased flexibility and regulatory certainty in the design of their products. We take these actions to facilitate the continued development and deployment of new wireless devices for businesses and consumers.

2. The original *Notice of Proposed Rule Making* ("NPRM") 64 FR 38877, July 20, 1999, in this proceeding, which was initiated in response to a request from the Home RF working group, proposed to amend the rules to allow frequency hopping spread spectrum

systems operating in the 2.4 GHz band to use hopping channel bandwidths wider than 1 MHz. The NPRM also proposed to adopt a new method for determining compliance with the requirement that direct sequence systems exhibit a minimum of 10 dB processing gain. *The First Report and Order* ("First R&O") 65 FR 57557, September 25, 2000, in this proceeding amended the spread spectrum rules to allow frequency hopping spread spectrum transmitters in the 2.4 GHz band to use bandwidths between 1 MHz and 5 MHz at a reduced power output of up to 125 mW. Frequency hopping systems with a bandwidth of up to 1 MHz are required to use at least 75 non-overlapping hopping frequencies. Use of 75 hopping frequencies is generally not feasible for systems having a bandwidth in excess of 1 MHz because the 2.4 GHz band, which covers 2400-2483.5 MHz, provides only 83.5 megahertz of spectrum. Accordingly, the rules were amended to permit systems using a bandwidth greater than 1 MHz but less than or equal to 5 MHz to use as few as 15 non-overlapping channels provided that the total span of hopping channels be at least 75 MHz. Therefore, while a system using 5 MHz hopping channel bandwidths is permitted to use as few as 15 hopping frequencies, one using 3 MHz hopping channel bandwidths must use at least 25 hopping frequencies to comply with the rules.

3. *Frequency Hopping Spread Spectrum Systems*. Thirteen parties filed a Joint Petition for Clarification, or in the Alternative, Partial Reconsideration ("Joint Petition") in response to the *First R&O* requesting that the Commission clarify its rules to specify a minimum of 15 hopping channels for any frequency hopping system operating in the 2.4 GHz that uses adaptive hopping techniques as allowed under 47 CFR 15.247(h) and limits its output power to 125 mW, regardless of hopping channel bandwidth. We propose to amend 47 CFR 15.247 by incorporating the changes proposed in the Joint Petition. Interested parties are invited to comment on the acceptability of this proposal. Commenters are encouraged to include technical analyses that support claims that this change will either improve or degrade sharing of this spectrum. We particularly invite comment as to whether use of adaptive hopping techniques should be mandatory and how we should determine compliance with this requirement when evaluating specific devices for purposes of equipment certification. Commenters are also