

ppb was reached in the upper 12 inches of soil, or until a residual level of less than 10 ppb was reached at a depth greater than 12 inches. In the arena and slough area, excavation continued until a residual concentration of less than 1 ppb was reached in the upper 2 feet of soil, or until a concentration of less than 10 ppb was reached at depths greater than 2 feet. The criteria also provided for a maximum depth of excavation of four feet, or upon encountering bedrock, although these criteria were never applied, since residual dioxin concentrations meeting the previous criteria were achieved prior to reaching this depth or bedrock. During this remedial action, decontamination of the arena building was performed to meet criteria of less than 0.4 pg/cm<sup>2</sup> recommended by the Missouri Department of Health (MDOH) and the Agency for Toxic Substances and Disease Registry (ATSDR).

#### *Operation and Maintenance*

The remedial response at the site was successful in removing dioxin-contaminated materials exceeding health-based levels for unrestricted use within the boundaries of the NPL site. No operation and maintenance activities are necessary to maintain the continued effectiveness of the remedy.

#### *Five-Year Review*

Hazardous substances do not remain at the site above health-based levels following completion of the remedial action. Pursuant to CERCLA Section 121(c) and as provided in the Office of Solid Waste and Emergency Response (OSWER) Directive 9355.7-02, Structure and Components of Five-Year Reviews, May 23, 1991, and OSWER Directive 9355.702A, Supplemental Five-Year Review Guidance, July 26, 1994, EPA is not required to conduct a statutory five-year review for this site. No five-year reviews will be conducted.

#### *Community Involvement*

An opportunity for public comment was provided by EPA prior to the excavation and interim storage of dioxin-contaminated soils. A Proposed Plan was released for public comment from June 28, 1988, through July 11, 1988. The Proposed Plan, Operable Unit Feasibility Study, and other documents in the administrative record were made available for public viewing at a local document repository.

The public was first invited to comment on the concept of a comprehensive solution for all of the eastern Missouri dioxin sites at a September 5, 1986, public meeting for the Minker/Stout/Romaine Creek

feasibility study. At that meeting, it was announced that the State of Missouri had recommended evaluation of Times Beach as a location for siting a temporary thermal treatment unit and that EPA was evaluating this possibility. At that meeting, EPA announced that a feasibility study would be prepared and released for public comment to evaluate Times Beach as a potential location for centralized thermal treatment of designated eastern Missouri dioxin sites.

The *Times Beach Feasibility Study* was released for public comment from December 29, 1986, through March 27, 1987. A public meeting was held on February 12, 1987, to discuss alternatives evaluated in the study and to present the Agency's proposed remedy.

The Proposed Plan for Times Beach and the Minker/Stout/Romaine Creek sites was released February 19, 1988. A public comment period was held from February 19 through March 18, 1988, and a public meeting was held in Eureka, Missouri, March 10, 1988. On September 29, 1988, a ROD was signed by the Assistant Administrator, OSWER, that provided for a temporary incinerator to be located at Times Beach for the treatment of dioxin-contaminated materials from the Times Beach and the Minker/Stout/Romaine Creek sites. The ROD further provided that the temporary incinerator would be available to treat dioxin-contaminated materials from the other eastern Missouri sites.

A public meeting to discuss the Shenandoah Stables Proposed Plan for final management of dioxin-contaminated materials was conducted on September 19, 1990, at the Moscow Mills Community Center. Public comments were accepted by the Agency through September 24, 1990. A Responsiveness Summary was prepared which addressed comments received concerning the Shenandoah Stables Proposed Plan.

#### *Applicable Deletion Criteria*

One of the three criteria for site deletion specifies that EPA may delete a site from the NPL if "all appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate." 40 CFR 300.425(e)(1)(ii). The EPA, with the concurrence of the State of Missouri through the MDNR, believes that this criterion for deletion has been met. Subsequently, EPA is proposing deletion of this site from the NPL. Documents supporting this action are available from the docket.

#### *State Concurrence*

In a letter dated July 30, 2001, the MDNR concurs with the proposed deletion of the Shenandoah Stables Superfund site from the NPL.

Dated: July 30, 2001.

**William W. Rice,**

*Acting Regional Administrator U.S. EPA Region 7.*

[FR Doc. 01-19752 Filed 8-6-01; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 300

[FRL-7026-9]

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

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of Intent to Delete the Times Beach Site from the National Priorities List.

**SUMMARY:** The Environmental Protection Agency (EPA) Region 7 announces the intent to delete the Times Beach site (the site) from the National Priorities List (NPL) and requests public comment on this proposed action. 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) of 1980, as amended. The EPA and the State of Missouri Department of Natural Resources (MDNR) have determined that the remedial action for the site has been successfully executed.

**DATES:** Comments concerning the proposed deletion of this site from the NPL may be submitted on or before September 6, 2001.

**ADDRESSES:** Comments may be mailed to Robert Feild, U.S. Environmental Protection Agency, Region 7, 901 N. 5th Street, SUPR, Kansas City, Kansas, 66101.

**Information Repositories:** Comprehensive information on this site is available through the Region 7 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 7 Docket office at the following address: Regional Records Center, U.S. Environmental

Protection Agency, Region 7, 901 N. 5th Street, Kansas City, Kansas, 66101.

The deletion docket is also available for viewing at the following location: Missouri Department of Natural Resources (MDNR), 97 North Outer Road at Lewis Road, Eureka, Missouri, 63025.

**FOR FURTHER INFORMATION CONTACT:** If additional information is needed, please contact Robert Feild at (913) 551-7697 or e-mail at [Feild.Robert@epa.gov](mailto:Feild.Robert@epa.gov). The EPA Region 7 toll-free phone number is 1-800-223-0425.

#### **SUPPLEMENTARY INFORMATION:**

##### **Table of Contents**

- I. Introduction
- II. NPL Deletion-Criteria
- III. Deletion Procedures
- IV. Basis of Intended Site Deletion

### **I. Introduction**

The U.S. Environmental Protection Agency (EPA) Region 7 announces its intent to delete the Times Beach site in St. Louis County, Missouri, from the National Priorities List (NPL) and requests public comment on this proposed action. 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) of 1980, as amended. 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. The EPA and the MDNR have determined that the remedial action for the site has been successfully executed.

The EPA will accept comments on the proposal to delete this site for thirty (30) days after publication of this document in **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 Times Beach site and explains how the site meets the deletion criteria.

### **II. NPL Deletion Criteria**

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

(i) Responsible parties or other persons have implemented all

appropriate response actions required; or

(ii) All appropriate Fund-financed responses under CERCLA have been implemented, and no further response action by responsible parties is appropriate; or

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

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the site above levels that allow for unlimited use and unrestricted exposure, EPA's policy is that a subsequent review of the site will be conducted at least every five years after the initiation of the remedial action at the site to ensure that the site remains protective of public health and the environment. If new information becomes available which indicates a need for further action, EPA may initiate additional remedial actions. Whenever there is a significant release from a deleted site from the NPL, the 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) All appropriate response under CERCLA has been implemented, and no further action by EPA is appropriate;

(2) The State of Missouri has concurred with the proposed deletion decision;

(3) A notice has been published in the local newspapers and has been distributed to appropriate federal, state, and local officials and other interested parties announcing the commencement of a 30-day public comment period on EPA's Notice of Intent to Delete; and

(4) All relevant documents have been made available in the local site information repository.

Deletion of the site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. The NPL is designed primarily for informational purposes and to assist EPA management. As mentioned in section II of this notice, Sec.

300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions. For deletion of this site, EPA's Regional Office will accept and evaluate public comments on EPA's Notice of Intent to Delete before making a final decision to delete. If necessary, the EPA will prepare a Responsiveness Summary to address any significant public comments received. A deletion occurs

when the Regional Administrator places a final notice in the **Federal Register**. Generally, the NPL will reflect deletions in the final update following the Notice. Public notices and copies of the Responsiveness Summary will be made available to local residents by the Regional Office.

### **IV. Basis of Intended Site Deletion**

The following site summary provides the EPA's rationale for the proposal to delete this site from the NPL.

#### *Site Background and History*

Times Beach was formerly an incorporated city in southwest St. Louis County, approximately 20 miles southwest of the City of St. Louis. The site encompasses approximately 0.8 square miles, bordered on the north and east by unincorporated areas of St. Louis County, on the south by unincorporated areas of Jefferson County, and on the west by the City of Eureka. The City of Times Beach was disincorporated in 1985.

On the north and east, the site is contiguous to the Meramec River, the dominant hydrological feature in the area. The site is bisected at the southern end by Interstate 44. Burlington Northern Railroad lines are adjacent to Times Beach to the west. Much of the site is located in the five-year flood plain, and the entire site is within the 25-year flood plain. The area's topography is level to slightly sloping, with an average slope of less than one percent. Residential development has historically constituted the major land use. Commercial land use has been minimal, and the city had no industrial development. The surrounding areas have a mixture of residential and agricultural uses.

The unpaved roadways of the former town of Times Beach, located in St. Louis County, Missouri, were sprayed for dust control in the early 1970s with dioxin-contaminated waste oil. Investigation into the disposal practices of a southwestern Missouri chemical manufacturing facility led EPA to the Bliss Waste Oil Company and subsequently to a number of sites that had potentially been sprayed with dioxin-contaminated waste oil for dust control, including the Times Beach site.

The Times Beach site was proposed for the NPL on March 4, 1983, and finalized on the NPL on September 8, 1983.

#### *Response Actions*

The presence of dioxin contamination at initial concentrations up to 127 parts per billion (ppb) was confirmed by EPA through sampling conducted in

November and December 1982. In response to discovery of dioxin contamination and a health advisory issued by the Centers for Disease Control, EPA announced the permanent relocation of nearly two thousand residents of Times Beach in February 1983. In June 1983, a permanent relocation contract was signed between the State of Missouri, St. Louis County, a trustee appointed for the City of Times Beach, and the Federal Emergency Management Agency. Funds were subsequently transferred from EPA to the Federal Emergency Management Agency (FEMA) for the buyout. In accordance with the contract, all of the former Times Beach properties were conveyed to the State of Missouri once the deeds were acquired by FEMA.

In 1984 an article was published by a toxicologist with the Centers for Disease Control, Center for Environmental Health (CDC), recommending 1 ppb as a level of concern for dioxin in residential soils. In January 1987, EPA proposed clean-up levels to the CDC for the excavation of the eastern Missouri dioxin sites, including a proposed 20 ppb clean-up level for the anticipated future recreational land use at Times Beach. Because of the location of the Meramec River, future residential use of the site following site restoration was deemed impracticable, and no institutional controls were considered necessary to control future land use. The CDC concurred with the Agency's proposed clean-up levels.

In 1984, The Regional Administrator signed a Record of Decision (ROD) for an Interim Central Storage Facility to temporarily store dioxin-contaminated materials from three nearby eastern Missouri sites at Times Beach until a final remedy was available. The temporary storage portion of this remedy was never implemented. A separate component of the selected remedy, however, was the construction of a series of spur levees at Times Beach to control the velocity of Meramec River flood water during flood events in order to minimize scour and erosion of contaminated soils. In 1987, EPA completed the construction of the three-phase spur levee project through an Interagency Agreement with the U.S. Army Corps of Engineers.

In September 1988, a ROD was signed by the Assistant Administrator, Office of Solid Waste and Emergency Response (OSWER), that provided for a temporary incinerator to be located at Times Beach for the treatment of dioxin-contaminated materials from Times Beach and the Minker/Stout/Romaine Creek sites. The ROD further provided

that the temporary incinerator would be available to treat dioxin-contaminated materials from the other eastern Missouri sites.

In December 1990, a Consent Decree was entered in the Eastern District of Missouri between EPA, the State, and the primary potentially responsible party (PRP) group. The Consent Decree provided for a mixed work settlement that required each party to undertake certain tasks. Generally, EPA was responsible for excavation and transportation of dioxin-contaminated soils from 26 eastern Missouri dioxin sites to Times Beach for incineration. The EPA also had responsibility for collecting and disposing of the household hazardous wastes at Times Beach prior to demolition of residences and other structures. The State was responsible for assuring a 10 percent cost share for remedial actions and for providing long-term management of the Times Beach site. The settling defendants were responsible for demolition and disposal of structures and debris remaining after the permanent relocation, construction of a ring levee to flood-protect an incinerator subsite, construction of a temporary incinerator, excavation of contaminated soils at Times Beach, incineration of dioxin-contaminated materials from the 27 sites (including Times Beach) and restoration of Times Beach upon completion of response actions.

The settling defendants awarded a contract for the temporary incinerator in February 1992. Demolition and disposal of structures and debris, excavation of dioxin-contaminated soils, construction of a ring levee, and mobilization of the temporary incinerator by the settling defendants were completed by November 1995. Initial testing of the incinerator was performed in December 1995. Full-scale operation of the incinerator commenced on March 17, 1996, and was completed June 16, 1997. A total of 265,354 tons of dioxin-contaminated materials from the 27 eastern Missouri dioxin sites was treated at Times Beach, including 37,234 tons of dioxin-contaminated materials excavated from the Times Beach site itself. Solid treatment residue from the incineration of these materials was land disposed on site after testing confirmed that required treatment levels had been achieved. Site restoration was completed by the settling defendants in accordance with a design approved by the State and EPA.

An ambient air monitoring network was operated throughout the incineration of dioxin-contaminated soils at Times Beach. The network included four on-site and two off-site

monitoring stations incorporating 17 monitors measuring ambient dioxin and PM-10 levels. The air monitoring detected no discernible increase in airborne dioxin or PM-10 levels at Times Beach resulting from implementation of the remedial action.

In addition to the response work directed at dioxin contamination at Times Beach, a removal action was performed by EPA in June 1997, to excavate and dispose of soils in an area within the former Times Beach city park that had been contaminated by the dumping of bulk liquid wastes, unrelated to the contamination affecting roadways throughout the site. The hazardous substances present in the former city park were primarily toluene, ethyl benzene, and xylene. Traces of tetrachloroethylene and trichloroethylene were also present. No dioxin was detected in the former city park soils. The contaminated materials were characterized as a special waste by St. Louis County, and disposed of off site at a facility permitted to receive these materials.

#### *Clean-up Standards*

The 1988 ROD for this site established criteria for the removal of soils and other materials contaminated with dioxin (2,3,7,8-tetrachlorodibenzo-p-dioxin) from this site. This criteria was modified in an Explanation of Significant Differences issued July 18, 1990. The modified criteria required removal of dioxin-contaminated soils exceeding 10 ppb and placement of a one-foot vegetated clean soil cover over all areas with residual concentrations exceeding 1 ppb.

#### *Operation and Maintenance*

The remedial response at the site was successful in removing dioxin-contaminated materials exceeding health-based levels for unrestricted use within the boundaries of the NPL site. No operation and maintenance activities are necessary to maintain the continued effectiveness of the remedy.

#### *Five-Year Review*

Hazardous substances do not remain at the site above health-based levels following the completed response actions. Pursuant to CERCLA Section 121(c) and as provided in OSWER Directive 9355.7-02, Structure and Components of Five-Year Reviews, May 23, 1991, and OSWER Directive 9355.702A, Supplemental Five-Year Review Guidance, July 26, 1994, EPA is not required to conduct a five-year review for this site. No five-year reviews will be conducted.

### Community Involvement

Public participation in the selection of a comprehensive final remedial action for the eastern Missouri dioxin sites, including the Times Beach site, began with the public release of the *Feasibility Study of Final Remedial Actions for the Minker/Stout/Romaine Creek Site* in July 1986. This study evaluated remedial alternatives for the dioxin-contaminated soil being temporarily stored at the Minker/Stout/Romaine Creek site, located approximately ten miles south of Times Beach. Remedial alternatives evaluated in this study included offsite centralized thermal treatment at a nearby facility within 50 miles of the Minker/Stout/Romaine Creek site.

A public comment period was held from August 8, 1986, through September 5, 1986, for the *Feasibility Study of Final Remedial Actions for the Minker/Stout/Romaine Creek Site*. A public meeting was held August 25, 1986. At that meeting, EPA announced that a feasibility study to evaluate Times Beach as a potential location for centralized thermal treatment would be completed and released for public comment.

The *Times Beach Feasibility Study* was released for public comment from December 29, 1986, through March 27, 1987. A public meeting was held on February 12, 1987, to discuss alternatives evaluated in the study and to present the Agency's proposed remedy.

The Times Beach and Minker/Stout/Romaine Creek Proposed Plan was released for public comment from February 19 through March 18, 1988, and a public meeting was held in Eureka, Missouri, on March 10, 1988. The proposed plan recommended centralized thermal treatment of contaminated soils at Times Beach and the Minker/Stout/Romaine Creek site at a temporary thermal treatment facility to be located at Times Beach. The proposed remedy was selected in a September 29, 1988, ROD, and implemented through a December 31, 1990, Consent Decree. In 1990, an opportunity for public comment was provided for the Times Beach Consent Decree prior to entry.

During the numerous opportunities provided for public comment, the local community was primarily concerned that the thermal treatment unit would become permanent and that other types of wastes from throughout the country would be transported to Times Beach for treatment. In response to these concerns, EPA agreed to obtain an operating permit under the Resource

Conservation and Recovery Act that would limit operation of the treatment unit. A public hearing for the draft operating permit was conducted on January 31, 1995. In addition, three public availability sessions were conducted near the site in January 1995 with representatives from EPA, the state, and local officials in attendance.

From July 1991 through the completion of the clean up of the site, EPA participated in regular meetings of the Times Beach Monitoring Committee, a group established by the St. Louis County Executive whose members included local residents and elected officials. This group served in an oversight role and provided information to the community regarding clean-up activities. In addition, EPA permanently staffed an on-site public information center at Times Beach during implementation of response activities.

### Applicable Deletion Criteria

One of the three criteria for site deletion specifies that EPA may delete a site from the NPL if "all appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate." 40 CFR 300.425(e)(1)(ii). EPA, with the concurrence of the State of Missouri through the MDNR, believes that this criterion for deletion has been met. Subsequently, EPA is proposing deletion of this site from the NPL. Documents supporting this action are available from the docket.

### State Concurrence

In a letter dated July 30, 2001, the MDNR concurs with the proposed deletion of the Times Beach Superfund site from the NPL.

Dated: July 30, 2001.

**William W. Rice,**

*Acting Regional Administrator, U.S. EPA Region 7.*

[FR Doc. 01-19751 Filed 8-6-01; 8:45 am]

**BILLING CODE 6560-50-P**

## FEDERAL EMERGENCY MANAGEMENT AGENCY

### 44 CFR Part 67

[Docket No. FEMA-B-7418]

### Proposed Flood Elevation Determinations

**AGENCY:** Federal Emergency Management Agency (FEMA).

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are requested on the

proposed Base (1% annual chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

**ADDRESSES:** The proposed BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

### FOR FURTHER INFORMATION CONTACT:

Matthew B. Miller, P.E., Chief, Hazards Study Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646-3461, or (e-mail) matt.miller@fema.gov.

**SUPPLEMENTARY INFORMATION:** FEMA proposes to make determinations of BFE and modified BFEs for each community listed below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

*National Environmental Policy Act.*

This proposed rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

*Regulatory Flexibility Act.* The Acting Administrator, Federal Insurance and Mitigation Administration certifies that