In light of the State's submitted analysis and the fact that New York does not currently have a nonattainment demonstration for the upstate nonattainment counties listed above, EPA cannot now conclude that the RVP program is not necessary to achieve the standard as expeditiously as practicable in those areas.[2] Until EPA is in a position to conclude that the program is definitely not necessary, the Agency believes it is appropriate to make a finding under section 211(c)(4)(C) with respect to the RVP program in the upstate nonattainment areas. EPA therefore proposes today to make such a finding. Further, it appears that since the upstate nonattainment areas are located geographically all over the State, New York logistically had to make the RVP rule apply on a statewide basis in order to ensure compliance in the nonattainment areas without producing supply and distribution problems. Given New York's need to apply the RVP program statewide, EPA finds that application of the program throughout the State is necessary to achieve the ozone standard as expeditiously as practicable in all of the upstate and downstate nonattainment areas.

EPA acknowledges that the technical data to support its 211(c)(4)(C) finding for the upstate areas are not extensive given the late date at which the upstate nonattainment problem became apparent. EPA therefore specifically requests comment on the propriety of its 211(c)(4)(C) finding for the upstate nonattainment areas.

Enforceability

In EPA's review of the enforceability of the New York revision, a problem with the test methods section was revealed. The State requires that fuel sampling and testing shall be "by methods acceptable to the Commissioner." EPA has adopted a final volatility rule which contains the American Society for Testing and Materials (ASTM) method D–4057 for bottle sampling, the method contained in the California Administrative Code Title 13, R.2261 for nozzle sampling and ASTM "dry" method D–4814, Annex 2 (formerly known as P–176) or the Herzog "dry" method as a test method. The State has committed to revise this section in order to resolve this issue. EPA is proposing to approve the State's RVP controls with the understanding that the State must revise the test methods section to include the EPA recognized methods.

Conclusion

EPA is proposing to approve this revision to the New York State Implementation Plan for ozone to control gasoline volatility with the understanding that the State will revise the test method section of the regulation. EPA is also proposing to make a finding that this SIP revision meets the requirements of section 211(c)(4)(C) of the Act for an exception to Federal preemption.

EPA is soliciting public comments on its proposed action. Comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the address noted at the beginning of today's notice.

This notice is issued as required by section 110 of the Clean Air Act, as amended. The Administrator's decision regarding the approval of this plan revision is based on its meeting the requirements of section 110 of the Clean Air Act, and 40 CFR Part 51.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709)

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Ozone.

Authority: 42 U.S.C. 7401–7642.

Date: February 24, 1989.

William J. Muszynski,

Acting Regional Administrator.

[FR Doc. 89–7318 Filed 3–27–89; 8:45 am]

BILLING CODE 6560–50–M

[2] Although EPA indicated in its national RVP rulemaking that control to 9.0 psi would not be practicable for implementation before 1992 nationwide March 22, 1989 (54 FR 11868), EPA must conclude, based upon the record underlying New York's actual adoption of a 9.0 psi RVP program in 1989, that such a program is currently practicable in New York.

40 CFR Part 52

[FRL-3544-5]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Withdrawal of proposed rule.

SUMMARY: The USEPA is today withdrawing its November 23, 1988, proposed rulemaking notice (53 FR 47549) which proposed to approve a revision to the ozone portion of the Ohio State Implementation Plan (SIP) for Mansfield Products Company in Mansfield, Ohio.

On February 23, 1989, the Ohio Environmental Protection Agency requested that USEPA withdraw the pending SIP revision for a large appliance coating line (K005) at the Mansfield Products Company plant in Mansfield, Ohio. The noncomplying coating line at the Mansfield Plant has since been shutdown.

DATE: Withdrawal of this rulemaking is effective as of March 28, 1989.

FOR FURTHER INFORMATION CONTACT: Maggie Greene, Air and Radiation Branch (5AR–26), U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886–6041.

Authority: 42 U.S.C. 7401–7642.

Dated: March 20, 1989.

Frank M. Covington,

Acting Regional Administrator.

[FR Doc. 89–7319 Filed 3–27–89; 8:45 am]

BILLING CODE 6560–50–M

[FRL-3544-1]

40 CFR Part 300

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

AGENCY: Environmental Protection Agency.

ACTION: Notice of Intent to Delete the Cecil Lindsey site from the National Priorities List: Request for Comments.

SUMMARY: The Environmental Protection Agency (EPA) Region 6 announces its intent to delete the Cecil Lindsey site from the National Priorities List (NPL) and requests public comment on this action. This site is located northeast of Newport, in Jacksonville County, Arkansas. The NPL constitutes Appendix B to 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), as amended by the Superfund Amendments and Reauthorization Act (SARA) of 1986. EPA and the Arkansas Department of Pollution Control and Ecology (ADPC&E) have determined that all appropriate CERCLA response actions have been implemented and that no additional cleanup activities are approriate. In addition, EPA and the State have determined that the remedial activities conducted at the site to date

have been protective of human health, welfare, and the environment. This deletion does not preclude future actions under Superfund.

DATES: All comments relating to this site may be submitted on or before May 3, 1989.

ADDRESSES: Comments should be addressed to: Carl E. Edlund, Chief, Superfund Programs Branch, U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202.

Comprehensive information on this site is available through the EPA Region 6 public docket, which is located at the Region 6 offices. Requests for copies of the background information from the regional public docket should be directed to: Martin Swanson, Site Project Manager (6H–SA), U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202, (214) 655–6720.

Detailed information concerning this site is also available for viewing at the local repositories located at the following addresses:

Jackson County Library, 213 Walnut Street, Newport, Arkansas

Jackson County Courthouse, Third and Main Street, Newport, Arkansas.

FOR FURTHER INFORMATION CONTACT: Martin Swanson, Site Project Manager (6H–SA), U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202, (214) 655–6720.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

The Environmental Protection Agency (EPA) Region 6, announces its intent to delete the Cecil Lindsey site, Newport, Arkansas, from the National Priorities List (NPL), which constitutes Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), and requests comments on this deletion. The NPL is a list of hazardous waste sites which EPA has identified as presenting a known or potential threat to human health and the environment. Sites on the NPL are eligible for remedial actions financed by the Hazardous Substance Supefund Response Trust Fund (Fund). Pursuant to § 300.66(c)(8) of the NCP, any site deleted from the NPL is eligible for further Fund-financed remedial actions, should future conditions warrant such action.

Comments relating to the deletion of this site from the NPL will be accepted by the EPA for thirty days after publication of this notice in the Federal Register.

II. NPL Deletion Criteria

The NCP establishes the criteria which are used to determine whether a site is eligible for deletion from the NPL. In accordance with 40 CFR 300.66(c)(7) of the NCP, sites may be deleted from or recategorized on the NPL where no further response is appropriate. In making this determination, EPA will consider whether any of the following criteria have been met:

(i) EPA, in consultation with the State, has determined that responsible or other parties have implemented all appropriate response actions required;

(ii) All appropriate Fund-financed responses under CERCLA have been implemented, and EPA, in consultation with the State, has determined that no further cleanup by responsible parties is appropriate; or

(iii) Based on a remedial investigation, EPA, in consultation with the State, has determined that the release poses no significant threat to public health or the environment, and therefore, taking of remedial measures is not appropriate.

III. Deletion Procedures

EPA Region 6, will accept and respond to all public comments prior to the deletion of this site from the NPL. Comments from the local community will be taken into account by EPA in its deletion decision. The following procedures have been implemented for the intended deletion of this site:

1. EPA Region 6 has recommended the deletion and has prepared a site Closeout Report.

2. The State of Arkansas has reviewed the site Closout report and concurred with the proposed deletion.

3. Concurrent with this National Notice of Intent to Delete, a local Notice of Intent to Delete was published in a local newspaper and was distributed to the appropriate Federal, State, and local officials, and other interested parties. The local notice announces a thirty day comment period on the deletion package, which begins on April 3, 1989 and ends on May 3, 1989.

4. All relevant documents have been made available to the public at the Region 6 office and at the local repositories.

Any comments received during the comment period will be evaluated prior to the decision to delete the site. A Responsiveness Summary addressing these comments will be prepared by the Region and will be made available to the public. Deletion will then occur after the EPA Regional Administrator places a notice in the Federal Register. The site deletion will be reflected in the next final update to the NPL. Copies of the Notice of Deletion will also be made available to the public by Region 6.

IV. Basis for Intended Site Deletion

The Cecil Lindsey site occupies 5.2 acres in a rural region of northeastern Arkansas. It is located approximately 3.5 miles north of Newport, in Jackson County, Arkansas. Wastes for salvage and/or disposal were accepted at the site from the early 1970's to about 1980. The property was first used for a salvage operation, where machinery, automobiles, culvert pipe, and other scrap metal were collected. Later, the northern part of the site was used as a municipal dump by the community of Diaz, located approximately 2 miles west of the site. Industrial waste was also reportedly disposed at the site, although the type of extent of this waste is not well documented.

The Arkansas Department of Pollution Control and Ecology (ADPC&E) first inspected the site in 1980 and informed the owner that his operation was not in compliance with the State Solid Waste Disposal Code and Act 237. In March of 1980, the owner was requested to close the site to prevent further dumping.

ADPC&E inspected the site again in December 1980, and found evidence of recent dumping. On July 13, 1982, an EPA Region 6 Field Investigation Team conducted an inspection of the site and prepared a site inspection report. The report recommended that a second inspection and additional sampling be conducted at the site. In August 1982, EPA evaluated the site and it was subsequently placed on the NPL.

The Cecil Lindsey Remedial Investigation/Feasibility Study (RI/FS) was completed in December 1985. The results of the RI indicated that there were approximately 100 drums onsite, either partially buried or on the surface; all in various states of degradation. The RI also indicated the presence of very limited onsite soil and ground water contamination and off-site surface water and sediment contamination. Although the RI indicated the presence of contamination in the ground water, levels of compounds detected did not exceed any primary drinking water standards. An Exposure Assessment conducted as part of the Feasibility Study and a Health Assessment conducted by the Centers for Disease Control concluded that no significant health threat existed at the site.

The selection of the appropriate remedial action for the Cecil Lindsey site was dependent on several key

findings of the Remedial Investigation and Exposure Assessment. The results of the Exposure Assessment indicated that the low levels of contamination at the Cecil Lindsey site did not create a significant danger to present public health or the environment. The site was overgrown and fairly inaccessible. The area was unlikely to ever be developed due to its location in the Village Creek floodplain. With regard to the ground water in the area of the site, the flow direction is toward Village Creek. The limited contamination detected in the ground water was not seen as a potential problem, since it was expected to dissipate quickly. Based on these considerations and the fact that hazardous materials were identified in several site related drums, the remedial action selected for the Cecil Lindsey site was a modified limited action remedy. The remedial action consisted of the following activities: implementation of site access restrictions; installation of two additional monitoring wells; ground water monitoring for a period of one year; and removal/disposal of all drums containing hazardous materials in an EPA approved facility. The Cecil Lindsey Record of Decision (ROD) was signed by EPA on April 23, 1986.

Throughout the Superfund process, an extensive community relations program was used to keep the residents located near the site and those in the city of Newport informed. Notification of the activities taking place at the site was accomplished through a series of news releases, updates, and fact sheets. The public was given an opportunity to comment on the results of the Remedial Investigation/Feasibility Study at a meeting held by EPA on April 3, 1986, at the White River Vocational Institute. Additional comments were received druing the public comment period and were addressed in the Responsiveness Summary.

The remedial action was initated in February 1987, and was completed in March 1989. Two additional monitoring wells were installed at the site on November 10 through November 15, 1987. The site monitoring wells were sampled from November 17 through November 24, 1987. All drums containing hazardous materials were removed from the site in February 1988. These drums were disposed of at an EPA approved Hazardous Waste Management Facility. A second round of ground water sampling was conducted in September 1988. The site wells are scheduled to be removed in April or May 1989. These well closure activities do not significantly effect the degree of protection of human health, welfare, and the environment which is provided by the remedial action implemented. The second round of ground water sampling concluded the one year of ground water monitoring specified in the Record of Decision Document. A final site inspection was held on March 6, 1989. During this inspection, representatives from EPA and ADPC&E verified that all of the activities specified in the ROD had been completed.

EPA, with concurrence from the State of Arkansas, has determined that all appropriate Fund-financed responses under CERCLA have been completed at the Cecil Lindsey site. Furthermore, EPA has determined that no additional response actions are appropriate.

Date: March 16, 1989.

Robert E. Layton Jr.,

Regional Administrator, Region 6.

[FR Doc. 89–7320 Filed 3–27–89; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL MARITIME COMMISSION

46 CFR Part 588

[Docket No. 89–08]

Inquiry Concerning the Definitions of United States and Foreign Carriers in the Foreign Shipping Practices Act of 1988

AGENCY: Federal Maritime Commission.

ACTION: Notice of inquiry.

SUMMARY: The Federal Maritime Commission solicits public comment on the definition of United States carrier and foreign carrier for the purposes of the Foreign Shipping Practices Act of 1988 and the Commission's implementing regulations at 46 CFR Part 588, and on the interpretation of the statutory provision identifying foreign carriers who may be subject to sanctions under the Act on the basis of their nationality. The comments received will assist the Commission in proposing any appropriate rule to amend its implementing regulations.

DATES: Comments (original and fifteen copies) on or before May 12, 1989.

ADDRESS: Send comments to: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573, (202) 523–5725.

FOR FURTHER INFORMATION CONTACT: Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573, (202) 523–5740.

SUPPLEMENTARY INFORMATION: The Foreign Shipping Practices Act of 1988 ("1988 Act") is contained within the Omnibus Trade and Competitiveness Act of 1988 at Title X, Subtitle A, and became effective August 23, 1988. The 1988 Act directs the Federal Maritime Commission ("Commission") to address adverse foreign conditions affecting United States carriers in U.S.-foreign oceanborne trades, which conditions do not exist for carriers of those countries in the United States, either under U.S. law or as a result of acts of U.S. carriers or others providing maritime or maritime-related services in the U.S. On November 1, 1988, the Commission initiated a proceeding, Docket No. 88–24, proposing a rule to implement the 1988 Act. Comments from interested parties were received, and a Final Rule was adopted and published in the **Federal Register** on March 21, 1989 (55 FR 11529), to be effective 30 days hereafter.

The Final Rule differs from that proposed in one major respect––the definitions of U.S. and foreign carriers. In proposing a rule, the Commission noted that the 1988 Act's definitions of those terms are such that the two overlap to some degree. We explained.

> A foreign carrier [under the statute] is one "a majority of whose vessels are documented under the laws of a country other than the United States." 46 U.S.C. app. 10002(a)(2). A United States carrier "operates vessels documented under the laws of the United States." 46 U.S.C. app. 10002(a)(5). Thus, an ocean common carrier which operates some U.S.-flag vessels but an even greater number of foreign-flag vessels could be argued to fit both definitions.

Although the Commission generally proposed definitions for its rules which were identical to the statute's definitions, the Commission's definitions of U.S. and foreign carriers differed from the statutory language in order to remove this ambiguity. Noting that the statute's definition of "foreign carrier" is more specific than that of "U.S. carrier," language was added to the definition of the latter in the proposed rule clarifying that a carrier which meets both definitions shall be considered a foeign carrier for the purpose of the Commission's administration of the statute. Thus, the rule defined "U.S. carrier" to mean "an ocean common carrier which operates vessels documented under the laws of the United States *and which does not also meet the definition of 'foreign carrier' above* * * *." Italicized language representing addition to statutory version.)

Only four of the ten comments on the proposed rule addressed the definitions, but thse four, representing U.S. carrier interests, were critical of the definition of "U.S. carrier." They were generally