

achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, New source review, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401-7671q.

Dated: September 15, 1999.

Keith Takata,

Acting Regional Administrator, Region 9.
[FR Doc. 99-24841 Filed 9-22-99; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[CA 013-MSWb; FRL-6440-1]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve the California State Plan for implementing the emissions guidelines applicable to existing municipal solid waste (MSW) landfills. The Plan was submitted by the California Air Resources Board (CARB) for the State of California to satisfy requirements of section 111(d) of the Federal Clean Air Act. In the Final Rules section of this **Federal Register**, EPA is approving the California State Plan as a direct final rule without prior proposal because the Agency views this as a noncontroversial action and anticipates that it will not receive any significant, material, and

adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no significant, material, and adverse comments are received in response to this action, no further activity is contemplated in relation to this proposed rule. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action.

DATES: Comments must be received in writing by October 25, 1999.

ADDRESSES: Written comments should be addressed to Andrew Steckel, Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Copies of the documents relevant to this proposed rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted State Plan are also available for inspection at the following location: California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812.

FOR FURTHER INFORMATION CONTACT: Patricia A. Bowlin, (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901, Telephone: (415) 744-1188.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action which is located in the Rules section of this **Federal Register**.

Dated: September 10, 1999.

David P. Howekamp,

Acting Regional Administrator, Region IX.
[FR Doc. 99-24258 Filed 9-22-99; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL-6441-4]

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

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete the Baxter/Union Pacific Railroad Tie Treating Plant Superfund Site from the National Priorities List; request for comments.

SUMMARY: The Environmental Protection Agency (EPA) Region VIII announces its intent to delete the Baxter/Union Pacific Railroad Tie Treating Plant (the Site) located in Laramie, Wyoming from the National Priorities List (NPL), and requests public comment on this action.

The NPL, a list of sites EPA evaluates for priority clean up of hazardous wastes, is found in appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances and Pollutant Contingency Plan (NCP). EPA promulgated the NCP pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA).

EPA and the State of Wyoming Department of Environmental Quality (the State) propose this deletion under the terms of EPA's policy entitled "The National Priorities List for Uncontrolled Hazardous Waste Sites; Deletion Policy for Resource Conservation and Recovery Act Facilities." In this policy EPA announced that, consistent with the NCP criteria for deletion of sites from the NPL, the Agency would delete sites if corrective actions proceed under the Resource Conservation and Recovery Act (RCRA). The EPA, in consultation with the State, has determined that all appropriate RCRA response activities conducted at the site to date and scheduled in the future are enforceable and have been and will remain protective of human health and the environment, and that this deferral to RCRA corrective authorities is appropriate.

DATES: Comments concerning the proposed deletion of the site may be submitted to EPA on or before October 25, 1999.

ADDRESSES: Comments should be mailed to: Mr. Dennis Jaramillo, US Environmental Protection Agency, Region VIII, Mail Code: ENF-T, 999 18th Street, Suite 500, Denver, CO 80202-2466.

Comprehensive information on this site is available at the EPA Region VIII Superfund Records Center and is available for viewing from 8:00 am to 4:30 PM, Monday through Friday excluding holidays. Requests for documents should be directed to the EPA, Region VIII Superfund Records Center. Documents pertaining to this proposed deletion can be found in the deletion docket for the site, located at the Superfund record repository.

The address for the Region VIII Superfund Records Center is: Superfund Records Center, U.S. Environmental Protection Agency, 999 18th Street, 5th

Floor, Denver, CO 80202, Telephone: (303) 312-6473.

Background information from the Regional public docket and Deletion Docket is also available for viewing at the following RCRA repositories:

The University of Wyoming, Science Library PO Box 3262, Bio-Sciences building, Laramie WY 82071, For Library Hours call (307) 766-6539, Attn: Lori Phillips

or

Wyoming Department of Environmental Quality, 122 W. 25th Street, Cheyenne, WY 82002, Attn: Marisa Latady, To make an appointment call (307) 777-7752

FOR FURTHER INFORMATION CONTACT: Dennis Jaramillo at (303) 312-6203.

SUPPLEMENTARY INFORMATION:

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- I. Introduction
- II. NPL Deletion Criteria
- III. Deletion Procedures
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- V. Conclusion

I. Introduction

The Environmental Protection Agency (EPA), Region VIII announces its intent to delete the Baxter/Union Pacific Railroad Tie Treating Site (the Site) from the National Priorities List (NPL), 40 CFR part 300, appendix B, and requests comments on this deletion.

The NPL is a list of sites that EPA evaluates for priority clean up of hazardous wastes under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). Deletion of this Site from the NPL results from deferral of the Site from CERCLA to the Wyoming Department of Environmental Quality, Resources Conservation and Recovery Act (RCRA) Program. RCRA holds responsibility for ensuring that the site is properly remediated. Nevertheless, pursuant to the NCP at 40 CFR 300.425(e)(3), any site deleted from the NPL remains eligible for future relisting and Fund-financed response actions if conditions at the site ever warrant such action.

EPA will accept comments on this proposed action for the thirty days following publication of this document in the **Federal Register**.

Section II of this document explains the criteria for deleting sites from the NPL; section III, the procedures EPA uses for this action; section IV, how the Site meets the deletion criteria; and section V, EPA's conclusion.

II. NPL Deletion Criteria

The NCP establishes the criteria that the Agency 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. In making a determination to delete a site EPA considers, in consultation with the State, whether any of the following criteria have been met:

- Responsible parties or other persons have implemented all appropriate response actions required; or
- All appropriate Fund-financed responses under CERCLA have been implemented and no further action by responsible parties is appropriate; or
- The remedial investigation shows that the release poses no significant threat to public health or the environment and, therefore, taking remedial measures is not appropriate.

Consistent with § 300.425(e) of the NCP, EPA proposes deletion of this Site because no further response action is appropriate under CERCLA, as laid out in EPA's policy entitled "The National Priorities List for Uncontrolled Hazardous Waste Sites; Deletion Policy for Resource Conservation and Recovery Act Facilities." Published in the **Federal Register** on March 20, 1995 (60 FR 14641), this policy sets forth the following criteria, all of which should be met, and their general application for deleting RCRA facilities from the NPL:

- If evaluated under EPA's current RCRA/NPL deferral policy the site would be eligible for deferral from listing on the NPL;
- The CERCLA site is currently being addressed by RCRA corrective action authorities under an existing enforceable order or permit containing corrective action provisions;
- Response under RCRA is progressing adequately; and
- Deletion would not disrupt an ongoing CERCLA response action.

Under this policy EPA has determined that the site is eligible for deletion from the NPL.

III. Deletion Procedures

The following procedures were followed for the proposed deletion of this Site:

1. EPA determined no further response under CERCLA is necessary due to the RCRA response;
2. The State concurred with EPA's deletion proposal;
3. EPA published a notice in a local newspaper announcing the commencement of a 30-day public comment period on EPA's intent to delete, and distributed this notice to appropriate Federal, State and local officials, and other interested parties; and

4. EPA made available all relevant documents in the regional and local site information repositories.

Comments received during the comment period will be evaluated by EPA before making a final decision whether to delete the site. EPA will prepare a Responsiveness Summary addressing significant comments received during the public comment period. Copies of the Responsiveness Summary will be made available to interested parties by EPA.

Deletion, in the event it occurs, takes place when EPA publishes a final notice in the **Federal Register**. Following publication in the **Federal Register** of the Site's final notice of deletion, the NPL reflects site deletion in the next NPL update. EPA then places the final NPL deletion package in the local and regional repositories.

IV. Basis for Intended Site Deletion

The following provides a summary of the site and EPA's rationale for proposing deletion of the Site from the NPL.

A. Site Background

The Site borders the Laramie River just south of the city of Laramie, Wyoming. Union Pacific Railroad (UPRR) treated wood railroad ties and performed other wood-preserving operations at the site intermittently from 1886 to 1983. Creosote was the principal wood-preserving agent used and is the primary source of the site contamination; pentachlorophenol (PCP) was also used for a limited time, but in smaller amounts. Creosote and PCP were combined with carrier oils. Treated ties and wood products were allowed to drip onto the ground. Originally, wastewater generated in the wood treating process was discharged to low-lying areas via a shallow ditch system. In the later years of operation, wastewater was discharged to a series of unlined surface impoundments. These waste management practices resulted in soil and groundwater contamination at the site and contaminant seepage into the Laramie River. The mixtures of creosote and PCP and the carrier oils formed a dense nonaqueous liquids (DNAPL) or a mixture that is more dense than water.

In 1980, UPRR submitted a notification and Part A application to EPA as required under section 3005(e) and 3010 of RCRA. Through this process four interim status surface impoundments were identified for regulation under RCRA.

In 1981, ground water monitoring required under the RCRA interim status discovered contamination outside the

four interim status surface impoundments. Also in 1981, the State of Wyoming filed suit against UPRR under the Wyoming Environmental Quality Act Statute 35-11-301(a)(i), (ii), and (iii). One year later the parties settled by agreeing to an "Investigative Research and Remedial Action Plan" under a Litigation Suspension Agreement which consisted of a phased program of site investigation and remediation.

In September 1983, EPA placed on the NPL those portions of the site not regulated by RCRA, due to contamination extending beyond the four interim status surface impoundments.

In November 1983, EPA and UPRR entered into an Administrative Order on Consent under CERCLA section 106 (CERCLA VIII-83-05). This order required that UPRR conduct a Remedial Investigation and Feasibility Study consistent with the Remedial Action Plan between the State and UPRR.

Concurrently with the CERCLA order, EPA and UPRR also entered into an Administrative Order on Consent under RCRA section 3008 (RCRA (3008) VIII-83-25) requiring closure of the surface impoundments and any necessary post-closure care of RCRA-regulated wastes.

On November 8, 1984 the Hazardous and Solid Waste Amendments of 1984 to RCRA went into effect. This new statute effectively extended RCRA authority to address the entire site.

In 1986 EPA signed a CERCLA Record of Decision (ROD) calling for an interim remedy. This interim remedy involved the installation of a Contaminant Isolation System to prevent migration of contaminants off site. The Contaminant Isolation System consists of relocation of the Laramie River to an uncontaminated channel; construction of a cutoff wall; installation of a water management system to maintain an inward gradient, construction of a water treatment plant to remove dissolved contaminants and implementation of a monitoring program, to ensure the effectiveness of the Contaminant Isolation System. The ROD also provided for additional study and remedial action under the RCRA program, in the form of subsequent RCRA permit for corrective actions.

In 1988, through a new RCRA section 3008(h) Administrative Order on Consent, (RCRA section 3008 (88-12)) UPRR and EPA agreed on requirements for ongoing site management. The order established RCRA as the framework for implementation and oversight of ongoing site activities. The order also required UPRR design and implement a laboratory and field pilot testing

program, known as In Situ Treatment Process Development Program to determine the effectiveness of the surface and subsurface treatment technologies and to report the results of the pilot testing in various reports.

In 1991 and again in 1993, modifications were made to the RCRA section 3008(h) order (RCRA section 3008(88-12)) in which UPRR agreed to complete the In Situ Treatment Development Program, conduct a Corrective Measures Study (CMS) and implement waterflood oil recovery operations. The modification also stated that EPA would choose, the final site remedy based on the alternatives contained in the CMS following public input.

In 1994, under RCRA EPA issued the Final Decision and Response to Comments specifying the final site remedy. EPA determined that it was technically impracticable, given existing technologies, to clean up the groundwater underlying the Site to drinking water standards, however through implementation of the final site remedy human health and the environment would be protected.

This document also stated that the existing RCRA order would be modified to require implementation of the final site remedy through the RCRA post-closure permit process.

In June 1995, EPA approved the designation of a Corrective Action Management Unit within the former surface impoundments area for the placement of contaminated soil excavated from an area south of the facility as well as consolidation of contaminated soil and debris from other areas of the Site. The designation of a Corrective Action Management Units did not change the design or the implementation of the final site remedy, but did allow UPRR to maintain progress in remediation of the site consistent with the overall site management and remediation strategy described in the CMS.

Also in 1995 the RCRA order was amended, requiring submittal of an application for a RCRA Permit for post-closure care and corrective action. UPRR subsequently submitted a RCRA Post-Closure Permit Application for Post Closure Care and Corrective Action to the State and EPA in September 1995. Also in October 1995, the State of Wyoming received final authorization of its RCRA hazardous waste management program.

In 1999 the State of Wyoming issued the RCRA Permit for the Laramie Tie Plant site under the authority of the Wyoming Environmental Quality Act (Wyoming Statute 35-11503(d)). The

permit was effective July 18, 1999. The permit incorporates previous requirements as well as specifies the additional actions and requirements for completion of corrective action at the site.

Corrective actions taken at the site under the preceding actions include the following:

1. 1983—Construction of a flood control dike protecting the site from a 100-year flood, and installation of sheet pile cutoff walls to curtail the discharge of DNAPL into the Laramie River along preferential subsurface seepage pathways;

2. 1984—Partial closure of the surface impoundments by removing for reuse more than 700,000 gallons of DNAPL and, for disposal, nearly 6,000 cubic yards of sludges and contaminated soil;

3. 1985—Realignment of the Laramie River to the west of the site for subsequent containment actions;

4. 1986—Construction of the Contaminant Isolation System consisting of a 10,000 foot-long soil bentonite wall encircling the site and a groundwater extraction and treatment system that provides hydraulic containment of the site. This containment system prevents contaminant migration from the site, particularly the seepage of DNAPL and contaminated groundwater to the adjacent Laramie River as described in the ROD of 1986;

5. 1988—Installation and start-up of an additional groundwater extraction system to address a small zone of bedrock groundwater contamination located outside the Contaminant Isolation System. This system is called the Morrison Contaminant Withdrawal System;

6. 1988 to 1990—A technology research and demonstration program to develop cost-effective in situ treatment technologies known as the In Situ Treatment Process Development Program;

7. 1991 to present—Ongoing removal of DNAPL from the subsurface using a waterflood oil recovery technologies. Use of waterflood oil recovery methods has recovered approximately 1.8 million gallons of DNAPL; and

8. 1999—Initiation of the approved Integrate Phytoremediation/Greenbelt Project which uses an innovative technologies called phytoremediation to treat residual contamination. Phytoremediation uses plants to contain, degrade or exact contaminants form soil and groundwater.

B. Documentation That the Site Meets the Four Criteria of the RCRA Deferral Policy Set Forth in EPA's March 20, 1995 Policy

1. Under EPA's Current RCRA/NPL Deferral Policy the Site Would be Eligible for Deferral From Listing on the NPL

The site was not appropriate for RCRA deferral under the initial deferral policy (48 FR 40662, September 8, 1983) because the CERCLA releases extended beyond RCRA regulated units. Since that time, however, RCRA was amended to expand its authorities and the deferral policy consequently modified, such that the site now fits within the general policy for deferral of RCRA-regulated sites from listing on the NPL.

2. The CERCLA Site is Currently Being Addressed by RCRA Subtitle C Corrective Action Authorities Under an Existing Enforceable Order or Permit Containing Corrective Action Provisions

Under the second criteria, a corrective action order or permit must be in place and must address all CERCLA releases including any extending beyond the bounds of the RCRA facility. As noted above, several RCRA orders and a permit are in place. They address all site-related contamination.

3. Response Under RCRA is Progressing Adequately

For purposes of deferral and delisting of RCRA sites, adequate progress is demonstrated through compliance with corrective action permits or orders. UPRR is in compliance with its permits and orders, and has no history of protracted negotiations with EPA.

4. Deletion Would Not Disrupt an Ongoing CERCLA Response Action

CERCLA response was discontinued at this site. As specified in the 1986 ROD, actions beyond the interim remedy selected in the ROD were taken under RCRA. Therefore there is no ongoing CERCLA response action.

V. Conclusion

EPA sought and received concurrence from the State on this proposal to delete the Site from the NPL. The State indicated its concurrence in a letter to EPA dated August 25, 1999.

Deletion of this site from the NPL and deferral to RCRA subtitle C corrective action authorities avoids confusion and duplication of effort. Response and corrective actions conducted at the site to date and scheduled in the future have been and will appropriate for protection of public health and the environment.

Consequently, EPA proposes deletion of this site from the NPL.

Dated: September 8, 1999.

William P. Yellowtail,

Regional Administrator, Region VIII.

[FR Doc. 99-24507 Filed 9-22-99; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 90-day Finding on Petition to Reclassify the Straight-horned Markhor Population of the Torghar Region of Balochistan, Pakistan from Endangered to Threatened and Initiation of Status Review for Markhor

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of petition finding.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the 90-day finding that a petition to change the classification of the straight-horned markhor population of the Torghar Hills region of Balochistan Province, Pakistan from endangered to threatened has presented substantial information indicating that the action may be warranted. We also find that there is substantial information indicating that other subspecies of markhor may warrant listing as threatened or endangered under the Act. A status review of the entire species *Capra falconeri* is initiated.

DATES: This finding was made on September 16, 1999. Comments and information may be submitted until January 21, 2000.

ADDRESSES: Submit comments, information, and questions to the Chief, Office of Scientific Authority; Mail Stop: Room 750, Arlington Square; US Fish and Wildlife Service; Washington, DC 20240 (Fax number: 703-358-2276; E-mail address: r9osa@fws.gov). Address express and messenger-delivered mail to the Office of Scientific Authority; Room 750, 4401 North Fairfax Drive; Arlington, Virginia 22203. You may inspect the petition finding, supporting data, and comments, by appointment, from 8 a.m. to 4 p.m., Monday through Friday, at the Arlington, Virginia address.

FOR FURTHER INFORMATION CONTACT: Dr. Susan S. Lieberman, Chief, Office of Scientific Authority, at the above address (Telephone number: 703-358-1708; E-mail address: susan_lieberman@fws.gov).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act (Act) of 1973 as amended (16 U.S.C. 1531 *et seq.*), requires us to make a finding on whether a petition to list, delist, or reclassify a species presents substantial information indicating that the requested action may be warranted. To the maximum extent practicable, we make this finding within 90 days following receipt of the petition, and we promptly publish a Notice in the **Federal Register**. If the finding is positive, section 4(b)(3)(A) of the Act also requires us to commence a status review of the species. We now announce a 90-day finding on a recently received petition.

On March 4, 1999, we received a petition from Sardar Naseer A. Tareen (Head, Society for Torghar Environmental Protection, 94-Regal Plaza, 3rd Floor, Circular Road, Quetta, Balochistan, Pakistan), on behalf of the Society for Torghar Environmental Protection and the IUCN Central Asia Sustainable Use Specialist Group, requesting that the Suleiman markhor (*Capra falconeri jerdoni* or *C. f. megaceros*) population of the Torghar Hills region of Balochistan Province, Pakistan be reclassified from endangered to threatened. Under the Act, the Suleiman markhor of Torghar is listed as *C. f. jerdoni*, straight-horned markhor.

The markhor is a species of wild goat that occurs in small, isolated populations in rugged, arid mountain habitats in Afghanistan, India, Pakistan, Tajikistan, Turkmenistan, and Uzbekistan. Markhor populations have generally declined as a result of hunting, habitat modification (including logging and overgrazing), and competition with domestic livestock.

In 1975, when markhor were first listed under the Act, seven subspecies were generally recognized: *C. f. jerdoni* (Suleiman or straight-horned markhor), *C. f. megaceros* (Kabul or Kabal markhor), *C. f. cashmirensis* (Pir Panjal or Kashmir markhor), *C. f. falconeri* (Astor markhor), *C. f. ognevi* (Uzbek markhor), *C. f. heptneri* (Tajik markhor), and *C. f. chialtanensis* (Chiltan markhor). *C. f. jerdoni*, *C. f. megaceros*, and *C. f. chialtanensis* were classified as Endangered throughout their respective ranges in the **Federal Register** of September 26, 1975 (40 FR 44329). At present, many authorities recognize only three subspecies of markhor (Shackleton 1997). *C. f. jerdoni* and *C. f. megaceros* are now generally considered to be the single subspecies *C. f. megaceros* (straight-horned