

Pentachlorobenzene.....	608-93-5	ND	2400
Pentachloroethane.....	76-01-7	ND	39
Pentachloronitrobenzene [PCNB] [Quintobenzene] [Quintozene].	82-68-8	ND	2400
Pentachlorophenol.....	87-88-5	ND	2400
Pronamide.....	23950-58-5	ND	2400
Silvex [2,4,5-Trichlorophenoxypropionic acid]..	93-72-1	ND	7
2,3,7,8-Tetrachlorodibenzo-p-dioxin [2,3,7,8-TCDD]	1746-01-6	ND	30
1,2,4,5-Tetrachlorobenzene.....	95-94-3	ND	2400
1,1,2,2-Tetrachloroethane.....	79-35-4	ND	39
Tetrachloroethylene [Perchloroethylene].....	127-18-4	ND	39
2,3,4,6-Tetrachlorophenol.....	58-90-2	ND	2400
1,2,4-Trichlorobenzene.....	120-82-1	ND	2400
1,1,1-Trichloroethane [Methyl chloroform].....	71-56-6	ND	39
1,1,2-Trichloroethane [Vinyl trichloride].....	79-00-5	ND	39
Trichloroethylene.....	79-01-6	ND	39
Trichlorofluoromethane [Trichloromonofluoromethane].....	75-69-4	ND	39
2,4,5-Trichlorophenol.....	95-95-4	ND	2400
2,4,6-Trichlorophenol.....	88-06-2	ND	2400
1,2,3-Trichloropropane.....	96-18-4	ND	39
Vinyl Chloride.....	75-01-4	ND	39

Notes:

NA--Not Applicable.

ND--Nondetect.

(<sup>a</sup>) 25 or individual halogenated organics listed below.

[FR Doc. 2010-14097 Filed 6-14-10; 8:45 am]

BILLING CODE 6560-50-C

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 300**

[EPA-HQ-SFUND-1999-0013; FRL-9162-3]

**National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Partial Deletion of the Many Diversified Interests, Inc. Superfund Site**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) Region 6 is publishing a direct final Notice of Deletion of the soils of Operable Unit 1 and the underlying ground water of the approximately 8-acre western portion of Operable Unit 1 of the Many Diversified Interests, Inc. (MDI) Superfund Site located in Houston, Texas (Harris County), from the National Priorities List (NPL). The NPL, promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution

Contingency Plan (NCP). This direct final partial deletion is being published by EPA with the concurrence of the State of Texas, through the Texas Commission on Environmental Quality, because EPA has determined that all appropriate response actions at these identified parcels under CERCLA have been completed. However, this partial deletion does not preclude future actions under Superfund.

This partial deletion pertains to the soils of Operable Unit 1 and the underlying ground water of the approximately 8-acre western portion of Operable Unit 1 of the MDI Superfund Site. Operable Unit 2, Operable Unit 3, and the ground water underlying the remainder of Operable Unit 1 will remain on the NPL and are not being considered for deletion as part of this action.

**DATES:** This direct final partial deletion is effective August 16, 2010 unless EPA receives adverse comments by July 15, 2010. If adverse comments are received, EPA will publish a timely withdrawal of the direct final partial deletion in the **Federal Register** informing the public that the partial deletion will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-SFUND-1999-0013, by one of the following methods:

- <http://www.regulations.gov>: Follow internet on-line instructions for submitting comments.

- *E-mail:* Rafael Casanova, [casanova.rafael@epa.gov](mailto:casanova.rafael@epa.gov).

- *Fax:* 214-665-6660.

- *Mail:* Rafael A. Casanova; U.S. Environmental Protection Agency, Region 6; Superfund Division (6SF-RA); 1445 Ross Avenue, Suite 1200; Dallas, Texas 75202-2733.

- *Hand Delivery:* U.S. Environmental Protection Agency, Region 6; 1445 Ross Avenue, Suite 700; Dallas, Texas 75202-2733; Contact: Rafael A. Casanova (214) 665-7437. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA-HQ-AFUND-1999-0013. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is

an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at:

1. U.S. Environmental Protection Agency, Region 6; 1445 Ross Avenue, Suite 700; Dallas, Texas 75202-2733; Hours of operation: Monday thru Friday, 9 a.m. to 12 p.m. and 1 p.m. to 4 p.m. Contact: Rafael A. Casanova (214) 665-7437.

2. Blanche Kelso Bruce Music Magnet Elementary School; 510 Jensen; Houston, Texas 77020; Hours of operation: Monday thru Friday, 9 a.m. to 3:30 p.m.

**FOR FURTHER INFORMATION CONTACT:** Rafael A. Casanova, Remedial Project Manager; U.S. Environmental Protection Agency, Region 6; Superfund Division (6SF-RA); 1445 Ross Avenue, Suite 1200; Dallas, Texas 75202-2733; telephone number: (214) 665-7437; e-mail: [casanova.rafael@epa.gov](mailto:casanova.rafael@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

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

- I. Introduction
- II. NPL Deletion Criteria
- III. Partial Deletion Procedures
- IV. Basis for Site Partial Deletion
- V. Partial Deletion Action

##### **I. Introduction**

EPA Region 6 is publishing this direct final Notice of Partial Deletion for the

Many Diversified Interests, Inc. Superfund Site (Site), from the National Priorities List (NPL). This partial deletion pertains to the soils of Operable Unit 1 and the underlying ground water of the approximately 8-acre western portion of Operable Unit 1 of the Site. The NPL constitutes appendix B of 40 CFR part 300 which is the 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 maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). This partial deletion of the Many Diversified Interests, Inc. Superfund Site is proposed in accordance with 40 CFR 300.425(e) and is consistent with the Notice of Policy Change: Partial Deletion of Sites Listed on the National Priorities List. 60 FR 55466 (Nov. 1, 1995). As described in 300.425(e)(3) of the NCP, a portion of a site deleted from the NPL remains eligible for Fund-financed remedial action if future conditions warrant such actions.

Because EPA considers this action to be noncontroversial and routine, this action will be effective August 16, 2010 unless EPA receives adverse comments by July 15, 2010. Along with this direct final Notice of Partial Deletion, EPA is co-publishing a Notice of Intent for Partial Deletion in the "Proposed Rules" section of the **Federal Register**. If adverse comments are received within the 30-day public comment period on this partial deletion action, EPA will publish a timely withdrawal of this direct final Notice of Partial Deletion before the effective date of the partial deletion and the partial deletion will not take effect. EPA, will as appropriate, prepare a response to comments and continue with the deletion process on the basis of the Notice of Intent for Partial Deletion and the comments already received. There will be no additional opportunity to comment.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the soils of Operable Unit 1 and the underlying ground water of the approximately 8-acre western portion of Operable Unit 1 of the Many Diversified Interests, Inc. Superfund Site and demonstrates how it meets the deletion criteria. Section V discusses EPA's action to partially delete the Site

parcels from the NPL unless adverse comments are received during the public comment period.

##### **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. 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:

- i. Responsible parties or other persons have implemented all appropriate response actions required;
- ii. All appropriate Fund-financed response under CERCLA has 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, the taking of remedial measures is not appropriate.

Pursuant to CERCLA section 121(c) and the NCP, EPA conducts five-year reviews to ensure the continued protectiveness of remedial actions where hazardous substances, pollutants, or contaminants remain at a site above levels that allow for unlimited use and unrestricted exposure. EPA conducts such five-year reviews even if a site is deleted from the NPL. The soils of Operable Unit 1 and the underlying ground water of the approximately 8-acre western portion of Operable Unit 1 of the Many Diversified Interests, Inc. Superfund Site will not require five-year reviews. EPA may initiate further action to ensure continued protectiveness at a deleted site if new information becomes available that indicates it is appropriate. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

##### **III. Partial Deletion Procedures**

The following procedures apply to the deletion of the soils of Operable Unit 1 and the underlying ground water of the approximately 8-acre western portion of Operable Unit 1 of the Many Diversified Interests, Inc. Superfund Site:

1. EPA has consulted with the state of Texas prior to developing this direct final Notice of Partial Deletion and the Notice of Intent for Partial Deletion co-published in the "Proposed Rules" section of the **Federal Register**.

2. EPA has provided the state 30 working days for review of this notice and the parallel Notice of Intent for

Partial Deletion prior to their publication today, and the state, through the Texas Commission on Environmental Quality, has concurred on this partial deletion of the Site from the NPL.

3. Concurrently with the publication of this direct final Notice of Partial Deletion, a notice of the availability of the parallel Notice of Intent for Partial Deletion is being published in a major local newspaper, the Houston Chronicle. The newspaper announces the 30-day public comment period concerning the Notice of Intent for Partial Deletion of the Site from the NPL.

4. The EPA placed copies of documents supporting the partial deletion in the deletion docket and made these items available for public inspection and copying at the Site information repositories identified above.

5. If adverse comments are received within the 30-day public comment period on this partial deletion action, EPA will publish a timely notice of withdrawal of this direct final Notice of Partial Deletion before its effective date and will prepare a response to comments and continue with the deletion process on the basis of the Notice of Intent for Partial Deletion and the comments already received.

Deletion of a portion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a portion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for further response actions, should future conditions warrant such actions.

#### IV. Basis for Site Partial Deletion

The following information provides EPA's rationale for deleting the soils of Operable Unit 1 and the underlying ground water of the approximately 8-acre western portion of Operable Unit 1 of the Many Diversified Interests, Inc. Superfund Site from the NPL. A map of the Site, including the aerial extent of Operable Unit 1 and the underlying 8 acres of ground water proposed for deletion, is available in the deletion docket.

##### *Site Location and History*

The Many Diversified Interests, Inc. Superfund Site (Site, CERCLIS ID—TXD008083404), a former foundry

(Operable Unit 1), occupied a 36-acre tract of land located at 3617 Baer Street in Houston, Texas (Harris County). The Site also consists of the residential areas (off-site soils of Operable Units 2 and 3) surrounding the former foundry. Figures, with coordinates, of the areas to be deleted will be made available at the Site information repositories and included with the deletion docket. The Site is located approximately two miles east of downtown Houston and one block south of Interstate Highway 10 in an area of mixed industrial and residential land use. This part of Houston is known as the "Fifth Ward." The Site is bordered by Hare Street to the north, National Vinegar Company and Press Street to the east, the former Texas & New Orleans railroad right-of-way to the south, and Bringham Street to the west. Operable Units 2 and 3 include the residential yards and "high access areas" (e.g., schools, day care centers, playgrounds, churches, etc.) surrounding the former foundry.

Operations at the metal casting foundry began in 1926. The facility primarily manufactured specialty molded parts such as large wheels, tracks, and mining equipment. The process area consisted of two casting plants. Various grades of steel, including high carbon, chrome, molybdenum, high nickel, and stainless steel were cast at the facility. Scrap metal and iron were melted in the carbon arc furnaces, tested, corrected for the elements needed for the different grades of steel, and poured into molds. Molds and cores were constructed by mixing sand with flour binders. Castings were cleaned (by mechanical grinding, shot blasting, or sandblasting) and heat-treated. Final machining was performed either at the site or the customer's shop, if needed.

During the mid-1980s, the southern portion of the Site was leased to Can-Am Resource Group (Can-Am). Can-Am conducted a spent catalyst recycling operation using an experimental process. Catalyst is a substance that speeds up a chemical reaction to create a desirable product, such as gasoline for vehicles or other usable products. Can-Am reportedly obtained several thousand drums of spent catalyst from chemical plants and refineries located along the Houston Ship Channel and stored them at the Site.

##### *Site Conditions Resulting in Listing*

The EPA believes that the air emissions from the operations of the former foundry, which contained particles of lead, may have caused the on-site (Operable Unit 1) and off-site (Operable Units 2 and 3) soils to become

contaminated through the air deposition of these particles. Foundry practices may have also contributed to the on-site lead contamination of the soils. Other probable sources of lead contamination that may have impacted the on- and off-site soils may include lead-based paint and historical deposition from vehicular lead-based fuel emissions, among other possible sources. The leaking drums of spent catalyst from chemical plants and refineries, stored at the Site by Can-Am, also caused the soils to become contaminated, posing a threat to the residential areas of the Site.

##### *Operable Units*

The EPA organized the Site into Operable Units 1 (On-Site Soils and Ground Water), 2 (Off-Site Residential Yards and High Access Areas), and 3 (Residential Crawlspace and Those Residential Areas Not Addressed Under Operable Unit 2) as discrete actions that address the distinct geographical portions and the different media (on-site soils and ground water, and off-site residential yard and crawlspace soils) affected by the Site. The soils of Operable Unit 1 and the underlying ground water of the approximately 8-acre western portion of Operable Unit 1 are the subject of this direct notice for partial deletion.

##### *Operable Unit 1 (On-Site Soils and Ground Water)*

Operable Unit 1 (On-Site Soils and Ground Water) consists of the soils and ground water within the fenced boundaries of the former foundry.

In September 1998, EPA issued an action memorandum to address the removal of approximately 5,355 deteriorating drums of waste from the Site and 100,000 yd<sup>3</sup> of contaminated on-site soils. In May 1999, EPA issued unilateral administrative orders directing the potentially responsible parties to conduct a removal action to address the drummed wastes at the Site.

The Proposed Plan for Operable Unit 1 was made available for public comment on February 1, 2004. The Record of Decision for Operable Unit 1, which identified the Selected Remedy for Operable Unit 1, was issued on July 30, 2004. In September 2006, EPA and Clinton Gregg Investments, Ltd. (CGI) entered into an "Agreed Order on Consent and Covenant Not to Sue." This is the first-ever agreement in the nation by a non-liable party to clean up a Superfund Site. The purchaser of the former foundry property (Operable Unit 1) agreed to implement and fund the Selected Remedy. Partial deletion of the soils of Operable Unit 1 and the underlying ground water of the

approximately 8-acre western portion of Operable Unit 1 of the Site was requested by CGI to facilitate the residential development of the Site.

*Operable Unit 2 (Off-Site Residential Yards and High Access Areas)*

Operable Unit 2 (Off-Site Residential Yards and High Access Areas) consists of the residential yards and high access areas surrounding the fenced boundaries of the former foundry (Operable Unit 1). In 1998, the Texas Natural Resource Conservation Commission (now the Texas Commission on Environmental Quality) performed a removal action that addressed 89 residential yards, contaminated with lead, in the vicinity of the Site. In November 2003 and June 2005, EPA completed removal actions at 59 residential yards and high access areas, which included the Blanche Kelso Bruce Elementary School, Fifth Ward Multi-Service Center, and several churches. The purpose of these removal actions was to remove surface soil with concentrations of lead that equaled or exceeded the cleanup goal of 500 mg/kg to reduce the exposure of children and adults to lead. EPA believes that these removal actions addressed all of the residential yards and High Access Areas that could have been affected by the air emissions of particulates containing lead from the former foundry and for which access was granted for sampling.

The ground water medium was not a component of the investigation for Operable Unit 2. The Proposed Plan for Operable Unit 2 was made available for public comment on July 28, 2005. The Record of Decision for Operable Unit 2, which identified the Selected Remedy for Operable Unit 2, was issued on September 23, 2005. The Selected Remedy for Operable Unit 2 was "no further action" since the previous removal actions eliminated the existing and potential risks to human health and the environment so that no further action was necessary. Operable Unit 2 is not being considered for partial deletion at this time and is not discussed further in this direct notice of partial deletion.

*Operable Unit 3 (Residential Crawlspace and Those Residential Areas Not Addressed Under Operable Unit 2)*

Operable Unit 3 (Off-Site Residential Crawlspace and Those Residential Areas Not Addressed Under Operable Unit 2) consists of the residential crawlspaces and yards surrounding the fenced boundaries of the former foundry (Operable Unit 1) which were not addressed under Operable Unit 2 because the owners could not be

located, or they were not responsive to the EPA's request for sampling, or they denied the EPA access for sampling.

In April 2006 and 2009, the EPA completed removal actions at the northeastern portion of the Kelly Village Housing Complex and six (6) additional residential yards of the Site, respectively. The purpose of these removal actions was to remove surface soil with concentrations of lead that equaled or exceeded the cleanup goal of 500 mg/kg to reduce the exposure of children and adults to lead. EPA believes that these removal actions addressed all of the Kelly Village areas and surrounding residential yards which could have been affected by the air emissions of particulates containing lead from the former foundry and for which the EPA was granted access for sampling.

The ground water medium was not a component of the investigation for Operable Unit 3. The Proposed Plan for Operable Unit 3 was made available for public comment in June 2009. The Record of Decision for Operable Unit 3, which identified the Selected Remedy for Operable Unit 3, was issued on August 31, 2009. The Selected Remedy for Operable Unit 3 crawlspaces was "no action warranted" since the Baseline Human Health Risk Assessment concluded that current or potential future Site conditions pose no unacceptable risks to human health or to the environment so that no action is warranted. The Selected Remedy for Operable Unit 3 residential yards was "no further action" since the previous removal actions eliminated the existing and potential risks to human health and the environment so that no further action was necessary. Operable Unit 3 is not being considered for partial deletion at this time and is not discussed further in this direct notice of partial deletion.

*Remedial Investigation and Feasibility Study for Operable Unit 1*

The remedial investigation for Operable Unit 1 addressed the following key issues in order to determine the nature and extent of contamination at the Site:

- Determine the distribution of metal concentrations in near-surface soils (specifically lead deposited as a result of air dispersion and deposition of emissions from the former foundry),
- Determine the nature and extent of contaminants of potential concern in soils associated with the historic foundry operations at the Site, and
- Determine the nature and extent of contamination in ground water at the Site (Operable Unit 1).

The contaminant found above risk-based levels in the soils included lead. The contaminants found above risk-based levels in the ground water included benzo(a)pyrene, total petroleum hydrocarbons, manganese, and molybdenum. A total of five alternatives were developed for the Site during the feasibility study for Operable Unit 1. The EPA chose stabilization/solidification of lead-contaminated soils with off-site disposal, source removal and monitored natural attenuation for the ground water, and the placement of institutional controls for both the soils and ground water as the Selected Remedy for the Site.

*Selected Remedy for Operable Unit 1*

*The major components of the Selected Remedy described in the Record of Decision for Operable Unit 1 (On-Site Soils and Ground Water) for the Site consisted of:*

- Excavation and Treatment (solidification/stabilization, if necessary) of approximately 13,600 cubic yards (yd<sup>3</sup>) of soils with lead concentrations equal to or greater than 500 milligrams per kilogram (mg/kg) to a maximum depth of 1.5 feet below ground surface (bgs), and approximately 3,000 yd<sup>3</sup> of soils stockpiled at the Site from a previous removal action were also treated, if necessary. Transportation and Disposal (at a permitted off-site waste disposal facility) of the treated and untreated soils;
- Transportation and Disposal (at a permitted off-site waste disposal facility) of approximately 31,621 yd<sup>3</sup> of debris (nonhazardous debris, foundry sand, and slag), the Asbestos-Containing Material in the on-site building and scattered throughout the Site, and an Underground Storage Tank in the vicinity of Monitoring Well (MW) 20;
- Excavation and Disposal (at a permitted off-site waste disposal facility) of approximately 2,100 yd<sup>3</sup> of soils contaminated with benzo(a)pyrene, or other organics, at the MW-3 location; light nonaqueous-phase liquids at the MW-11 location; and Total Petroleum Hydrocarbons at the MW-20 location. Soil cleanup levels for these isolated source areas were determined during the remedial design and remedial action for the Selected Remedy;
- Implementation of Monitored Natural Attenuation for the ground water, which included source removal and Long-Term Monitoring for the ground water to ensure that constituents (total petroleum hydrocarbons and benzo(a)pyrene) above cleanup goals are naturally attenuating; and
- Implementation of Institutional Controls for both the soils and ground

water to prevent exposure to soil contamination above acceptable cleanup levels and to prevent exposure to contaminated ground water in the shallow water-bearing zone.

#### *Remedial Action Objectives for Operable Unit 1*

*The Remedial Action Objectives accomplished for Operable Unit 1 of the Site were:*

- Remove the asbestos-containing material stockpiled on the Site and left in the existing building,
- Reduce the risk posed to residential receptors by lead concentrations in the soils equal to or greater than the cleanup goal for the Site (500 mg/kg),
- Remove soil visibly contaminated with waste oil in the vicinity of MW-3 and MW-20 that was acting as a potential continuing source of ground water contamination,
- Remove soil visibly contaminated with waste oil in the vicinity of MW-11 that has the potential to act as a source of ground water contamination,
- Remediate ground water in the northwest corner of the Site, at MW-20, and remove the free product associated with an underground storage tank, and
- Mitigate the threat posed by exposure to ground water throughout the rest of the Site.

The basis for the Remedial Action Objectives for the Operable Unit 1 soil was to cleanup the Site to residential standards, the anticipated future land use for the fenced boundaries of the Site. The basis for the Remedial Action Objectives for the ground water was to ensure that current and future receptors are not exposed to contaminated ground water during the implementation of the Selected Remedy.

#### *Response Actions for Operable Unit 1*

*The remedial design for Operable Unit 1 included the following design determinations:*

- Defining the lead removal and sampling techniques (including confirmation sampling);
- Detailing a lead-impacted soil treatment process;
- Determining source removal criteria for light nonaqueous phase liquid-impacted areas,
- Defining the disposal/sampling needs for each waste stream, and
- Defining the monitoring wells for the monitored natural attenuation program.

*The remedial action for Operable Unit 1 included:*

- Demolition and disposal of an abandoned 2-story office building, and several 1-story utility structures;
- Transportation and disposal of the asbestos-containing material in the on-

site building and scattered throughout the Site;

- Transportation and disposal (at a permitted off-site waste disposal facility) of approximately 31,621 yd<sup>3</sup> of debris (non-hazardous debris, foundry sand, and slag) and the asbestos-containing material in the on-site building and scattered throughout the Site;

- Removal and disposal of an electrical transformer, and underground storage tank in the vicinity of MW-20 and Lead Area 1, and the management and disposal of foundry bag filters identified as a listed K061 waste material;

- Excavation and treatment (solidification/stabilization, if necessary) of approximately 13,600 yd<sup>3</sup> of soils with lead concentrations equal to or greater than 500 mg/kg to a maximum depth of 1.5 feet bgs and approximately 3,000 yd<sup>3</sup> of soils stockpiled at the Site from a previous removal action, and transportation and disposal (at a permitted off-site wastes disposal facility) of the treated and untreated soils;

- Excavation and disposal (at a permitted off-site waste disposal facility) of approximately 2,100 yd<sup>3</sup> of soils contaminated with benzo(a)pyrene, or other organics, at the MW-11 location, and total petroleum hydrocarbons at the MW-20 location;

- Confirmation sampling for several locations identified to have been impacted by either semi-volatile organic compounds or polychlorinated biphenyls in the soils; and lead confirmation sampling for the Site soils;

- Installation of additional monitoring wells to be utilized during the monitored natural attenuation program.

#### *Cleanup Goals for Operable Unit 1*

Soil remedial action activities were conducted at Operable Unit 1 from May 2007 through June 2008. The soil remedial action for Operable Unit 1 of the Site consisted of the sampling and excavation, including the proper disposal, of the soils contaminated with lead equal to or greater than the 500 mg/kg residential soil lead cleanup level specified in the Record of Decision for Operable Unit 1. The soil remedial action also consisted of the sampling and excavation of soils contaminated with total petroleum hydrocarbons and other organics identified in the Record of Decision for Operable Unit 1. Confirmation sampling was also conducted to verify that this area did not contain soil with lead or organic concentrations (total petroleum hydrocarbons, benzo(a)pyrene, and

polychlorinated biphenyls) equal to or greater than the cleanup level.

Institutional controls were not required for the soils since sampling indicated that soil lead concentrations did not exceed the cleanup level below 1.5 feet bgs. Sampling data gathered from the ground water monitoring wells located in the approximately 8-acre western portion of Operable Unit 1 indicated that the underlying ground water had not been impacted by the hazardous substances identified in the Selected Remedy for Operable Unit 1 of the Site. The ground water flows to the east southeast at this portion of the Site and the contaminants are not expected to contaminate the ground water underlying the 8-acre western portion of the Site. Therefore, EPA determined that the ground water underlying the approximately 8-acre western portion of Operable Unit 1 would not require institutional controls.

The EPA conducted pre-final and final construction inspections for Operable Unit 1 on June 25, 2008, and determined that CGI completed the Selected Remedy for Operable Unit 1 in accordance with the remedial design plans and specifications, the remedial action sampling and analysis plan, the Record of Decision for Operable Unit 1, and the Agreed Order on Consent. The EPA approved the "Final Soil Remedial Action Report" (dated 08/29/08) on December 12, 2008, and issued a final certification of completion of the soil remedial action on August 19, 2009.

Since all the contaminants were remediated in the Operable Unit 1 soils, and monitoring data indicated that the ground water underlying the 8-acre western portion of the Site was not contaminated, no operation and maintenance, monitoring, or five-year reviews are required.

#### *Community Involvement*

Public participation activities have been satisfied as required in CERCLA Section 113(k), 42 U.S.C. 9613(k) and CERCLA Section 117, 42 U.S.C. 9617. Documents in the partial deletion docket which the EPA relied on for recommendation for the partial deletion from the NPL are available to the public in the information repositories, and a notice of availability of the Notice of Intent for Partial Deletion has been published in the Houston Chronicle to satisfy public participation procedures required by 40 CFR 300.425(e)(4).

#### *Determination That the Criteria for Deletion Have Been Met*

In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is

appropriate. The EPA, in consultation with the State of Texas (through the Texas Commission on Environmental Quality), has determined that the potentially responsible parties have completed the removal action for Operable Unit 1 according to the May 1999 "Unilateral Administrative Order," and that Clinton Gregg Investments, Ltd. has completed the soil remedial action for Operable Unit 1 according to the July 2004 "Record of Decision" and the September 2006 "Agreed Order on Consent and Covenant Not to Sue." Additionally, EPA completed the removal action at Operable Unit 1 according to the September 1998 "Action Memorandum."

**V. Partial Deletion Action**

The EPA, with concurrence of the State of Texas, through the Texas Commission on Environmental Quality, has determined that all appropriate response actions under CERCLA have been completed. Therefore, EPA is deleting the soils of Operable Unit 1 and the underlying ground water of the

approximately 8-acre western portion of Operable Unit 1 of the Many Diversified Interests, Inc. Superfund Site from the NPL.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication. This action will be effective August 16, 2010 unless EPA receives adverse comments by July 15, 2010. If adverse comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final notice of partial deletion before the effective date of the partial deletion and it will not take effect. EPA will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to partially delete and the comments already received. There will be no additional opportunity to comment.

**List of Subjects in 40 CFR Part 300**

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties,

Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: June 4, 2010.

**Lawrence E. Starfield,**

*Acting Regional Administrator, Region 6.*

■ For the reasons set out in this document, 40 CFR part 300 is amended as follows:

**PART 300—[AMENDED]**

■ 1. The authority citation for part 300 continues to read as follows:

**Authority:** 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

**Appendix B—[Amended]**

■ 2. Table 1 of Appendix B to Part 300 is amended by revising the entry under "Many Diversified Interests, Inc., Texas" to read as follows:

**Appendix B to Part 300—National Priorities List**

TABLE 1—GENERAL SUPERFUND SECTION

State	Site name	City/county	Notes (a)
TX	Many Diversified Interests, Inc	Houston	P

(a) \* \* \*  
\* P = Sites with partial deletion(s).

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**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 27**

[WT Docket No. 03–66; RM–10586; FCC 10–107]

**Facilitating the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150–2162 and 2500–2690 MHz Bands**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Commission modifies the construction deadline applicable to new initial Broadband Radio Service (BRS) licenses granted on or after November 6, 2009. Specifically, the Commission permits

these BRS licensees to demonstrate substantial service four years from the date of license grant rather than on or before May 1, 2011. The Commission further modifies the construction rule by clarifying that BRS and Educational Broadband Service (EBS) licensees may demonstrate substantial service by meeting one of the safe harbors specified in the rule and that they may, under certain circumstances, demonstrate substantial service by combining licenses. Finally, on its own motion, the Commission corrects a clerical error in its rules governing the pre-transition frequency assignments for BRS Channel 1. These actions clarify the requirements necessary for BRS and EBS licensees to demonstrate substantial service and ensure that BRS licensees of new initial licenses are given a reasonable period of time to deploy service, while ensuring that spectrum is rapidly placed in use.

**DATES:** Effective July 15, 2010.

**FOR FURTHER INFORMATION CONTACT:**

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**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Broadband Radio Service/Educational Broadband Service Third Report and Order (BRS/EBS 3rd R&O)*, FCC 10–107, adopted on June 1, 2010, and released on June 3, 2010. The full text of this document is available for public inspection and copying during normal business hours in the FCC Reference Information Center, Room CY–A257, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, (202) 488–5300