

TABLE 1—EPA APPROVED NORTH CAROLINA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanation
<b>Section .1000 Motor Vehicle Emissions Control Standard</b>				
Sect .1002	Applicability	1/1/2014	2/5/2015 [Insert <b>Federal Register</b> citation].	
Sect .1003	Definitions	2/1/2014	2/5/2015 [Insert <b>Federal Register</b> citation].	
Sect .1004	Tailpipe Emission Standards for CO and HC	7/11/2007	2/5/2015 [Insert <b>Federal Register</b> citation].	Repealed.
Sect .1005	On-Board Diagnostic Standards	1/1/2014	2/5/2015 [Insert <b>Federal Register</b> citation].	

(e) \* \* \*

EPA APPROVED NORTH CAROLINA NON-REGULATORY PROVISIONS

Provision	State effective date	EPA approval date	Federal Register citation	Explanation
Non-Interference Demonstration for the North Carolina Inspection and Maintenance Program.	10/11/2013	2/5/2015	[Insert <b>Federal Register</b> citation].	

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 300**

[EPA-HQ-SFUND-1991-0006; FRL-9922-55-Region 8]

**National Oil and Hazardous Substances Pollution Contingency Plan National Priorities List: Deletion of the Midvale Slag Superfund Site**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final rule.

**SUMMARY:** The U.S. Environmental Protection Agency (EPA) Region 8 is publishing a direct final Notice of Deletion of the Midvale Slag Superfund Site (Site), located in Salt Lake County, Utah, 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 deletion is being published by EPA with the concurrence of the State of Utah, through the Utah Department of Environmental Quality (UDEQ), because EPA has determined that all appropriate response actions under CERCLA, other than operation, maintenance and five-year reviews of the Site, have been completed. However, this deletion does not preclude future actions under Superfund.

**DATES:** This direct final deletion is effective April 6, 2015 unless EPA receives adverse comments by March 9, 2015. If adverse comments are received, EPA will publish a timely withdrawal of the direct final deletion in the **Federal Register** informing the public that the deletion will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID no. EPA-HQ-SFUND-1991-0006, by one of the following methods: (1) *http://www.regulations.gov*: Follow on-line instructions for submitting comments. (2) *Email: waterman.erna@epa.gov* (3) *Fax: 303-312-7151* (4) *Mail: Erna Waterman, Remedial Project Manager, U.S. EPA, Region 8, Mail Code 8EPR-SR, 1595 Wynkoop Street, Denver, CO 80202-1129* (5) *Hand delivery:* US EPA,

Region 8, 1595 Wynkoop Street, EPR-SR, Denver, CO 80202-1129. Such deliveries are only accepted during EPA's normal hours of operation (9 a.m. to 5 p.m.), and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID no. EPA-HQ-SFUND-1991-0006. 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 email. 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 email comment directly to EPA without going through *http://www.regulations.gov*, your email

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 electronically at <http://www.regulations.gov> or in hard copy at Ruth Tyler Branch Library, 8041 South Wood, Midvale, UT 84047; Phone: (801-944-7641); Hours: M-Th: 9 a.m.-9 p.m.; Fri-Sat: 9:00 a.m.-5:30 p.m.

**FOR FURTHER INFORMATION CONTACT:** Erna Waterman, Remedial Project Manager, U.S. EPA Region 8, Mail code: 8EPR-SR, 1595 Wynkoop Street, Denver, CO 80202-1129; Phone: (303) 312-6762; Email: [waterman.erna@epa.gov](mailto:waterman.erna@epa.gov). You may contact Erna to request a hard copy of publicly available docket materials.

#### **SUPPLEMENTARY INFORMATION:**

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#### **I. Introduction**

EPA Region 8 is publishing this direct final Notice of Deletion of the Midvale Slag Superfund Site from the National Priorities List. 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 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). As described in 40 CFR 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for Fund-financed remedial action if future conditions warrant such actions.

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 Midvale Slag Superfund Site and demonstrates how it meets the deletion criteria. Section V discusses EPA's action to delete the Site 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. 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. Deletion Procedures**

The following procedures apply to the deletion of the Site.

(1) EPA consulted with the State of Utah prior to developing this direct final Notice of Deletion and the Notice of Intent to Delete the Site co-published

today in the "Proposed Rules" section of the **Federal Register**.

(2) EPA has provided the State 30 working days for review of this direct final Notice of Deletion and the parallel Notice of Intent to Delete prior to their publication today, and the State, through UDEQ, has concurred on the deletion of the Site from the NPL.

(3) Concurrently with the publication of this direct final Notice of Deletion, a notice of the availability of the parallel Notice of Intent to Delete is being published in a major local newspaper, the *Salt Lake Tribune*. The newspaper notice announces the 30-day public comment period concerning the Notice of Intent to Delete the Site from the NPL.

(4) The EPA placed copies of documents supporting the proposed 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 deletion action, EPA will publish a timely notice of withdrawal of this direct final Notice of 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 to Delete and the comments already received.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion 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 Deletion**

The following information provides EPA's rationale for deleting the Site from the NPL.

##### *Site Background and History*

The 446-acre Midvale Slag Superfund Site (UTD08134277) is located 12 miles south of Salt Lake City in the city of Midvale, with a small portion extending into the adjacent city of Murray. The Site is a former smelting facility on the Jordan River. Five separate smelters were located on or near the Site from 1871 to 1958. An adjacent mill continued operating until 1971. The smelters treated ores from Bingham Canyon and other mines. Investigations

at the Site showed that groundwater and soils were contaminated with heavy metals. Lead smelting was the dominant industrial activity at the Site; lead and arsenic were the primary products associated with ore processing. At times copper, gold, silver, and other metals were also produced at the Site. Ore processing and disposal of waste products on the site have resulted in contamination of soils and groundwater at the Site.

The EPA proposed the Midvale Slag Superfund Site on the National Priorities List (NPL) on June 10, 1986 and finalized listing of the site on February 11, 1991 (51 FR 21099 and 56 FR 5598). The Site was divided into two operable units (OUs). OU1 is the northern 266 acres of the site. OU2 is the remaining 180 acres to the south. The dividing boundary that runs through the Site between OU1 and OU2 is 7200 South Parkway and Jordan River Boulevard.

OU1 includes a mobile home park, an abandoned waste water treatment plant with lagoons, and jurisdictional wetlands. Wastes have been present on the Site for many years and, in some locations, groundwater is in direct contact with visible slag without appreciable effects on groundwater. Concentrations of contaminants of concern (COCs) in OU1 groundwater are generally below federal maximum contaminant levels (MCLs).

OU2 is subdivided into areas based on the distribution of unique smelter and mill wastes. Included within OU2 are the silver refinery area and the Butterfield Lumber property. In addition, numerous piles of smelter slag and other smelter wastes were distributed broadly across this area.

The EPA proposed the Site to the NPL based on studies conducted between 1982 and 1985 that found groundwater, soil and sediments contaminated with heavy metals. Potential human health threats included drinking contaminated groundwater or ingesting, inhaling, or handling contaminated soils, wastes or sediments. The EPA fenced portions of the Site in December 1990 to restrict access to the contaminated wastes.

The EPA conducted eight removal actions at this Site. The first removal action after the NPL listing occurred on June 20, 1991, with the disposal of explosives and lab chemicals at a former on-Site lab. Additional removal actions conducted between 1995 and 2001 included: Construction of additional fencing, contaminated soil removal, plugging contaminated water supply wells, removal of approximately 90 deteriorated drums, and preservation work for the small Midvale Pioneer

Cemetery located near the southeastern corner of the Site.

#### *Remedial Investigation and Feasibility Study (RI/FS)*

Remedial Investigation for OU1: The suspected waste areas within OU1 were a small landfill and an abandoned waste water treatment plant with its associated lagoons. Analysis of sample data determined that neither area contributed to the contaminants of concern detected in Site soils. Soil contamination was caused by smelter waste from OU2 transported by environmental factors as well as deliberate use of waste as fill. The Baseline Risk Assessment determined arsenic, cadmium, and lead as the contaminants of concern in soils at OU1. The OU1 Feasibility Studies (FS) were completed in 1995 for the trailer park located on the northern end of the Site, and in 1998 for the remaining portions of OU1.

Remedial Investigation for OU2: The Site investigations for OU2 focused on mixed smelter waste, slag, and groundwater. These were evaluated during Site investigations conducted for the Engineering Evaluation/Cost Analysis (EE/CA) prepared in 1993, the Supplemental Remedial Investigation in 1997 and 1998, and additional characterizations performed in 2001 and 2002. Surface and subsurface soil samples were analyzed in five mixed smelter waste areas, calcine waste, silver refinery waste, and contaminated soils.

Metals analysis of samples in the former baghouse dust pond area contained high levels of arsenic trioxide which was determined to be principal-threat waste (later classified as Category I waste). Four areas of slag-covered surfaces were also sampled: Air-cooled slag, water-quenched slag, copper slag, and iron slag for the EE/CA. Analysis of the slag in these areas found that this slag is not leachable in concentrations that impact groundwater. The smelter waste and soil maximum contaminant concentrations were 20,400 mg/kg for arsenic and 26,300 mg/kg for lead. The sediment maximum contaminant concentrations were 96 mg/kg for arsenic and 721 mg/kg for lead.

Groundwater evaluations were conducted in the EE/CA. Additional groundwater studies and RI work was conducted between 1997 and 2002. The RI activities found significant arsenic in groundwater under the old smelter works area. The area around the former arsenic plant and baghouse exhibited the highest levels of arsenic contamination in ground water at an elevated concentration of 1,300,000 parts per billion (ppb). The Upper Sand

and Gravel (US&G) Aquifer, which underlies the entire Site from about 15 to 150 feet below ground surface (bgs), was found to contain a plume that is contaminated with arsenic up to 4,000 ppb. The Deep Principal Aquifer, which is below the US&G Aquifer which is used for drinking water is clean. During the Site investigations in 2001 and 2002, a tetrachloroethylene (PCE) plume crossing the Site was identified and referred to UDEQ for further investigation. Since the source of the PCE plume is not on the Site, CERCLA action is not appropriate. In 2001, surface and subsurface soil samples were collected from former river meander locations, upland areas of the corridor, and both banks of the Jordan River. Elevated levels of metals were detected in surface and subsurface soil samples, but not the surface water. Consequently, portions of the Jordan River riparian corridor adjacent to the former smelter were added to the Site in the 2006 Explanation of Significant Differences for OU2.

The April 2002 OU2 FS is for the groundwater and the May 2002 OU2 FS is for mixed smelter waste. Many remedial technologies were considered, including no action, institutional controls, treatment, and disposal.

#### *Summary of Risk Assessment Activities*

Results of the baseline risk assessment indicate that contaminants identified in the RI in Site surface and subsurface soil pose a risk of excess cancer and adverse health effects to current and future populations at the Site. Risks to future residents, future workers, and current and future trespasser scenarios exceed acceptable threshold levels. Estimated risk and hazard were greatest for potential future residents at the Site. Contaminants in shallow ground water also pose a risk to future residents and workers. However, shallow ground water is not currently used as a source of drinking water.

Redevelopment plans for the Site preclude the presence of ecological receptors throughout most of the Site. Exceptions consist of the Jordan River and the recreational park planned for the riparian area on the east bank of the Jordan River. Results of the ecological risk assessment indicate that contaminants in sediment and surface water pose little risk to aquatic receptors. In addition, Site data indicate that the Site is contributing very little to contaminants concentrations detected in sediment and surface water. Upstream sources are the likely contributors to detected concentrations. However, contaminants are present in the riparian area at concentrations that could pose a

potential threat to aquatic receptors if allowed to enter the river; therefore, bank stabilization was completed to minimize migration of contaminants into the river.

The recreational park is unlikely to provide significant habitat for terrestrial receptors. It is more likely that wildlife will have sporadic exposure in the area. It is anticipated that remedial action performed to protect child recreational visitors at the park will also be protective of terrestrial receptors.

#### *OU1 Selected Remedy*

On April 28, 1995, EPA issued a Record of Decision (ROD) for OU1 selecting the following remedy: (1) Excavation of a minimum of 18 inches of soil in 14 residential yards in the Winchester Estates development, placement of clean fill and off-site disposal of soils. (2) The placement of a 2-foot thick monolayer soil cover over an undeveloped portion of the Winchester Estates. (3) Institutional controls for the area receiving the soil cover. (4) Institutional controls for four other parcels prohibiting future residential land use without additional remediation. (5) Ground water monitoring at the hydraulically downgradient Site boundary for a minimum of 5 years.

In May 1998 and also in February 2006, EPA and UDEQ issued Explanation of Significant Differences (ESDs) changing the remedy called for in the 1995 OU1 ROD. The 1998 ESD required the excavation of contaminated soils on one parcel of land, rather than capping, and thus eliminated the need for ICs on that parcel. The 2006 ESD changed land use restrictions to accommodate multiple land uses, created a consistent approach for both operable units, included riparian management (both sides of the river) and contained a comprehensive groundwater monitoring plan in coordination with the OU2 remedy. The 2006 ESD identified the lack of remedial action objectives for groundwater in the OU1 ROD and adopted the remedial action objectives selected for groundwater in the OU2 ROD. A final ESD was issued in October, 2013, clarifying the groundwater Remedial Action Objectives (RAOs) for OU1 and OU2.

The amended RAOs for OU1 are as follows: (1) *Soil RAO*—Prevent unacceptable exposure risks to current and future human populations presented by contact, ingestion, or inhalation of smelter materials, associated contaminated materials, or contaminants of concern (COCs) derived from the smelter wastes. (2) *Ground*

*Water RAOs*—Prevent unacceptable exposure risk to current and future human populations presented by direct contact, inhalation, or ingestion of contaminated ground water. Provide that future migration of COCs into previously uncontaminated portions of the US&G Aquifer and into the Deep Principal Aquifer is protective of these aquifers as sources of drinking water. Provide that future discharge of contaminated ground water from the Site to the Jordan River is protective of the aquatic environment and designated use.

#### *OU2 Selected Remedy*

On October 29, 2002, EPA signed the Record of Decision for OU2. The OU2 ROD defined four categories of smelter wastes found throughout OU2. Principal threat wastes such as crude arsenic trioxide were designated as Category I waste. Category II wastes included non-slag soils and smelter waste failing Toxicity Characteristic Leaching Procedure (TCLP) and containing COCs above commercial land use-based remediation goals. Category III wastes included non-slag soils and smelter wastes passing TCLP and containing COCs below residential land use-based remediation goals. EPA classified slag as Category IV waste. The major components of the selected remedy include: (1) *Ground Water*: The Deep Principal Aquifer which is a primary source of drinking water in the Salt Lake Valley, is not impacted by the Site, although the shallower US&G is impacted by the Site. The limited action remedy for ground water does not actively attempt to restore the US&G, but provides compliance points for monitoring and assessing as well as institutional controls. The limited action approach relies on ground water and surface water monitoring to assess whether ground water and surface water criteria are being met for selected COCs. These selected COCs were established as a result of using alternate concentration limit (ACL) calculations and site-specific analyses to be protective of surface water quality criteria for the Jordan River. An IC to restrict well installation was also selected as a part of the remedy. The ACLs for the four groundwater COCs were set at the following: Arsenic 7,000 µg/L; Cadmium 1,560 µg/L; Selenium 900 µg/L; and Antimony 380 µg/L. (2) *Mixed Smelter Waste*: The selected remedy for mixed smelter waste required the excavation and off-Site disposal of Category I Material, if found, and the installation of appropriate covers over the remainder of the Category II and III Materials. (3) *Slag*

The selected remedy for the slag (Category IV Material) required re-grading of the slag piles and the installation of appropriate covers. (4) Land use controls (ICs) were also selected for OU2 to restrict future excavations and guide future use of the property.

The 2006 ESD added the riparian area along the Jordan River corridor to the Site to prevent river migration erosion which could impact the remedy. In addition, the ESD eliminated the need for ICs on portions of OU1 which were clean and called for a site wide groundwater monitoring plan. The 2013 ESD clarified the RAOs for groundwater for both OU1 and OU2. This clarification removed the groundwater restoration RAO for both OUs.

The amended RAOs for OU2 are as follows: (1) *Ground Water RAOs*—Prevent unacceptable exposure risk to current and future human populations presented by direct contact, inhalation, or ingestion of contaminated ground water. Provide that future migration of COCs into previously uncontaminated portions of the US&G Aquifer and into the Deep Principal Aquifer is protective of these aquifers as sources of drinking water. Provide that future discharge of contaminated ground water from the Site to the Jordan River is protective of the aquatic environment and designated use. (2) *Mixed Smelter Waste RAOs*—Prevent unacceptable exposure risks to current and future human populations presented by contact, ingestion, or inhalation of smelter materials, associated contaminated materials, or COCs derived from the smelter areas. Prevent unacceptable exposure risks to current and future ecological receptors presented by contact, ingestion, inhalation, or uptake from smelter materials, associated contaminated materials, or COCs derived from the smelter areas. Provide that the future migration of contaminants from the smelter materials is within limits considered protective of ground water. Prevent smelter materials from entering the Jordan River via surface water flow. (3) *Slag RAOs* Prevent unacceptable exposure risks to current and future human populations presented by contact, ingestion, or inhalation of slag or associated contaminated materials. Prevent unacceptable exposure risks to current and future ecological receptors presented by uptake from slag, associated contaminated materials within slag, or COCs derived from the slag areas. Provide that the future migration of contaminants from the slag or contaminated materials within slag is within limits considered protective of ground water. Prevent slag or

contaminated materials within slag from entering the Jordan River via surface water flow.

#### *Response Actions*

UDEQ was the lead agency for the OU1 remediation as defined in a cooperative agreement between EPA and UDEQ. Remediation work was conducted in two phases, with work on the residential portion of Winchester Estates portion beginning in September 1995 and ending in April 1996. Remediation of the undeveloped southeast portion of Winchester Estates was completed by November 1998. The final inspection of the OU1 remedial action occurred in January 1999 and the RA report for OU1 signed in March 1999. EPA and UDEQ installed the groundwater monitoring system and performed the riparian remediation selected in the 2006 ESD during the implementation of the OU2 remedy.

A consent decree governed work conducted by the main property owner, Littleton, Inc. In the consent decree signed with EPA, Midvale City, and the Union Pacific Railroad, the property owner, Littleton, Inc., agreed to perform the remedial design/remedial action (RD/RA) for the smelter wastes, slags and impacted soils components of the OU2 ROD remedy. In the consent decree, Midvale City agreed to enact and enforce ICs in the form of an ordinance. This consent decree was entered on November 16, 2004.

UDEQ was the lead for the ground water portion of the OU2 ROD remedy as well as the 2006 ESD for OU1. This work was performed under a cooperative agreement with EPA. EPA was the primary lead for the riparian portion of the OU2 ROD remedy.

#### *Smelter Wastes, Slags, and Impacted Soils*

Littleton, Inc., completed all remedial activities as planned, and no additional areas of contamination were identified. EPA, UDEQ and Midvale City conducted a final inspection of the work upon completion of the physical construction on June 26, 2006. A one-year warranty period began on July 6, 2006, to ensure that the remedy continued to operate as designed. On May 15, 2007, EPA, UDEQ and Midvale City representatives conducted a second final inspection to verify that the remedy remained effective. This remedy was declared operational and functional on August 13, 2007 when EPA approved the Remedial Action Report. On the same day, EPA certified the completion of the construction work required under the consent decree.

#### *Riparian Zone OU1 and OU2*

EPA and UDEQ conducted the RD/RA work along 6,800 feet of the Jordan River riparian corridor adjacent to the western boundary of the Site. The objective for this work included the reduction and elimination of river bank erosion that could release smelter waste from the Site into the river. This work was conducted in four phases, with the final phase being completed in August 2011. Salt Lake County conducted the Phase 3 portion of this work under EPA and UDEQ oversight. Phase 3 involved completing the riparian work from Winchester Estates south along the eastern bank of the Jordan River and was funded through a grant from EPA using special account funding.

EPA, UDEQ and Salt Lake County completed all remedial activities as planned. EPA and UDEQ conducted a pre-final inspection on August 10, 2011, which included a description and schedule for correcting minor construction contract items by the contractor. The remaining “punch” list item was replacement of some damaged vegetation. EPA and the State determined that all Riparian Zone work was constructed and/or completed according to the ROD and design specifications in 2013.

#### *Groundwater OU1 and OU2*

UDEQ completed the installation of the groundwater monitoring system in December 2008. Construction of the system was completed under a cooperative agreement established between the EPA and UDEQ. Under this cooperative agreement, the UDEQ implemented the groundwater monitoring system design developed by the EPA and conducts quarterly monitoring. In September 2009, EPA approved the groundwater Remedial Action Report in which EPA determined that construction of the monitoring system was complete in accordance with the OU2 ROD and design specifications.

UDEQ conducts semi-annual groundwater and surface water monitoring at the Site using a plan developed during the remedial design. The monitoring system at the Site currently consists of co-located wells at 15 locations (a total of 30 wells) and two surface water sampling locations. Each well pair consists of one shallow monitoring well, screened in the upper interval of the US&G Aquifer, and one intermediate monitoring well, screened at a lower interval within the US&G Aquifer. The monitoring system is divided into four groups and consists of up-gradient, down-gradient, plume core

and ACL monitoring wells. The process for developing ACLs is discussed in the OU2 ROD with supporting documentation provided in the Administrative Record.

Although the selected remedy did not attempt to actively restore the US&G Aquifer, it provided for the monitoring of groundwater and surface water to assess whether applicable groundwater and surface water quality criteria are being met for the selected COCs. It also provided for the creation of ICs to prevent exposure to the contaminated US&G Aquifer.

Point of assessment locations for monitoring the US&G Aquifer were selected based on the location and movement of arsenic contamination on the Site. Arsenic was selected as the indicator chemical since it is the most mobile and widespread of the COCs in this aquifer. Monitoring wells for points of assessment were installed in the shallow and deep portions of the US&G Aquifer in accordance with plans and specifications developed during the remedial design. The specific monitoring objectives are as follows: (1) Conduct groundwater and surface water monitoring to assess if applicable groundwater and surface water quality criteria are being met for COCs (antimony, arsenic, cadmium and selenium). (2) Assess monitoring data and determine if contamination is moving laterally or vertically within the boundaries of the Site.

The UDEQ's Semi-Annual Groundwater and Surface Water Monitoring Report—Midvale Slag Superfund Site dated May 24, 2013 states that “COC concentrations in the ACL monitoring wells have not exceeded their respective ACL values and that COC concentrations in surface water have not exceeded established surface water quality criteria values for the Jordan River in monitoring results from 2008 to present.”

#### *Operation and Maintenance*

Maintaining an appropriate soil cover with adequate drainage is an operation and maintenance activity required as an IC. Midvale City is responsible for this IC and conducting the following activities: Inspection/observation during redevelopment construction; review of development construction plans and specification for conformance with cover requirements; storm water management and irrigation restrictions; and temporary stockpile and covering of soil and slag. UDEQ conducts semi-annual groundwater and surface water monitoring at this Site. COC concentrations in the ACL monitoring wells have not exceeded their respective

ACL values and COC concentrations in surface water have not exceeded established surface water quality criteria values for the Jordan River in monitoring results from 2008 to present.

ICs adopted by the Midvale City support limited commercial and residential re-use of this Site. The OU2 ROD required the establishment of ICs including land use controls, to prevent exposure to contaminated materials and review of proposals to change the type of land use at the Site. In addition, ICs for groundwater and surface water were established to prevent access to contaminated ground and surface water and to limit the infiltration in the plume area. Additionally, groundwater beneath the Site is not used for drinking water under the State of Utah ICs.

An Institutional Control Process Plan for OU1 was developed in 2004 as a mechanism to assure that consistent and effective inspection, maintenance and enforcement activities occurred throughout the Site. The objective of the ICs are (i) to limit or prohibit exposure of people and the environment to subsurface contaminants remaining at the Site by ensuring the protection and maintenance of the cap; (ii) to prevent or limit certain activities in certain areas of the Site that may increase the risk of damage to the cap; and (iii) to manage stormwater and irrigation water to prevent unacceptable impact to the cap and underlying groundwater.

In 2007, an ordinance for Bingham Junction, Jordan Bluffs and designated rights-of-way was implemented by Midvale City which set forth the requirements and procedures for the public ICs for the redevelopment and reuse of the Bingham Junction and Jordan Bluffs properties. The purpose of the ICs was to prevent unacceptable human exposure to contaminants that remain on Site by ensuring the protection, maintenance, and improvement of physical barriers that had been on the various properties.

Midvale City is responsible for enforcement of the land use ICs. Midvale City utilizes a grant from EPA to hire a Development Site Coordinator who is responsible for enforcing the ICs and provides IC on-Site training for the developer's Special Inspectors when needed. The Special Inspectors, as well as the Development Site Coordinator, know which areas of the Site have buried contamination and the exact location of the protective cap or inert slag demarcation layer located above the contamination. Midvale City issued permits identify planned development above the demarcation layer. The Development Site Coordinator conducts inspections several times a day during

construction as well as visits temporary soil stockpiling, road construction, storm drain, and landscaping phases of the work to ensure that the ICs are being followed and the remedy remains protective. In addition, the Development Site Coordinator monitors the riparian restoration area and maintains ongoing weekly communication with UDEQ, EPA and Salt Lake County.

#### *Five-Year Review*

Three statutory five-year reviews have been conducted at the Site: in October 2003, December 2008, and April 2014. The remedy at the Site was determined to be protective and no issues were identified in the latest five-year review. Pursuant to CERCLA section 121(c) and the NCP, EPA will conduct the next five-year review to ensure the continued protectiveness of remedial actions where hazardous substances, pollutants, or contaminants remain at the Site above levels that allow for unlimited use and unrestricted exposure. The next five-year review is scheduled for completion by April 2019.

#### *Community Involvement*

Major community involvement activities at the Site initially included establishing a local information repository and forming a Technical Advisory Group (TAG) and working with the Jordan River Stakeholders Group. EPA, with representatives from the UDEQ, conducted community interviews with a broad array of interested residents, agency representatives, local elected officials and others. These interviews were the foundation of the Site Community Involvement Plan and information from these interviews was considered in the remedy selection process for the Site. Outreach efforts included community interviews, fact sheets, letters, flyers, door-to-door visits, public meetings, neighborhood meetings, public comment periods and Web site updates. The most recent interviews were conducted in the Spring 2013 for the upcoming five-year review.

Because the community requested future development be considered in the remedy selection, slag piles were graded to better support redevelopment and appropriate soil covers were designed as an interim measure to facilitate future redevelopment. The Site is located right off the I-15 and I-215 freeways, barely 20 minutes from most Salt Lake County locations. On August 29, 2006, Midvale Mayor Joanne Seghini said, "The land constitutes 20 percent of Midvale and is one of the last pieces of undeveloped property in the City and was a discouraging blight." Redevelopment

began once the institutional controls were established. A Ready for Reuse Determination was issued by EPA in 2008.

Today, approximately 70 percent of the Site has been fully developed for mixed-use that incorporates major retail and office space, along with needed housing for Midvale City. The Utah Transit Authority mass transit train system opened a station at the Site which serves the "green sustainable community." The successful revitalization of the Midvale community is sustainable, provides mixed use, and elevates the quality of life with revitalization for years to come. Improvement of the riparian corridor and bike trail along the Jordan River has also helped this area thrive. These successful efforts have resulted in the influx of new residents now inhabiting the Site.

#### *Determination That the Site Meets the Criteria for Deletion*

The implemented Site-wide remedy achieves the RAOs specified in the 1995 ROD, 2002 ROD, and 1998, 2006 and 2013 ESDs for all pathways of exposure. No further Superfund responses are needed to protect human health and the environment at the Site.

The NCP (40 CFR 300.425(e)) states that a Site may be deleted from the NPL when no further response action is appropriate. EPA, in consultation with UDEQ, has determined that all required response actions have been implemented and no further response action by responsible parties is appropriate.

#### **V. Deletion Action**

The EPA, with concurrence of the State of Utah through the Utah Department of Environmental Quality (UDEQ), has determined that all appropriate response actions under CERCLA, other than operation, maintenance, monitoring and five-year reviews have been completed. Therefore, EPA is deleting the 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 April 6, 2015 unless EPA receives adverse comments by March 9, 2015. If adverse comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final notice of deletion before the effective date of the 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 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 substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: January 23, 2015.

**Shaun L. McGrath,**

*Regional Administrator, Region 8.*

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

#### PART 300—NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN

■ 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. 13626, 77 FR 56749, 3 CFR, 2013 Comp., p.306; 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 to Part 300—[Amended]

■ 2. Table 1 of Appendix B to part 300 is amended by removing the entry for “UT”, “Midvale Slag”, “Midvale”.

[FR Doc. 2015–02326 Filed 2–4–15; 8:45 am]

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#### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 001005281–0369–02]

RIN 0648–XD709

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; 2015 Commercial Accountability Measure and Closure for Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS implements an accountability measure (AM) to close the hook-and-line component of the commercial sector for king mackerel in the Florida west coast southern subzone. This closure is necessary to

protect the Gulf of Mexico (Gulf) king mackerel resource.

**DATES:** This rule is effective 12:01 a.m., local time, February 5, 2015, through June 30, 2015.

**FOR FURTHER INFORMATION CONTACT:** Susan Gerhart, telephone: 727–824–5305, email: [susan.gerhart@noaa.gov](mailto:susan.gerhart@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, and cobia) is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and Atlantic Region (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

The Gulf migratory group king mackerel is divided into western and eastern zones. The Gulf’s eastern zone for king mackerel is further divided into the Florida west coast northern and southern subzones that have separate commercial quotas. On January 30, 2012, NMFS implemented the final rule (76 FR 82058, December 29, 2011) that established annual catch limits (ACLs). The 2014 to 2015 fishing year quota for the hook-and-line component of the commercial sector in the Florida west coast southern subzone is 551,448 lb (250,133 kg) (50 CFR 622.384(b)(1)(i)(B)(1)).

From November 1 through March 31, the southern subzone encompasses an area of the exclusive economic zone (EEZ) south of a line extending due west of the Lee and Collier County, FL, boundary on the Florida west coast, and south of a line extending due east of the Monroe and Miami-Dade County, FL, boundary on the Florida east coast, which includes the EEZ off Collier and Monroe Counties, FL. From April 1 through October 31, the southern subzone is reduced to the EEZ off Collier County, and the EEZ off Monroe County becomes part of the Atlantic migratory group area.

On January 24, 2015, NMFS implemented a 500-lb (227-kg) trip limit for vessels in the hook-and-line component of the commercial king mackerel sector in this subzone, because 75 percent of quota had been reached (622.385(a)(2)(ii)(B)).

Under 50 CFR 622.8(b) and 622.388(a)(1), NMFS is required to close any component of the king mackerel commercial sector when its quota has been reached, or is projected to be reached, by filing a notification at the

Office of the Federal Register. NMFS has determined the quota for the hook-and-line component of the commercial sector for Gulf migratory group king mackerel in the southern Florida west coast subzone has been reached. Accordingly, the hook-and-line component of the commercial sector for Gulf migratory group king mackerel in the southern Florida west coast subzone is closed effective 12:01 a.m., local time, February 5, 2015, through June 30, 2015, the end of the fishing year.

As specified in 50 CFR 622.384(e), during the closure period no person aboard a vessel for which a commercial permit for king mackerel has been issued may harvest or possess Gulf migratory group king mackerel in or from Federal waters of the closed subzone. However, there is one exception that a person aboard a vessel that has a valid charter/headboat permit and also has a commercial king mackerel permit for coastal migratory pelagic fish may continue to retain king mackerel in or from the closed subzone under the 2-fish daily bag limit, provided the vessel is operating as a charter vessel or headboat. Charter vessels or headboats that hold a commercial king mackerel permit are considered to be operating as a charter vessel or headboat when they carry a passenger who pays a fee or when more than three persons are aboard, including operator and crew.

#### Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of Gulf migratory group king mackerel and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.8(b) and 622.388(a)(1) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best scientific information available. The Assistant Administrator for Fisheries, NOAA (AA), finds that the need to immediately implement this action to close the hook-and-line component of the commercial sector constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such prior notice and opportunity for public comment are unnecessary and