

## ENVIRONMENTAL INDEMNITY AND RELEASE AGREEMENT

The property described in this Agreement is being sold for delinquent property taxes and tax notice charges pursuant to 59-2-1331 *et seq.*, Utah Code Ann., 1953 as amended. The Salt Lake County Auditor is selling the property on behalf of Salt Lake County (“Seller”) and other taxing entities to collect delinquent taxes and/or tax notice charges under the authority of 59-2-1351.1, Utah Code Ann., 1953 as amended.

The Seller and Purchaser acknowledge that the sale by Seller and acceptance by Purchaser of the real property and improvements located at 1401 S 8000 W Magna, Utah, parcel number 14-16-103-002-0000, more particularly described as

LOT 21 BLK 5 RITER SUB 5567-1779 5567-1780 5882-1476 5937-2930 6397-1253 7555-2892

(“Property”) is “As Is” and “With All Faults” and the Seller makes no representations or warranties regarding the absence or presence of environmental hazards, including but not limited to chemicals, solid waste, hazardous wastes, and hazardous substances, which may be on, in, or under the Property, and the Seller makes no representations or warranties regarding the compliance of prior uses on or present conditions of the Property under applicable federal, state and local environmental laws including, but not limited to, the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. Sections 6901 *et seq.*; the Solid and Hazardous Waste Act, Sections 19-6-101 *et seq.*, Utah Code Ann., 1953 as amended; the Clean Air Act, 42 U.S.C. Sections 7401 *et seq.*; the Air Conservation Act, Sections 19-2-101 *et seq.*, Utah Code Ann., 1953 as amended; the Federal Water Pollution Control Act, 33 U.S.C. Sections 1251 *et seq.*; the Water Quality Act, Sections 19-5-101 *et seq.*, Utah Code Ann., 1953 as amended; the Toxic Substances Control Act, 15 U.S.C. Sections 2601 *et seq.*; the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Sections 9601 *et seq.*; the Hazardous Substances Mitigation Act, 19-6-301 *et seq.*, Utah Code Ann., 1953 as amended; the Underground Storage Tank Act, 19-6-401 *et seq.*, Utah Code Ann., 1953 as amended; and the Used Oil Management Act, 19-6-701 *et seq.*, Utah Code Ann., including any amendments thereto (for all).

The Purchaser acknowledges that it has been given the opportunity to make a reasonable investigation of the prior uses and existing conditions of the Property and that Seller has made a good faith disclosure of such prior uses and existing conditions of which the Seller is aware through the opportunity to review the Salt Lake County Auditor’s file on the property. The “*caveat emptor*” motive applies and Purchaser understands its obligation to inspect the Property.

The Purchaser acknowledges that Purchaser has been given an opportunity to review the Salt Lake County Auditor’s file, which may contain information regarding the environmental conditions of the property. The Purchaser acknowledges that there may be other information, either from public or non-public sources, that is not contained in the Auditor’s file or has not been disclosed by Seller. The Purchaser agrees that Purchaser has the sole obligation to perform due diligence on the property and any real or potential environmental conditions and waives all claims against the Seller for information or lack of information in the auditor’s files or failure to disclose information regarding environmental conditions even if Seller knew about or could have discovered that information. The Purchaser further

acknowledges that Purchaser has been given an opportunity to review this Environmental Indemnity and Release Agreement prior to the date scheduled for the May Tax Sale.

The Purchaser hereby agrees to release, hold harmless, indemnify and defend Seller from any and all claims, demands, and causes of action of whatsoever nature, including without limitation, all claims, demands, administrative actions and causes of action for contribution, indemnity, strict liability, or negligence, assessment, fines, penalties, or fault of any kind, on the part of the Seller, and also including without limitation, any judgment or settlement, all costs, expenses, and legal fees paid by or incurred by Seller in defending or that in any way relate to or arise out of any alleged noncompliance under any environmental laws including natural resources damages whether asserted by any natural person, government, or any other entity or organization.

By executing this Environmental Indemnity and Release Agreement, Purchaser acknowledges that Purchaser has read this Agreement, understands the contents hereof, has been advised and had the opportunity to seek independent counsel of choice, and hereby certifies that Purchaser has freely and voluntarily executed this Environmental Indemnity and Release Agreement. But for the execution of this Environmental Indemnity and Release Agreement, Seller would not have sold the Property.

This indemnity shall survive closing or transfer of title.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

SALT LAKE COUNTY

By: \_\_\_\_\_

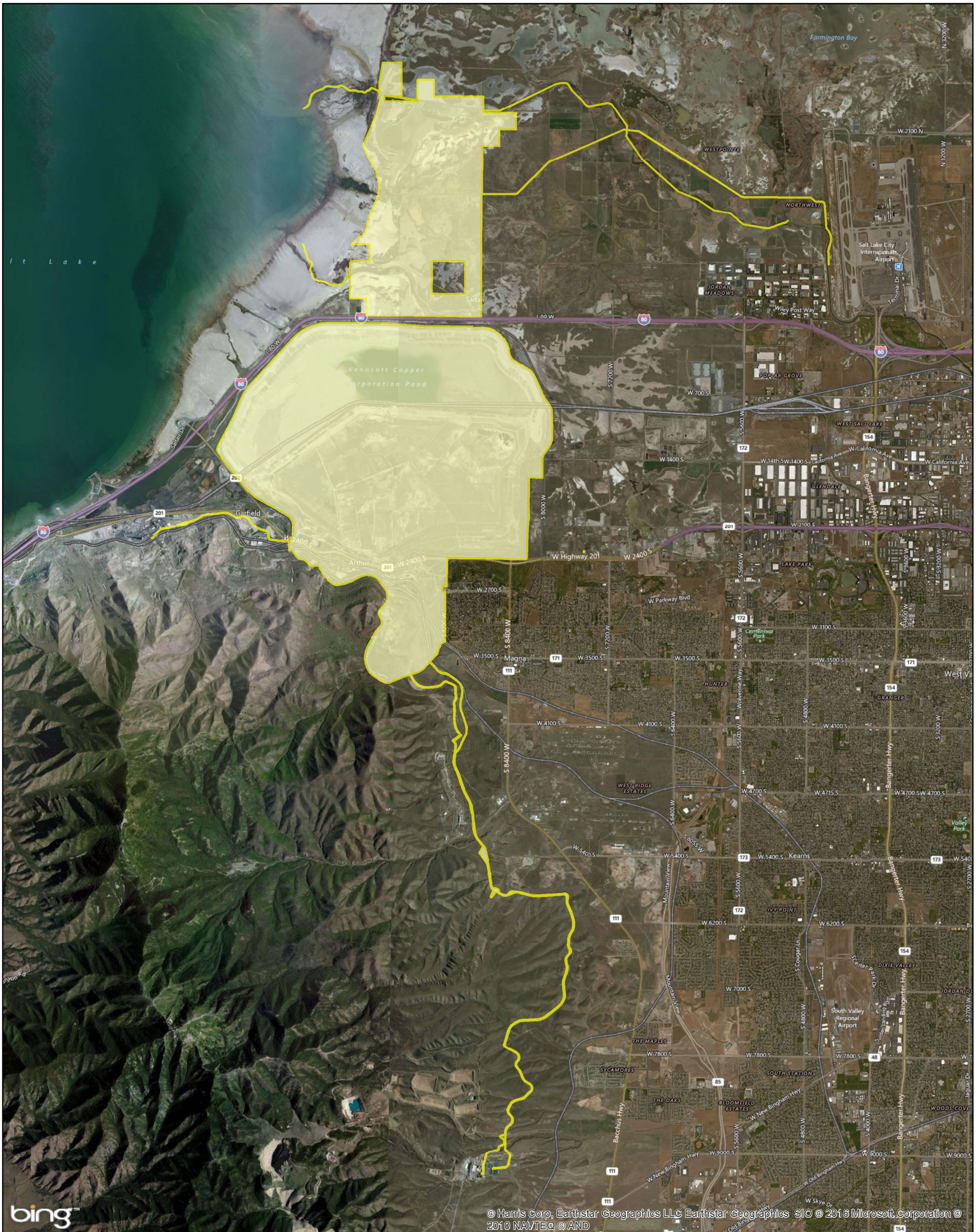
Title:

SELLER


DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
PURCHASER

\_\_\_\_\_  
PURCHASER PRINTED NAME

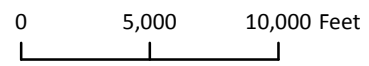


**Kennecott North Zone**  
**Salt Lake County, Utah**  
*Operable Unit 15: Mills and Tailings Pond*

 **OU 15 Mills and Tailings Pond**

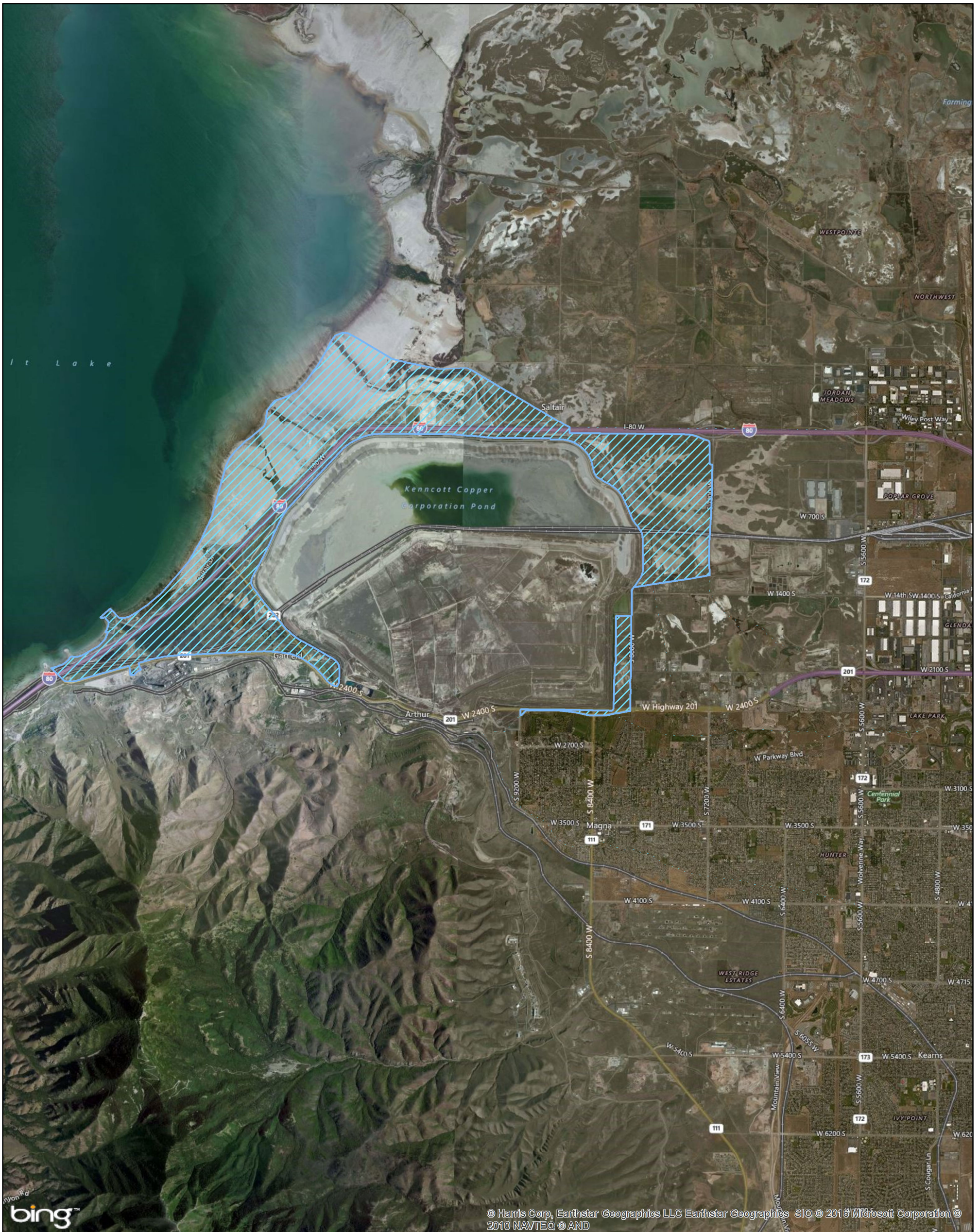
**Map Date:** July 28, 2016  
**Map Projection:** UTM, Meters, 12 North, NAD83  
**Data Sources:** Operable Unit Boundary - Rio Tinto (2016)  
 Imagery - Microsoft Bing web service (2016)

*\*Boundaries are based on the nature and extent of contamination and are subject to change.*



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**Utah**



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## Kennecott North Zone Salt Lake County, Utah

### Operable Unit 22: Great Salt Lake Wetlands

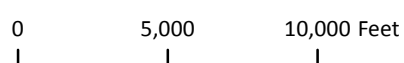
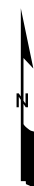
 **OU 22 Great Salt Lake Wetlands**

**Map Date:** July 28, 2016

**Map Projection:** UTM, Meters, 12 North, NAD83

**Data Sources:** Operable Unit Boundary - Rio Tinto (2016)  
Imagery - Microsoft Bing web service (2016)

**\*Boundaries are based on the nature and extent of contamination and are subject to change.**



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**Utah**

# Federal Register Notice

2568 - 2574 Federal Register / Vol. 59, No. 11 / Tuesday, January 18, 1994 / Proposed Rules

## ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300  
[FRL-4827-5]

### National Priorities List for Uncontrolled Hazardous Waste Sites, Proposed Rule No. 16

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

#### SUMMARY:

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA" or "the Act"), as amended, requires that the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP") include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The National Priorities List ("NPL") constitutes this list.

The Environmental Protection Agency ("EPA") proposes to add new sites to the NPL. This 16th proposed revision to the NPL includes 16 sites in the General Superfund Section and 10 in the Federal Facilities Section. The identification of a site for the NPL is intended primarily to guide EPA in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. This action does not affect the 1,192 sites currently listed on the NPL (1,069 in the General Superfund Section and 123 in the Federal Facilities Section). However, it does increase the number of proposed sites to 97 (67 in the General Superfund Section and 30 in the Federal Facilities Section). Final and proposed sites now total 1,289.

#### DATES:

Comments must be submitted on or before February 17, 1994, for Raymark Industries, Inc. (Stratford, Connecticut), Lower Ecorse Creek Dump (Wyandotte, Michigan) and Tennessee Products (Chattanooga, Tennessee) since these are sites being proposed based on ATSDR health advisory criteria and present immediate concerns. For the remaining sites in this proposal, comments must be submitted on or before March 21, 1994.

#### ADDRESSES:

Mail original and three copies of comments (no facsimiles or tapes) to:

Docket Coordinator  
Headquarters, U.S. EPA CERCLA Docket Office  
5201 Waterside Mall  
401 M Street, SW.  
Washington, DC 20460  
202/260-3046

For additional Docket addresses and further details on their contents, see Section I of the "**SUPPLEMENTARY INFORMATION**" portion of this preamble.

## FOR FURTHER INFORMATION CONTACT:

Terry Keidan  
Hazardous Site Evaluation Division  
Office of Superfund Remediation Technology Innovation (5204G)  
U.S. Environmental Protection Agency  
401 M Street, SW.  
Washington, DC 20460  
Phone (800) 424-9346 or (703) 412-9810 in the Washington, DC, metropolitan area.

## SUPPLEMENTARY INFORMATION:

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- I. Introduction
- II. Purpose and Implementation of the NPL
- III. Contents of This Proposed Rule
- IV. Regulatory Impact Analysis
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# I. Introduction

## *Background*

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601-9675 ("CERCLA" or "the Act") in response to the dangers of uncontrolled hazardous waste sites. CERCLA was amended on October 17, 1986, by the Superfund Amendments and Reauthorization Act ("SARA"), Public Law No. 99-499, 100 stat. 1613 *et seq.* To implement CERCLA, the Environmental Protection Agency ("EPA" or "the Agency") promulgated the revised National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 CFR part 300, on July 16, 1982 (47 FR 31180), pursuant to CERCLA section 105 and Executive Order 12316 (46 FR 42237, August 20, 1981). The NCP sets forth the guidelines and procedures needed to respond under CERCLA to releases and threatened releases of hazardous substances, pollutants, or contaminants. EPA has revised the NCP on several occasions, most recently on March 8, 1990 (55 FR 8666).

Section 105(a)(8)(A) of CERCLA requires that the NCP include "criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action." As defined in CERCLA section 101(24), remedial action tends to be long-term in nature and involves response actions that are consistent with a permanent remedy for a release.

Mechanisms for determining priorities for possible remedial actions financed by the Trust Fund established under CERCLA (commonly referred to as the "Superfund") and financed by other persons are included in the NCP in 40 CFR 300.425(c) (55 FR 8845, March 8, 1990). Under 40 CFR 300.425(c)(1), a site may be included on the NPL if it scores sufficiently high on the Hazard Ranking System ("HRS"), which is appendix A of 40 CFR part 300. On December 14, 1990 (55 FR 51532), EPA promulgated revisions to the HRS partly in response to CERCLA section 105(c), added by SARA. The revised HRS evaluates four pathways: ground water, surface water, soil exposure, and air. The HRS serves as a screening device to evaluate the relative potential of uncontrolled hazardous substances, pollutants, and contaminants to pose a threat to human health or the environment. Those sites that score 28.50 or greater on the HRS are eligible for the NPL.

Under a second mechanism for adding sites to the NPL, each State may designate a single site as its top priority, regardless of the HRS score. This mechanism, provided by the NCP in 40 CFR 300.425(c)(2), requires that, to the extent practicable, the NPL include within the 100 highest priorities, one facility designated by each State representing the greatest danger to public health, welfare, or the environment among known facilities in the State.

The third mechanism for listing, included in the NCP in 40 CFR 300.425(c)(3), allows certain sites to be listed whether or not they score above 28.50, if all of the following conditions are met:

- The Agency for Toxic Substances and Disease Registry (ATSDR) of the U.S. Public Health Service has issued a health advisory that recommends dissociation of individuals from the release.
- EPA determines that the release poses a significant threat to public health.
- EPA anticipates that it will be more cost-effective to use its remedial authority than to use its removal authority to respond to the release.

Based on these criteria, and pursuant to section 105(a)(8)(B) of CERCLA, as amended by SARA, EPA promulgates a list of national priorities among the known or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. That list, which is appendix B of 40 CFR part 300, is the National Priorities List ("NPL"). CERCLA section 105(a)(8)(B) defines the NPL as a list of "releases" and as a list of the highest priority "facilities." The discussion below may refer to the "releases or threatened releases" that are included on the NPL interchangeably as "releases," "facilities," or "sites." CERCLA section 105(a)(8)(B) also requires that the NPL be revised at least annually. A site may undergo CERCLA-financed remedial action only after it is placed on the NPL, as provided in the NCP in 40 CFR 300.425(b)(1).

EPA promulgated an original NPL of 406 sites on September 8, 1983 (48 FR 40658). The NPL has been expanded since then, most recently on October 14, 1992 (57 FR 47180).

The NPL includes two sections, one of sites being evaluated and cleaned up by EPA (the "General Superfund Section"), and one of sites being addressed by other Federal agencies (the "Federal Facilities Section"). Under Executive Order 12580 and CERCLA section 120, each Federal agency is responsible for carrying out most response actions at facilities under its own jurisdiction, custody, or control, although EPA is responsible for preparing an HRS score and determining if the facility is placed on the NPL. EPA is not the lead agency at these sites, and its role at such sites is accordingly less extensive than at other sites. The Federal Facilities Section includes those facilities at which EPA is not the lead agency.

### ***Deletions/Cleanups***

EPA may delete sites from the NPL where no further response is appropriate under Superfund, as explained in the NCP in 40 CFR 300.425(e) (55 FR 8845, March 8, 1990). To date, the Agency has deleted 56 sites from the General Superfund Section of the NPL, most recently the Suffern Village Well Field, Village of Suffern, New York (58 FR 30989, May 28, 1993), Pesticide Lab, Yakima, Washington (58 FR 46087, September 1, 1993), LaBounty Site, Charles City, Iowa (58 FR 50218, October 6, 1993), Aidex Corporation, Council Bluffs, Iowa (58 FR 54297, October 21, 1993), Hydro-Flex Inc., Topeka, KS (58 FR 59369, November 9, 1993) and Plymouth Harbor/Cannon Engineering Corp., Plymouth, Massachusetts (58 FR 61029, November 19, 1993).

EPA also has developed an NPL construction completion list ("CCL") to simplify its system of categorizing sites and to better communicate the successful completion of cleanup activities (58 FR 12142, March 2, 1993). Sites qualify for the CCL when:

1. Any necessary physical construction is complete, whether or not final cleanup levels or other requirements have been achieved;
2. EPA has determined that the response action should be limited to measures that do not involve construction (e.g., institutional controls); or
3. The site qualifies for deletion from the NPL. Inclusion of a site on the CCL has no legal significance.

In addition to the 55 sites that have been deleted from the NPL because they have been cleaned up (the Waste Research and Reclamation site was deleted based on deferral to another program and is not considered cleaned up), an additional 162 sites are also in the NPL CCL, all but one from the General Superfund Section. Thus, as of October 1993, the CCL consists of 217 sites.

Cleanups at sites on the NPL do not reflect the total picture of Superfund accomplishments. As of September 30, 1993, EPA had conducted 591 removal actions at NPL sites, and 1,734 removal actions at non-NPL sites. Information on removals is available from the Superfund hotline.

Pursuant to the NCP in 40 CFR 300.425(c), this document proposes to add 26 sites to the NPL. The General Superfund Section includes 1,069 sites, and the Federal Facilities Section includes 123 sites, for a total of 1,192 sites on the NPL. Final and proposed sites now total 1,289. These numbers reflect EPA's decision to voluntarily remove the Hexcel Corporation site, in Livermore, CA, from the NPL.

### ***Public Comment Period***

The documents that form the basis for EPA's evaluation and scoring of sites in this rule, as well as the health advisories issued by ATSDR and documentation supporting the designation as a State top priority, where applicable, are contained in dockets located both at EPA Headquarters and in the appropriate Regional offices. The dockets are available for viewing, by appointment only, after the appearance of this rule. The hours of operation for the Headquarters docket are from 9 a.m. to 4 p.m., Monday through Friday excluding Federal holidays. Please contact individual Regional dockets for hours.

Docket Coordinator  
Headquarters, U.S. EPA CERCLA Docket Office  
5201 Waterside Mall  
401 M Street, SW.  
Washington, DC 20460  
202/260-3046

Ellen Culhane  
Region 1  
U.S. EPA, Waste Management Records Center, HES-CAN 6  
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Boston, MA 02203-2211  
617/573-5729

Ben Conetta  
Region 2  
U.S. EPA  
26 Federal Plaza, 7th Floor, Room 740  
New York, NY 10278  
212/264-6696

Diane McCreary  
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841 Chestnut Building  
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Philadelphia, PA 19107  
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Kathy Piselli  
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Steven Wyman  
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David Bennett  
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1200 6th Avenue, Mail Stop HW-114  
Seattle, WA 98101  
206/553-2103

With the exception of Raymark Industries, Inc. (Stratford, Connecticut), Lower Ecorse Creek Dump (Wyandotte, Michigan), and Tennessee Products (Chattanooga, Tennessee) which are sites being proposed based on the ATSDR health advisory criteria, and Boomsnub/Airco (Vancouver, Washington) which has been designated as a State top priority, the Headquarters docket for this rule contains HRS score sheets for each proposed site; a Documentation Record for each site describing the information used to compute the score; pertinent information for any site affected by particular statutory requirements or EPA listing policies; and a list of documents referenced in the Documentation Record. Each Regional docket for this rule, except for the three ATSDR health advisory sites and the State top priority mentioned above, contains all of the information in the Headquarters docket for sites in that Region, plus the actual reference documents containing the data principally relied upon and cited by EPA in calculating or evaluating the HRS scores for sites in that Region. These reference documents are available only in the Regional dockets. For the three sites proposed on the basis of health advisory criteria, both the Headquarters and Regional dockets contain the public health advisories issued by ATSDR, and EPA memoranda supporting the findings that in each case the release poses a significant threat to public health and that it would be more cost-effective to use remedial rather than removal authorities at the site. For the site that has been designated a top priority by the State, both the Headquarters and Regional dockets contain supporting documentation. Interested parties may view documents, by appointment only, in the Headquarters or the appropriate Regional docket or copies may be requested from the Headquarters or

appropriate Regional docket. An informal written request, rather than a formal request under the Freedom of Information Act, should be the ordinary procedure for obtaining copies of any of these documents.

EPA considers all comments received during the comment period. During the comment period, comments are placed in the Headquarters docket and are available to the public on an "as received" basis. A complete set of comments will be available for viewing in the Regional docket approximately one week after the formal comment period closes. Comments received after the comment period closes will be available in the Headquarters docket and in the Regional docket on an "as received" basis.

Comments that include complex or voluminous reports, or materials prepared for purposes other than HRS scoring, should point out the specific information that EPA should consider and how it affects individual HRS factor values. See *Northside Sanitary Landfill v. Thomas*, 849 F.2d 1516 (D.C. Cir. 1988). EPA will make final listing decision after considering the relevant comments received during the comment period.

In past rules, EPA has attempted to respond to late comments, or when that was not practicable, to read all late comments and address those that brought to the Agency's attention a fundamental error in the scoring of a site. (See, most recently, 57 FR 4824 (February 7, 1992)). Although EPA intends to pursue the same policy with sites in this rule, EPA can guarantee that it will consider only those comments postmarked by the close of the formal comment period. EPA cannot delay a final listing decision solely to accommodate consideration of late comments.

In certain instances, interested parties have written to EPA concerning sites which were not at that time proposed to the NPL. If those sites are later proposed to the NPL, parties should review their earlier concerns and, if still appropriate, resubmit those concerns for consideration during the formal comment period. Site-specific correspondence received prior to the period of formal proposal and comment will not generally be included in the docket.

## **II. Purpose and Implementation of the NPL**

### ***Purpose***

The legislative history of CERCLA (Report of the Committee on Environment and Public Works, Senate Report No. 96-848, 96th Cong., 2d Sess. 60 (1980)) states the primary purpose of the NPL:

The priority lists serve primarily informational purposes, identifying for the States and the public those facilities and sites or other releases which appear to warrant remedial actions. Inclusion of a facility or site on the list does not in itself reflect a judgment of the activities of its owner or operator, it does not require those persons to undertake any action, nor does it assign liability to any person. Subsequent government action in the form of remedial actions or enforcement actions will be necessary in order to do so, and these actions will be attended by all appropriate procedural safeguards.

The purpose of the NPL, therefore, is primarily to serve as an informational and management tool. The identification of a site for the NPL is intended primarily to guide EPA in determining which sites warrant further investigation to assess the nature and extent of the public health and environmental risks associated with the site and to determine what CERCLA remedial action(s), if any, may be appropriate. The NPL also serves to notify the public of sites that EPA believes warrant further investigation. Finally, listing a site may, to the extent potentially responsible parties are identifiable at the time of listing, serve as notice to such parties that the Agency may initiate CERCLA-financed remedial action.

### ***Implementation***

After initial discovery of a site at which a release or threatened release may exist, EPA begins a series of increasingly complex evaluations. The first step, the Preliminary Assessment ("PA"), is a low-cost review of existing information to determine if the site poses a threat to public health or the environment. If the site presents a serious imminent threat, EPA may take immediate removal action. If the PA shows that the site presents a threat but not an imminent threat, EPA will generally perform a more extensive study called the Site Inspection ("SI"). The SI involves collecting additional information to better understand the extent of the problem at the site, screen out sites that will not qualify for the NPL, and obtain data necessary to calculate an HRS score for sites which warrant placement on the NPL and

further study. EPA may perform removal actions at any time during the process. To date EPA has completed approximately 35,000 PAs and approximately 17,000 SIs.

The NCP in 40 CFR 300.425(b)(1) (55 FR 8845, March 8, 1990) limits expenditure of the Trust Fund for remedial actions to sites on the NPL. However, EPA may take enforcement actions under CERCLA or other applicable statutes against responsible parties regardless of whether the site is on the NPL, although, as a practical matter, the focus of EPA's CERCLA enforcement actions has been and will continue to be on NPL sites. Similarly, in the case of CERCLA removal actions, EPA has the authority to act at any site, whether listed or not, that meets the criteria of the NCP in 40 CFR 300.415(b)(2) (55 FR 8842, March 8, 1990). EPA's policy is to pursue cleanup of NPL sites using all the appropriate response and/or enforcement actions available to the Agency, including authorities other than CERCLA. The Agency will decide on a site-by-site basis whether to take enforcement or other action under CERCLA or other authorities prior to undertaking response action, proceed directly with Trust Fund-financed response actions and seek to recover response costs after cleanup, or do both. To the extent feasible, once sites are on the NPL, EPA will determine high-priority candidates for CERCLA-financed response action and/or enforcement action through both State and Federal initiatives. EPA will take into account which approach is more likely to accomplish cleanup of the site most expeditiously while using CERCLA's limited resources as efficiently as possible.

Although the ranking of sites by HRS scores is considered, it does not, by itself, determine the sequence in which EPA funds remedial response actions, since the information collected to develop HRS scores is not sufficient to determine either the extent of contamination or the appropriate response for a particular site (40 CFR 300.425(b)(2), 55 FR 8845, March 8, 1990). Additionally, resource constraints may preclude EPA from evaluating all HRS pathways; only those presenting significant risk or sufficient to make a site eligible for the NPL may be evaluated. Moreover, the sites with the highest scores do not necessarily come to the Agency's attention first, so that addressing sites strictly on the basis of ranking would in some cases require stopping work at sites where it was already underway.

More detailed studies of a site are undertaken in the Remedial Investigation/Feasibility Study ("RI/FS") that typically follows listing. The purpose of the RI/FS is to assess site conditions and evaluate alternatives to the extent necessary to select a remedy (40 CFR 300.430(a)(2) (55 FR 8846, March 8, 1990)). It takes into account the amount of hazardous substances, pollutants or contaminants released into the environment, the risk to affected populations and environment, the cost to remediate contamination at the site, and the response actions that have been taken by potentially responsible parties or others. Decisions on the type and extent of response action to be taken at these sites are made in accordance with 40 CFR 300.415 (55 FR 8842, March 8, 1990) and 40 CFR 300.430 (55 FR 8846, March 8, 1990). After conducting these additional studies, EPA may conclude that initiating a CERCLA remedial action using the Trust Fund at some sites on the NPL is not appropriate because of more pressing needs at other sites, or because a private party cleanup is already underway pursuant to an enforcement action. Given the limited resources available in the Trust Fund, the Agency must carefully balance the relative needs for response at the numerous sites it has studied. It is also possible that EPA will conclude after further analysis that the site does not warrant remedial action.

### ***RI/FS at Proposed Sites***

An RI/FS may be performed at sites proposed in the **Federal Register** for placement on the NPL (or even sites that have not been proposed for placement on the NPL) pursuant to the Agency's removal authority under CERCLA, as outlined in the NCP in 40 CFR 300.415. Although an RI/FS generally is conducted at a site after it has been placed on the NPL, in a number of circumstances the Agency elects to conduct an RI/FS at a site proposed for placement on the NPL in preparation for a possible Trust Fund-financed remedial action, such as when the Agency believes that a delay may create unnecessary risks to public health or the environment. In addition, the Agency may conduct an RI/FS to assist in determining whether to conduct a removal or enforcement action at a site.

### ***Facility (Site) Boundaries***

The purpose of the NPL is merely to identify releases or threatened releases of hazardous substances that are priorities for further evaluation. The Agency believes that it would be neither feasible nor consistent with this limited purpose for the NPL to attempt to describe releases in precise geographical terms. The term "facility" is broadly defined in CERCLA to include any area where a hazardous substance has "come to be located" (CERCLA section 101(9)), and the listing process is not intended to define or reflect boundaries of such facilities or releases. Site names are provided for general identification purposes only. Knowledge of the geographic extent of sites will be refined as more information is developed during the RI/FS and even during implementation of the remedy.

Because the NPL does not assign liability or define the geographic extent of a release, a listing need not be amended if further research into the contamination at a site reveals new information as to its extent. This is further explained in preambles to past NPL rules, most recently February 11, 1991 (56 FR 5598).

### ***Limitations on Payment of Claims for Response Actions***

Sections 111(a)(2) and 122(b)(1) of CERCLA authorize the Fund to reimburse certain parties for necessary costs of performing a response action. As is described in more detail at 58 FR 5460 (January 21, 1993), 40 CFR part 307, there are two major limitations placed on the payment of claims for response actions. First, only private parties, certain potentially responsible parties (including States and political subdivisions), and certain foreign entities are eligible to file such claims. Second, all response actions under sections 111(a)(2) and 122(b)(1) must receive prior approval, or "preauthorization," from EPA.

## **III. Contents of This Proposed Rule**

Table 1 identifies the 16 NPL sites in the General Superfund Section and Table 2 identifies the 10 NPL sites in the Federal Facilities Section being proposed in this rule. Both tables follow this preamble. With the exception of Raymark Industries, Inc. (Stratford, Connecticut), Lower Ecorse Creek Dump (Wyandotte, Michigan), and Tennessee Products (Chattanooga, Tennessee) which are sites being proposed based on ATSDR health advisory criteria, and Boomsnub/Airco (Vancouver, Washington) which has been designated as a State top priority, all sites are proposed based on HRS scores of 28.50 or above. The sites in Table 1 are listed alphabetically by State, for ease of identification, with group number identified to provide an indication of relative ranking. To determine group number, sites on the NPL are placed in groups of 50; for example, a site in Group 4 of this proposal has a score that falls within the range of scores covered by the fourth group of 50 sites on the General Superfund Section of the NPL. Sites in the Federal Facilities Section are also presented by group number based on groups of 50 sites in the General Superfund Section.

### ***Statutory Requirements***

CERCLA section 105(a)(8)(B) directs EPA to list priority sites "among" the known releases or threatened releases of hazardous substances, pollutants, or contaminants, and section 105(a)(8)(A) directs EPA to consider certain enumerated and "other appropriate" factors in doing so. Thus, as a matter of policy, EPA has the discretion not to use CERCLA to respond to certain types of releases. Where other authorities exist, placing sites on the NPL for possible remedial action under CERCLA may not be appropriate. Therefore, EPA has chosen not to place certain types of sites on the NPL even though CERCLA does not exclude such action. If, however, the Agency later determines that sites not listed as a matter of policy are not being properly responded to, the Agency may place them on the NPL.

The listing policies and statutory requirements of relevance to this proposed rule cover sites subject to the Resource Conservation and Recovery Act ("RCRA") (42 U.S.C. 6901-6991i) and Federal facility sites. These policies and requirements are explained below and have been explained in greater detail in previous rulemakings (56 FR 5598, February 11, 1991).

### ***Releases From Resource Conservation and Recovery Act (RCRA) Sites***

EPA's policy is that non-Federal sites subject to RCRA Subtitle C corrective action authorities will not, in general, be placed on the NPL. However, EPA will list certain categories of RCRA sites subject to Subtitle C corrective action authorities, as well as other sites subject to those authorities, if the Agency concludes that doing so best furthers the aims of the NPL/RCRA policy and the CERCLA program. EPA has explained these policies in detail in the past (51 FR 21054, June 10, 1986; 53 FR 23978, June 24, 1988; 54 FR 41000, October 4, 1989; 56 FR 5602, February 11, 1991).

Consistent with EPA's NPL/RCRA policy, EPA is proposing to add one site to the General Superfund Section of the NPL that may be subject to RCRA Subtitle C corrective action authorities, the Raymark Industries, Inc. site in Stratford, Connecticut, which is being proposed based on ATSDR health advisory criteria. Material has been placed in the public docket establishing that the facility operated as a hazardous waste generator and land disposal facility. Raymark Industries, Inc. is a RCRA Subtitle C regulated facility which has initiated bankruptcy proceedings. Listing of the Raymark Industries, Inc. site on the NPL under these circumstances is consistent with EPA's NPL/RCRA deferral policy.

## ***Releases From Federal Facility Sites***

On March 13, 1989 (54 FR 10520), the Agency announced a policy for placing Federal facility sites on the NPL if they meet the eligibility criteria (e.g., an HRS score of 28.50 or greater), even if the Federal facility also is subject to the corrective action authorities of RCRA Subtitle C. In that way, those sites could be cleaned up under CERCLA, if appropriate.

This rule proposes to add ten sites to the Federal Facilities Section of the NPL.

## ***ATSDR Health Advisory Based Proposed Sites***

Raymark Industries, Inc. in Stratford, Connecticut, Lower Ecorse Creek Dump in Wyandotte, Michigan, and Tennessee Products in Chattanooga, Tennessee, are being proposed for the NPL on the basis of section 425(c)(3) of the NCP, 40 CFR 300.425(c)(3) (55 FR 8845, March 8, 1990).

### ***Raymark Industries, Inc.***

The Raymark Industries, Inc. site includes the Raymark Industries, Inc. facility and other locations where Raymark Industries, Inc. facility waste has come to be located and that EPA determines pose a significant threat to public health. The Raymark Industries, Inc. facility comprises about 500,000 square feet of office, storage and production space on 33.4 acres next to Interstate Route 95. A public recreation park containing a baseball diamond and recreation field is located immediately northwest of the site. The facility began operations at this location in 1919 and primarily manufactured asbestos brake linings and other automotive asbestos products until operations ceased in 1989. The facility operated as a hazardous waste generator and land disposal facility. The hazardous waste produced on-site consisted primarily of lead-asbestos dust, metals and solvents. From 1919 to July 1984, Raymark Industries, Inc. used a system of lagoons to attempt to capture the waste lead and asbestos dust produced by its manufacturing process. Over this 65 year period, these lagoon systems were located throughout the western and central areas of the facility. As the lagoons filled with sludge they were covered with asphalt and often built upon. Dredged materials were also landfilled at other locations, including the adjacent ballfield. Interim actions intended to stabilize waste have been conducted at the Raymark Industries, Inc. facility and the ballfield.

An intensive surficial sampling program of the other locations where waste from Raymark Industries, Inc. is known or suspected to have been received and used as fill was instituted by the Connecticut Department of Environmental Protection and EPA in April 1993. Based upon the analytical results of this activity, which indicated concentrations of lead, asbestos, and polychlorinated biphenyls (PCBs), ATSDR issued a public health advisory on May 26, 1993 for "Raymark Industries/Stratford Asbestos Sites". The advisory recommended dissociation of the public from areas where exposure to Raymark Industries, Inc. waste at levels of health concern can occur. The presence of dioxin in Raymark Industries, Inc. waste has subsequently been confirmed. The advisory was based on the concern that people could be exposed to site-related contaminants through inhalation, direct dermal contact, ingestion of waste present in the soil, and consumption of potentially contaminated area seafood.

The results from samples collected to determine the lateral extent of contamination at known disposal locations has served as the basis for supplemental ATSDR site-specific Health Consultations. ATSDR recommended immediate response actions based upon the finding of imminent health threats. Sampling to determine the vertical extent of contamination at these disposal areas is presently being conducted to expedite complete site characterization. Site characterization and initiation of mitigation actions at known locations and at newly discovered sites are being prioritized for early action.

EPA's assessment is that the site poses a significant threat to human health and anticipates that it will be more cost-effective to use remedial authority than to use removal authority to respond to the site. This finding is set out in a memorandum dated November 3, 1993, from Merrill S. Hohman, Region 1 Waste Management Division Director, to Larry Reed, Hazardous Site Evaluation Division Director. This memorandum and the ATSDR advisory are available in the Superfund docket for this proposed rule. Based on this information, and the references in support of proposal, EPA believes that the Raymark Industries, Inc. site is appropriate for the NPL pursuant to 40 CFR 300.425(c)(3).

### ***Lower Ecorse Creek Dump***

The Lower Ecorse Creek Dump site is located in Wyandotte, Wayne County, Michigan. The site consists of the residence at 470 North Drive and three neighboring parcels of land. The site occupies a level area with the back of the lots abutting the Ecorse River. During the period between 1945 and 1955, and prior to the house at 470 North Drive being built, the low lying swampy area of the creek was filled with material from local industries. Some of the fill material contained what has been confirmed as ferric ferrocyanide, commonly referred to as "Prussian Blue". The blue soil was also found across the street at 471 North Drive, approximately two feet below the surface and the owner of the residence at 469 North Drive also reported that he found the blue soil in his yard. In addition, there are two vacant lots east of 470 North Drive where Prussian Blue is exposed. Neighborhood children have used portions of these lots as a go-cart track and wearing of the topsoil by the go-carts has exposed the Prussian Blue.

The EPA was contacted by the Wayne County Health Department on October 25, 1989. EPA tasked its Technical Assistance Team (TAT) on October 27, 1989, to conduct a site investigation and sampling. Sampling results were provided to ATSDR for review and assessment. ATSDR's review on November 22, 1989, concluded that "The levels of cyanide found in the soil do present an urgent public health threat. Steps to eliminate any direct contact with the contaminated soil need to be taken immediately".

Following ATSDR's determination that the presence of cyanide-contaminated wastes in an unrestricted residential area presented an immediate and significant public health threat, EPA's Emergency Response Branch initiated removal activities. On December 4, 1989, work commenced to cover the contaminated areas with six inches of clean topsoil and fill in areas of the driveway and sidewalk which had been previously excavated by the property owner. This action eliminated physical contact with Prussian Blue and related cyanide compounds which had spread throughout the area. The initial action was completed in the summer of 1990 with the establishment of a vegetative cover.

The Final ATSDR Health Advisory which was released on August 13, 1993, recommended the following actions:

1. Immediately dissociate the affected residents from cyanide contamination, which is at levels of health concern in residential subsurface soils;
2. Implement permanent measures to remediate the contamination as appropriate; and
3. Consider including the Lower Ecorse Creek Dump site on the EPA National Priorities List or, using other statutory or regulatory authorities as appropriate, take other steps to characterize the site and take necessary action.

Additional recommendations by ATSDR include conducting a door-to-door well survey and well sampling to determine the extent and level of any groundwater contamination. ATSDR also suggests restricting digging into contaminated subsurface soil to prevent human contact with contaminated soils and released cyanide gas.

EPA's assessment is that the site poses a significant threat to human health and anticipates that it will be more cost-effective to use remedial authority than to use removal authority to respond to the site considering the costs and time involved in an extensive groundwater study and potential groundwater remediation. This finding is set out in a memorandum dated August 30, 1993, from William E. Muno, Region 5 Waste Management Division Director, to Larry Reed, Hazardous Site Evaluation Division Director. This memorandum and the ATSDR advisory are available in the Superfund docket for this proposed rule. Based on this information, and the references in support of proposal, EPA believes that the Lower Ecorse Creek Dump site is appropriate for the NPL pursuant to 40 CFR 300.425(c)(3).

### ***Tennessee Products***

The Tennessee Products site, is an aggregation of Southern Coke Corporation (Southern Coke), Chattanooga Creek Tar Deposit Site and Hamill Road Dump No. 2. The site is located in a heavily populated, low-income, urban and industrial area in the Chattanooga Creek (the creek) basin in Chattanooga, Hamilton County, Tennessee. The site consists of the former Tennessee Products coke plant and its associated uncontrolled coal-tar dumping grounds in Chattanooga Creek and its floodplain. Uncontrolled dumping of coal-tar wastes has contaminated the facility, groundwater resources underlying the facility, and surface water resources downstream of the facility including wetlands and fisheries.

The former Tennessee Products coke plant (a.k.a. Southern Coke) is located at 4800 Central Avenue, south of Hamill/Hooker Road and approximately one mile west of the creek. The coal-tar wastes are located along an approximate 2.5 mile section of the creek extending from just upstream of Hamill Road bridge to the creek's confluence with Dobbs Branch. The coal-tar deposits are the result of dumping coal-tar wastes directly into the creek and onto the floodplain within the immediate vicinity of the creek channel. The largest coal-tar deposits have been found in the creek bed and along its banks within a 1 mile segment of the creek between Hamill Road and 38th Street. Analyses for polynuclear aromatic hydrocarbons (PAHs) as well as visual inspection of sediment cores confirm that coal-tar has heavily contaminated this segment of the creek plus an additional 1.5 miles of the creek downstream from this segment.

ATSDR issued a Public Health Advisory for the Tennessee Products Site on August 20, 1993, based on the chemical and physical hazard presented by the coal-tar deposits at the site. The Advisory recommends the following actions:

1. Dissociate residents from the coal-tar deposits;
2. Continue site characterization to address the potential for migration of contaminants;
3. Consider the Tennessee Products Site for inclusion on the NPL;
4. As appropriate, consider other coal-tar contaminated sites along the creek for inclusion on the NPL.

Studies have been conducted on Chattanooga Creek on several occasions by EPA and other agencies since 1973. Several of these studies indicate that coal-tar constituents have contaminated the creek and its sediments. The latest of these studies, conducted in 1992 by EPA, has revealed the extent of the coal-tar dumping along the creek. This new information, in combination with historical file information, supports the aggregation of the above mentioned sites. The aggregation criteria is discussed in a memo to the file, from Lofton Carr, Site Assessment Manager, EPA Region 4, dated June 8, 1993, which is included in the nomination package.

Historical sampling and aerial photographic evidence indicate that the tar was dumped into the creek, on the banks and in areas near the creek over several years during the 1940s and 1950s. During World War II, the U.S. Government purchased the Tennessee Products facility and operated it for the war effort. The facility was sold back to the company after the end of the war. Due to increased coke production during the war, a substantial increase in waste generated by Tennessee Products may have strained waste handling procedures practiced by Tennessee Products before 1941. Documentation of the disposal practices of Tennessee Products during this time period is not available; however, Tennessee Products maintained a private sewer line which discharged directly into the creek.

EPA's assessment is that the site poses a significant threat to human health and anticipates that it will be more cost-effective to use remedial authority than to use removal authority to respond to the site. This finding is set out in a memorandum dated August 17, 1993, from Joseph R. Franzmathes, Region 4 Waste Management Division Director, to Larry Reed, Hazardous Site Evaluation Division Director. This memorandum and the ATSDR advisory are available in the Superfund docket for this proposed rule. Based on this information, and the references in support of proposal, EPA believes that the Tennessee Products site is appropriate for the NPL pursuant to 40 CFR 300.425(c)(3).

### ***Name Change***

EPA is proposing to change the name of the Schofield Barracks site in Oahu, Hawaii, to Schofield Barracks/Wheeler Army Airfield. EPA believes the name change more accurately reflects the site.

## **IV. Regulatory Impact Analysis**

### ***Executive Order 12866***

This action was submitted to the Office of Management and Budget (OMB) for review under Executive Order 12866 (58 FR 51735, October 4, 1993) and Executive Order 12580 (52 FR 2923, January 29, 1987). No changes were made in response to OMB.

## V. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act of 1980 requires EPA to review the impacts of this action on small entities, or certify that the action will not have a significant impact on a substantial number of small entities. By small entities, the Act refers to small businesses, small government jurisdictions, and nonprofit organizations.

While this rule proposes to revise the NCP, it is not a typical regulatory change since it does not automatically impose costs. As stated above, proposing sites to the NPL does not in itself require any action by any party, nor does it determine the liability of any party for the cost of cleanup at the site. Further, no identifiable groups are affected as a whole. As a consequence, impacts on any group are hard to predict. A site's proposed inclusion on the NPL could increase the likelihood of adverse impacts on responsible parties (in the form of cleanup costs), but at this time EPA cannot identify the potentially affected businesses or estimate the number of small businesses that might also be affected.

The Agency does expect that placing the sites in this proposed rule on the NPL could significantly affect certain industries, or firms within industries, that have caused a proportionately high percentage of waste site problems. However, EPA does not expect the listing of these sites to have a significant economic impact on a substantial number of small businesses.

In any case, economic impacts would occur only through enforcement and cost-recovery actions, which EPA takes at its discretion on a site-by-site basis. EPA considers many factors when determining enforcement actions, including not only the firm's contribution to the problem, but also its ability to pay.

The impacts (from cost recovery) on small governments and nonprofit organizations would be determined on a similar case-by-case basis.

For the foregoing reasons, I hereby certify that this proposed rule would not have a significant economic impact on a substantial number of small entities. Therefore, this proposed regulation does not require a regulatory flexibility analysis.

**Table 1**  
**National Priorities List - Proposed Rule No. 16 - General Superfund Section**

State	Site name	City/county	NPL Gr <sup>1</sup>
CA	Frontier Fertilizer	Davis	14
CT	Raymark Industries, Inc.	Stratford	NA
FL	Chevron Chemical Co. (Ortho Division)	Orlando	4/5
IA	Mason City Coal Gasification Plant	Mason City	1
KS	Chemical Commodities Inc.	Olathe	4/5
LA	Lincoln Creosote	Bossier City	17
MI	Lower Ecorse Creek Dump	Wyandotte	NA
NY	GCL Tie and Treating Inc.	Village of Sidney	5
PA	East Tenth Street	Marcus Hook	4
TN	Chemet Co.	Moscow	4/5
TN	Tennessee Products	Chattanooga	NA
UT	Kennecott (North Zone)	Magna	2
UT	Kennecott (South Zone)	Copperton	2

State	Site name	City/county	NPL Gr <sup>1</sup>
UT	Murray Smelter	Murray City	1
VI	Island Chemical Corp./Virgin Islands Chemical Corp.	St. Croix	4/5
WA	Boomsnub/Airco	Vancouver	NA

Number of Sites Proposed to General Superfund Section: 16. <sup>1</sup> Sites are placed in groups (Gr) corresponding to groups of 50 on the final NPL.

**Table 2  
National Priorities List - Proposed Rule No. 16 - Federal Facilities Section**

State	Site name	City/county	NPL Gr <sup>1</sup>
CA	Laboratory for Energy-Related Health Research/Old Campus Landfill (USDOE)	Davis	4/5
FL	Whiting Field Naval Air Station	Milton	4/5
HI	Naval Computer and Telecommunications Area Master Station Eastern Pacific	Oahu	4/5
MD	Patuxent Naval Air Station	St. Mary's Co.	4/5
MI	Wurtsmith Air Force Base	Iosco County	4/5
OH	Air Force Plant 85	Columbus	4/5
OH	Rickenbacker Air National Guard Base	Lockbourne	4/5
PA	Navy Ships Parts Control Center	Mechanicsburg	4/5
VA	Fort Eustis (US Army)	Newport News	4/5
WA	Old Navy Dump/Manchester Laboratory (USEPA/NOAA)	Kitsap County	4/5

Number of Sites Proposed to Federal Facilities Section: 10. <sup>1</sup> Sites are placed in groups (Gr) corresponding to groups of 50 on the final NPL.

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

Air pollution control, Chemicals, Hazardous materials, Intergovernmental relations, Natural resources, Oil pollution, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

**Authority:** 42 U.S.C. 9605; 42 U.S.C. 9620; 33 U.S.C. 1321(c)(2); E.O. 11735, 3 CFR, 1971-1975 Comp., p. 793; E.O. 12580, 3 CFR, 1987 Comp., p. 193.

Dated: January 11, 1994.

**Elliott P. Laws,**  
*Assistant Administrator, Office of Solid Waste and Emergency Response.*

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**BILLING CODE 6560-50-P**

# NPL Site Narrative for Kennecott (North Zone)

## KENNECOTT (NORTH ZONE) Magna, Utah

The Kennecott (North Zone) site is located near the south shore of the Great Salt Lake. Magna, the nearest town, has a population of approximately 17,800 people and is located south of the large Kennecott tailings pond. Salt Lake City is approximately 15 miles east of the tailings pond. The site covers a large area and sources of contamination include the 5,700 acre tailings pond, a slag pile, contaminated residential soils in the town of Magna, and the refinery evaporation pond.

Kennecott Copper Corp., which owns the site (excluding portions of Magna), has operated a wide variety of mineral processing and production facilities in the area since around 1900. The primary metal currently produced is copper, mined south of the site at Kennecott (South Zone), which is also being proposed to the NPL at this time.

Contaminants in the various sources include arsenic, chromium, copper, lead, selenium, and zinc. Analysis of ground water monitoring wells have found high levels of arsenic and selenium. The principal aquifer, which supplies water to the Magna municipal water system, underlies many of the sources at the site. In addition, surface water analysis near wetlands shows releases of copper to the ditch near the large tailings pond.

Current Kennecott activity in the North Zone site involves smelting and refining the concentrated copper ore that has been mined from the open pit approximately 20 miles south of the site.

Kennecott is conducting an investigation in the area near the smelter to determine the nature and extent of the contamination prior to constructing a new smelter.

For more information about the hazardous substances identified in this narrative summary, including general information regarding the effects of exposure to these substances on human health, please see the Agency for Toxic Substances and Disease Registry (ATSDR) ToxFAQs. ATSDR ToxFAQs can be found on the Internet at [ATSDR - ToxFAQs](http://www.atsdr.cdc.gov/toxfaqs/index.asp) (<http://www.atsdr.cdc.gov/toxfaqs/index.asp>) or by telephone at 1-888-42-ATSDR or 1-888-422-8737.