6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA-HQ-SFUND-1986-0005; FRL-9846-4]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Partial Deletion of the Torch Lake Superfund Site

AGENCY: U.S. Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The U.S. Environmental Protection Agency Region 5 is publishing a direct final Notice of Deletion of the Quincy Smelter and Calumet Lake parcels of Operable Unit 3 (OU3) of the Torch Lake Superfund Site (Site), located in Houghton County, Michigan, from the National Priorities List (NPL). The NPL, promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final partial deletion is being published by EPA with the concurrence of the State of Michigan, through the Michigan Department of Environmental Quality (MDEQ), because EPA has determined that all appropriate response actions at these identified parcels under CERCLA, other than operation, maintenance, and five-year reviews, have been completed. However, this partial deletion does not preclude future actions under Superfund.

This partial deletion pertains to the surface tailings and slag deposits of the Quincy Smelter and Calumet Lake parcels of OU3. The following parcels or areas will remain on the NPL and are not being considered for deletion as part of this action: Dollar Bay, Point Mills, Boston Pond, and North Entry.

DATES: This direct final partial deletion is effective [insert date 60 days from the date of publication in the *Federal Register*] unless EPA receives adverse comments by [insert date 30 days from the date of publication in the *Federal Register*]. If adverse comments are received, EPA will publish a timely withdrawal of the direct final partial deletion in the *Federal Register* informing the public that the deletion will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID no. EPA-HQ-SFUND-1986-0005, by one of the following methods:

- http://www.regulations.gov: Follow online instructions for submitting comments.
- Email: Nefertiti DiCosmo, Remedial Project Manager, at dicosmo.nefertiti@epa.gov or Dave Novak, Community Involvement Coordinator, at novak.dave@epa.gov.mailto:mailto:
- Fax: Gladys Beard at (312) 697-2077.
- Mail: Nefertiti DiCosmo, Remedial Project Manager, U.S. Environmental Protection Agency (SR-6J), 77 West Jackson Boulevard, Chicago, IL 60604, (312) 886-6148 or Dave Novak, Community Involvement Coordinator, U.S. Environmental Protection Agency (SI-7J), 77 West Jackson Boulevard, Chicago, IL 60604, (312) 886-7478 or toll free at 1 (800) 621-8431.
- Hand delivery: Dave Novak, Community Involvement Coordinator, U.S. Environmental Protection Agency (SI-7J), 77 West Jackson Boulevard, Chicago, IL 60604. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. The normal business hours are Monday through Friday, 8:30 a.m. to 4:30 p.m. CST, excluding federal holidays.

Instructions: Direct your comments to Docket ID no. EPA-HQ-SFUND-1986-0005. 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 website 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 the hard copy. Publicly available docket materials are available either electronically at http://www.regulations.gov or in hard copy at:

- U.S. Environmental Protection Agency Region 5

  77 West Jackson Boulevard, Chicago, IL 60604

Phone: (312) 353-1063

Hours: Monday through Friday, 8:30 a.m. to 4:30 p.m. CST, excluding federal holidays.

- Lake Linden/Hubbell Public Library

  601 Calumet Street, Lake Linden, MI 49945

  Phone: (906) 296-6211

  Summer Hours: Tuesday and Thursday, 6:00 p.m. to 8:00 p.m. EST; Wednesday, 9:00 a.m. to 2:00 p.m. EST

  Winter Hours: Monday through Friday, 8:00 a.m. to 3:30 p.m. EST (when school is in session); Tuesday and Thursday, 3:30 p.m. to 8:30 p.m. EST

- Portage Lake District Library

  58 Huron Street, Houghton, MI 49931

  Phone: (906) 482-4570

  Hours: Monday through Thursday, 10:00 a.m. to 8:00 p.m. EST; Friday, 10:00 a.m. to 5:00 p.m. EST; and Saturday 10:00 a.m. to 3:00 p.m. EST

FOR FURTHER INFORMATION CONTACT: Nefertiti DiCosmo, Remedial Project Manager, U.S. Environmental Protection Agency (SR-6J), 77 West Jackson Boulevard, Chicago, IL 60604, (312) 886-6148, dicosmo.nefertiti@epa.gov.

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I. Introduction

EPA Region 5 is publishing this Direct Final Notice of Deletion of the Quincy Smelter and Calumet Lake parcels of Operable Unit (OU3) of the Torch Lake Superfund (Site) from the National Priorities List (NPL) and requests public comments on this proposed action. The NPL constitutes Appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), and which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) of 1980, as amended. EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). This partial deletion of the Torch Lake Superfund Site is proposed in accordance with 40 CFR 300.425(e) and is consistent with the Notice of Policy Change: Partial Deletion of Sites Listed on the National Priorities List, (60 FR 55466) on November 1, 1995. As described in 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for Fund-financed remedial actions if future conditions warrant such actions.

Because EPA considers this action to be noncontroversial and routine, this action will be effective [insert date 60 days from the date of publication in the *Federal Register*] unless EPA receives adverse comments by [insert date 30 days after this publication in the *Federal Register*]. Along with this Direct Final Notice of Partial Deletion, EPA is co-publishing a Notice of Intent for Partial Deletion in the "Proposed Rules" section of the *Federal Register*. If adverse comments are received within the 30-day public comment period on this partial deletion action, EPA will publish a timely withdrawal of this Direct Final Notice of Partial Deletion before the

effective date of the partial deletion, and the deletion will not take effect. EPA will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of the Notice of Intent for Partial Deletion and the comments already received. There will be no additional opportunity to comment.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Quincy Smelter and Calumet Lake parcels of OU3 and demonstrates how the deletion criteria are met at these land parcels. Section V discusses EPA's action to partially delete the Site parcels from the NPL unless adverse comments are received during the public comment period.

II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making such a determination pursuant to 40 CFR 300.425(e), EPA will consider, in consultation with the state, whether any of the following criteria have been met:

i. Responsible parties or other persons have implemented all appropriate response actions required;

ii. All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

iii. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Pursuant to CERCLA section 121(c) and the NCP, EPA conducts five-year reviews to ensure the continued protectiveness of remedial actions where hazardous substances, pollutants,

or contaminants remain at a site above levels that allow for unlimited use and unrestricted exposure. EPA conducts such five-year reviews even if a site is deleted from the NPL. 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 deletion of the Quincy Smelter and Calumet Lake parcels of OU3 of the Torch Lake Superfund Site:

(1) EPA consulted with the State of Michigan prior to developing this Direct Final Notice of Partial Deletion and the Notice of Intent for Partial Deletion 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 Partial Deletion and the parallel Notice of Intent for Partial Deletion prior to their publication today, and the State, through MDEQ, has concurred on the partial deletion of the Site from the NPL.

(3) Concurrently with the publication of this direct final Notice of Partial Deletion, a notice of the availability of the parallel Notice of Intent for Partial Deletion is being published in the Daily Mining Gazette Newspaper, located in Houghton, Michigan. The newspaper notice announces the 30-day public comment period concerning the Notice of Intent for Partial Deletion of the Site from the NPL.

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

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

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

IV. Basis for Site Deletion

The following information provides EPA's rationale for deleting the Quincy Smelter and Calumet Lake parcels of OU3 from the NPL.

Site Background and History

The Torch Lake Superfund Site (CERCLIS ID MID980901946) is located on the Keweenaw Peninsula in Houghton County, Michigan. The Site includes Torch Lake, the northern portion of Portage Lake, and the northern entry of Torch Lake. In the process of selecting a remedy for the Torch Lake Site, the following areas were selected for remedial measures and thus became part of the Site: defined areas of stamp sands, tailing piles, and slag materials along the shore of and

in the vicinity of Torch Lake, Northern Portage Lake, Keweenaw Waterway, Lake Superior, Boston Pond, Calumet Lake, Lake Linden, Hubbell/Tamarack City, Mason Sands, Calumet Lake, Michigan Smelter, Isle-Royale, Grosse-Point, and Quincy Smelter. More specifically, Calumet Lake is located in Calumet, Michigan, about five miles northwest of Torch Lake. Quincy Smelter is located along the Portage Canal in Hancock, Michigan. The Quincy Smelter clean up did not include the historic smelting facility, which was left as is out of historic preservation and community concerns. These properties, covering 600 acres, were not investigated at depth but were defined as part of the Torch Lake Superfund Site because of the surficial materials (stamp sands, tailings, and slag) and their relative locations to the Torch Lake water body. During the site investigation, samples were taken of the surface (0 - 6 inches) and shallow subsurface (0 - 3 feet) stamp sands, tailings, and slag piles at the frequency of approximately one composite sample per 20-acre parcel. Data generated reflected similar chemical characteristics in all samples collected. This data was sufficient to assume homogeneity of these materials and to support selection of the remedial action at the Site.

The remedial action included the installation of a soil vegetative cover over areas of stamp sands, tailings, and slag in order to meet the Remedial Action Objectives (RAOs). The remedial action only addressed surface materials associated with the covered land parcels. There may be non-site related contamination with depth or in the vicinity of these defined areas of stamp sands, tailings and slag that is not addressed by this remedial action. This potential contamination was not evaluated or addressed as part of the remedial measures for the Site. Non-site related contamination, if identified in the future, will not be addressed by a subsequent action as part of the remedial action.

Torch Lake was the site of copper milling and smelting facilities and operations for over 100

years. The Lake was a repository of milling wastes, and served as the waterway transportation to support the mining industry. The first of many mills opened on Torch Lake in 1868. At the mills, copper was extracted by crushing or stamping the rock into smaller pieces and driving them through successively smaller meshes. The copper and crushed rocks were separated by gravimetric sorting in a liquid medium. The copper was then sent to a smelter. The crushed rock particles, called tailings, were discarded along with mill processing water, typically by pumping them into the Lake.

Mining output, milling activity, and tailing production peaked in the Keweenaw Peninsula in the early 1900s to 1920. All of the mills at Torch Lake were located on the west shore of the Lake. Many other mining mills and smelters were located throughout the Keweenaw Peninsula. By around 1916, advances in technology allowed for the recovery of copper from tailings previously deposited in Torch Lake. Dredges were used to collect submerged tailings, which were then screened, recrushed, and gravity separated. An ammonia leaching process involving cupric ammonium carbonate was used to recover copper and other metals from conglomerate tailings. During the 1920s, chemical reagents were used to further increase the efficiency of reclamation. The chemical reagents included lime, pyridine oil, coal tar creosotes, wood creosote, pine oil, and xanthates. After reclamation activities were complete, chemically treated tailings were returned to the Lake. In the 1930s and 1940s, the Torch Lake mills operated mainly to recover tailings in Torch Lake. Copper mills were still active in the 1950s, but by the late 1960s copper milling had ceased.

Over 5 million tons of native copper was produced from the Keweenaw Peninsula and more than half of this was processed along the shores of Torch Lake. Between 1868 and 1968,

approximately 200 million tons of tailings were dumped into Torch Lake, filling at least 20 percent of the Lake's original volume.

In June 1972, a discharge of 27,000 gallons of cupric ammonium carbonate leaching liquor occurred into the north end of Torch Lake from the storage vats at the Lake Linden Leaching Plant. The Michigan Water Resources Commission (MWRC) investigated the spill. The 1973 MWRC report discerned no deleterious effects associated with the spill, but did observe that discoloration of several acres of lake bottom indicated previous discharges.

In the 1970s, environmental concern developed regarding the century-long deposition of tailings into Torch Lake. High concentrations of copper and other heavy metals in sediments, toxic discharges into the Lake, and fish abnormalities prompted many investigations into long and short-term impacts attributed to mine waste disposal. The International Joint Commission's Water Quality Board designated the Torch Lake basin as a Great Lakes Area of Concern (AOC) in 1983. Also in 1983, the Michigan Department of Public Health announced an advisory against the consumption of Torch Lake sauger and walleye fish due to tumors of unknown origin.

The Torch Lake Superfund Site was proposed for inclusion on the NPL in October 1984 (49 FR 40320). The Site was placed on the NPL in June 1986 (51 FR21054). The Site is also on the list of sites identified under Michigan's Natural Resources and Environmental Protection Act 451 Part 201.

Remedial Investigation and Feasibility Study (RI/FS)

On May 9, 1988 Notice Letters were issued to Universal Oil Products (UOP) and Quincy Mining Company to perform an RI/FS. UOP is the successor corporation of Calumet Hecla Mining Company, which operated its milling and smelting on the shore of Torch Lake and

disposed of the generated tailings near the City of Lake Linden. On June 13, 1988, a Notice Letter was to perform the RI/FS was also issued to Quincy Development Company, which was the current owner of a tailing pile located on the lake shore of Mason City. Negotiations for the RI/FS Consent Order with these Potentially Responsible Parties (PRPs) were not successful due to issues such as the extent of the Site and the number of PRPs.

During the week of May 8, 1989 EPA conducted ground penetrating radar and a sub bottom profile (seismic) survey of the bottom of Torch Lake. The area in which this survey was conducted is immediately off-shore from the Old Calumet and Hecla Smelting Mill Site. The survey located several point targets (possibly drums) on the bottom of Torch Lake. On June 21, 1989 EPA collected a total of eight samples from drums located in the Old Calumet and Hecla Smelting Mill Site near Lake Linden, the Ahmeek Mill Site near Hubbell City, and the Quincy Smelter Site near Mason City. On August 1, 1990 nine more samples were collected from drums located near Tamarack City. Based on the results of this sampling, EPA determined that some of these drums may have contained hazardous substances.

Due to the size and complex nature of the Site, three operable units (OUs) were defined for the Site. Operable Unit 1 includes approximately 500 acres of surface tailings, drums, and slag piles on the western shore of Torch Lake. These areas include the Hubbell/Tamarack City, Lake Linden, and Mason Sands parcels. Operable Unit 2 includes groundwater, surface water, submerged tailings, and sediments in Torch Lake, Portage Lake, the Portage Channel, and other surface water bodies at the Site. Operable Unit 3 includes tailings and slag deposits located at the North Entry of Lake Superior, Michigan Smelter, Quincy Smelter, Calumet Lake, Isle-Royale, Boston Pond, and Grosse-Point (Point Mills/Dollar Bay). Remedial Investigations (RIs)

have been completed for all three operable units. The RI for OU1 and OU3 only investigated the surface (0 - 6 inches) and shallow subsurface (0 - 3 feet) stamp sands.

Also, the RI assumed that the stamp sands were homogenous, i.e., the stamp sands had similar characteristics wherever they were located. The sampling performed to characterize the OU1 and OU3 tailings was adequate to select the remedial action based on the homogeneity of the parameters measured, the distribution of contaminant compounds, and the relatively low levels of contaminants found. While hot spot contamination may exist, it is not attributable to tailings composition, and could not be reliably located or predicted using any reasonable sampling program. The RI and Baseline Risk Assessment (BRA) reports for OU1 were finalized in July 1991. The RI and BRA reports for OU3 were finalized on February 7, 1992.

Record of Decision (ROD) Findings

The ROD for OU1 and OU3 was signed on September 30, 1992, and the ROD for OU2 was signed on March 31, 1994.

ROD for OU1 and OU3 (September 30, 1992)

The selected remedial action for the various tailings areas was a soil and vegetative cover and institutional controls. The cover prevents erosion from surface water runoff and wind of contaminants to the impaired sediment. The cover also helps prevent the further degradation of Torch Lake's ecosystem, allowing the Lake to recover over time. The RAOs for OU1 and OU3 were developed as a result of data collected during the RI and included activities to reduce or minimize the exposure to and release of contaminants in tailings and/or slag located at the Site. These activities included:

1. Reducing or minimizing potential risks to human health associated with the inhalation of airborne contaminants from the tailings and/or slag located at the Site;

2. Reducing or minimizing potential risks to human health associated with direct contact with and/or the ingestion of the tailings and/or the slag located at the Site;
3. Reducing or minimizing the release of contaminants in tailings to the groundwater through leaching; and
4. Reducing or minimizing the release of contaminants in tailings to the surface water and sediment by soil erosion and/or air deposition.

All of the RAOs for the Torch Lake parcels in this deletion package have been met with the successful implementation of a vegetative cover over the stamp sands, tailing piles, and slag materials over the various tailings areas. The vegetative soil cover reduces airborne and direct contact exposure to the contaminants in the stamp sands, tailings, and slag. The affected groundwater is part of OU2, for which the selected remedy was no action, and OU2 was deleted from the NPL in 2002. Since the selected remedy for groundwater was no action, it is not imperative that the OU1 and OU3 remedy achieve the third RAO. The vegetative soil cover serves to stabilize the stamp sands, tailings, and slag underneath and reduce the erosion of these materials and their associated contaminants to the surface water and sediment. The selected remedy for OU1 and OU3 has the following specific components:

1. Deed restrictions to control the use of tailing piles so that tailings will not be left in a condition which is contrary to the intent of the remedy;
2. Removal of debris such as wood, empty drums, and other garbage in the tailing piles for off-site disposal in order to effectively implement the soil cover with vegetation;
3. Soil cover with vegetation in the following areas:
   - Operable Unit 1 tailings in Hubbell/Tamarack City, Lake Linden, and Mason Sands (approximately 442 acres);

- Operable Unit 1 slag pile in Hubbell (approximately 9 acres); and
- Operable Unit 3 tailings in Calumet Lake, Boston Pond, Michigan Smelter, and Grosse-Point (Point Mills/Dollar Bay) (approximately 229 acres)

4. Assuming that the slag pile located in the Quincy Smelter area (approximately 25 acres) will be developed as part of a national park, no action was taken. If this area is not developed as a national park in the future, deed restrictions will be sought to prevent the development of residences in the slag pile area;
5. North Entry, Redridge and Freda tailings are excluded from the area to be covered with soil and vegetation (and are not currently being proposed for deletion here). North Entry, Redridge, and Freda are along the Lake Superior shore where pounding waves and water currents will likely retard or destroy any remedial actions. As a result, EPA currently believes it to be technically impracticable to implement the chosen remedy at these locations.

ROD Amendment for OU1 and OU3 (July 2009)

The amended remedy was developed because of information that had been collected and analyzed since the 1992 ROD. The 1992 ROD for OU1 and OU3 determined that no action should be taken at Quincy Smelter, as it was slated for development as a national park. The 1992 ROD stipulated that if this area were not developed as a national park in the future, deed restrictions would be implemented to prevent residential development in the historic slag pile area. The data presented in the Second Five-Year Review Report, signed on March 27, 2008, showed that no development had occurred to date and that the stamp sands and slag at the Site continued to erode into the Portage Channel, degrading the environment and weakening the integrity and protectiveness of the overall remedy.

Based upon this information, EPA determined that it was appropriate to modify the remedy selected in the 1992 ROD. A ROD amendment, signed in July 2009, selected a soil and vegetative cover at Quincy Smelter, consistent with other stamp sand areas in OU3, to minimize erosion and aerial deposition of the stamp sands. Institutional controls (ICs) were also implemented to protect the long-term integrity of the cover materials and minimize direct contact with the stamp sands and slag piles. The area addressed with vegetative cover encompasses about 6.5 acres which are situated outside of the currently fenced buildings and structures.

Remedial Design (RD)

In August 1994, an Interagency Agreement (IAG) was signed with the United States Department of Agriculture (USDA)-Natural Resources Conservation Service (NRCS) to perform RD work. The RD was conducted in conformance with the 1992 ROD and was completed for the entire Site in September 1998. At that time, the IAG with USDA-NRCS was amended to perform remedial action (RA) management and oversight. The September 1998 IAG was funded with $13.8 million, and the Michigan Department of Environmental Quality (MDEQ) provided a $1.52 million match for the RA work. The construction schedule was set at six years (1999 - 2004). It was estimated in the 1992 ROD that remedy implementation time would be five years. Other factors that influenced the construction schedule included the restricted availability of USDA-NRCS engineers and the relatively short construction season due to the northerly location of the Site.

Construction Activities

On-site construction began in June 1999 and was completed in September 2005. A Preliminary Close-Out Report documenting construction completion was signed on September 23, 2005.

OU1

In April 2002, EPA and MDEQ determined that the remedy was functioning as intended, and a partial NPL deletion of the Lake Linden parcel, in addition to all of OU2, was finalized. The Hubbell/Tamarack City parcels were deleted from the NPL via a partial deletion in 2004.

OU2

No remedial work was required as part of the OU2 No Action ROD. Thus, there were no construction activities for this OU. EPA deleted OU2 in the April 2002 partial NPL deletion.

OU3

Construction activities at Calumet Lake were completed in late October 2003. Shoreline protection, including rip-rap rock, was also installed along much of the shoreline where the remedy was implemented. The rip-rap rock (boulders averaging about one-foot in diameter with a specified density and integrity) protects the remedy from wave erosion.

RA construction activities were performed at Calumet Lake in accordance with approved the design and specifications. It is anticipated that the cover material and shoreline protection installed at the Site will continue to meet the RAOs established for the Site.

The Quincy Smelter portion of the Site was originally excluded from the vegetative soil cover remedy in the 1992 ROD for OU1 and OU3, as described previously, assuming that the on-site slag pile would be developed as part of the Keweenaw National Historical Park. The 1992 ROD further stated that if this area was not developed as a national park, deed restrictions would be sought to prevent residential development in the slag pile area.

In July 2005, EPA removed asbestos from two buildings at Quincy Smelter as part of a time-critical removal action. In August and September 2005, EPA installed rip-rap along the shoreline and a water diversion system to prevent storm water from running directly into the

Keweenaw Waterway. A fence was also constructed around the buildings. On September 13, 2005, EPA inspected the rip-rap and storm water culvert and found it to be in compliance with all design specifications.

In July 2006, the Keweenaw National Historical Park observed and notified EPA of continued erosion along the shoreline. During a site inspection in June 2007, EPA and MDEQ documented the level of continuing erosion at the Quincy Smelter, as well as the continued deterioration of buildings. EPA discussed the need for further actions at the property and possible solutions with the National Park Service, Franklin Township, and other stakeholders. As a result of these communications, EPA conducted a removal action at Quincy Smelter in 2008 to stabilize area conditions.

A ROD amendment was signed on July 31, 2009 selecting a vegetative cover for the stamp sands on the Quincy Smelter portion of the site. The 1992 ROD selected no action for the Quincy Smelter area because there were plans to develop the area as a national park. A national park was not developed by 2009, and no ICs were implemented for that area. As a result, EPA determined that additional remedial action at Quincy Smelter was necessary. The ROD amendment required the implementation of the same vegetative cover at Quincy Smelter as the rest of the site. This included placing an earthen cover over the stamp sands, debris removal, seeding and mulching, lined channel/shoreline/slope protection, access road construction, and installation of a fence and metal gates to secure the site.

Institutional Controls (ICs)

In 1994, EPA issued an Administrative Order on Consent (AOC) to all affected landowners requiring them, within six months of the AOC, to implement the appropriate deed restrictions on their property. The deed restrictions run with the land and bind future owners to the restrictions.

These ICs serve to protect vegetative cover and thus prevent residual mining contamination from entering surface water by ensuring that no disturbance of vegetative cover occurs. If disturbance occurs, the owner is required to replace soil and repair vegetative cover. There are restrictive covenants in place on approximately half of the properties at the Torch Lake Superfund Site. The ICs for the parcels proposed for deletion, Quincy Smelter and Calumet Lake, are in place and effective. The following restriction applies at these parcels: if during the process of any development, building, construction, or other activity on the property by or with consent from the owner of the property, the cover is disturbed so that upon completion of the development, construction, building or other activity on the property by or with consent of the owner of the property stamp sand is exposed, then the owner of the property shall cover the exposed stamp sand and shall re-vegetate the re-covered area.

Cleanup Goals

The objectives of the remedies were to control exposures to Site contaminants and control erosion of stamp sands, tailings, and slag to the surface water and sediments by covering with vegetation. The remedial actions at Quincy Smelter and Calumet Lake are operational and functional. The remedial actions are functioning properly and performing as designed.

Operation and Maintenance (O&M)

EPA conducted activities necessary to ensure that the implemented remedy at Quincy Smelter and Calumet Lake was operational and functional for a period of three years after the remedial construction at the last parcel. The remedy was jointly determined by EPA and MDEQ to be functioning properly and performing as designed in September 2008. EPA conducted annual observations of the remediated areas for three years after construction, and conducted major repairs, as necessary, on each area where the remedy was implemented.

MDEQ will be conducting O&M of the shoreline protection and cover material. In accordance with the September 1998 Superfund Site Contract signed by EPA and MDEQ, O&M was to begin three years after the remedy implementation or when the remedy was jointly determined by EPA and MDEQ to be functioning properly as designed, whichever is earlier. This milestone was reached in September 2008 for Calumet Lake and Quincy Smelter, along with several other Torch Lake property parcels. EPA has conducted sampling since then and has been working with the State to finalize a revised O&M plan to fit the new estimated recovery time for the sediment. MDEQ will be conducting the O&M at Quincy Smelter and Calumet Lake.

Five-Year Review (FYR)

EPA conducted its most recent FYR at the Site in March 2013. The 2013 FYR noted that the remedy at OU3, which includes Quincy Smelter and Calumet Lake, is protective of human health and the environment in the short-term. This FYR calls for continued documentation from landowners at the Site to verify proper deed and permitting restrictions are in place on wells screened in the stamp sands on other parcels of OU1 and OU3. Additionally, a lack of vegetative cover exists on certain properties of Point Mills. There is also a recommendation to work with the Houghton County Road Commission to ensure that road traction tailings excavation practices at Point Mills are consistent with the 1992 ROD. However, the parcels proposed for this deletion did not have any issues affecting protectiveness.

Community Involvement

Public participation activities have been satisfied as required in CERCLA section 113(k), 42 U.S.C. 9613(k), and CERCLA section 117, 42 U.S.C. 9617. Documents in the deletion docket, which EPA relied on for recommendation of the partial deletion of this Site from the NPL, are

available to the public in the information repositories and at www.regulations.gov. Documents in the docket include maps which identify the specific parcels of land that are proposed in this Notice (Quincy Smelter and Calumet Lake).

Determination that the Site Meets the Criteria for Deletion in the NCP

The NCP (40 CFR 300.425(e)) states that portions of a site may be deleted from the NPL when no further response action is appropriate. EPA, in consultation with the State of Michigan, has determined that no further action is appropriate.

V. Deletion Action

EPA, with concurrence of the State of Michigan through MDEQ, has determined that all appropriate response actions under CERCLA, other than operation, maintenance, and five-year reviews, have been completed. Therefore, EPA is deleting the Quincy Smelter and Calumet Lake parcels of OU3 of the Torch Lake Superfund Site from the NPL.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication. This action will be effective [insert date 60 days from the date of publication in the *Federal Register*] unless EPA receives adverse comments by [insert date within 30 days of this publication in the *Federal Register*]. If adverse comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final notice of partial deletion before the effective date of the partial deletion and it will not take effect. EPA will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to partially delete and the comments already received. There will be no additional opportunity to comment.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: July 25, 2013.

Susan Hedman
Regional Administrator
Region 5

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

PART 300—[AMENDED]

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

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

Appendix B – [Amended]

2. Table 1 of Appendix B to part 300 is amended under Michigan "MI" by revising the entry for " Torch Lake", "Houghton County, Michigan".

Appendix B to Part 300 – National Priorities List

TABLE 1 – GENERAL SUPERFUND SECTION

State	Site name	City/County	Notes (a)
* *	* * *	* *	
MI	Torch Lake	Houghton	P
* *	* * *	* *	

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

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