limit in paragraph (d)(2) of this section takes effect].

(7) *Force majeure provisions.* (i) For the purpose of this paragraph, a ''force majeure event'' is defined as any event arising from causes wholly beyond the control of the owner or operator or any entity controlled by the owner or operator (including, without limitation, the owner's or operator's contractors and subcontractors, and any entity in active participation or concert with the owner or operator with respect to the obligations to be undertaken by the owner or operator pursuant to this paragraph), that delays or prevents or can reasonably be anticipated to delay or prevent compliance with the deadlines in paragraphs (d)(3) and (4) of this section, despite the owner's or operator's best efforts to meet such deadlines. The requirement that the owner or operator exercise ''best efforts'' to meet the deadline includes using best efforts to avoid any force majeure event before it occurs, and to use best efforts to mitigate the effects of any force majeure event as it is occurring, and after it has occurred, such that any delay is minimized to the greatest extent possible.

(ii) Without limitation, unanticipated or increased costs or changed financial circumstances shall not constitute a force majeure event. The absence of any administrative, regulatory, or legislative approval shall not constitute a force majeure event, unless the owner or operator demonstrates that, as appropriate to the approval: they made timely and complete applications for such approval(s) to meet the deadlines set forth in paragraph (d)(3) of this section or paragraph (d)(4) of this section; they complied with all requirements to obtain such approval(s); they diligently sought such approval; they diligently and timely responded to all requests for additional information; and without such approval, the owner or operator will be required to act in violation of law to meet one or more of the deadlines in paragraph (d)(3) of this section or paragraph (d)(4) of this section.

(iii) If any event occurs which causes or may cause a delay by the owner or operator in meeting any deadline in paragraphs (d)(3) or (4) of this section and the owner or operator seeks to assert the event is a force majeure event, the owner or operator shall notify the Administrator in writing within 30 days of the time the owner or operator first knew that the event is likely to cause a delay (but in no event later than the deadline itself). The owner or operator shall be deemed to have notice of any circumstance of which their contractors or subcontractors had notice, provided that those contractors or subcontractors were retained by the owner or operator to implement, in whole or in part, the requirements of paragraph (d) of this section. Within 30 days of such notice, the owner or operator shall provide in writing to the Administrator a report containing: an explanation and description of the reasons for the delay; the anticipated length of the delay; a description of the activity(ies) that will be delayed; all actions taken and to be taken to prevent or minimize the delay; a timetable by which those measures will be implemented; and a schedule that fully describes when the owner or operator proposes to meet any deadlines in paragraph (d) of this section which have been or will be affected by the claimed force majeure event. The owner or operator shall include with any notice their rationale and all available documentation supporting their claim that the delay was or will be attributable to a force majeure event.

(iv) If the Administrator agrees that the delay has been or will be caused by a force majeure event, the Administrator and the owner or operator shall stipulate to an extension of the deadline for the affected activity(ies) as is necessary to complete the activity(ies). The Administrator shall take into consideration, in establishing any new deadline(s), evidence presented by the owner or operator relating to weather, outage schedules and remobilization requirements.

(v) If the Administrator does not agree in her sole discretion that the delay or anticipated delay has been or will be caused by a force majeure event, she will notify the owner or operator in writing of this decision within 20 days after receiving the owner's or operator's report alleging a force majeure event. If the owner or operator nevertheless seeks to demonstrate a force majeure event, the matter shall be resolved by the Court.

(vi) At all times, the owner or operator shall have the burden of proving that any delay was caused by a force majeure event (including proving that the owner or operator had given proper notice and had made ''best efforts'' to avoid and/or mitigate such event), and of proving the duration and extent of any delay(s) attributable to such event.

(vii) Failure by the owner or operator to fulfill in any way the notification and reporting requirements of this section shall constitute a waiver of any claim of a force majeure event as to which proper notice and/or reporting was not provided.

(viii) Any extension of one deadline based on a particular incident does not necessarily constitute an extension of any subsequent deadline(s) unless directed by the Administrator. No force majeure event caused by the absence of any administrative, regulatory, or legislative approval shall allow the Mohave Generating Station to operate after December 31, 2005, without installation and operation of the control equipment described in paragraph (d)(2) of this section.

(ix) If the owner or operator fails to perform an activity by a deadline in paragraphs (d)(3) or (4) of this section due to a force majeure event, the owner or operator may only be excused from performing that activity or activities for that period of time excused by the force majeure event.

[FR Doc. 00–17875 Filed 7–19–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6734–7]

National Oil and Hazardous Substances Pollution Contingency Plan National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete Publicker Industries Superfund Site from the National Priorities List; request for comments.

SUMMARY: The Environmental Protection Agency (EPA) Region III announces its intent to delete the Publicker Industries Superfund Site (Site) from the National Priorities List (NPL) and requests public comment 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), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended. EPA and the Pennsylvania Department of Environmental Protection (PADEP) have determined that the remedial action for the site has been successfully executed.

DATES: Comments concerning the proposed deletion of this Site from the NPL may be submitted on or before August 21, 2000.

ADDRESSES: Comments may be mailed to: Kristine Matzko (3HS21), Remedial Project Manager, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103.

Comprehensive information, including the deletion docket, on this Site is available for viewing at the Site information repository at the following location: Regional Center for Environmental Information, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103, 215–814–5254.

FOR FURTHER INFORMATION CONTACT: Kristine Matzko (3HS21), Remedial Project Manager, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103. Telephone 215–814–5719, e-mail address, matzko.kristine@epa.gov

SUPPLEMENTARY INFORMATION:

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I. Introduction
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I. Introduction

The U.S. Environmental Protection Agency, Region III announces its intent to delete the Publicker Industries Superfund Site located in Philadelphia, Pennsylvania, from the National Priorities List (NPL), appendix B of the National Oil and Hazardous Substance Pollution Contingency Plan (NCP), 40 CFR part 300, and requests public comments on this proposed action. EPA identifies sites that appear to present a significant risk to public health, welfare or the environment, and maintains the NPL as the list of these sites. As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions in the unlikely event that future conditions at the site warrant such action.

EPA and the Pennsylvania Department of Environmental Protection (PADEP) have determined that remedial activities conducted at the Site have been successfully executed.

EPA will accept comments on the proposal to delete this Site for thirty calendar days after publication of this notice in the **Federal Register**.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses the procedures that EPA is using for this action. Section IV discusses the Publicker Industries Superfund Site and explains how the Site meets the deletion criteria.

II. NPL Deletion Criteria

The NCP established 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 this determination, EPA shall consider, in consultation with the state, whether any of the following criteria have been met:

(i) The responsible parties or other parties have implemented all appropriate response actions required; or

(ii) All appropriate Fund-financed responses under CERCLA have been implemented and no further 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, remedial measures are not appropriate. Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the site above levels that allow for unlimited use and unrestricted exposure, EPA will conduct a review of the site at least every five years after the initiation of the remedial action at the site to ensure that the site remains protective of public health and the environment.

In the case of this Site, the selected remedy is protective of human health and the environment so long as the property is used only for industrial purposes. If new information becomes available which indicates a need for further action, EPA may initiate remedial actions. Whenever there is a significant release from a site deleted from the NPL, the site may be restored to the NPL without the application of the Hazard Ranking System.

III. Deletion Procedures

The following procedures were used for the intended deletion of this Site:

(i) EPA Region III has recommended deletion and has prepared the relevant documents. All appropriate responses under CERCLA have been implemented as documented in the Final Close-Out Report dated March 19, 2000.

(ii) PADEP has concurred with the deletion decision in a letter dated June 13, 2000. Concurrent with this Notice of Intent to Delete, an advertisement in a local paper presents information on the Site and announces the commencement of the thirty (30) day public comment period on the deletion package.

(iii) The EPA Regional Office has made all relevant documents supporting the proposed deletion available for the public to review in the EPA Regional Office.

Deletion of the Site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. The NPL is designed primarily for informational purposes and to assist EPA management. As mentioned in section II of this document, § 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.

For deletion of this Site, EPA's Regional Office will accept and evaluate public comments on EPA's Notice of Intent to Delete before making a final decision to delete. If necessary, the EPA will prepare a Responsiveness Summary to address any significant public comments received.

A deletion occurs when the EPA Region III Regional Administrator places a final notice, a Notice of Deletion, in the **Federal Register**. Generally, the NPL will reflect deletions in the final update. Public notices and copies of the Responsiveness Summary will be made available to the public by the EPA Regional Office.

IV. Basis for Intended Site Deletion

The following summary provides the EPA's rationale for the proposal to delete this Site from the NPL.

Site Background and History

The Publicker Industries Superfund Site (the Site) is located in southeastern Philadelphia, Pennsylvania. The Site is bordered to the east by the Delaware River, to the north by the Ashland Chemical Company, to the south by the Packer Marine Terminal and New Orleans Cold Storage, and to the west by Christopher Columbus Boulevard (formerly Delaware Avenue). The Site is adjacent to, and partially under the Walt Whitman Bridge, which spans the Delaware River from Pennsylvania to New Jersey. The Site covers approximately 42 acres.

From 1912 to early 1986, Publicker Industries, Incorporated, owned and operated a liquor and industrial alcohol manufacturing plant. The Publicker Plant (Plant) fermented potatoes, molasses, corn and other grains to form various kinds of alcohols. The alcohols were used in numerous products, including whiskey, solvents, cleansers, antifreeze, and rubbing alcohol. Petroleum products and chemicals were also stored at the Plant during the late 1970's and early 1980's.

Plant operations were discontinued in February 1986 and, later that year, Publicker Industries sold the property to the Overland Corporation. Overland Corporation declared bankruptcy and abandoned the site in November 1986.

The Site initially included numerous large tanks, production buildings/warehouses, and an estimated several hundred miles of above-ground process lines. Many of the process lines were wrapped with asbestos insulation. The

majority of the existing structures had deteriorated due to weather, fire, neglect, and vandalism.

Superfund Response Activities

Large amounts of hazardous wastes and materials were discovered at the Site following an extensive fire in June 1987. During subsequent investigations, EPA determined that the conditions on Site posed an imminent threat to human health and environment. Consequently, EPA completed several emergency actions from December 1987 to December 1988. These actions included the stabilization of structures, characterization of the contents of drums and tanks, bulking and securing of over 850,000 gallons of numerous waste streams, off-site disposal of laboratory containers, and removal of liquids from above-grade process lines.

In May 1989, the Site scored 59.99 on the Hazard Ranking System, and was added to the National Priorities List in October 1989.

EPA began the Remedial Investigation/Feasibility Study (RI/FS) activities in November 1989. In January 1995, EPA finalized the RI/FS.

The Site was divided into three operable units. Below is a summary of each operable unit and the remedial actions: Operable Unit #1 Site Stabilization, Operable Unit #2 Asbestos Remediation, Operable Unit #3 Soil and Ground Water.

In June 1989, the first Record of Decision (ROD) for the Site was issued. The ROD addressed Site Stabilization. The remedial actions detailed in the ROD consisted of transportation and off-site disposal of known waste streams, draining and demolition of above-grade process lines, and transportation and off-site disposal of wastes discovered in above-grade process lines. During this remediation, asbestos-containing materials were encountered on the process lines. This asbestos-containing material was bagged and stored on-site. Remedial activities began in October 1989 and were completed in December 1990.

Many of the above-grade process lines were wrapped with asbestos insulation. As a result of Operable Unit #1 remediation, asbestos-containing materials remained on-site in bags as well as on pipes. The asbestos was investigated in the early spring of 1991. A Focused Feasibility Study (FFS) was completed in the spring of 1991 and EPA subsequently issued a ROD for Operable Unit #2 on June 28, 1991. The remedy included: the removal of remaining asbestos from piping staged throughout the Site; placement in secure packaging (plastic bags); and staging and preparation for transport and disposal; the collection of asbestos previously packaged and staged at the Site; repackaging it, if necessary; and preparation for transport and disposal; and transportation of asbestos to a permitted off-site disposal facility.

An initial remedial design was developed in September 1991; however, a site fire in April 1992 delayed remedial action until February 21, 1995. The Site was divided into five work areas. The asbestos-containing material was removed using three methodologies: gross removal, glove bag, and remote containment. The material was then packaged and transported to off-site disposal facilities. The remedial action was completed on May 19, 1995. A total of 199.87 tons of asbestos-containing materials were disposed during the remedial action.

EPA used the Superfund Trust Fund to pay for the site cleanup costs for Operable Unit #1 and Operable Unit #2. Operable Unit #3 was remediated by the current site owner after negotiating a Prospective Purchaser Agreement (PPA) with EPA.

In December 1994, EPA and the PADEP, finalized a Prospective Purchaser Agreement (PPA) for the Site. The primary purpose of the PPA was to settle and resolve the potential liability of the Delaware Avenue Enterprises, Incorporated (DAE), Cresmont Limited Partnership, and Holt Cargo Systems Incorporated (collectively referred to as the Parties).

In exchange for covenants not to sue, the Parties agreed to pay EPA and PADEP a total of $2.3 million. Additionally, the PPA stated that the Parties may petition EPA to be allowed to perform all or a discrete portion of the CERCLA response selected in the ROD for Operable Unit #3. The agreed-upon value of such work may offset any balance of payments still outstanding to EPA and/or PADEP under this PPA. In January 1996, DAE petitioned to do the remedial work. An amendment to the PPA was signed on December 19, 1996 allowing DAE to implement the remedy.

The third and final ROD for the Site was signed on December 28, 1995. Before beginning the remedial work, the Remedial Action Work Plan (RAWP) was approved by EPA on July 17, 1997. DAE's contractor proceeded on August 6, 1997; mobilization took place on August 7, 1997; and construction activities started on August 11, 1997.

The selected remedy involved: abandoning on-site groundwater wells; removal, treatment, and off-site disposal of liquids and sediments in contaminated electric utilities; removal, treatment, and off-site disposal of liquids and sediments in contaminated storm water trenches and utilities; and removal, treatment and off-site disposal of miscellaneous wastes.

The ROD required that if excavation should occur on-site in the future, that monitoring will be conducted to ensure worker safety. A deed notice has been filed which notifies future owners of the listing of the Site on the National Priorities List, the releases of hazardous substances, and the existence of RODs for the Site. Furthermore, the deed notice alerts future owners that they ''shall not put the Site to any use which could disturb or be inconsistent with the remedial response action implemented at the Site.''

EPA and PADEP conducted several inspections during the remediation of Operable Unit #3. These inspections included: an inspection of the abandoned wells on September 5, 1997; an inspection of the stormsewers on October 10, 1997; an inspection of the electric utilities on December 2 and 9, 1997; an inspection of the stormwater trenches on December 2, 1997; and finally an inspection of the additional storm water lines on January 13 and 16, 1998. The remedial activities were performed according to design specifications set forth in the Remedial Action Work Plan.

EPA issued a Preliminary close Out Report on December 2, 1997 which documented the completion of construction activities., Remedial actions were completed on May 11, 1998. DAE submitted a Final Report on Operable Unit #3 dated June 1998 which described the remedial activities. A follow-up site-visit and interview was held on September 8, 1999 as part of the review of the Final Report and as part of the five year review. An addendum to the Final Report was later submitted to EPA, and EPA accepted the final report on September 29, 1999.

None of the Operable Units require operation and maintenance or post-remedial action monitoring. Neither the OU#1 nor the OU#2 ROD remedies required Operation and Maintenance or post-remedial action monitoring. Originally, for Operable Unit #3 the stormwater outfalls were to be monitored to assess if the Delaware River was receiving any contamination. However, the stormwater outfalls and connections to the city sewer were sealed to eliminate the need to monitor the outfalls.

Five Year Reviews

EPA conducted two five year reviews of the Site. The first five year review was completed in October 1996 and the second review was completed in

February 2000. During the first five year review, the remedy for Operable Unbite #3 had not yet been completed and, therefore, the five year review concluded that the remedy for the entire Site was not protective. The second five year review concluded that the remedies are protective of the environment and human health for non-residential uses and that further reviews need to continue.

Final Close-Out Report

EPA issued a Final Close Out Report (FCOR) on March 19, 2000 that documented the completion of all construction activities for the Publicker Industries Superfund Site. As part of the FCOR, EPA and PADEP conducted a site visit on September 8, 1999. The site visit and review information concluded that all the remedial actions have been successfully executed.

Applicable Deletion Criteria

EPA is proposing deletion of this Site from the NPL. In a letter dated June 13, 2000 PADEP concurred with EPA that all appropriate responses under CERCLA have been implemented. Documents supporting this action are available from the docket. EPA believes that the criteria state in section II(i) and (ii) for deletion of this Site have been met. Therefore, EPA is proposing the deletion of the Publicker Industries Superfund Site from the NPL.

Dated: June 21, 2000.

Bradley M. Campbell,

Regional Administrator, Region III.

[FR Doc. 00–17752 Filed 7–19–00; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–1472; MM Docket No. 99–314; RM–9754]

Radio Broadcasting Services; Metropolis IL and Paducah, KY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; denial.

SUMMARY: Sun Media, Inc. requested the reallotment of Channel 252C1 from Metropolis, Illinois to Paducah, Kentucky, and the modification of Station WRIK–FM's construction permit accordingly. *See* 64 FR 59728, November 3, 1999. The petitioner's rule making proposal was denied because the difference in population between the two communities did not justify removing the third local transmission service from the smaller community of Metropolis to provide the larger community of Paducah with its sixth local transmission service.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 99–314, adopted June 21, 2000, and released June 30, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 00–18295 Filed 7–19–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA No. 00–1437; MM Docket No. 99–223; RM–9604]

Radio Broadcasting Services; Leeds, UT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule, denial.

SUMMARY: This document denies a petition for rule making filed by Mountain West Broadcasting requesting the allotment of Channel 287C2 at Leeds, Utah. *See* 64 FR 34751, June 29, 1999. Based on the information submitted by Mountain West Broadcasting, we believe it has failed to establish that Leeds qualifies as a community for allotment purposes and therefore it would not serve the public interest to allot a channel to Leeds.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 99–223, adopted June 21, 2000, and released June 30, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 Twelfth Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800, facsimile (202) 857-3805.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 00–18296 Filed 7–19–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA No. 00–1438; MM Docket No. 99–227; RM–9634]

Radio Broadcasting Services; Trego, MT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule, denial.

SUMMARY: This document denies a petition for rule making filed by the Battani Corporation requesting the allotment of Channel 296C2 at Trego, Montana. *See* 64 FR 34754, June 29, 1999. Based on the information submitted by the Battani Corporation, we believe it has failed to establish that Trego qualifies as a community for allotment purposes and therefore it would not serve the public interest to allot a channel to Trego.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 99–227, adopted June 21, 2000, and released June 30, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800, facsimile (202) 857–3805.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 00–18297 Filed 7–19–00; 8:45 am]

BILLING CODE 6712–01–U