State	County	Rate per acre
New Hampshire	All Counties	19.48
New Mexico	Chaves, Curry, De Baca, Dona Ana, Eddy, Grant, Guadalupe, Harding, Hidalgo, Lea, Luna, McKinley, Otero, Quay, Roosevelt, San Juan, Socorro, Torrence.	6.47
	Rio Arriba, Sandoual, Union	12.98
	Bernalillo, Catron, Cibola, Colfax, Lincoln, Los Alamos, Mora, San Miguel, Santa Fe, Sierra, Taos, Valencia.	25.96
New York	All Counties	25.96
North Carolina	All Counties	38.96
North Dakota	All Counties	6.47
Ohio	All Counties	25.96
Oklahoma	Beaver, Cimarron, Roger Mills, Texas	12.98
	Le Flore, McCurtain	19.48
	All Other Counties	6.47
Oregon	Harney Lake, Malheur, Baker	6.47
	Crook, Deschutes, Gillam, Grant, Jefferson, Klamath, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco, Wheeler.	12.98
	Coos, Curry, Douglas, Jackson, Josephine	19.48
	Benton, Clackamas, Clatsop, Columbia, Hood River, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, Yamhill.	25.96
	Fall River, Lawrence, Mead, Pennington, All Other Counties	6.47
Pennsylvania	All Counties	25.96
Puerto Rico	All	38.96
South Carolina	All Counties	38.96
South Dakota	Butte, Custer	19.48
Tennessee	All Counties	25.96
Texas	Culberson, El Paso, Hudspeth	6.47
	All Other Counties	38.96
Utah	Beaver, Box Elder, Carbon, Duchesne, Emery, Garfield, Grand, Iron, Juab, Kane, Millard, San Juan, Tooele, Uintah, Wayne.	6.47
	Washington	12.98
	Cache, Daggett, Davis, Morgan, Piute, Rich, Salt Lake, Sanpete, Sevier, Summit, Utah, Wasatch, Weber.	19.48
Vermont	All Counties	25.96
Virginia	All Counties	25.96
Washington	Adams, Asotin, Benton, Chelan, Columbia, Douglas, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Spokane, Walla Walla, Whitman, Yakima.	12.48
	Ferry, Pend Oreille, Stevens	19.48
	Clallam, Clark, Cowlitz, Grays Harbor, Island, Jefferson, King, Kitsap, Lewis, Mason, Pacific, Pierce, San Juan, Skagit, Skamania, Snohomish, Thurston, Wahkiakum, Whatcom.	25.96
West Virginia	All Counties	25.96
Wisconsin	All Counties	19.48
Wyoming	Albany, Campbell, Carbon, Converse, Goshen, Hot Springs, Johnson, Laramie, Lincoln, Natrona, Niobrara, Platte, Sheridan, Sweetwater, Fremont, Sublette, Uinta.	6.47
	Washakie, Big Horn, Crook, Park, Teton, Weston	19.48
All Other Zone		6.24

[FR Doc. 01–29567 Filed 11–27–01; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7108–5]

National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Direct final notice of deletion of the Compass Industries Landfill Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region 6 is publishing a direct final notice of deletion of the Compass Industries Landfill Superfund Site (Site), located in the Chandler Park area west of Tulsa, Tulsa County, Oklahoma, 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 appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being published by EPA with the concurrence of the State of Oklahoma, through the Oklahoma Department of Environmental Quality (ODEQ), because EPA has determined that all appropriate response actions under CERCLA have been completed and, therefore, further remedial action pursuant to CERCLA is not appropriate.

DATES: This direct final notice of deletion will be effective January 28, 2002 unless EPA receives adverse comments by December 28, 2001. If adverse comments are received, EPA will publish a timely withdrawal of the direct final deletion in the **Federal**

Register informing the public that the deletion will not take effect.

ADDRESSES: Comments may be mailed to: Beverly Negri, Community Involvement Coordinator, U.S. EPA Region 6 (6SF–LP), 1445 Ross Avenue, Dallas, TX 75202–2733, (214) 665–8157 or 1–800–533–3508 (*negri.beverly@epa.gov*).

Information Repositories: Comprehensive information about the Site is available for viewing and copying at the Site information repositories located at: U.S. EPA Region 6 Library, 12th Floor, 1445 Ross Avenue, Suite 12D13, Dallas, Texas 75202–2733, (214) 665–6427, Monday through Friday 7:30 a.m. to 4:30 p.m.; Tulsa City-County Library, 400 Civic Center, Tulsa, Oklahoma 74103, (918) 596–7977, Monday through Friday 9 a.m. to 9 p.m.; Friday and Saturday 9 a.m. to 5 p.m.; Sunday, September through mid-May 1 p.m. to 5 p.m.; Oklahoma Department of Environmental Quality, Contact: Eileen Hroch, 5th floor file room, 707 N. Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101, (405) 702–5100, Monday through Friday 8:30 a.m. to 3:30 p.m.

FOR FURTHER INFORMATION CONTACT: Katrina Coltrain, Remedial Project Manager (RPM), U.S. EPA Region 6 (6SF–LP), 1445 Ross Avenue, Dallas, TX 75202–2733, (214) 665–8143 or 1–800–533–3508 (*coltrain.katrina@epa.gov*).

SUPPLEMENTARY INFORMATION:

Table of Contents:

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

I. Introduction

The EPA Region 6 office is publishing this direct final notice of deletion of the Compass Industries Landfill Superfund Site from the NPL.

The EPA identifies sites that appear to present a significant risk to public health or the environment and maintains the NPL as the list of those sites. As described in section 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions if conditions at a deleted site warrant such action.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication of a notice of intent to delete. This action will be effective January 28, 2002 unless EPA receives adverse comments by December 28, 2001 on this document. If adverse comments are received within the 30-day public comment period on this document, EPA will publish a timely withdrawal of this direct final notice of deletion before the effective date of the deletion and the deletion will not take effect. The EPA will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete published elsewhere in this issue of the **Federal Register** 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 Compass Industries Landfill Superfund Site and demonstrates how it meets the deletion criteria. Section V discusses EPA's action to delete the Site from the NPL unless adverse comments are received during the public comment period.

II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that releases may be deleted from the NPL where no further response is appropriate. In making a determination to delete a release from the NPL, EPA shall 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 (Hazardous Substance Superfund Response Trust Fund) 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.

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the deleted site above levels that allow for unlimited use and unrestricted exposure, CERCLA section 121(c), 42 U.S.C. 9621(c) requires that a subsequent review of the site be conducted at least every five years after the initiation of the remedial action at the deleted site to ensure that the action remains protective of public health and the environment. 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 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 Site:

(1) The EPA consulted with ODEQ on the deletion of the Site from the NPL prior to developing this direct final notice of deletion.

(2) ODEQ concurred with deletion of the Site from the NPL.

(3) Concurrently with the publication of this direct final notice of deletion, a notice of the availability of the parallel notice of intent to delete published today in the ''Proposed Rules'' section of the **Federal Register** is being published in a major local newspaper of general circulation at or near the Site and is being distributed to appropriate federal, state, and local government officials and other interested parties; the newspaper notice announces the 30-day public comment period concerning the notice of intent to delete the Site from the NPL.

(4) The EPA placed copies of documents supporting the deletion in the Site information repositories identified above.

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

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

IV. Basis for Site Deletion

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

Site Location

The Compass Industries Landfill Site is an abandoned landfill located in a former limestone quarry west of Tulsa, Oklahoma. The Site is situated directly west of the Chandler Park softball facility, which is owned by Tulsa County. Physically, the Site is situated on a bluff approximately one-quarter mile south and 200 feet above the

Arkansas River. The Site's topography slopes downward to the west and north. The majority of runoff flows through water gaps in the east-west ridge above Avery Drive. Runoff from precipitation, springs and seeps flow into the Arkansas River through a simple network of small streams.

Site History

The Site operated as a municipal landfill between 1972 and 1976, as a facility permitted by the Oklahoma State Department of Health (OSDH), now called ODEQ. The permit conditions did not allow the disposal of industrial waste at the Site; however, disposal of industrial waste was done counter to regulations and permit conditions. During the Site's operation as a limestone quarry, the operators of Compass Industries Landfill kept few records concerning the wastes which were disposed of in the landfill. The Site data indicated that disposal of waste was done in an irregular manner, making it difficult to ascertain where the wastes of concern were located.

During the 1970's several fires were reported at the landfill. The most recent fire burned out in late 1984. It had burned underground for several years, breaking through the top soil cover on occasion. In early 1983, citizen complaints of odors prompted air monitoring in the vicinity of the landfill by the EPA and the OSDH. The results obtained from this monitoring revealed the presence of some organics, but at levels that were considered non-hazardous.

In September 1983, the Compass Site was proposed for the NPL, and was listed in September 1984.

Remedial Investigation and Feasibility Study (RI/FS)

During the RI of the Compass Industries Landfill Site, samples were collected from soil, water, and air to determine if significant pollutant concentrations were present. Routes of offsite migration include surface runoff, ground water (by way of recharge to seeps and surface runoff), transported sediments, and air.

Analytical result of the samples collected from the Site identified 12 inorganic and 33 organic priority pollutants. The most common priority pollutants were base-neutral compounds. The concentrations were greatest in samples of waste collected from surface and test trench soils.

Ground water samples were collected from 19 monitoring wells during the RI. These include 18 samples collected from 14 shallow wells completed in the perched water table aquifer, and eight samples collected from five deep wells completed in the Layton Sandstone. Surface water runoff and sediment samples from drainage ways were collected around the perimeter of the landfill to determine if contaminated runoff and sediments were leaving the Site.

Ten seep samples were collected to determine if contaminants were being leached out of the landfill wastes and transported. Seepage occurs along the perimeter of the landfill near the contact between the Hogshooter formation and Coffeyville formation.

Air samples were collected by the EPA technical assistance team during trench excavation and waste sampling. These samples were collected immediately upwind, downwind, and within the test pit. In addition, air monitoring using an organic vapor analyzer (OVA) was performed at each trench during excavation.

Results

- Migration of contaminants in the ground water was being mitigated by attenuating mechanisms since much greater concentrations were measured in soil/sediment samples.
- Offsite migration of contaminants was limited to surface runoff and seeps. However, concentrations were greatly diminished at discharge points in comparison to onsite waste concentrations. Soil samples collected in the drainage ways were contaminated with inorganic priority pollutants. These contaminants did not pose a significant hazard, as they were expected to stay adsorbed on the soil.
- The shallow perched aquifer (Hogshooter Formation) containing water that had percolated through the waste was contaminated. The deeper aquifer (Layton Sandstone) was also contaminated, but to a lesser extent. This was due to its relative isolation from the shallow aquifer by a low permeability shale.
- Wastes sampled on the ground surface showed significant concentrations of both inorganic and organic priority pollutants. The surface waste samples were similar in composition to wastes sampled from trenches.
- The large spatial variation in compound concentration and types of compounds detected suggested that the location of disposal and the type of wastes disposed may have varied widely across the Site.
- Random soil samples from the Site showed significantly higher concentrations of priority pollutants than the background soil samples. However, this was not the case for all surficial soil samples, i.e., not all soils samples were polluted in the landfill.

Characterization of Risk

John Mathes and Associates completed an Endangerment Assessment study for the Site in August 1988, for OSDH. The Endangerment Assessment was the precursor of the current Risk Assessment, and prior to 1989 was prepared using the Endangerment Assessment Handbook (1985). Thus the methodology of the Compass Endangerment Assessment is different from the current Risk Assessment which is based on Risk Assessment Guidance for Superfund (1989).

The Endangerment Assessment study picked 15 chemicals as indicator chemicals from among the numerous chemicals detected at the Site. Selection of the final list of indicator chemicals was determined by the magnitude of the indicator scores and an evaluation of the chemical's environmental fate and transport characteristics.

The results of the Endangerment Assessment for the 15 indicator chemicals were as follows: (1) Ingestion of ground water was not considered a potential exposure pathway, because it was considered incomplete since nearby residents use city water; (2) ingestion or dermal absorption of surface water was determined not to pose a health hazard; and, (3) site soil represented the only contaminated environmental medium for which the exposure pathways were complete.

Record of Decision Findings

On September 29, 1987, EPA signed a Record of Decision (ROD) for the Site. The remedy was chosen in accordance with CERCLA and the NCP. The decision was based on the administrative record for this Site and the concurrence of the State of Oklahoma on the selected remedy. This alternative is protective and cost-effective, attains applicable or relevant and appropriate Federal and State standards, and utilizes permanent solutions and treatment technologies to the maximum extent practicable.

The Site was addressed as one operable unit. The principal concerns addressed at the Site were from surface soils contaminated with inorganic and organic priority pollutants. The major components of the selected remedy include:

- Resource Conservation and Recovery Act (RCRA) cap involving site grading, cap placement, diversion of surface water, and air emissions monitoring.

• Ground water will be treated at a later date if found to be necessary.

• Installation of security fences and signs to restrict access to the Site.

• Monitoring of the site for 30 years to ensure no significant offsite migration.

• Additional Remedial Action if significant migration of contaminants occurs.

Response Actions

In late March 1988, EPA issued a Unilateral Administrative Order (UAO) to seven potentially responsible parties (PRPs) to assume responsibility for remedial action (RA) at the Site.

The essential elements of the Remedial Action included subcontract award and mobilization, clearing and grubbing, grading, construction of the clay cap, placement of the liner, permanent vegetative cover, final inspection, and demobilization. Other work needed to meet the results called for in the ROD but not explicitly stated, were included in the Statement of Work (SOW) as follows:

(1) Installation of a gas vent system to relieve any gas buildup under the cap; (2) construction of a surface drainage system consisting of a swale which collects sheet flow from the cap and carries water to a point beyond the hazardous waste area to drain into natural runoff channels at the western end of the Site; and, (3) construction of a berm to close openings in the bluffs along the northern end of the Site to prevent runoff from the cap from following existing drainage washouts, which threaten the road and rail right-of-way below the Site.

The United States Army Corps of Engineers (USACE) provided oversight for EPA through an Interagency Agreement. The USACE maintained full time oversight of the construction activities and assured quality by independent testing and ensured compliance with specifications and design drawings.

Cleanup Standards

During the Remedial Construction, samples were taken and analyzed to ascertain that construction requirements established by the ROD and set forth in the Remedial Design (RD) were met. The results of the construction quality, ambient air monitoring, and personnel safety are found in the Quality Assurance Final Report. The report notes that the requirements of the ROD as defined in the RD were always equaled or exceeded. Some of the important results are summarized below:

• Specifications required that the clay be compacted to a minimum of 98% of maximum dry density and 1% above optimum moisture. Passing tests showed compaction to average 100.9% density and 2.6% above optimum moisture. All fill represented by failing tests were reworked to meet the specification requirements:

• The high density polyethylene (HDPE) used for the multiplayer cap was sampled for peel strength and seam strength. The average peel strength (extrusion) was 68.8 pounds per inch (ppi) against a design criteria of 38 ppi. The average seam strength (extrusion) was 84.1 ppi against a design requirement of 64 ppi.

• The average tensile strength at break for the HDPE liner was 4740 pounds per square inch (psi) against the design criteria of 4000 psi.

• A perimeter air monitoring system installed between the Site and Chandler Park baseball diamonds noted no noxious vapors leaving the Site during the construction.

Operation and Maintenance

A post closure Operation and Maintenance (O&M) plan was developed to ensure integrity, provide a performance demonstration, and verify long term success of the remedial action. The O&M plan specified the actions to be carried out during the post-closure period.

Environmental Monitoring: The scope of this program will include sampling and analysis of ground water, surface water, and sediment for parameters which could potentially pose a threat to human health and environment.

Seeps located on the bluffs on the northeast will be sampled to check for the presence of chemical contaminants from the perched aquifers. Post closure sampling of the seeps will be conducted to show that the RCRA cap has achieved the ROD requirements. There will be a minimum of five seep locations sampled, five surface water/sediment samples, and two background seep samples. The analytical results will be evaluated and compared to risk based requirements and background sampling data. Compliance will be based on analytical results not exceeding the monitoring concentrations listed in the O&M plan and based on risk of less than 10^{-6} (1 in 1,000,000).

Monitoring will be conducted every year on a quarterly basis. The analytical data will be evaluated semi-annually and an annual report provided to EPA and OSDH. After five years of quarterly monitoring the program will be reviewed and modified if necessary, based on the results of the annual report(s). The monitoring program is planned for a period of 30 years with 5-year periodic reviews. If any five-year review indicates that the Site poses a threat to the environment, then an onsite water treatment facility will be installed. The program can be discontinued after any five-year review, provided EPA and the parties conducting the program agree, in writing, that the data from the ground water indicates that the Site does not pose an environmental threat.

Performance Monitoring: This monitoring will verify that the main engineered elements are performing as designed. The main objective of the performance monitoring system is the early detection of trends that could indicate weaknesses developing in the containment system, so that corrective action could be taken before the integrity of the structure is compromised. The monitoring will consist of visual inspection during walkover, topographic surveys based on predetermined grid lines and aerial surveys. Repairs will be performed as required.

Five-Year Review

Consistent with section 121(c) of CERCLA and requirements of the OSWER Directive 9355.7–03B–P (''Comprehensive Five-Year Review Guidance'', June 2001), a five-year review is required at the Compass Site. The Directive requires EPA to conduct statutory five-year reviews at sites where, upon attainment of ROD cleanup levels, hazardous substances remaining within restricted areas onsite will not allow unlimited use of the entire site.

Since hazardous substances remain onsite, this Site is subject to five-year reviews to ensure the continued protectiveness of the remedy. Based on the five-year results, EPA will determine whether human health and the environment continues to be adequately protected by the implemented remedy.

5-Year Review—2000

The first five-year review was scheduled for completion in 1996; however, it was not completed until September 26, 2000. The review was held up due to the lack of a clear definition of the capped area. In spring of 1997, the cap was surveyed and defined by the legal metes and bound definition. The five-year review denoted no deficiencies; however, potential deficiencies were identified and include (1) continued mowing of the native grasses may result in a buildup of thatch; therefore, if mowing continues the site should be raked approximately every four years; (2) as the area returns

to native vegetation, woody plants with strong root systems may damage the liner system; therefore woody vegetation should be removed at least annually; (3) burrowing animals including mice, rats and snakes may also damage the liner system; therefore, continued periodic checks on the site should be maintained; and, (4) erosion of the RCRA cap continues to be a concern, and the site should be periodically inspected to ensure that the full 24 inches of the RCRA cap remains intact.

Because the remedial action is expected to be protective, the remedy for the site is expected to be protective of human health and the environment. Based upon the site inspection, the sampling results, the survey results and the remedial actions are performing well. The RCRA cap system has been well maintained and now is performing its function with minimal maintenance and movement. The ground water leaving the site, when present, has been substantially below the monitoring concentration, never having exceeded 10% of any level. The site appurtenant structures, including the fencing, the signs, and the vent pipes, are in sound condition with no signs of physical deterioration. All contaminants of concern appear to be fully controlled by the RCRA cap.

5-Year Review—2001

The second five-year review is in the process of being finalized. At this time, no major deficiencies have been noted. Several minor and potential deficiencies were identified during the inspection and include: (1) On an area along the northen slope, woody shrubs are clearly evident and must be removed; (2) riprap placed at the lower end of the swale during recent repairs did not completely cover all of the geotextile and additional rock is needed; and, (3) the settlement monuments which were scheduled to be surveyed during the 10th year will be surveyed as soon as practical. The change of primacy for O&M activities may delay completion of this activity.

Because the remedial action is expected to be protective, the remedy for the site is expected to be protective of human health and the environment. Based upon the site inspection and the sampling results, the remedial actions are performing well. All contaminants of concern appear to be fully controlled by the RCRA cap.

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 deletion from the NPL are available to the public in the information repositories.

V. Deletion Action

The EPA, with concurrence of the State of Oklahoma, has determined that all appropriate responses under CERCLA have been completed, and that no further response actions, under CERCLA, other than O&M and five-year reviews, are necessary. Therefore, EPA is deleting the Site from the NPL.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication. This action will be effective January 28, 2002 unless EPA receives adverse comments by December 28, 2001. If adverse comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final notice of deletion before the effective date of the deletion and it will not take effect. The EPA will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete published elsewhere in this issue of the **Federal Register** 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: November 8, 2001.

Gregg A. Cooke,

Regional Administrator, Region 6.

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

PART 300—[AMENDED]

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

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

Appendix B—[Amended]

2. Table 1 of Appendix B to Part 300 is amended under Oklahoma (''OK'') by removing the entry for ''Compass Industries (Avery Drive), Tulsa''.

[FR Doc. 01–29469 Filed 11–27–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AG05

Endangered and Threatened Wildlife and Plants; Final Rule To List the Vermilion Darter as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), determine the vermilion darter (*Etheostoma chermocki*) to be endangered under the authority of the Endangered Species Act of 1973, as amended (Act). The current range of the vermilion darter is 11.6 kilometers (km) (7.2 miles (mi)) of the mainstem of Turkey Creek and the lower reaches of (0.8 km (0.5 mi) total) of Dry and Beaver Creeks where they intersect Turkey Creek. Turkey Creek is a tributary of the Locust Fork of the Black Warrior River, and is found in northeast Jefferson County, Alabama. Impoundments within the upper mainstem of Turkey Creek and its tributaries, along with water quality degradation, have altered the stream's dynamics and reduced the darter's range significantly. The surviving population is currently threatened by pollutants (*i.e.,* sediment, nutrients, pesticide and fertilizer runoff) that wash into the streams from the land surfaces. Since the vermilion darter has such a restricted range, it is also threatened by potential catastrophic events (*e.g.*, toxic chemical spill). This action extends the protection of the Act to the vermilion darter.

EFFECTIVE DATE: December 28, 2001.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Mississippi Field Office, U.S. Fish and Wildlife Service, 6578 Dogwood View Parkway, Jackson, Mississippi, 39213.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel J. Drennen at the above address, or telephone 601/321–1127; facsimile 601/965–4340.

SUPPLEMENTARY INFORMATION:

Background

Boschung *et al.* (1992) formally described the vermilion darter (*Etheostoma chermocki* (Teleostei: Percidae)) from the Black Warrior River drainage of Alabama. This fish is a medium-sized darter reaching about 7.1 centimeters (2.8 inches) total length