

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 300**

[EPA-HQ-SFUND-2009-0175; FRL-8897-2]

National Oil and Hazardous Substance Pollution Contingency Plan; Montclair/West Orange and Glen Ridge Radium Superfund Sites; National Priorities List**AGENCY:** Environmental Protection Agency.**ACTION:** Proposed rule; National Priorities List; notice of intent to delete.

SUMMARY: The Environmental Protection Agency (EPA)—Region II is issuing a Notice of Intent to Delete the Montclair/West Orange and Glen Ridge Radium Superfund Sites located in Montclair, West Orange, Glen Ridge, Bloomfield and East Orange, New Jersey from the National Priorities List (NPL) and requests public comments on this proposed action. 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). EPA and the State of New Jersey, through the Department of Environmental Protection, have determined that all appropriate response actions under CERCLA have been completed. However, this deletion does not preclude future actions under Superfund.

DATES: Comments must be received by May 29, 2009.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-SFUND-2009-0175, by one of the following methods:

- <http://www.regulations.gov>—Follow on-line instructions for submitting comments.

- *E-mail:* donovan.betsy@epa.gov.

- *Fax:* To the attention of Betsy Donovan at 212-637-4439.

- *Mail:* To the attention of Betsy Donovan, Remedial Project Manager, Emergency and Remedial Response Division, U.S. Environmental Protection Agency—Region 2, 290 Broadway, 19th Floor, New York, NY 10007-1866.

- *Hand delivery:* Superfund Records Center, 290 Broadway, 18th Floor, New York, NY 10007-1866 (telephone: 212-637-4308). Such deliveries are only accepted during the Center's normal hours of operation (Monday to Friday from 9 a.m. to 5 p.m.). Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-HQ-SFUND-2009-0175. 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 e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means that EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail 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 in <http://www.regulations.gov> or in hard copy at:

U.S. Environmental Protection Agency—Region 2, Superfund Records Center, 290 Broadway, 18th Floor, New York, NY 10007-1866, Phone: 212-637-4308. Hours: Monday to Friday 9 a.m. to 5 p.m.

Montclair Public Library Reference Department, 50 South Fullerton Avenue, Montclair, New Jersey 07042, Phone 973-744-0500. Hours: Monday to Thursday 10 a.m. to 9 p.m.; Friday & Saturday 10 a.m. to 5 p.m.; and Sunday 1 p.m. to 5 p.m.

The Township of West Orange Health Department, 66 Main Street, Room 203,

West Orange, New Jersey 07052, Phone 973-325-4120. Hours: Monday to Friday 8:30 a.m. to 4:30 p.m.

Glen Ridge Public Library Reference Department, 240 Ridgewood Avenue, Glen Ridge, New Jersey 07028, Phone 973-748-5482. Hours: Monday 9 a.m. to 8 p.m.; Tuesday 9 a.m. to 5 p.m.; Wednesday 9 a.m. to 8 p.m.; and Thursday, Friday, Saturday 9 a.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT: Ms. Betsy Donovan, Remedial Project Manager, by mail: Emergency and Remedial Response Division, U.S. Environmental Protection Agency—Region 2, 290 Broadway, 19th Floor, New York, NY 10007-1866; (or) telephone (212) 637-4369; (or) fax (212) 637-4439; (or) e-mail donovan.betsy@epa.gov.

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I. Introduction

EPA Region 2 announces its intent to delete the Montclair/West Orange and Glen Ridge Radium Superfund Sites 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) that 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 (Trust Fund or Fund). As described in 40 CFR 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.

EPA will accept comments on the proposal to delete this site for thirty (30) days after publication of this document in the **Federal Register**.

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 Montclair/West Orange and Glen Ridge Radium Superfund Sites and demonstrates how they meet the deletion criteria.

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.

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 these Sites:

(1) EPA consulted with the State before developing this Notice of Intent to Delete.

(2) EPA provided the State with 30 working days for review of this notice prior to publication of it today.

(3) In accordance with the criteria discussed above, EPA has determined that no further response is appropriate.

(4) The State of New Jersey, through the Department of Environmental Protection, has concurred with the proposed deletion of the Sites from the NPL.

(5) Concurrently with the publication of this Notice of Intent to Delete in the **Federal Register**, notices are being published in major local newspapers, The Montclair Times, The West Orange Chronicle, The Glen Ridge Paper, Bloomfield Life, and East Orange Record. The newspaper notices announce the 30-day public comment period concerning the Notice of Intent to Delete the Sites from the NPL.

(6) EPA placed copies of documents supporting the proposed deletion in the deletion docket and made these items available for public inspection and copying at the information repositories for the Sites identified above.

If comments are received within the 30-day public comment period on this document, EPA will evaluate and respond appropriately to the comments before making a final decision to delete. If necessary, EPA will prepare a Responsiveness Summary to address any significant public comments received. After the public comment period, if EPA determines it is still appropriate to delete the Sites, the Regional Administrator will publish a final Notice of Deletion in the **Federal Register**. Public notices, public submissions and copies of the Responsiveness Summary, if prepared, will be made available to interested parties and in the site information repositories listed above.

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 deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

IV. Basis for Intended Site Deletion

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

A. Site Background and History

The Montclair/West Orange Radium Superfund Site, CERCLIS ID Number NJD980785653, and the Glen Ridge Radium Superfund Site, CERCLIS ID Number NJD980785646, are located in Montclair, West Orange, Glen Ridge, Bloomfield and East Orange, Essex County, New Jersey.

The Montclair/West Orange and Glen Ridge Radium Sites are identified as two Sites on the Superfund National Priorities List (NPL). Although listed separately on the NPL, the two Sites are addressed jointly due to their geographic proximity and similar characteristics. The two Sites include three non-contiguous areas located in five residential communities of suburban Essex County in northeastern New Jersey, about 12 miles west of New York City. The Sites cover a total area of approximately 250 acres and include 900 residential and 24 municipal properties. Municipal properties are areas such as city streets, lots and parks.

Radium research and the radium products industry were prevalent in northern New Jersey from the early 1900s to the late 1920s. Radium was

used to destroy cancerous tissue and as a pigment in luminous paint on wrist watch dials, gun sights, survey equipment, and instrument panels for airplanes and submarines.

The U.S. Radium Corporation, formerly known as the Radium Luminous Material Corporation, operated a facility in Orange, New Jersey from 1915 through 1926. The main activity at the facility involved the extraction and purification of radium from carnotite ore. At its peak, up to two tons of ore per day were processed at the plant. The extraction process removed about 85 percent of the radium. Because it was not economically feasible to remove all of the radium, the ore processing wastes contained residual amounts of radium and other radiological contaminants. Each ton of ore yielded five to seven milligrams of radium, which is a quantity no bigger than an average grain of sand. Consequently, a large volume of process wastes, or tailings, containing residual radioactive materials were generated and dumped in undeveloped, low-lying and marshy areas.

The Montclair/West Orange and Glen Ridge Sites were originally identified in 1979 by the New Jersey Department of Environmental Protection (NJDEP) as part of a program to investigate former radium processing facilities in the State. It was recognized that radioactive ore processing wastes could have been disposed at locations distant from the ore processing facilities.

In 1981, NJDEP requested that EPA conduct an aerial gamma radiation survey of a 12-square-mile area surrounding a former ore processing facility in Essex County. The EPA survey identified a number of locations with elevated levels of gamma radiation in Montclair and Glen Ridge, as well as the former U.S. Radium processing facility in nearby Orange, New Jersey, which is being addressed as a separate NPL site. The two Sites were proposed for inclusion on the NPL in October 1984 (49 FR 40320), and were formally added in February 1985 (50 FR 6320) in a special listing process.

On December 6, 1983, the Centers for Disease Control (CDC) issued a health advisory recommending immediate action to reduce the human health risks at the Sites. In response, EPA installed radon mitigation systems to reduce indoor radon gas concentrations in homes where radon measurements exceeded the recommended levels. Shielding (e.g., lead) was also installed in areas with excessive gamma radiation measurements to reduce potential exposures. The systems and shielding were installed as temporary measures

until a soil cleanup program could be implemented to permanently remove the source of the radon gas and gamma radiation.

B. Remedial Investigation and Feasibility Study

In 1983, follow-up ground investigations were conducted in the areas exhibiting elevated surface gamma radiation as identified by the 1981 aerial survey. Investigations found that the soil was contaminated primarily with radionuclides in the uranium decay chain, including isotopes of radium, thorium, uranium and lead. The main radionuclide of concern was radium-226, because its radioactive decay can cause elevated indoor concentrations of radon gas and radon decay products. Radon monitoring in the study areas found many homes with radon gas above the recommended action level. In addition, some properties exhibited elevated levels of indoor and outdoor gamma radiation. Radionuclides are known human carcinogens. Long-term exposure to indoor radon and gamma radiation posed the major health threats at the Sites.

In May 1984, EPA and NJDEP jointly planned a pilot study to evaluate the feasibility of excavation and off-site disposal of the radium-contaminated soil. Twelve properties with varying degrees of contamination were selected for the pilot study and preliminary engineering assessments were prepared. In November 1984, EPA decided to forego the pilot study and instead began a comprehensive remedial investigation and feasibility study (RI/FS) to determine the nature and extent of the contamination and to identify cleanup alternatives. NJDEP proceeded with the pilot cleanup project on its own and began to excavate contaminated soil in June 1985. Nevada revoked the waste disposal permit, stranding thousands of drums and stalling cleanup at several properties, while other disposal solutions were identified, and a lawsuit over the permit revocation went to the U.S. Supreme Court. Eventually, all drums were disposed at licensed facilities in late 1988. The pilot study demonstrated that excavation of the contaminated soil was a feasible remedial action, but that transportation and disposal of the contaminated material would make excavation and off-site disposal a very tenuous cleanup approach.

The initial RI/FS report was released in September 1985 and during a November 1985 public meeting, EPA identified excavation of the contaminated soil along with off-site disposal as the preferred cleanup

solution. However, the lack of a disposal facility and transportation uncertainties, as demonstrated by NJDEP's pilot study, would likely delay the implementation of such a remedy. This led EPA to initiate a supplemental feasibility study in March 1987 to research other cleanup alternatives, including additional interim measures. The supplemental feasibility study and proposed plan were made available to the public in April 1989.

Groundwater at the Sites was investigated; a June 2005 focused feasibility study was undertaken after the majority of the soil cleanup work had been completed. Investigation data and other studies indicated that any site-related impacts to the groundwater had been removed by the extensive soil cleanup effort and that groundwater quality at the Sites was comparable to background for the area.

C. Selected Remedy

Records of Decision (RODs) (one for each NPL site) were signed on June 30, 1989. These initial RODs selected a permanent remedy consisting of full excavation and off-site disposal for residential properties with the most extensive contamination and provided an interim solution (*i.e.*, limited excavation, engineering/institutional controls) for other properties where radon gas or indoor gamma radiation levels exceeded health guidelines. EPA made the decision to begin excavation of contaminated soil after a disposal facility that could accept a large quantity of radiological waste became available in 1990.

The subsequent remedy selected in the 1990 RODs (one for each NPL site) provided a permanent solution for the radium-contaminated soil at all properties (residential and municipal) and included the excavation of all soil exceeding the cleanup criteria. The remedy also called for environmental monitoring, as necessary, to ensure its effectiveness.

The remedial action objective was to reduce, to the lowest practical levels, the existing public health threats posed by indoor radon and radon decay product concentrations, indoor and outdoor gamma radiation levels, and the inhalation or ingestion of radium-contaminated materials. Construction activities were undertaken via a series of remedial action and disposal contracts awarded by the U.S. Army Corps of Engineers and funded by the EPA Superfund Trust Fund with a 10-percent share provided by the State of New Jersey.

The September 2005 RODs (one for each NPL site) for groundwater called

for no action, based on investigation data and other studies indicating that any site-related impacts to the groundwater have been removed by the extensive soil remedial action and that groundwater quality at the Sites was comparable to background for the area. Public water is available in all five communities and there is no known use of the groundwater as a drinking water source at the present time. Risks associated with use of the site groundwater are in the same range as those estimated for groundwater regionally and are not related to the CERCLA releases, which have been addressed under the soil cleanup.

D. Response Actions

Architectural and engineering (A/E) firms under contract with the U.S. Army Corps of Engineers prepared designs for all cleanup work. Remedial designs were based on soil investigation data, consisting of samples collected and analyzed from boreholes. Four-inch diameter boreholes were typically augered by hand; samples were collected at six-inch intervals down to sixteen feet or more below the surface, where native soils were encountered. These sample results were used to plot the areas to be excavated to accomplish removal of the contaminated material. Primary excavation areas were designed to facilitate the removal of material that exceeded the cleanup criteria. Secondary excavation areas were designed to indicate where additional excavation might be required, due to the proximity of contamination, the presence of man-made fill material, or the presence of material exhibiting marginal concentrations below the cleanup criteria. Other project support services such as the maintenance of a field office compound, on-site quick count laboratory, verification sampling, data reporting, property status tracking, and structural assessments were included in the remedial design contract. Designs were prepared with civil survey data and detailed inventories of existing landscape and structural features on each property, as a reference for the post-excavation restoration.

Construction was completed in phases and included 340 residential and 16 municipal properties. The cleanup and restoration work on each individual property typically took from six to nine months to complete. The EPA soil cleanup effort took approximately 14 years to complete (1990 to 2004). About 100 families were temporarily relocated when the construction work (sub-slab excavation, utility disruptions, no access to dwelling, etc.) precluded safe

occupancy of the homes. Perimeter and on-site air monitoring was conducted for dust, radionuclides, and organic vapors during construction. Primary soil excavation was carried out according to the remedial design drawings and followed by confirmatory sampling per the project specifications. Secondary excavation was undertaken, by approval of EPA, if contamination was found beyond the limits of the primary excavation areas. Contaminated soil and debris were removed from each property by heavy equipment and loaded into containers. At residential properties with contamination beneath the basement slab, the material was removed by vacuum truck and then loaded into containers for transport. A majority of the contaminated material was transported by 28-cubic yard intermodal containers. Intermodal containers allowed transport by truck and rail without the need to handle the waste numerous times. Once the soil and debris were loaded, the containers were sealed and waste shipping manifests prepared. Containers were trucked to a transloading facility in Newark, New Jersey. After inspection, the containers were loaded onto railcars for transport to regulated and approved disposal facilities.

Disposal facilities were selected utilizing the U.S. Army Corps of Engineers—Kansas City District's pre-placed radiological disposal contracts. Radiological contaminated materials were disposed at Envirocare of Utah, Inc., located in Clive, Utah, and at U.S. Ecology Idaho, Inc., located in Grandview, Idaho.

Excavated areas were sampled to ensure that the contamination had been removed. After completion of the testing, the excavated areas were backfilled with clean fill material. Proposed backfill sources were tested to ensure they did not exceed the remediation goals and met the contract specifications. The backfill and topsoil were sampled at least every 5,000 cubic yards for radium, gamma radiation, EPA's target analyte list for metals, and EPA's target analyte compound list for volatile organic compounds. Properties were restored to pre-construction

conditions with in-kind replacements or repairs to property damaged during excavation of contamination, including sidewalks, driveways, garages, decks, steps, porches, basement interiors, landscaping, fences, etc. All properties were restored in accordance with the contract restoration plans and landscaping specifications, as nearly as possible to their original conditions.

Since hazardous substances do not remain at the Montclair/West Orange and Glen Ridge Superfund Sites above health based levels for unrestricted use, there is no operation and maintenance or five-year review activities required.

E. Cleanup Goals

Health-based cleanup goals were identified in the RODs or subsequent documents and guidance, as follows: radon—4 picoCuries per liter (pCi/l); radon decay products—0.2 Working Levels (WL); gamma radiation rate—20 microRoentgens per hour (μ R/hr); radium in soil 5—picoCuries per gram (pCi/g); radium-226 + thorium-232 ≤ 7 pCi/g in soil.

Two independent companies, the remedial action contractor and the A/E firm, sampled excavated areas to ensure that the contamination had been removed and cleanup goals were achieved. Year-long radon tests were performed at each residential property following the soil cleanup work to confirm that radon source material had been removed. All property owners received a final data package with post-excavation testing results for their records. In addition, the five municipalities received information for all properties included in the project areas for their records.

F. Community Involvement

Public availability sessions and public meetings for the local community and government officials were held throughout the project. EPA, the U.S. Army Corps of Engineers and the remedial action contractor provided written notices and updates involving work schedules and activities on a continuous basis for the immediate neighborhood and town officials. EPA also established a field office in close

proximity to the Sites in Montclair, where project management and community involvement staff were located for nearly twenty years while directing and overseeing the cleanup.

G. Determination That Sites Meet Criteria for Deletion in the NCP

In accordance with the NCP at 40 CFR 300.425(e)(1)(ii), EPA and the State of New Jersey have determined that all appropriate Fund-financed response actions under CERCLA has been implemented at the Sites, and no further response action by responsible parties is appropriate. By letters February 19, 2009, from Irene Kropp, Assistant Commissioner of the NJDEP, the State concurred with the proposed deletion of the Sites from the NPL. Therefore, EPA, with the concurrence of the State of New Jersey, is proposing the deletion of the Sites from the NPL. While EPA and the State of New Jersey have determined that the Sites do not require further response, the Sites do remain eligible for further Fund-financed remedial action should future conditions warrant such action.

All of the completion requirements for the Sites have been met as described in the Superfund Final Close-Out Report, dated January 26, 2009. Documents supporting this action are available in the Sites files and deletion docket.

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.

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.

Dated: April 14, 2009.

George Pavlou,

Acting Regional Administrator, EPA—Region 2.

[FR Doc. E9–9648 Filed 4–28–09; 8:45 am]

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