

*Docket.* Documents relevant to this action are available for public inspection at the EPA Docket Center, located at 1301 Constitution Avenue, NW., Room B102, Washington, DC between 8:30 a.m. and 4:30 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying. Documents are also available through EPA's electronic Docket system at <http://www.epa.gov/edocket>.

*Worldwide Web.* The EPA Web site for this rulemaking, which includes the Supplemental Proposal and information about the public hearing, is at <http://www.epa.gov/mercury>.

**FOR FURTHER INFORMATION CONTACT:** If you would like to speak at the public hearing or have questions concerning the public hearing, please contact Ms. Kelly Hayes at the address given below under **SUPPLEMENTARY INFORMATION** or at (919) 541-5578. Questions concerning the Supplemental Proposal should be addressed to William Maxwell, U.S. EPA, Office of Air Quality Planning and Standards, Emission Standards Division, Combustion Group (C439-01), Research Triangle Park, NC 27711, telephone number (919) 541-5430, e-mail at [maxwell.bill@epa.gov](mailto:maxwell.bill@epa.gov). For information on section 111 Hg Model Trading Rule contact Mary Jo Krolewski, U.S. EPA, 1200 Pennsylvania Ave. (MC 6204J), Washington, DC 20460, telephone number (202) 343-9847, fax number (202) 343-2358, electronic mail (e-mail) address, [krolewski.maryjo@epa.gov](mailto:krolewski.maryjo@epa.gov). For information on the part 75 Hg monitoring requirements contact Ruben Deza, U.S. EPA, 1200 Pennsylvania Ave. (MC 6204J), Washington, DC 20460, telephone number (202) 343-3956, fax number (202) 343-2358, electronic mail (e-mail) address, [deza.ruben@epa.gov](mailto:deza.ruben@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**Public Hearing**

The public hearing will provide interested parties the opportunity to present data, views, or arguments concerning the Supplemental Proposal. The EPA may ask clarifying questions during the oral presentations, but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as any oral comments and supporting information presented at the public hearing. Written comments must be postmarked by the last day of the comment period, as specified in the Supplemental Proposal.

The public hearing will be held in Denver, Colorado. The hearing is

scheduled for March 31, 2004. Persons wishing to present oral testimony on the Supplemental Proposal may do so. The meeting facilities and their phone numbers are provided above under **ADDRESSES**.

If you would like to present oral testimony at the hearing, please notify Ms. Kelly Hayes at (919) 541-5578 no later than March 26, 2004. She will provide you with a specific time and date to speak.

The public hearing will begin each day at 8 a.m. and continue into the evening until 9 p.m., or later if necessary, depending on the number of speakers. The EPA is scheduling lunch breaks from 12:30 until 2 p.m. and dinner breaks from 6 to 7:30 p.m.

Oral testimony will be limited to a total of 10 minutes per commenter to address the Supplemental Proposal. We will not be providing equipment for commenters to show overhead slides or make computerized slide presentations unless we receive special requests in advance. Commenters should notify Ms. Kelly Hayes if they will need specific equipment. The EPA encourages commenters to provide written versions of their oral testimonies either electronically on computer disk or CD ROM or in paper copy.

The hearing schedules, including lists of speakers, will be posted on EPA's Web pages for the rulemakings at <http://www.epa.gov/mercury> prior to the hearing. Verbatim transcripts of the hearing and written statements will be included in the rulemaking docket.

**Comment Period**

Due to the many requests we have received from both the public and members of Congress to extend the public comment period for the January 30, 2004, Proposed Utility Mercury Reduction Rule to reduce air emissions of mercury and nickel, EPA is extending the public comment period by 30 days. Therefore, the public comment period will end on April 30, 2004, rather than March 30, 2004.

**How Can I Get Copies of This Document and Other Related Information?**

The EPA has established the official public docket for the Supplemental Proposal and the Utility Mercury Reductions Rule under Docket ID No. OAR-2002-0056. The EPA has also developed Web sites for these rulemakings at the addresses given above. Please refer to the Supplemental Proposal for details on accessing information related to that action.

Dated: March 9, 2004.

**Jeffrey R. Holmstead,**  
*Assistant Administrator for Air and Radiation.*

[FR Doc. 04-6093 Filed 3-16-04; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 300**

[FRL-7637-3]

**National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of intent to delete the Hooker-102nd Street Superfund Site from the National Priorities List.

**SUMMARY:** The Environmental Protection Agency (the "EPA" or the "Agency"), Region 2, announces its intent to delete the Hooker-102nd Street Superfund Site (Site) from the National Priorities List (NPL) and requests public comment on this action.

The NPL is Appendix B of the; National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR Part 300, which the EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. The EPA and New York State, through its Department of Environmental Conservation (NYSDEC) have determined that all appropriate response actions under CERCLA have been implemented and that no further response actions, other than operation, maintenance, and monitoring, are required. Moreover, the EPA and the NYSDEC have determined that the Site no longer poses a significant threat to public health or the environment. The Site is located in the City of Niagara Falls, Niagara County, New York.

**DATES:** The EPA will accept comments concerning its intent to delete on or before April 16, 2004.

**ADDRESSES:** Comments should be mailed to: Paul J. Olivo, Hooker-102nd Street Site Remedial Project Manager, U.S. Environmental Protection Agency, Region 2, 290 Broadway, 20th Floor, New York, New York 10007-1866.

Comprehensive information on the Site is available for viewing, by appointment only, at: U.S. Environmental Protection Agency, Region 2, Superfund Records Center, 290 Broadway, Room 1828, New York, New York 10007-1866, (212) 637-4308.

Hours: Monday through Friday: 9 a.m. through 5 p.m.

Information on the Site is also available for viewing at the Site Administrative Record Repository located at: U.S. EPA Public Information Office, 345 Third Street, Suite 530, Niagara Falls, New York 14303, Tel. (716) 285-8842. Hours: Monday through Friday: 8 a.m. to 4:30 p.m.

**FOR FURTHER INFORMATION CONTACT:** Mr. Olivo at the address above, by telephone at (212) 637-4280, by electronic mail at *Olivo.Paul@epa.gov*, or by FAX at (212) 637-4284.

**SUPPLEMENTARY INFORMATION  
CONCERNING THE HOOKER (102ND STREET)  
SITE:**

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**I. Introduction**

The Environmental Protection Agency (EPA), Region 2, announces its intent to delete the Hooker-102nd Street Superfund Site (Site) from the National Priorities List (NPL) and requests public comment on this deletion. The EPA maintains the NPL as a list of sites that appear to present a significant risk to public health, or the environment. As described in § 300.425(e)(3) of the NCP, a site deleted from the NPL remains eligible for Fund-financed remedial actions, if conditions at the site warrant such action.

The EPA will accept comments concerning the deletion of this Site from the NPL 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 the EPA is using for this action. Section IV discusses how the Site meets the NPL deletion criteria.

**II. NPL Deletion Criteria**

Section 300.425(e) of the NCP provides that sites may be deleted from the NPL where no further response is appropriate. In making this determination, the EPA, in consultation with the NYSDEC, will consider whether any of the following criteria has been met:

- (i) Responsible parties or other persons have implemented all appropriate response actions required; or,
- (ii) All appropriate Fund-financed responses under CERCLA have been implemented, and no further response action by responsible parties is appropriate; or,

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

**III. Deletion Procedures**

The following procedures apply to the deletion of this Site:

1. The EPA, Region 2, issued a Record of Decision (ROD) for the Site on September 26, 1990, which selected the remedy for the Site. The ROD was amended on June 9, 1995.

2. Responsible parties implemented the remedy selected in the amended ROD as described in a Final Closeout Report dated September 8, 2003.

3. The EPA, Region 2, recommends deletion and has prepared the relevant documents.

4. The State of New York, through the NYSDEC, concurred with the proposed deletion of the Site in a letter dated September 29, 2003.

5. A notice has been published in a local newspaper, and in addition, a notice has been distributed to appropriate Federal, State or local officials, and other interested parties announcing a thirty-day public comment period which starts on the date of publication of this notice in the **Federal Register** and a newspaper of record.

6. The EPA has made available the relevant documents to this decision at the addresses listed above.

7. Upon completion of the thirty-day public comment period, the EPA will evaluate all comments received before issuing a final decision on deletion. The EPA, Region 2, will prepare a Responsiveness Summary, if appropriate, which will address significant comments received during the public comment period. The Responsiveness Summary will be made available to the public at the information repositories.

8. If, after consideration of the comments received, the EPA decides to proceed with the deletion, the EPA will place a Notice of Deletion in the **Federal Register**. Deletion does not occur until the final Notice of Deletion is published in the **Federal Register**. Generally, the NPL will reflect deletions in the next final update following the final Notice publication.

Deletion of a site from the NPL does not, by itself, alter, or revoke any individual's rights or obligation. Deletion of a site from the NPL does not alter the EPA's right to take appropriate enforcement actions. The NPL is primarily for informational purposes and to assist EPA management.

**IV. Basis for Intended Site Deletion**

The following summary provides a brief description and history of the Site and the Agency's rationale for recommending deletion of the Site from the NPL.

The Site consists of two land parcels totaling 22.1 acres. The Occidental Chemical Corporation (OCC), formerly the Hooker Chemical and Plastics Corporation, owns 15.6 acres, and the remaining 6.5 acres are owned by the Olin Chemical Corporation (Olin). The Site is located on Buffalo Avenue in Niagara Falls, Niagara County, New York. It borders on the Niagara River, and lies less than one-quarter of a mile south of the Love Canal Superfund Site. It is separated from the Love Canal Site by the LaSalle Expressway, Buffalo Avenue and Frontier Avenue.

Since the mid-1940s, the Site was used as an industrial waste landfill. In the early 1970s, landfilling operations at the Site were stopped. OCC and Olin remain as the current owners of the Site. During the period of active waste disposal at the Site, OCC and Olin deposited at least 159,000 tons of wastes, in both liquid and solid forms, into the landfill. These deposits included approximately 4,600 tons of benzene, chlorobenzene, chlorophenols, and hexachlorocyclohexanes, all of which are hazardous substances.

In 1979, the U.S. Department of Justice, on behalf of the EPA, filed a lawsuit against OCC and Olin, two potentially responsible parties (PRPs) for the Site's contamination, in order to put an end to the continuing discharges and to clean up Site contamination. The PRPs, with EPA and NYSDEC guidance, agreed to conduct a study into the nature and extent of Site contamination and to recommend alternatives for the cleanup of the Site.

The investigation included the landfill residues, contaminated fill in an area outside the landfill, shallow ground water, bedrock ground water, liquid waste, soil, river sediments, and storm drains. The investigation was completed in 1990.

In September 1990, the EPA selected a remedy which included the installation of a synthetic-lined cap; consolidation of contaminated soils beneath the cap; surrounding the waste mass with a slurry wall; dredging and incineration of highly contaminated sediments; dredging, dewatering, and consolidation, beneath the cap, of the remaining contaminated sediments; recovery and treatment of ground water; incineration of any recovered NAPL (non-aqueous phase liquids); monitoring; and restricting access to the

Site by the installation of additional security fencing.

In September 1991, the EPA issued the PRPs an Administrative Order to conduct the remedial design and the remedial action. The two PRPs agreed to comply with the Order. Design of the EPA-selected remedy was begun in October 1991. The Intermediate Engineering Report (IER) was approved by the EPA on August 31, 1993. However, certain concerns raised by the federal and state natural resource trustees caused the EPA to reexamine the remedial design as proposed in the IER. As a result of the reexamination, the September 1990 ROD was amended in June 1995. The amendment eliminated the incineration contingency whereby all highly contaminated sediments in an embayment area in the Niagara River adjacent to the landfill would have had to be excavated and incinerated were they to remain outside the final positioning of the slurry wall. The slurry wall was in fact redesigned so as to be positioned to run as close to the shoreline as was practical and still contain any migration of the NAPL plumes. Remedial action activity began in April 1996. The construction of the slurry wall was completed in 1996 along with excavation of contaminated sediments from the embayment and consolidation of these sediments into the landfill. The installation of the permanent cap over the landfill was completed during the 1997 construction season.

The remedy for the Site was completed in March 1999 when the forcemain system for pumping leachate from the landfill to the Love Canal Treatment Facility became operational. A Preliminary Closeout Report (PCOR) was approved by the EPA on September 2, 1999. The PCOR documented the fact that all construction activities identified as necessary remedial actions for the Site pursuant to the ROD, as amended, had been completed. The forcemain system continues to pump sufficient leachate from the landfill so as to maintain an inward gradient across the slurry wall. The leachate pumping system reached the steady-state phase in November 2000.

An Operation and Maintenance (O&M) Manual was developed and implemented. Annual reports are provided to the EPA and the NYSDEC and both the EPA and the NYSDEC believe that the reports for 2001 and 2002 confirm that the remedy for the Site has been successfully implemented.

A Consent Decree between EPA and the State of New York and OCC and Olin was approved and entered by a federal court on October 1, 1999. Under

the terms of the Consent Decree, the PRPs agreed to implement the long-term O&M for the Site and reimbursed to the EPA \$6,800,000 of its past costs plus interest. Additionally, OCC and Olin implemented institutional controls in the form of deed notifications that the Site property was subject to the terms of the Consent Decree, and use restrictions that run with the land that prohibit future uses of the property such as groundwater extraction or excavation that could adversely affect the remedy for the Site. These institutional controls are recorded in the property records of Niagara County.

The Site no longer poses a significant threat to human health or the environment. However, hazardous substances remain at the Site above levels that would allow for unlimited use with unrestricted exposure. Pursuant to Section 121(c) of CERCLA, the EPA and/or the State will review Site remedies no less often than every five years. The first Five-Year Review for this Site was signed by the EPA on August 15, 2001, and concluded that the response actions implemented at the Site are in accordance with the remedy selected by the EPA and that the remedy continues to be protective of human health and the environment. The next Five-Year Review will be completed before August 2006.

Public participation activities for this Site have been satisfied as required in CERCLA Section 113(k), 42 U.S.C. 9613(k), and Section 117, 42 U.S.C. 9617. The ROD was subject to a public review process. All other documents and information which the EPA relied on, or considered in recommending this deletion are available for the public to review at the information repositories.

One of the three criteria for site deletion is when "responsible parties or other persons have implemented all appropriate response actions required" (40 CFR 300.425(e)(1)(i)). The EPA, with the concurrence of the State of New York, through the NYSDEC, believes that this criterion for deletion has been met. Consequently, the EPA is proposing deletion of this Site from the NPL.

Dated: March 4, 2004.

**Kathleen C. Callahan,**

*Acting Regional Administrator, Region 2.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 300

[FRL-7619-5]

#### National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of intent to delete the Niagara County Refuse Superfund Site from the National Priorities List.

**SUMMARY:** The Environmental Protection Agency (EPA), Region 2, announces its intent to delete the Niagara County Refuse Superfund Site (Site) from the National Priorities List (NPL) and requests public comment on this action.

The Niagara County Refuse Superfund Site is located in the Town of Wheatfield, Niagara County, New York. The NPL is appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300, which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. EPA and New York State, through the Department of Environmental Conservation (NYSDEC) have determined that all appropriate response actions have been implemented and no further response actions, other than operation, maintenance, and monitoring, are required. In addition, EPA and the NYSDEC have determined that the Site is protective of public health, welfare, and the environment.

**DATES:** EPA will accept comments concerning its intent to delete on or before April 16, 2004.

**ADDRESSES:** Comments should be submitted to: Michael J. Negrelli, Remedial Project Manager, U.S. Environmental Protection Agency, Region 2, 290 Broadway, 20th Floor, New York, New York 10007-1866.

Comprehensive information on the Site is available for viewing, by appointment only, at: U.S. Environmental Protection Agency, Region 2, Superfund Records Center, 290 Broadway, Room 1828, New York, New York 10007-1866, (212) 637-4308, Hours: Monday through Friday: 9 a.m. through 5 p.m.

Information on the Site is also available for viewing at the Site Administrative Record Repository located at: North Tonawanda Public Library, 505 Meadow Road, North Tonawanda, New York 14120, Tel. (716)