

sanctions pursuant to 40 CFR 51.31(d). If no comments are submitted that change our assessment, then all sanctions and sanction clocks will be permanently terminated on the effective date of a final rule approval.

## II. EPA Action

We are making an interim final determination to stay and defer CAA section 179 sanctions associated with our August 1, 2007 limited disapproval based on our concurrent proposal to approve the State's SIP revision as correcting deficiencies that initiated sanctions.

Because EPA has preliminarily determined that the State has corrected the deficiencies identified in EPA's limited disapproval action, relief from sanctions should be provided as quickly as possible. Therefore, EPA is invoking the good cause exception under the Administrative Procedure Act (APA) in not providing an opportunity for comment before this action takes effect (5 U.S.C. 553(b)(3)). However, by this action EPA is providing the public with a chance to comment on EPA's determination after the effective date, and EPA will consider any comments received in determining whether to reverse such action.

EPA believes that notice-and-comment rulemaking before the effective date of this action is impracticable and contrary to the public interest. EPA has reviewed the State's submittal and, through its proposed action, is indicating that it is more likely than not that the State has corrected the deficiencies that started the sanctions clocks. Therefore, it is not in the public interest to initially impose sanctions or to keep applied sanctions in place when the State has most likely done all it can to correct the deficiencies that triggered the sanctions clocks. Moreover, it would be impracticable to go through notice-and-comment rulemaking on a finding that the State has corrected the deficiencies prior to the rulemaking approving the State's submittal. Therefore, EPA believes that it is necessary to use the interim final rulemaking process to stay and defer sanctions while EPA completes its rulemaking process on the approvability of the State's submittal. Moreover, with respect to the effective date of this action, EPA is invoking the good cause exception to the 30-day notice requirement of the APA because the purpose of this notice is to relieve a restriction (5 U.S.C. 553(d)(1)).

## III. Statutory and Executive Order Reviews

This action stays and defers federal sanctions and imposes no additional requirements.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget.

This action is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) because it is not a significant regulatory action.

The administrator certifies that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

This rule does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

This rule does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

This action does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999).

This rule is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272) do not apply to this rule because it imposes no standards.

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must

submit a rule report to Congress and the Comptroller General. However, section 808 provides that any rule for which the issuing agency for good cause finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest, shall take effect at such time as the agency promulgating the rule determines. 5 U.S.C. 808(2). EPA has made such a good cause finding, including the reasons therefor, and established an effective date of August 17, 2009. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 16, 2009. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purpose of judicial review nor does it extend the time within which petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2)).

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental regulations, Particulate matter, Reporting and recordkeeping requirements.

Dated: August 4, 2009.

**Laura Yoshii,**

*Acting Regional Administrator, Region IX.*

[FR Doc. E9-19654 Filed 8-14-09; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 300

[EPA-HQ-SFUND-2009-0227; FRL-8945-3]

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

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct Final Notice of Deletion of the Island Chemical Corp/Virgin

Islands Chemical Corp. Superfund Site from the National Priorities List.

**SUMMARY:** The Environmental Protection Agency (EPA) Region 2 is publishing a direct final Notice of Deletion of the Island Chemical Corp/Virgin Islands Chemical Corp. (Site), located in St. Croix, U.S. Virgin Islands, from the National Priorities List (NPL). The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being published by EPA with the concurrence of the territory of U.S. Virgin Islands, through the Virgin Islands Department of Planning and Natural Resources (VIDPNR), because EPA has determined that all appropriate response actions under CERCLA have been completed. However, this deletion does not preclude future actions under Superfund.

**DATES:** This direct final deletion is effective October 16, 2009 unless EPA receives adverse comments by September 16, 2009. 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:** Submit your comments, identified by Docket ID no. EPA-HQ-SFUND-2009-0227, by one of the following methods:

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

- *E-mail:* [kwan.caroline@epa.gov](mailto:kwan.caroline@epa.gov)
- *Fax:* (212) 637-4284

- *Mail:* U.S. Environmental Protection Agency, Region 2, 290 Broadway, 20th floor, New York, NY 10007-1866

- *Hand delivery:* U.S. Environmental Protection Agency, Region 2, 290 Broadway, 20th floor, New York, NY. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID no. EPA-HQ-SFUND-2009-0227. 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 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, 290 Broadway, Superfund Record, Center, Room 1828, New York, NY 10007-1866, Hours: Monday to Friday from 9 a.m. to 5 p.m., Telephone No. (212) 637-4308. Department of Planning and Natural Resources, 45 Mars Hill, Frederiksted, U.S. Virgin Islands, 00850, Hours: Monday to Friday from 9 a.m. to 5 p.m., Telephone No. (340) 773-1082. U.S. Environmental Protection Agency, Caribbean Environmental Protection Division, Tunick Building, Suite 102, 1336 Beltjen Road, St. Thomas, VI 00801, Hours: Monday to Friday from 9 a.m. to 5 p.m., Telephone No. (340) 714-2333.

**FOR FURTHER INFORMATION CONTACT:** Ms. Caroline Kwan, Remedial Project Manager, U.S. Environmental Protection Agency, Region 2, 290 Broadway, 20th floor, New York, NY 10007-1866, (212) 637-4275, e-mail: [kwan.caroline@epa.gov](mailto:kwan.caroline@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

EPA Region 2 is publishing this direct final Notice of Deletion of the Island Chemical Corp/Virgin Islands Chemical Corp. Superfund Site (Site), from the NPL. The NPL constitutes Appendix B of 40 CFR part 300, which is the 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) of 1980, as amended. EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). As described in 300.425(e) (3) of the NCP, sites deleted from the NPL remain eligible for Fund-financed remedial actions if future conditions warrant such actions.

Because EPA considers this action to be noncontroversial and routine, this action will be effective October 16, 2009 unless EPA receives adverse comments by September 16, 2009. Along with this direct final Notice of Deletion, EPA is co-publishing a Notice of Intent to Delete in the "Proposed Rules" section of the **Federal Register**. If adverse comments are received within the 30-day public comment period on this deletion action, 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. 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 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 VICHEM 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

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.

### III. Deletion Procedures

The following procedures apply to deletion of the Site:

(1) EPA consulted with the territory of U.S. Virgin Islands prior to developing this direct final Notice of Deletion and the Notice of Intent to Delete co-published today in the "Proposed Rules" section of the **Federal Register**.

(2) EPA has provided the territory 30 working days for review of this notice and the parallel Notice of Intent to Delete prior to their publication today, and the territory, through the VIDPNR has concurred on the 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 is being published in the Virgin Islands Daily News. 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 proposed deletion in the deletion docket and made these items available for public inspection and copying at the Site information repositories identified above.

(5) If adverse comments are received within the 30-day public comment period on this deletion action, 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 Background and History*

The Site, EPA ID No. VID980651095, is located on Plot 13Q of Estate Bethlehem Middle Works in the south-central portion of St. Croix in the U.S. Virgin Islands. Plot 13Q is bordered to the north and east by an intermittent stream, the River Gut, which originates north of the Site and drains to the Caribbean Sea. The Site geology is characterized by approximately 85 feet of fill and Alluvial materials (sandy-clay to sandy-silt and clayey sand) overlying the clayey marl of the Kingshill Formation. Groundwater underlying the Site flows predominantly to the south-southeast. Land use surrounding the Site includes a mix of commercial and industrial purposes and the Site is zoned as I-2 (Light Industry).

Charles H. Steffey, Inc. (CHS, Inc.) purchased the VICHEM Site in 1968. At some point prior to 1969, CHS, Inc. changed its name to CHS Holding Corporation (CHS). From 1968 to 1982, the Site was used for the manufacture and blending of a variety of pharmaceutical products. By the end of 1982, the facility was permanently closed. CHS maintains ownership of the Site. Between 1984 and 1991, several investigations were conducted at the Site by EPA and a former tenant, Island Chemical Company, which was later acquired by Berlex Laboratories, Inc. ("Berlex"). This investigative work identified six areas of potential environmental concern:

- Laboratory and Warehouse Building;
- Above ground storage tank (AST) area;
- Former process pit (FPP) area;
- Loading dock/former laboratory pit area;
- Soil beneath concrete pad near ASTs;
- Concrete storage pad.

During initial stages of site assessment, both EPA and Berlex conducted response activities including soil excavation with on-Site treatment or off-Site disposal, drum removals, and off-Site disposal of AST contents. Between September 1989 and October

1991, EPA conducted a removal action at the Site. At that time, the laboratory/warehouse building was found to contain approximately 400 drums (some extremely deteriorated), leaking cylinders of chlorine and hydrogen chloride, and over 800 containers of laboratory reagents that included sodium metal, potassium cyanide, and ethyl ether. EPA removed 354 drums containing 14,720 gallons of various chemicals and 8,061 pounds of lab pack chemicals from the laboratory/warehouse building.

The Site was proposed to the NPL on January 18, 1994 (59 FR 2568) and subsequently added on June 17, 1996 (61 FR 30510).

#### *Remedial Investigation/Feasibility Study*

On September 29, 1994, EPA entered into an Administrative Order on Consent (AOC), Index No. II CERCLA-94-0401, with Berlex and Island Chemical Company; Pierrel S.p.A, a subsidiary of Pharmacia & Upjohn, Inc. ("P&U") and also a former tenant at the Site, was added as a respondent to the AOC in April 1999. The AOC, pursuant to Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, 42 U.S.C. 9606(a), required the performance of a Remedial Investigation/Feasibility Study (RI/FS) at the Site.

The primary objectives of the RI were to: (1) Collect the data needed to characterize the nature and extent of contamination and adequately support human health and ecological baseline risk assessments and (2) provide a basis on which a subsequent, cost-effective, remedial action plan would be recommended. All six areas of potential concern were investigated during the initial assessment and the subsequent RI, along with the nature and extent of soil and groundwater contamination, and potential off-Site sediment contamination. Based on the data collected, only the AST and FPP areas were determined to require remediation. Contaminants of concern at the Site included ethylbenzene and xylene, in soils and groundwater at the AST area and chloroform in groundwater at the FPP area. The Site posed potential threats to human health and the environment through ingestion associated with contaminated soil and groundwater.

As part of the RI/FS, the PRPs implemented a field Pilot Test of Soil Vapor Extraction/Air Sparging (SVE/AS) in February 2000. Following successful completion of the Pilot Test and with the approval of EPA and the VIDPNR, an SVE/AS system for the AST area was

placed in continuous operation in June 2001 by the PRPs.

A chain link fence was installed in the spring of 2000 along the property line to secure the area from unauthorized access, and in the spring of 2002, the PRPs demolished the site buildings and removed and disposed/recycled all of the tanks and related equipment.

#### *Selected Remedy*

Based on the human health risk assessment, the remedial action objectives for the Site were:

- Mitigate the toxicity, mobility, and/or volume of VOCs (ethylbenzene and xylene) in soils in the AST area to minimize continued leaching to groundwater;
- Mitigate the toxicity, mobility, and/or volume of VOCs (ethylbenzene and xylene) in groundwater in the AST area and downgradient so as to achieve Maximum Contaminant Levels (MCLs) and protect potential future groundwater users;
- Mitigate the toxicity, mobility, and/or volume of chloroform in groundwater in the FPP area and downgradient so as to achieve MCLs and protect future potential groundwater users; and
- Restrict on-site groundwater use to non-potable purposes until the water quality is restored to MCLs.

On August 14, 2002, the Regional Administrator signed a Record of Decision (ROD) selecting the following remedy:

- SVE/AS to treat contaminated groundwater, saturated soil, and unsaturated soil at the AST source area;
- Monitored Natural Attenuation (MNA) to address low-level residual contamination in groundwater at the FPP area and downgradient areas; and
- Institutional controls (in the form of existing VIDPNR well permitting laws and regulations) to limit the pumping of groundwater at the Site to prevent interference with the selected remedy and to also prevent human exposure to contaminated groundwater until EPA's MCLs are achieved.

The ROD also selected groundwater pump and treat as a contingency remedy in the event that groundwater cleanup goals were not achieved in a reasonable time period.

#### *Response Actions*

In a Consent Decree with EPA, entered on March 5, 2004, the PRPs (Island Chemical Company, Berlex and P&U and successors in interest) agreed to perform the remedial design/remedial action (RD/RA) specified in the ROD. On a voluntary basis, the PRPs had been operating the SVE/AS system in the

AST Area (which was consistent with the requirements of the ROD) since 2001, and an extensive network of monitoring wells was already in place. A formal remedial design phase was, therefore, not required by the Consent Decree, except in the event EPA determined that supplemental activities were required to achieve performance standards. The PRPs submitted a Remedial Action Work Plan (RAWP) in September 2004 that detailed all elements of the required remedial action.

#### *SVE/System in AST Area*

The SVE/AS system includes six SVE wells, one AS well, and eleven vapor monitoring probes, together with a surface vapor barrier that prevents short-circuiting of air flow and direct contact with surface soil. A groundwater monitoring network comprising a total of eight wells (shallow and deep) is also installed in the AST area. Continuous operation of the SVE/AS system by the PRPs from June 2001 through November 2003 removed approximately 2,030 pounds of AST area contaminants and reached asymptotically low limits of mass removal. Rebound testing indicated that negligible residual mass was left in the unsaturated zone. The mass removed correlates well with source mass estimates presented in the Feasibility Study (FS) of 1,900 pounds.

#### *AST Area Groundwater Monitoring Results*

AST Area groundwater was monitored quarterly commencing in June 2001, when the SVE/AS system was placed in continuous operation, including three events subsequent to shut down of the AS/SVE system on November 3, 2003. Groundwater concentrations were reduced from a high of 176,000 µg/L of total toluene, ethylbenzene and xylenes (TEX) in June 2001 (baseline levels) in the most contaminated well (MW-6), to 13 µg/L in September 2003, the last sampling event prior to the November 2003 shutdown of the SVE/AS system. Four other AST area groundwater monitoring locations remained below the ROD cleanup goals for the entire period, and were generally at or near non-detect levels from November 2001 onward.

Rebound and post-shut down evaluations performed in August 2002, December 2003, March 2004 and June 2004 indicated modest increases in groundwater concentrations, to levels generally below cleanup goals. Post-shutdown levels in MW-1 and MW-6 in June 2004 were reduced 88–99.99% from baseline concentrations in June 2001, confirming the permanence of the

remediation. Concentrations in MW-6 decreased from 6,900 µg/L TEX in December 2003 to 14 µg/L TEX in June 2004. The concentrations in MW-1, which increased from December 2003 to March 2004 to 21,400 µg/L, decreased to 1,270 µg/L TEX in December 2004, as natural attenuation degraded the residual contaminant concentrations following source removal/treatment of the vadose zone (2,030 pounds removed via SVE). Wells located to the north of the AST Area, MW-8 and MW-10, were installed during the Remedial Investigation (RI) to monitor the possible off-property migration of contaminants although the predominant groundwater flow direction is to the south/southeast. These wells were sampled during the baseline event and in the three events since December 2003. In each event, concentrations of TEX were below 0.6 µg/L in MW-8 and MW-10, indicating that there is no migration of Site contaminants of concern (COCs) to the north.

Groundwater monitoring was performed semi-annually from 2004 to 2006. Three wells, MW-1, MW-6, and AST-VMP-3D, were monitored in the AST area for TEX parameters and a list of key intrinsic biodegradation parameters. All TEX results were below cleanup goals except for one detection of ethylbenzene at 1700 µg/in AST-VMP-3D in December 2004. EPA approved annual post remediation monitoring in the AST Area in April 2006. TEX concentrations remained below cleanup goals during three rounds of post remediation monitoring from 2006 to 2008. The highest TEX concentration in these wells decreased from 38 µg/L in May 2006 to non-detect in the last round, February 2008. Post-Remediation Monitoring at the AST Area has been completed in full satisfaction of the Consent Decree and associated Statement of Work.

#### *AST Area Soil Confirmatory Sampling Results*

Soil samples were collected in the AST area on a 25 foot by 25 foot grid pattern with vertical samples collected every 2 feet to the water table, in February 2004 and analyzed for site contaminant VOCs. The results demonstrated that contaminant levels were below cleanup goals in all samples analyzed. The highest depth averaged concentration of soil samples in one location were 369 µg/kg ethylbenzene and 296 µg/kg xylenes, compared with the ROD cleanup goals of 6,500 µg/kg and 90,000 µg/kg, respectively.

#### MNA in FPP Area

EPA selected MNA as the remedy for FPP Area groundwater, and chloroform concentrations in groundwater decreased sharply since 1998 such that the cleanup goal has been reached. From 1998 to June 2004, chloroform in MW-2, the source area of historically highest concentrations, decreased from 2,400 µg/L to 13 µg/L. Chloroform concentrations in the FPP Area have been consistently below the cleanup goal since 2000. MW-11, a downgradient well which had an increase in chloroform from 3J µg/L in 1998 to 40.4 µg/L in 2000, was below cleanup goals in 2004, indicating that chloroform has attenuated downgradient. Chloroform was not been detected in any of the AST Area wells, and methylene chloride (a potential degradation product of chloroform) was not detected above 1.0 µg/L in any FPP or AST wells up to June 2004.

In the FPP Area, annual post-remediation groundwater monitoring began in the 2nd quarter 2005. Three wells, MW-2, MW-7, and MW-11, were monitored for chloroform. Chloroform concentrations remained below cleanup goals during three rounds of post remediation monitoring from 2005 to 2007. Chloroform concentrations varied from non detect in May 2005 to 21 µg/L in May 2007, below the cleanup goals of 100 µg/L. Post-Remediation Monitoring at the FPP Area has been completed in full satisfaction of the Consent Decree and associated statement of work (SOW).

Based upon the soil and groundwater data, which indicated compliance with all cleanup goals, EPA determined that supplemental remedial construction activities were not necessary, and use of the contingency remedy of groundwater pump and treat would not be required in either the AST Area or FPP Area. Construction was, therefore, considered to be complete.

The SVE system was permanently shut down in November 2003 and the treatment system trailer removed in 2005. The SVE wells and monitoring wells at the Site have not been decommissioned. The PRPs are developing a plan to decommission these wells in the summer of 2009. The Remedial Action Report was submitted in September 2004 and the Final Post-Remediation Monitoring Report was submitted in April 2008. The final site inspection occurred on March 4, 2009.

#### Institutional Controls

The ROD indicated that VIDPNR, in consultation with EPA, would utilize institutional controls (in the form of

existing well permitting laws and regulations) to limit the pumping of groundwater at the Site, to prevent interference with the selected remedy, and to also prevent human exposure to contaminated groundwater until ROD cleanup goals were achieved. Pursuant to the CD, on request from EPA, the PRPs were to seek an environmental easement/restrictive covenant to enforce land and groundwater use controls at the Site and other areas where VOC contamination exceeds ROD cleanup goals or where groundwater extraction could negatively impact the existing contaminant plume. The PRPs have maintained fencing around the site and maintained oversight of groundwater conditions during remediation. Based on these actions and the existence of well permitting requirements EPA did not require the PRPs to obtain the environmental easement/restrictive covenant. The Site has no hazardous substances, associated with the NPL release, remaining above levels that would prevent unlimited use and unrestricted exposure. The remedy is completed and no other operation and maintenance activities are required. The final Five-Year Review was signed on March 20, 2009.

#### Cleanup Goals

The cleanup goals for soils in the AST area are 6,500 µg/kg for ethylbenzene, and 90,000 µg/kg for xylene. For groundwater, the cleanup goals are 700 µg/L for ethylbenzene, 10,000 µg/L for xylene, and 100 µg/L for chloroform, respectively.

#### Community Involvement

Public participation activities for this Site have been satisfied as required in CERCLA § 113(k) and Section 117. As part of the remedy selection process, the public was invited to comment on EPA's proposed remedies. All other documents and information which EPA relied on or considered in recommending this deletion are available for the public to review at the information repositories identified above.

#### Determination That the Site Meets the Criteria for Deletion in the NCP

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)). EPA, with the concurrence of the U.S. Virgin islands through VIDPNR, has determined that all required and appropriate response actions have been implemented by the responsible parties.

#### V. Deletion Action

The EPA, with concurrence of the U.S. Virgin Islands through the VIDPNR has determined that all appropriate response actions under CERCLA, have been completed. 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 October 16, 2009 unless EPA receives adverse comments by September 16, 2009. 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. EPA 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. 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: August 3, 2009.

**George Pavlou,**

*Acting Regional Administrator, Region 2.*

■ 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.

■ 2. Table 1 of Appendix B to part 300 is amended by removing the entry “Island Chemical Corp/VI Chemical Corp”, “Christiansted”, “Virgin Islands”.

[FR Doc. E9–19679 Filed 8–14–09; 8:45 am]

**BILLING CODE 6560–50–P**