Unfunded Mandates Reform Act of 1995

This proposed rule would not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. The PSOB program is a federal benefits program that provides benefits directly to qualifying individuals. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

List of Subjects in 28 CFR Part 32

Administrative practice and procedure, Claims, Disability benefits, Education, Emergency medical services, Firefighters, Law enforcement officers, Reporting and recordkeeping requirements, Rescue squad.

Accordingly, for the reasons set forth in the preamble, part 32 of chapter I of Title 28 of the Code of Federal Regulations is proposed to be amended as follows:

PART 32—PUBLIC SAFETY OFFICERS' DEATH, DISABILITY, AND EDUCATIONAL ASSISTANCE BENEFITS CLAIMS

■ 1. The authority citation for 28 CFR Part 32 continues to read as follows:

Authority: 42 U.S.C. ch. 46, subch. XII; 42 U.S.C. 3782(a), 3787, 3788, 3791(a), 3793(a)(4) & (b), 3795a, 3796c–1, 3796c–2; sec. 1601, title XI, Public Law 90–351, 82 Stat. 239; secs. 4 through 6, Public Law 94–430, 90 Stat. 1348; secs. 1 and 2, Public Law 107–37, 115 Stat. 219.

■ 2. Section 32.3 is amended by revising the definition of ''*Spouse*'' to read as follows:

§ 32.3 Definitions.

* * * * *

Spouse means someone with whom an individual entered into marriage lawfully under the law of the jurisdiction in which it was entered into and from whom the individual is not divorced, and includes a spouse living apart from the individual, other than pursuant to divorce, except that, notwithstanding any other provision of law, to determine whether an individual is a spouse of a public safety officer within the meaning of this definition when more than one individual is purported to be such a spouse, the PSOB Program will apply the law of the jurisdiction that it determines has the most significant interest in the marital status of the public safety officer:

(1) On the date of the officer's death, with respect to a claim under subpart B of this part or by virtue of such death; or

(2) As of the injury date, with respect to a claim not under subpart B of this part or by virtue of the officer's death.

* * * * *

Dated: February 21, 2014.

Karol V. Mason,

Assistant Attorney General.

[FR Doc. 2014–04647 Filed 3–4–14; 8:45 am]

BILLING CODE 4410–18–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1999–0013; FRL–9907–49–Region 2]

National Oil and Hazardous Substance Pollution Contingency Plan National Priorities List: Deletion of the Federal Creosote Superfund Site

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; notice of intent.

SUMMARY: The Environmental Protection Agency (EPA) Region II is issuing a Notice of Intent to Delete the Federal Creosote Superfund Site located in Manville, 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 New Jersey Department of Environmental Protection, have determined that all appropriate response actions under CERCLA, other than long-term groundwater monitoring and five-year reviews, have been completed. However, this deletion does not preclude future actions under Superfund.

DATES: Comments must be received by April 4, 2014.

ADDRESSES: Submit your comments, identified by Docket ID no. EPA–HQ–SFUND–1999–0013, by one of the following methods:

- *http://www.regulations.gov*. Follow on-line instructions for submitting comments.
- *Email: puvogel.rich@epa.gov:* Rich Puvogel, Remedial Project Manager, *seppi.pat@epa.gov*: Pat Seppi, Community Involvement Coordinator
- *Fax:* (212) 637–4429.
- *Mail:* Rich Puvogel, Remedial Project Manager, U.S. Environmental Protection Agency, Emergency & Remedial Response Division, 290 Broadway, 19th Floor, New York, NY 10007–1866.

or

Pat Seppi, Community Involvement Coordinator, U.S. Environmental Protection Agency, Public Affairs Division, 290 Broadway, 26th Floor, New York, NY 10007–1866.

- *Hand Delivery:* U.S. Environmental Protection Agency, Emergency & Remedial Response Division, 290 Broadway, 19th Floor, New York, NY 10007–1866.

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–1999–0013. 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 email. 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 email comment directly to EPA without going through *http://www.regulations.gov,* your email 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 II, Superfund Records Center, 290 Broadway, Room 1828, New York, New York 10007–1866, (212) 637–4308, Hours: 9:00 a.m. to 5:00 p.m., Monday Through Friday;

and at

Manville Public Library, 100 South 10th Avenue, Manville, New Jersey 08835, (908) 722–9722.

Hours:

Mon. through Fri.: 10:00 a.m. to 8:00 p.m.
Fri.: 10:00 a.m. to 5:30 p.m.
Sat.: 10:00 a.m. to 5:30 p.m.

FOR FURTHER INFORMATION CONTACT:

Rich Puvogel, Remedial Project Manager, U.S. Environmental Protection Agency, Region II, 290 Broadway, 19th Floor, New York, New York 10007–1866, (212) 637–4410

or

email puvogel.rich@epa.gov.

SUPPLEMENTARY INFORMATION:

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

I. Introduction

EPA Region II announces its intent to delete the Federal Creosote Superfund Site (Site) from the NPL and requests public comment on this proposed action. 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 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 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 Federal Creosote Superfund Site and demonstrates how it meets 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.

Pursuant to CERCLA section 121(c) and the NCP, EPA conducts five-year reviews to ensure the continued protectiveness of remedial actions where hazardous substances, pollutants, or contaminants remain at a site above levels that allow for unlimited use and unrestricted exposure. EPA conducts such five-year reviews even if a site is deleted from the NPL. 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 the Site:

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

(2) EPA has provided the State 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 New Jersey Department of Environmental Protection (NJDEP), has concurred with deletion of the Site from the NPL;

(5) Concurrently with the publication of this Notice of Intent to Delete in the **Federal Register**, a notice is being published in a major local newspaper, the New Jersey Courier News. The newspaper notice announces the 30-day public comment period concerning the Notice of Intent to Delete the site from the NPL.

(6) 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.

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 Site, 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 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 Federal Creosote Superfund Site, CERCLIS ID NJ0001900281, is located in the Borough of Manville, Somerset County, New Jersey. The 50-acre Site is bordered to the west by commercial properties that line the east side of Main Street. To the north, on the opposite side of the Norfolk Southern railroad tracks, are a variety of commercial and retail establishments, including automobile storage, warehousing, and large retail stores. To the south, on the opposite side of the CSX Transportation

tracks, is a primarily residential area known as Lost Valley. Approximately 5,000 people live within a one-mile radius of the Site. Currently, drinking water for the surrounding area is provided by a public water supply and no private drinking water wells are used.

The Site is divided into two land uses: Residential (35 acres) and commercial (15 acres). The land use in the Claremont Development is strictly residential, consisting of 129 single-family residential houses which are home to approximately 350 residents. The current land use of the Rustic Mall portion of the Site is zoned commercial. The Borough of Manville and the property owner are planning revitalization of the commercial property, which includes a combination of commercial and residential use.

The 50-acre Site was used to treat railroad ties with coal tar creosote prior to development into the land uses described above. Beginning in approximately 1910, the Site was operated by a company known as the Federal Creosoting Company. During the operations, untreated railroad ties were delivered to the Site by rail and were processed in a treatment plant located on the southwest western portion of the Site. Coal-tar creosote was applied to the railroad ties in this area. Treatment residuals from the plant were discharged into two unlined canals. Subsurface piping and a surface canal conveyed the flow of the treatment residuals to the northern portion of the property for a combined distance of approximately 1,200 feet, where the waste spilled into an unlined lagoon. The other canal directed the flow of treatment residuals toward the southern portion of the property, where the contents of this canal flowed into another unlined lagoon located approximately 1,500 feet from the treatment plant. After treatment, railroad ties were moved from the plant to the central portion of the property, referred to as the drip area, where the excess creosote dripped from the treated wood onto the ground. Creosoting material and contaminated soil associated with the wood treating facility were not removed prior to construction of the Claremont Development and Rustic Mall.

Land use patterns on the Federal Creosoting Company property remained the same until the mid-1950s, when the wood treatment plant ceased operations and was dismantled. During the early through mid 1960s the property was re-developed. The area that formerly housed the treatment plant was developed into the 15-acre Rustic Mall containing a mixture of commercial and retail establishments. The remaining 35 acres of the former Federal Creosoting Company property, including the drip area, canals and lagoons, were developed into the Claremont Development.

In April 1996, NJDEP responded to an incident involving the discharge of an unknown liquid from a sump located at one of the Claremont Development residences on Valerie Drive. A thick, tarry substance was observed flowing from the sump to the street. In January 1997, the Borough of Manville responded to a complaint that a sinkhole had developed around a sewer pipe in the Claremont Development along East Camplain Road. Excavation of the soil around the pipe identified a black tar-like material in the soil. Subsequent investigations of these areas revealed elevated levels of contaminants consistent with creosote.

Following the discovery of this material, NJDEP, with technical assistance from EPA, began an investigation of the Site. In April and May 1997, air samples were collected inside the majority of homes in the Claremont Development. With the exception of one house, the analysis of these samples indicated that the Site-related contaminants were not present in indoor air at elevated levels.

In October 1997, EPA's Environmental Response Team initiated a Site investigation on properties believed to contain creosote contamination based on analysis of historical aerial photographs, as well as input from residents. Over 100 surface and subsurface soil samples were collected. These sampling results indicated that the canals and lagoons still existed beneath the Claremont Development, and that the contamination was extensive.

In July 1998, EPA initiated a removal action at 11 residential properties to temporarily cover areas that contained higher surface soil levels of carcinogenic polycyclic aromatic hydrocarbons (PAHs) in exposed surface soils. As an interim action, sod was placed over bare areas in lawns and mulch was placed over exposed soils in garden beds.

The Site was proposed for the NPL on July 28, 1998 (63 FR 40247), and was formally placed on the NPL on January 19, 1999 (64 FR 2942).

Engineering Evaluation/Cost Analysis and Remedial Investigation/Feasibility Studies

EPA conducted an engineering evaluation/cost analysis (EE/CA) utilizing the results of sampling initiated in October 1997. The EE/CA was conducted for the first operable unit (OU1) of the Site, which consisted of the creosote source areas (subsurface canals and lagoons) located in the residential development, and evaluated options for the removal of these source areas. The EE/CA was completed in April 1999, and a Record of Decision (ROD) for OU1 was signed on September 28, 1999.

Under the remedial investigation/feasibility study (RI/FS) process, EPA conducted a focused feasibility study (FFS) for operable unit two (OU2), which consisted of residual levels of creosote contamination in surface and subsurface soil within the residential development. The FFS determined the nature and extent of residual soil contamination within the development and identified remedial alternatives to address contaminated soil. The FFS found that soils contained residual levels of creosote components, PAHs, in the majority of the residential property soils. The RI/FS was completed in April 2000 and a ROD for OU2 was signed on September 29, 2000.

EPA conducted an FFS for operable unit 3 (OU3) to determine the extent of subsurface soil contamination on the commercial portion of the Site, the nature and extent of site-wide groundwater contamination, and to provide remedial alternatives to address these media. The FFS for groundwater was completed in June 2001, and the FFS for the commercial property soils was completed in August 2001. A ROD for OU3 was signed on September 30, 2002.

Selected Remedy

The OU1 ROD, signed in 1999, established the following remedial action objectives (RAOs) for OU1:

- Clean up the canal and lagoon source areas to levels that will allow for unrestricted land use; and
- Remove as much source material as possible in order to minimize a potential source of groundwater contamination.

The OU1 remedy included:

- Permanent relocation of residents from certain properties within the canal and lagoon source areas, and temporary relocation, where necessary, to implement the remedy;
- Excavation of source material from the canal and lagoon source areas, backfilling with clean fill, and property restoration as necessary; and
- Transportation of the source material for off-site thermal treatment and disposal.

The OU2 ROD, signed in September 2000, established the following RAOs:

- Prevent human exposure, via direct contact, with contaminated soils,

considering the current and future residential site use;

• Prevent future impacts to underlying groundwater quality by contaminated soils;

• Prevent exposure and minimize disturbance to the Claremont Development residents, and the surrounding community of Manville, during implementation of the remedial action.

The OU2 remedy included:

• Excavation of soils containing PAHs in excess of site-specific remediation goals from an estimated approximately 82 properties, backfilling with clean fill, and property restoration as necessary, and

• Transportation of the contaminated soil off site for disposal, with treatment as necessary.

The OU3 ROD, signed in September 2002, established the following RAOs for soils and groundwater:

• Prevent human exposure via direct contact, inhalation, and ingestion of contaminated soils, considering the future potential residential site use;

• Prevent future impacts to underlying groundwater quality by contaminated soils that can act as a continuing source of groundwater contamination; and

• Prevent exposure and minimize disturbance to the Rustic Mall occupants and consumers, and the surrounding community of Manville, during implementation of the remedial action.

• Prevent ingestion and direct contact with groundwater that has contaminant concentrations greater than the applicable or relevant and appropriate requirements (ARARs);

• Minimize the potential for additional off-site migration of groundwater with contaminant concentrations that exceed the ARARs;

• Minimize the potential for transfer of groundwater contamination to the other media (e.g., surface water) at concentrations in excess of ARARs.

The OU3 soil remedy included:

• Excavation of soils containing polycyclic aromatic hydrocarbons (PAHs) in excess of site-specific remediation goals on the Rustic Mall, backfilling with clean fill, and property restoration as necessary; and,

• Transportation of the contaminated soil off site for disposal, with treatment as necessary.

As described in more detail in the decision summaries of the OU2 and OU3 RODs, the selected remedy would leave residual levels of PAHs (but not source material as defined by the September 1999 Record of Decision) at depths greater than approximately 14 feet below the ground surface in the Rustic Mall. The backfilled clean fill would act as a barrier or ''engineering control'' to prevent contact with any residual contamination. In addition, a deed notice would be required to prevent direct contact with any remaining residual soil contamination.

The OU3 groundwater remedy included:

• Implementation of a long-term groundwater sampling and analysis program to monitor the concentrations of creosote components in the groundwater at the site, to assess the migration and attenuation of the creosote in groundwater over time; and,

• Institutional controls to restrict the installation of wells and the use of groundwater in the vicinity of the contaminated groundwater.

The evaluation of remedial alternatives for remediation of the dense nonaqueous phase liquid creosote contamination, including contamination found in the fractured bedrock aquifer, concluded that no practicable alternatives could be implemented. As a result, EPA invoked an ARAR waiver for the groundwater at this site due to technical impracticability (TI). The area for the TI waiver covers approximately 119 acres. The area includes three distinct subareas: The north off-site subarea, the on-site subarea, and the south off-site subarea. The TI waiver includes both the overburden aquifer and the bedrock aquifer within the area. The contaminants for which the ARAR waiver apply include: Acenaphthene, benzene, naphthalene, 2,4-dimethyl phenol, benzo(a) anthracene, benzo(a)pyrene, benzo(k) fluoranthene, fluorine, chrysene, benzo(b)fluoranthene, and indeno(l,2,3-cd)pyrene.

Two Explanations of Significant Differences (ESDs) were prepared to document significant changes to components of the selected remedies. The first ESD provided an explanation of the increase in the estimated costs for the OU1, OU2 and OU3 remedies. A second ESD provided an explanation of the application of institutional controls, in some circumstances, at depths shallower than anticipated in the OU2 ROD.

Response Actions

The design criteria consisted of the removal of creosote waste and soils saturated with creosote waste. In addition, design criteria also specified that contaminated soils exceeding the analytical cleanup goals (CGs) would be removed to a depth of approximately 14 feet and transported offsite for treatment and/or disposal according to the RCRA Land Disposal Requirements. These site-specific CGs consisted of seven PAHs, which are the primary contaminants of concern.

As noted above, the Site was broken into three OUs. The OU1 remedial action included removal of source material from 29 residential properties, required the permanent relocation of 21 OU1 property owners, and the demolition of 18 homes.

OU1 remedial action activities were conducted pursuant to the 1999 ROD. The U.S. Army Corps of Engineers (USACE) provided oversight during all remedial activities. USACE contracted Cape Environmental, Inc., and Sevenson Environmental Services (SES), Inc., to complete the remedial actions in accordance with the contract documents and all applicable state and federal regulations.

In October 2000, USACE's demolition contractor, Cape Environmental, Inc., mobilized equipment at the Federal Creosote Site to begin demolition of residential houses located above or adjoining creosote waste lagoons and canals. In December 2000, USACE's remediation contractor, SES mobilized on Site.

The cleanup of OU1 was divided into three phases. Phase 1 focused on the cleanup of the southern lagoon; Phase 2 focused on the cleanup of the northern lagoon and canal; and Phase 3 cleanup efforts were focused on the southern canal.

The OU1 Phase 1 remedial action involved temporary relocation of one family, the purchase of eight residential properties and permanent relocation of the residents, demolition of eight single-family homes, and excavation and removal of 64,500 tons of soil from the southern lagoon area to off-site treatment and disposal facilities. Soil requiring treatment was sent to an off-site hazardous waste incinerator in Canada; soils requiring subtitle C disposal were sent to a hazardous waste landfill in New York State. Remediation of Phase 1 was completed in June 2002. Ownership of these eight properties was transferred from EPA to NJDEP in July 2003. NJDEP sold these properties through public auction in the summer of 2009.

The OU1 Phase 2 remedial action included the acquisition of eight residential properties and the permanent relocation of residents from the eight properties located over the northern lagoon and canal. The houses on the eight lots were demolished and excavation of creosote-contaminated soil from this northern lagoon and canal started in April 2002. Excavation on this phase reached a depth of 35 feet below

the ground surface. Approximately 115,600 tons of soil were excavated and shipped off site to treatment and disposal facilities. These properties have been backfilled with clean soil and have been restored. EPA currently owns the eight lots and has placed the properties up for sale.

OU1 Phase 3 remedial action included the excavation and off-site disposal of 30,600 tons of contaminated soil from 13 residential properties and roadways located on the buried southern creosote canal. OU1 Phase 3 included the temporary relocation of three families, the purchase of five residential properties built over a portion of the buried southern creosote waste canal, permanent relocation of residents from the five properties and the demolition of two properties. After remediation and restoration, all of the OU1 Phase 3 properties purchased by EPA were sold and returned to residential use.

The remedial action objectives for the OU2 remedy were: To prevent human exposure via direct contact with contaminated soils, considering current and future residential use; prevent future impacts to underlying groundwater quality by contaminated soil; and prevent exposure and minimize disturbance to the Claremont Development residents, and the surrounding community during the implementation of the remedial action.

The remediation of OU2 was divided into two phases. The OU2 Phase 1 remedial action consisted of soil removal at 14 residential properties that surrounded the southern lagoon area. The OU2 Phase 1 remedial action involved no permanent relocations and no demolitions. The remedial action of this phase started in February 2002. By June 2002, 9,000 tons of soil had been excavated, treated and/or disposed off site; the 14 properties were completely restored, and temporarily relocated residents returned to their homes.

The OU2 Phase 2 remediation began in June 2003. Cleanup activities occurred on 50 residential properties and portions of residential roadways. The OU2 Phase 2 remedial action involved two permanent relocations and no building demolitions. The remediation of a day care center was included in this phase. In August 2001, the day care center playground was remediated and in 2006, the day care center parking lot was remediated. The remedial action of OU2 Phase 2 resulted in the excavation and off-site disposal (with treatment as necessary) of 59,000 tons of soil.

Remediation of OU3 soils began in August 2005. After excavation was started by EPA, the Rustic Mall owners demolished all buildings on their property except for a bowling alley. EPA excavated creosote waste found below the footprints of the former Rustic Mall buildings. Source material and residual levels of creosote were excavated from the Mall property. Approximately 178,000 tons of soil were excavated and shipped off site for treatment and/or disposal. The excavation of the Mall was completed in November 2007.

The first round of annual long-term monitoring of Site groundwater started in November 2005, as required by the OU3 ROD. Levels of PAHs in groundwater have, in general, declined when compared to the initial groundwater sampling performed prior to the remediation of the source areas.

Cleanup Goals

The Remedial Action Reports for OU1 Phase 1 dated July 2005, OU1 Phase 2 dated August 2008, OU1 Phase 3 dated August 2006, OU2 Phase 1 dated July 2005, OU2 Phase 2 dated August 2008 and OU3 dated August 2008 found that the construction activities at the Site were consistent with the approved construction plans (Design Reports, Site Management Plan, Sampling Analysis and Monitoring Plan, Perimeter Air Monitoring Plan, De-watering Plan, Waste Management Plan, Excavation and Handling Plan, Health and Safety Plan, and Quality Assurance Project Plan).

The remedial action provided for a rigorous sampling and analysis program. Specifically, sampling was required and implemented to protect on-site residents and on-site workers, and to confirm compliance with RAOs. Daily real-time air monitoring was conducted within the perimeter of the remediation area to detect and quantify total volatile organic compounds and respirable particulates. In addition, confirmatory soil samples were taken for Site contaminants wherever additional contamination was suspected or known to occur. Soil samples were also obtained for backfill before placement into excavated areas.

In addition to air and soil sampling conducted during all phases of the remediation, the OU3 ROD called for long-term groundwater monitoring. The objective of the long-term groundwater monitoring is to assess the migration and attenuation of creosote in groundwater over time.

Operation and Maintenance

Operation, maintenance and monitoring activities at the site include: Maintenance of eight EPA-acquired residential properties; sale of the eight remaining EPA-acquired residential properties; maintenance of the institutional controls; long-term, on-site and off-site groundwater monitoring; and adjustments and/or modifications to the groundwater monitoring systems.

As part of the monitoring program, groundwater will continue to be sampled to monitor plume properties, including its extent over time to verify that the plume will not increase or pose an unacceptable risk to human health and the environment.

Institutional controls have been applied to the groundwater and, where appropriate, soils at the Site.

The OU3 ROD required the establishment of a Classification Exception Area (CEA) for the area of groundwater contamination. The CEA was established to provide notice that the constituent standards for a class IIA aquifer classification are not or will not be met in the area of the Federal Creosote Site and that designated aquifer uses are suspended in the affected area for the term of the CEA. Additional monitoring wells were installed to delineate the CEA, and the CEA was established in January 2010.

Deed notices were applied at the Site to prevent exposure to residual contaminants in soils that were not excavated as part of the remediation. The OU2 ROD anticipated the use of deed notices on 23 properties where residual contamination (not source material) was left at depths greater than approximately 14 feet. As documented in the 2008 ESD, the implemented remedy differed from the ROD by use of deed notices at a number of properties where residual contamination remained between two feet and 14 feet in depth. Residual contamination was not removed between these depths in order to preserve the structural integrity of houses.

During the implementation of the remedy, all source material encountered in the residential development was removed and residual contamination above cleanup goals was left beneath 21 properties. All 21 residential property owners applied deed notices to their properties where residual contamination remained at levels exceeding the remedial goals established for the Site. Consistent with the expectations of the ROD, deed notices were applied to six properties where residual contamination remains below approximately 14 feet. The remaining 15 properties requiring deed notices have residual contamination shallower than 14 feet. The residual contamination remains at depths that are inaccessible through normal residential activities. Property owners are required to maintain the property in

a manner that ensures the deed notice continues to be protective. NJDEP is to conduct biennial inspections and certify the continued protectiveness of all residential properties containing deed notices.

A deed notice was required on Borough of Manville roads and right-of-ways that contained residual contamination at levels exceeding the remedial goals established for the Site. The Borough has applied deed notices to all areas that were required.

A deed notice was also required on the Rustic Mall commercial property. The owners have applied a deed notice to this property in accordance with the remedy selected in the OU3 ROD. The commercial property owner is responsible to conduct biennial inspections and provide certification to NJDEP that specifications of the deed notice continue to be protective.

Five-Year Review

Hazardous substances, pollutants, or contaminants will remain at the Site above levels that allow for unlimited use and unrestricted exposure. In accordance with CERCLA Section 121 (c), the remedies at the Site will be reviewed no less than every five years. The first five-year review was completed in June 2007. A second five-year review was completed on May 3, 2012. This second five-year review determined that the implemented actions at the Site currently protect human health and the environment because soil excavation activities and institutional controls prevent direct exposure to contaminated soils. EPA will complete the next five-year-review prior to May 3, 2017.

Community Involvement

A very high level of community concern was demonstrated by residents, commercial property owners, business owners, and borough officials at the time the Site was discovered in 1997. This level of community concern persisted to the completion of cleanup activities in 2008.

Initially, public meetings were used to convey information to the community. At these meetings, residents were informed of plans for indoor air sampling and soil sampling on their properties. As results of the sampling events were produced, EPA held public availability sessions in which EPA representatives met with residents one-on-one to discuss the sampling results. As with the public meetings, these public availability sessions were well attended and preferred by many members of the community. A Community Advisory Group (CAG) was formed early on in the project. The CAG obtained information from EPA and provided community input on the implementation of field activities associated with investigations, design and remedial construction. As the project moved through the remedial investigation to the remedial design and remedial action, the on-site presence of equipment and contractor personnel associated with these activities gained higher visibility and became more intrusive to the community. EPA distributed informational fact sheets to property owners immediately before field activities were to take place in any area of the community. The fact sheets informed the community of Site activities such as utility mark-offs, road closures, equipment to be used for upcoming work, number of personnel involved in the work and the duration of the work as well as upcoming meetings. In addition, EPA distributed periodic newsletters informing the community of cleanup progress and plans for future cleanup activities. EPA held multiple interviews with different media (newspaper, television and radio news) to report on progress of the Site investigation and cleanup activities. Press events were also held to announce major milestones of the project. Meeting one-on-one with residents at their homes was a critical component of community relations activities at this Site. A wide range of issues were addressed at these meetings such as access agreements, property specific plans for upcoming environmental testing and remediation, interpretation of sampling results, permanent and temporary relocation assistance, and resident's concerns regarding intrusive remediation of their properties.

A notice will be published in the local newspaper informing the public of EPA's intent to delete the Site. This public notice will request public comment on the proposed deletion and provide EPA's point of contact to accept comments.

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

All response actions required in each of the RODs have been completed and all remedial action objectives have been met. One of the three criteria for Site deletion specifies that EPA may delete a site from the NPL if all appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate. EPA, with the concurrence of the State of New Jersey Department of Environmental Protection, believes that this criterion for deletion has been met. Subsequently, EPA is proposing deletion of this Site from the NPL. Documents supporting this action are available from the 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: January 31, 2014.

Judith Enck

Regional Administrator, Region 2.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Parts 160 and 162

[CMS–0037–N]

Administrative Simplification: Certification of Compliance for Health Plans; Extension of Comment Period

AGENCY: Office of the Secretary, HHS.

ACTION: Proposed rule; extension of the comment period.

SUMMARY: This document extends the comment period for the Administrative Simplification: Certification of Compliance for Health Plans proposed rule, which was published in the January 2, 2014 **Federal Register**. The comment period for the proposed rule, which would have ended on March 3, 2014, is extended to April 3, 2014.

DATES: The comment period for the proposed rule published in the January 2, 2014 **Federal Register** (79 FR 298) is extended to April 3, 2014.

ADDRESSES: In commenting, please refer to file code CMS–0037–P. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (please choose only one of the ways listed):

1. You may submit electronic comments on this regulation to *http://www.regulations.gov*. Follow the ''Submit a comment'' instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY: