

Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C 7401-7671q.

Dated: September 6, 1995.

William J. Muszynski,

Acting Regional Administrator.

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40 CFR Part 300

[FRL-5293-4]

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

AGENCY: Environmental Protection Agency.

ACTION: Notice of Intent to Delete the Clothier Disposal site from the National Priorities List: Request for Comments.

SUMMARY: The Environmental Protection Agency (EPA) Region II announces its intent to delete the Clothier Disposal site from the National Priorities List (NPL) and requests public comment on this action. The NPL is Appendix B of 40 CFR part 300 which is the National 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), as amended. EPA and the State of New York have determined that no further cleanup by responsible parties is appropriate under CERCLA. Moreover, EPA and the State have determined that CERCLA activities conducted at the Clothier Disposal site to date have been protective of public health, welfare, and the environment.

DATES: Comments concerning the deletion of the Clothier Disposal site from the NPL may be submitted on or before October 15, 1995.

ADDRESSES: Comments concerning the deletion of the Clothier Disposal site from the NPL may be submitted to: Herbert H. King, Remedial Project Manager, U.S. Environmental Protection Agency, Region II, 290 Broadway, 20th floor, New York, NY 10007-1866.

Comprehensive information on the Clothier Disposal site is contained in the EPA Region II public docket, which is located at EPA's Region II office (the

18th floor), and is available for viewing, by appointment only, from 9:00 a.m. to 5:00 p.m., Monday through Friday, excluding holidays. For further information, or to request an appointment to review the public docket, please contact Mr. King at (212) 637-4268.

Background information from the Regional public docket is also available for viewing at the Clothier Disposal site's Administrative Record repository located at: Fulton Library, 160 South First Street, Fulton, NY 13069.

FOR FURTHER INFORMATION CONTACT: Mr. Herbert H. King, (212) 637-4268.

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I. Introduction

EPA Region II announces its intent to delete the Clothier Disposal site from the NPL and requests public comment on this action. The NPL is Appendix B to the NCP, which EPA promulgated pursuant to Section 105 of CERCLA, as amended. EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of those sites. Sites on the NPL may be the subject of remedial actions (RAs) financed by the Hazardous Substances Superfund Response Trust Fund (the "Fund"). Pursuant to § 300.425(e)(3) of the NCP, any site deleted from the NPL remains eligible for Fund-financed RAs, if conditions at such site warrant action.

EPA will accept comments concerning the Clothier Disposal site for thirty (30) days after publication of this notice in the **Federal Register** (until October 15, 1995).

Section II of this notice explains the criteria for deleting sites from the NPL. Section III discusses the procedures that EPA is using for this action. Section IV discusses how the Clothier Disposal site meets the deletion criteria.

II. NPL Deletion Criteria

The NCP establishes the criteria that the Agency 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 this determination, EPA, in consultation with the State, will consider whether any of the following criteria have been met:

1. That responsible or other persons have implemented all appropriate response actions required; or
2. All appropriate Fund-financed responses under CERCLA have been implemented, and no further cleanup by responsible parties is appropriate; or
3. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking remedial measures is not appropriate.

III. Deletion Procedures

The NCP provides that EPA shall not delete a site from the NPL until the State in which the release was located has concurred, and the public has been afforded an opportunity to comment on the proposed deletion. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts. The NPL is designed primarily for informational purposes and to assist agency management.

The following procedures were used for the intended deletion of the Clothier Disposal site:

1. EPA Region II has recommended deletion and has prepared the relevant documents.
2. The State of New York has concurred with the deletion decision.
3. Concurrent with this Notice of Intent to Delete, a notice has been published in local newspapers and has been distributed to appropriate federal, state and local officials, and other interested parties. This notice announces a thirty (30)-day public comment period on the deletion package starting on September 15, 1995 and concluding on October 15, 1995.
4. The Region has made all relevant documents available in the regional office and the local site information repository.

EPA Region II will accept and evaluate public comments and prepare a Responsiveness Summary which will address the comments received, before a final decision is made. The Agency believes that deletion procedures should focus on notice and comment at the local level. Comments from the local community may be most pertinent to deletion decisions. If, after consideration of these comments, EPA decides to proceed with deletion, the EPA Regional Administrator will place a Notice of Deletion in the **Federal Register**. The NPL will reflect any deletions in the next update. Public notices and copies of the Responsiveness Summary will be made available to the public by EPA Region II.

IV. Basis for Intended Site Deletion

Site History and Background

The Clothier Disposal site, located in the Town of Granby, Oswego County, New York, is a fifteen-acre, privately-owned parcel of land, of which six acres were used for waste disposal. Ox Creek flows through the site in a northerly direction, feeding into the Oswego River.

In 1973, the Oswego County Health Department found approximately 2,200 drums of chemical waste dumped on the site and requested an investigation by the New York State Department of Environmental Conservation (NYSDEC). In 1976, NYSDEC brought suit against the owner of the property of operating an illegal dump. Subsequently, a temporary permit was granted for a period of one year to clean up the site. In 1977, the owner made an attempt to bury or cover the waste materials dumped on the site. In doing so, drums were broken open and drained. Between early 1978 and 1980, additional efforts were made by the owner to clean up the property. Again these efforts largely entailed burying or covering previously exposed wastes.

In 1983, Engineering-Service, Inc. performed a Phase I Engineering Investigation and Evaluation of the site for NYSDEC, for the purpose of computing a Hazard Ranking System score needed to evaluate whether or not the site should be placed on the NPL. The site was proposed for listing on the NPL on October 15, 1984 (49 FR 40320); it was included on the NPL on June 10, 1986 (51 FR 21504).

In 1985, NYSDEC, through its contractor, URS Company, Inc. undertook a geophysical survey of the site, and staged and sampled on-site drums as part of the remedial investigation/feasibility study (RI/FS) designed to determine the nature and extent of the contamination at the site, to assess the threat that the site posed to public health and the environment, and to develop and evaluate various alternatives to remediate the site.

Performed concurrently with the RI/FS, a number of potentially responsible parties (PRPs), operating under an Administrative Order, removed and disposed of 1,858 drums and stockpiled visibly-contaminated soil in 1986. The remaining drums, as well as the visibly-contaminated surficial soils, were removed by EPA during 1987 and 1988.

A number of data quality problems complicated the completion of the RI/FS, which led to EPA tasking Ebasco Services, Inc. (Ebasco) to perform a supplemental RI/FS.

The supplemental RI/FS report, issued in August 1988, concluded that, as a result of the removal actions taken at the site, only low-level residual soil contamination remained on-site. The RI/FS also concluded that the risk levels associated with this residual contamination were within the acceptable range of 10^{-4} to 10^{-6} (representing a one in ten thousand and a one in a million incremental individual lifetime cancer risk, respectively). The risk assessment indicated that the major route of human exposure at the site was through direct contact with on-site soil residually contaminated with polychlorinated biphenyls (PCBs) and carcinogenic polyaromatic hydrocarbons (CPAHs). The highest PCB concentration observed in the soil was 2.5 parts per million (ppm). In order to develop a full range of remedial alternatives, any concentration above 1 ppm PCBs in the soil was considered to require remediation. This level was based on the Toxic Substances Control Act definition of "clean" soil and is associated with a risk below 4×10^{-7} for current use and 7×10^{-6} for plausible maximum exposure during future site use. For CPAHs (benzo(a)anthracene, benzo(b)fluoranthene, benzo(k)fluoranthene, Benzo(a)pyrene and chrysene), the highest total concentration at any location was observed to be 0.9 ppm. For these compounds, a total concentration of 0.33 ppm was set as the limit above which remediation was required. This level was based on the CPAH detection limit for the EPA contract laboratory program and is associated with a risk for 2×10^{-7} for current use or 3×10^{-6} for plausible maximum exposure during future site use.

The U.S. Fish and Wildlife (USFWS) conducted an investigation of Ox Creek, and in August 1988, issued a report of its findings, entitled, Effects of Contaminants from the Clothier Disposal Site on Fish and Wildlife Resources of Ox Creek, Oswego County, New York. This report stated that there was no evidence of either environmental damage in the area around the site or contamination of Ox Creek at levels likely to be associated with risks to wildlife.

On December 28, 1988, a Record of Decision (ROD) was signed, selecting as the remedy for the site:

- Placement of a one-foot clean soil cover over the residually-contaminated areas;
- Regarding and revegetating of the site to prevent soil erosion and to minimize surface water runoff,

- Installation of rip-rap, as needed, on the embankment sloping towards the adjacent Ox Creek to prevent soil erosion;

- Performance of long-term monitoring of the groundwater and soil, and Ox Creek sediments and surface water; and

- Application of institutional controls to prevent the utilization of the underlying groundwater and the future development of the site for residential use.

The ROD also noted that the maximum contaminant concentrations (although not the geometric mean concentrations) in some of the groundwater sample collected during the RI/FS marginally exceeded a number of Applicable or Relevant and Appropriate Requirements (the maximum concentrations of tetrachloroethene and trichloroethene of 24 parts per billion (ppb) and 18 ppb, respectively, exceeded the New York State standard of 5 ppb of each; and antimony, barium, beryllium, chromium, lead, magnesium, and manganese exceeded New York State inorganic groundwater standards or guidances). Thus, further evaluation to determine whether remediation of the groundwater was necessary was called for in the ROD.

A local citizen's group, after reviewing the USFWS report, expressed concern that the USFWS investigation did not include an eleven-acre wetland located adjacent to the site.

To determine whether remediation of the groundwater was necessary and to evaluate the threat to the wetland located adjacent to the site, EPA tasked Ebasco to perform a post-RI/FS investigation, specifically to collect and evaluate samples of the groundwater and the surface water and sediment in the wetland. The results of this investigation, which were presented in January 1990 in the Post RI/FS Evaluation of Groundwater and Wetlands Report, indicated that a significant threat to human health and the environment did not exist at that time, and RAs for the groundwater and wetlands were not warranted.

In September 1989, a Consent Decree was entered by the Northern District of New York with the Settling Defendants to undertake the design and construction of the remedy selected for the site and to perform the long-term monitoring and maintenance of the site upon completion of the construction. The Settling Defendant's contractor, Canonie Environmental Services Corporation (Canonie), performed pre-design sampling to more precisely determine the area extent of the

residual, low-level contamination on-site. Based upon these results, Canonie prepared the remedial design (RD) plans and specifications. As part of the RD, calculations were performed, based on a 100-year storm event, that determined that the erosive forces due to the overland flow velocities would be minimal, and that rip-rap protection on the slopes to the wetland (called for the ROD) would not be required. EPA approved the RD in June 1991.

The Settling Defendants awarded a contract to Severson Environmental Services, Inc. to implement the remedy in July 1991. During the course of regrading the areas to be covered with clean soil, it was discovered that an above-grade mound of soil contained parts of four drums. Further, while regrading the slope to the wetland, parts of three other buried drums were uncovered. The drum parts and the surrounding soil were excavated and were subsequently disposed of at an EPA-approved hazardous waste facility. The results of analyses of the soil in the areas where the drum parts were discovered indicated that the contaminants and their concentrations were comparable to those found during the RI and, therefore, the remedy selected in the ROD remained appropriate.

In May 1992, a representative of NYSDEC, during an inspection of the site, observed three seeps located at the foot of the west slope to the wetlands. After an analysis of the seeps and the soil surrounding the seeps, it was concluded that the seeps were caused by the discharge of groundwater at the wetland margin. The results of the analyses of the seeps indicated low concentrations of PCBs. Since the samples were not filtered prior to analysis, the PCBs were believed to be a result of PCBs adsorbed to sediment suspended in the liquid while collecting the samples (this premise has been confirmed, in that no PCBs have been identified in five rounds of ground water testing.) The results of the analyses of the soil associated with these seeps indicated contaminant concentrations that are consistent with those detected during the RI. Considering these results, EPA directed the Settling Defendants to continue with the implementation of the remedy. The installation of the soil cap and revegetation was completed in September 1992.

Following EPA's approval of the Settling Defendants' operation and maintenance and long-term monitoring plan, a Superfund Site Close-Out Report was approved on December 29, 1993.

During the first post-RA inspection/monitoring in April 1994, a small area of black, odorous soil was observed on the western portion of the soil cover. Three buried drums that were subsequently discovered in this area were excavated and overpacked. A geophysical investigation, performed to determine whether other buried drums were present in this area, followed by the installation of two trenches in areas of concern, revealed one crushed drum, metallic debris, and some stained soil. The drum, debris, and soil were excavated and, along with the overpacked drums mentioned above, were disposed of at approved disposal facilities.

Summary of Operation and Maintenance and Five-Year Review Requirements

Since the remedy involved the installation of a soil cover, there are no operational requirements.

The Settling Defendants are to monitor the site for five years, commencing with the first inspection/monitoring event that occurred on April 26, 1994.

The long-term monitoring program consists of monitoring the groundwater, soil, and Ox Creek sediments and surface water quarterly the first year, semi-annually the second year, and annually thereafter.

Site inspections, which will be conducted quarterly for the first year and semi-annually thereafter, are to be coincident with the monitoring events. Additional inspections will be conducted after any major flooding (100-year) or rainfall events in the Ox Creek area. The inspections will include visual observations of the soil cover, erosion controls and silt fencing, groundwater monitoring wells, site security, and general site conditions. Maintenance, if required, will consist of correcting observed deficiencies (e.g., restoring the soil cover and its vegetation to its original condition, repair of fencing, etc.) The six groundwater monitoring wells (four located within the limits of the soil cover, one just adjacent to it, and one up-gradient) that comprise the groundwater monitoring program will be inspected to ensure their integrity. They will be repaired should they become damaged, or replaced should they become non-functional.

So that EPA can evaluate the remedy's effectiveness, following each inspection/sampling event, the Settling Defendants are to submit to EPA a monitoring and inspection program report, summarizing the inspection and sampling results, and describing any

corrective maintenance actions that were taken. In addition, a review of the long-term monitoring and inspection program reports will be performed five years after the initiation of the RA to assure that the remedy remains effective in protecting human health and the environment.

Summary of How the Deletion Criteria Has Been Met

Based upon the results of RA sample analyses, survey results, and site inspections, the site meets the requirements set forth in the ROD, in that a one-foot clean-soil cover has been installed over those residually-contaminated locations at which concentrations above 1 ppm PCBs and 0.33 ppm CPAHs were detected, the site has been regraded and revegetated to prevent soil erosion and to minimize surface water runoff, and institutional controls (an easement) have been put into place to prevent the utilization of the underlying groundwater and the future development of the site for residential use.

EPA and the State have determined that the response actions undertaken at the Clothier Disposal site are protective of human health and the environment.

In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. EPA, in consultation with the State, has determined that all appropriate responses under CERCLA have been implemented and that no further cleanup by responsible parties is appropriate. Having met the deletion criteria, EPA proposes to delete the Clothier Disposal site from the NPL.

Dated: August 21, 1995.

William J. Muszynski,

Acting Regional Administrator.

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DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3170

[ES-930-05-1310-01-241A]

RIN 1004-AC27

Coalbed Methane

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rule would add a new part to the oil and gas leasing regulations. This regulation is intended to encourage the production of coalbed