

It will also ensure that those parties do not unintentionally violate the laws of those states that regulate the financial arrangements between nonprofits and certain types of professional fundraisers.

We have several cautions regarding the breadth of this proposal. First, it only exempts fundraising mailings seeking monetary donations. Mailings that include solicitations for products or services, whether through sale, lease, or other arrangements, will not be exempt from application of the cooperative mail rule. If there is a cooperative arrangement involving such goods or services, the mailpiece will not be eligible for Nonprofit Standard mail rates. Exempting mailings advertising goods or services from application of the cooperative mail rule would create significant potential for abuse by commercial organizations and may also place small businesses and other for-profit organizations who sell similar goods and services at a significant competitive disadvantage.

Second, the only exemption is from application of the cooperative mail rule. The mailings affected will continue to be subject to all other applicable postal standards.

Third, the exemption only applies to nonprofit organizations authorized to mail at Nonprofit Standard Mail rates. Other organizations authorized to mail at those rates, currently voter registration officials and certain qualified political committees, will not be exempt from application of the cooperative mail rule on fundraising mail.

Fourth, the rule, if adopted, will be a change in postal policy rather than a clarification of existing standards. Accordingly, it would be prospective only, effective on the date of adoption. It will not provide the basis for a refund claim on mail previously entered and paid at the commercial rates nor will it provide a defense for any action, whether under the False Claims Act or otherwise, based on previous entry of ineligible material at the nonprofit rate.

Fifth, the proposed rule would not establish safeguards to address the concern that some professional fundraisers may seek to take advantage of unsophisticated clients. In our discussions with nonprofit representatives and Congressional representatives, no consensus was reached on an effective and administratively feasible method to accomplish this goal. However, this rulemaking does not prevent other interested federal or state agencies from regulating such practices. Moreover, it is also hoped that the nonprofit sector may

undertake educational efforts to inform potential targets of such practices.

Finally, the Postal Service will be alert to the consequences of this new standard, should it be adopted. If it results in the types of abuses discussed here or any other unintended consequences, the Postal Service may revisit the exception and consider a further rulemaking or other appropriate administrative measures.

Although exempt from the notice and comment requirements of the Administrative Procedure Act [5 U.S.C. 553(b), (c)] regarding proposed rulemaking by 39 U.S.C 410(a), the Postal Service invites comments on the following proposed revisions to the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 414, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. Add the following to Domestic Mail Manual section E670.5.3: “Exception: this standard does not apply to mailings by a nonprofit organization authorized to mail at Nonprofit Standard Mail rates soliciting monetary donations and not promoting or otherwise facilitating the sale or lease of any goods or service.”

An appropriate amendment to 39 CFR part 111 will be published if the proposal is adopted.

Stanley F. Mires,
Chief Counsel, Legislative.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7486–2]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to delete the Pepe Field Superfund Site (Site) from the National Priorities List; request for comments.

SUMMARY: The EPA Region II Office announces its intent to delete the Pepe

Field Superfund Site, located in Boonton, New Jersey from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 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 Jersey have determined that no further fund-financed remedial actions are appropriate at this Site and actions taken to date are protective of public health, welfare, and the environment.

DATES: Comments concerning this Site may be submitted on or before June 5, 2003.

ADDRESSEES: Comments may be mailed to: Romona Pezzella, Remedial Project Manager, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, Region II, 290 Broadway, 19th Floor, New York, NY 10007–1866, pezzella.romona@epa.gov.

Comprehensive information on this Site is available through the EPA Region II public docket, which is located at EPA’s Region II Office in New York City, and is available for viewing, by appointment only, from 9 a.m. to 5 p.m., Monday through Friday, excluding holidays. Requests for appointments should be directed to: Romona Pezzella, Remedial Project Manager, U.S. Environmental Protection Agency, Region II, 290 Broadway, 19th Floor, New York, NY 10007–1866, (212) 637–4385, pezzella.romona@epa.gov.

Background information from the Regional public docket is also available for viewing at the Site’s information repositories located at: Boonton Holmes Public Library, 621 Main Street, Boonton, New Jersey 07005, Phone: 973–334–2980.

FOR FURTHER INFORMATION CONTACT: Romona Pezzella, Remedial Project Manager, U.S. Environmental Protection Agency, Region II, 290 Broadway, 19th Floor, New York, NY 10007, Phone: (212) 637–4385, pezzella.romona@epa.gov.

SUPPLEMENTARY INFORMATION:

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- I. Introduction
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I. Introduction

The Environmental Protection Agency (EPA) Region II announces its intent to delete the Pepe Field Superfund Site,

located west of County Rt. 511 (Boonton Avenue) between Wootton Street and Hillside Avenue, in the Town of Boonton, Morris County, New Jersey, from the National Priorities List (NPL) and requests public comment on this action. The NPL constitutes appendix B of the National Oil and Hazardous Substances Contingency Plan (NCP), 40 CFR part 300, which EPA promulgated pursuant to section 105 of Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended. The 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 financed by the Hazardous Substances Superfund Response Trust Fund (Fund). Pursuant to § 300.425(e)(3) of the NCP, any site deleted from the NPL remains eligible for Fund-financed remedial actions if conditions at the site warrant such action.

The EPA will accept comments concerning the Pepe Field Site for thirty 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 how the Pepe Field Superfund Site meets the deletion criteria.

II. NPL Deletion Criteria

The NCP establishes the criteria the Agency uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e)(1)(i)-(iii), 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:

(i) EPA has determined that responsible or other parties have implemented all appropriate response actions required; or

(ii) All appropriate Fund-financed responses under CERCLA have been implemented and EPA has determined that no further cleanup by responsible parties is appropriate; or

(iii) Based on a remedial investigation, EPA has determined that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

Deletion of a site from the NPL does not affect the liability of responsible parties or impede agency efforts to recover costs associated with response efforts. Deletion of a site from the NPL

does not itself create, alter, or revoke any person's rights or obligations. The NPL is designed primarily for informational purposes and to assist Agency management.

III. Deletion Procedures

The following procedures were used for the intended deletion of this Site:

(1) EPA signed an Explanation of Significant Differences (ESD) on July 26, 1997 which modified the remedy for the Site selected on September 29, 1989.

(2) EPA funded the design and construction of a comprehensive remedy for the Site.

(3) EPA completed the cleanup at the Site. The work included the stabilization, excavation and off-site disposal of waste material in accordance with the ESD. In addition, restoration of the field including the construction of a playground, basketball court, little league field, gazebo, and concession stand, as well as restoration of residential properties, has also been completed. As a result, no further remedial action is necessary at the Pepe Field Superfund Site to ensure protection of human health and the environment;

(4) The State of New Jersey concurred with the proposed deletion decision;

(5) A notice has been published in the local newspaper and has been distributed to appropriate federal, state and local officials and other interested parties announcing the commencement of a 30 day public comment period for EPA's Notice of Intent to Delete; and

(6) All relevant documents have been made available for public review in the local Site information repositories.

For deletion of this Site, EPA's Region II office will accept and evaluate public comments on EPA's Notice of Intent to Delete before making a final decision to delete. If necessary, the Agency will prepare a Responsiveness Summary, which will address any significant public comments received during the public comment period.

The deletion occurs when the EPA Regional Administrator places a final notice in the **Federal Register**. Generally, the NPL will reflect any deletions in the final update following the Notice. Public notices and copies of the Responsiveness Summary will be made available to local officials by the Region II Office.

IV. Basis for Intended Site Deletion

The following summary provides the Agency's rationale for the proposal to delete this Site from the NPL and the Agency's finding that the criteria in 40 CFR 300.425(e) are satisfied:

A. Site History

The Pepe Field Site is located in the Town of Boonton, Morris County, New Jersey. It is situated in a residential area and encompasses approximately three acres. The Site was formerly used for the disposal of wastes generated from the processing of vegetable oils and soap products. Prior to EPA involvement at the Site, facilities at Pepe Field included a tennis court, a baseball field, a playground and a refreshment stand. The Town of Boonton had installed a soil cover, surface runoff controls, and a leachate collection and treatment system to reduce odors generated by the decaying waste.

B. Selected Remedy

Based on the RI/FS, EPA selected a containment-based remedy in a Record of Decision (ROD), signed on September 29, 1989, which included the following major elements:

- Installation and maintenance of a landfill gas collection and treatment system for methane gas
- Improvement and maintenance of the leachate collection and treatment system
- Maintenance of the Site cover
- Groundwater quality monitoring
- Deed restrictions to prevent waste disruption.

On August 26, 1991, NJDEP requested that EPA assume the lead role for the remedial design and construction of the project.

As part of the design, which was conducted by Roy F. Weston, Inc. under the oversight of EPA and the Army Corps of Engineers (COE), additional field investigations were undertaken. Based on the results of the field investigations, EPA determined that the containment remedy would have to be modified to achieve the goals set forth in the ROD. These modifications, when incorporated into the design, significantly increased the scope and cost of the containment remedy.

In view of the results of the design investigations, EPA reconsidered the excavation and off-site disposal alternative. The cost of this alternative was estimated to be \$10 million. By comparison, the estimated cost of the revised containment remedy was estimated to be \$8.4 million.

Based on the above reevaluation, on July 25, 1997, EPA formally changed the remedy from containment to excavation and off-site disposal in an Explanation of Significant Differences (ESD). Although groundwater monitoring was required in the ROD because waste would have remained on-site, it was eliminated in the ESD.

Likewise, the need to establish deed restrictions was also eliminated with the new waste removal remedy.

C. Cleanup of the Site

The details of the remediation activities at the Site, which were performed in two phases by Radian International under COE and EPA oversight, are provided in the Remedial Action Report dated June 5, 2002. The first remediation phase was conducted from July through September of 1998, and included the following major activities:

- Mobilization, including installation of fencing and establishing Site security.
- Purchase and installation of an extensive air monitoring network to instantaneously measure and report the level of hydrogen sulfide (H₂S) at the perimeter of the Site.
- Removal of above-ground items on the field including the baseball benches and backstop, and the basketball backboards.
- Inventory of structures and vegetation on properties adjacent to the field from which waste was to be removed.
- Performance of tests with different stabilizing agents (cement, cement kiln dust and hydrated lime) to demonstrate the effectiveness of the technology.

The second and final phase of the cleanup of the Site began in October 1998, and included the following:

- Installation of test pits and borings to determine the limits of the waste material.
- Installation of a fence around the waste area including the off-site properties.
- Demolition and removal of the remaining above-ground features including the tennis court and retaining walls.
- Stabilization and excavation of approximately 60,000 cubic yards of waste material. The waste material was stabilized using cement kiln dust to reduce the emission of H₂S so that it could be safely excavated and transported off-site for disposal.
- Backfilling of the waste area with clean soil and topsoil.
- Restoration of the Site including design and construction of the park recreational facility.

Stabilization of the waste material began on December 22, 1998 and it was completed in August 1999. Waste removal from Pepe Field and eight adjacent properties began in March 1999 and was completed in late October 1999. Approximately 85,000 tons of waste material were shipped off-site for disposal.

During the cleanup work, waste was found under two adjacent homes on Hillside Avenue. As a result, it was necessary to demolish these homes in order to complete the remediation. Real estate agreements were negotiated with the two affected residents, and in July 2000, excavation of the waste began on the private properties. This waste removal action was completed on August 2, 2000. Backfilling of these properties was also completed in August 2000.

All remedial and restoration activities at the Site required by the ROD and ESD have been completed. In the Fall of 2000, the park was reopened for use by the public. The Site was cleaned up to an unrestricted, residential use standard.

The remediation work and all associated testing was done in accordance with quality assurance and quality control (QA/QC) protocols. Construction activities at the Site were determined to be consistent with the ESD and the remedial design plans and specifications.

Radian International adhered to the approved Contractor Quality Control Plan (CQCP). The Quality Assurance Project Plan (QAPP) incorporated all COE and EPA requirements. All testing and inspections were done in accordance with the construction drawings, technical specifications and QAPP. Construction quality assurance was performed by the COE. The EPA Remedial Project Manager (RPM) visited the Site weekly during construction activities to review construction progress and evaluate and review the results of QA/QC activities.

All procedures and protocol followed for soil, water, air and biological sample analysis during the cleanup are well documented. EPA and the COE determined that analytical results are accurate to the degree needed to assure satisfactory execution of the remediation work.

D. Operation and Maintenance

All remedial activities at the Pepe Field Site are complete and the Site poses no unacceptable risk to human health or the environment. Therefore, no operation and maintenance activities are required at the Site.

E. Five Year Review

The remedial activities at the Pepe Field Site removed all the waste material, and have left the Site suitable for unlimited use and unrestricted exposure. In addition, no institutional controls are required. A five-year review of the remedy is not required, pursuant to CERCLA section 121(c).

F. Community Involvement

Public participation activities for the Pepe Field Site have been satisfied as required in CERCLA section 113(k), 42 U.S.C. 9613(k), and section 117, 42 U.S.C. 9617. The RI/FS, the ROD, ESD, as well as other documents and information which EPA relied on or considered in recommending that no further action is necessary at the Pepe Field Site, and that the property should be deleted from the NPL, are available for the public to review at the information repositories.

G. Site Meets Deletion Criteria

One of the three criteria for deletion specifies that EPA may delete a site from the NPL if all appropriate Fund-financed responses under CERCLA have been implemented, and EPA, in consultation with the State, has determined that no further cleanup by responsible parties is appropriate. 40 CFR 300.425(e)(1)(ii).

EPA, with the concurrence of the State of New Jersey, through the New Jersey Department of Environmental Protection (NJDEP), believes that this criterion for deletion has been met.

Consequently, EPA is proposing deletion of this Site from the NPL. Documents supporting this action are available at the information repositories in the deletion docket.

In a letter dated September 18, 2002, the NJDEP concurred with EPA that all appropriate CERCLA response actions have been completed at the Pepe Field Site and protection of human health and the environment has been achieved.

Dated: February 6, 2003.

Kathleen Callahan,

Acting Regional Administrator, Region II.
[FR Doc. 03-10891 Filed 5-5-03; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket No. FEMA-B-7435]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the