

(1) Identification of the record testimony from the existing agreement docket, or any other previously concluded docket, on which the Postal Service proposes to rely, including citation to the locations of such testimony;

(2) A detailed description of all proposed modifications to the existing agreement;

(3) A detailed description of the technical defect, unforeseen circumstance, or intervening event, to substantiate the modifications proposed in (a)(2) of this section;

(4) All studies developing information pertinent to the request completed since the recommendation of the existing agreement;

(5) If applicable, an update of the financial impact of the Negotiated Service Agreement on the Postal Service in accordance with § 3001.193(e) over the duration of the agreement utilizing the methodology employed by the Commission in its recommendation of the existing agreement; and

(6) If applicable, the identification of circumstances unique to the request.

(b) When the Postal Service submits a request to modify a Negotiated Service Agreement, it shall provide written notice of its request, either by hand delivery or by First-Class Mail, to all participants in the Commission Docket established to consider the original agreement.

(c) The Commission will schedule a pre-hearing conference for each request. Participants shall be prepared to address at that time whether or not it is appropriate to proceed under § 3001.198, and whether or not any material issues of fact exist that require discovery or evidentiary hearings. After consideration of the material presented in support of the request, and the argument presented by the participants, if any, the Commission shall promptly issue a decision on whether or not to proceed under § 3001.198. If the Commission's decision is to not proceed under § 3001.198, the docket will proceed under § 3001.195.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 300

[FRL-7872-1]

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

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of Intent to Delete the Syosset Landfill Superfund Site from the National Priorities List.

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

The Syosset Landfill Superfund Site is located in the Town of Oyster Bay, Nassau County, New York. The NPL is appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300, which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. EPA and New York State, through the Department of Environmental Conservation (NYSDEC), have determined that all appropriate response actions have been completed and no further response actions are required. In addition, EPA and the NYSDEC have determined that the Site poses no significant threat to public health or the environment.

**DATES:** Comments concerning this proposed action, deletion of a site from the NPL, must be received by March 17, 2005.

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

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

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

Information for the Site is also available for viewing at the Site Administrative Record Repositories located at: Syosset Public Library, 225

South Oyster Bay Road, Syosset, New York 11791, Tel. (516) 921-7161.

*Hours:* Monday through Thursday: 9 a.m. through 9 p.m., Friday: 10 a.m. through 9 p.m., Saturday: 9 a.m. through 5 p.m. and Sunday: 12 noon through 5 p.m., and Oyster Bay Town Hall, 54 Audrey Avenue, Oyster Bay, New York 11771, Tel. (516) 624-6100.

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

**FOR FURTHER INFORMATION CONTACT:** Ms. Henry at the address provided above, by telephone at (212) 637-4273, by electronic mail at [Henry.Sherrel@epa.gov](mailto:Henry.Sherrel@epa.gov), or by FAX at (212) 637-3966.

#### SUPPLEMENTARY INFORMATION:

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#### I. Introduction

EPA, Region 2, announces its intent to delete the Syosset Landfill Superfund Site (Site) from the NPL. EPA maintains the NPL as the list of sites that appear to present a significant risk to public health or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substances Superfund Response Trust Fund (Fund). As described in § 300.425(e)(3) of the NCP, a site deleted from the NPL remains eligible for Fund-financed remedial actions, if conditions at the site warrant such action.

EPA will accept comments concerning the deletion of the Site from the NPL for thirty (30) days after publication of this document in the **Federal Register**.

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

#### II. NPL Deletion Criteria

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

(i) Responsible parties or other persons have implemented all appropriate response actions required; or,

(ii) All appropriate Fund-financed responses under CERCLA have been implemented, and no further response action by responsible parties is appropriate; or,

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

### III. Deletion Procedures

The following procedures apply to the deletion of this site:

1. EPA, Region 2, issued the Operable Unit One (OU1) Record of Decision (ROD) for the Site on September 27, 1990 which selected landfill closure as the remedy for the Site.

2. In March 1996, EPA, Region 2, issued a no further action ROD for Operable Unit 2 (OU2) which addressed ground water emanating from the landfill property.

3. Responsible parties implemented the remedy selected in the OU1 ROD as described in a Remedial Action Report dated August 1998. A Five-Year Review dated October 2001 evaluated the remedies implemented at the Site and found them to be protective of human health and the environment. A Final Close Out Report dated September 3, 2004 summarizes the actions and recent monitoring at this Site.

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

5. The State of New York, through the NYSDEC, concurred with the proposed deletion of the Site in a letter dated November 29, 2004.

6. Concurrent with this national Notice of Intent to Delete, a notice has been published in a local newspaper, and appropriate notice has been given to federal, state and local officials announcing a 30-day public comment period which starts on the date of publication of this notice in the **Federal Register** and a newspaper of record.

7. The EPA has placed relevant site documents in the Site information repositories identified above.

8. Upon completion of the thirty-(30-) day public comment period, EPA will evaluate all comments received before issuing a final decision on deletion. The EPA, Region 2, will prepare a Responsiveness Summary, if appropriate, which will address significant comments received during the public comment period. The Responsiveness Summary will be made available to the public at the information repositories.

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

final update following the final Notice publication.

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

### IV. Basis for Intended Site Deletion

The following summary provides a brief description and history of the Syosset Landfill Superfund Site and provides the Agency's rationale for recommending deletion of the Site from the NPL and EPA's finding that the criteria in 40 CFR 300.425(e) are satisfied.

The Syosset Landfill is owned by the Town of Oyster Bay, which operated it from approximately 1933 to 1975. Between 1933 and about 1967, no restrictions were imposed on the types of wastes accepted at the landfill. Waste types disposed at the landfill included: commercial, industrial, residential, demolition, agricultural, sludge material and ash. Studies of the landfill found that it contains heavy metals, solvents, organics, oils, plasticizers, and polychlorinated biphenyls (PCBs) among other contaminants.

The Syosset Landfill was closed on January 27, 1975 because of a suspected groundwater pollution problem. A January 1983 report summarizing the results of a study performed for the Nassau County Department of Health (NCDOH) concluded that the groundwater quality was being impacted by landfill leachate. Elevated heavy metal concentrations including arsenic, cadmium, chromium and lead were detected at levels exceeding New York State Primary Drinking Water Standards. One public drinking water well which is downgradient of the Site was closed due to taste and odor problems. The Site was placed on the Superfund NPL in September 1983.

On June 19, 1986, EPA and the Town entered into an Administrative Order on Consent (Index No. II CERCLA-60203). The Order required the Town to conduct a Remedial Investigation and Feasibility Study (RI/FS) at the Site with provisions for performing off-site investigations. EPA designated the on-property effort as Operable Unit 1 (OU1) and the off-site work as Operable Unit 2 (OU2). The Town later entered into a Consent Decree to conduct the OU1 remedial design, remedial construction, operation, maintenance, and the monitoring for the Site. EPA signed a Record of Decision (ROD) for OU1 on

September 27, 1990, selecting the remedy for the Site as follows.

- Implementing New York State landfill closure requirements as specified in 6 NYCRR Part 360, solid waste management facilities regulations, which included construction of a geosynthetic membrane cap on the top surface of the landfill;

- Providing long-term air and groundwater quality monitoring;

- Monitoring and maintaining the passive gas-venting system installed under a previously implemented response action, including routine inspection and repairs;

- Establishing institutional controls in the form of deed restrictions on future uses of the landfill;

- Installing an additional passive gas-venting system, designed so that it can easily be converted to an active system should conversion become necessary; and

- Maintaining the existing boundary fence around the perimeter of the landfill property to continue to restrict access to the landfill.

In addition, because leachate indicator chemicals were identified in groundwater underneath and downgradient of the landfill, the ROD also specified that a supplemental remedial investigation be conducted to study the potential off-site impacts of the landfill, designated as OU2.

On-site construction commenced in November 1994 and was completed in November 1997. EPA conducted a final inspection with NYSDEC and the Town of Oyster Bay on November 5, 1997. In October 1999, EPA issued its approval of the Remedial Action Report. In addition, institutional controls, consisting of recording the Consent Decree and placing restrictive covenants on the real property at the site, have been implemented by the Town of Oyster Bay.

EPA approved a Post-Closure Monitoring and Maintenance Operations (O&M) Manual in December 2001. The O&M Manual provides for a long-term monitoring program for the cover system, the drainage system, and the groundwater and the gas-monitoring systems. The O&M Manual requires groundwater monitoring at selected wells. The first round of annual sampling was conducted in June 2003. The O&M monitoring results indicate that the remedial system as designed and constructed pursuant to the 1990 OU1 ROD is performing satisfactorily. A RI was performed for OU2 and concluded that the off-property groundwater does not pose a threat to public health or the environment. EPA

Region 2, issued a no further action ROD for OU2 in March 1996.

Hazardous substances remain at the Site above levels that would allow for unlimited use with unrestricted exposure. Pursuant to section 121(c) of CERCLA, EPA will review site remedies no less often than every five years. The EPA, Region 2, conducted a statutory Five-Year Review of the Site in November 2001. The Five-Year Review concluded that the contamination at the Syosset Landfill site is under control and there is no exposure to human or environmental receptors from Site-related contaminants. The next Five-Year Review will be completed by November 2006.

Public participation activities for this Site have been satisfied as required in CERCLA section 113(k), 42 U.S.C. 9613(k), and section 117, 42 U.S.C. 9617. 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.

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 State of New York,

through the NYSDEC, believe that this criterion for deletion has been met. Therefore, EPA is proposing deletion of this Site from the NPL.

**List of Subjects in 40 CFR Part 300**

Environmental protection, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water Supply.

Dated: December 13, 2004.

**George Pavlou,**

*Acting Regional Administrator, Region 2.*

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