

**§ 507.1 What does this part do?**

This part implements section 10(k) of the Federal Deposit Insurance Act (FDIA), which prohibits senior examiners from accepting compensation from certain companies following the termination of their employment. See 12 U.S.C. 1820(k). Except where otherwise provided, the terms used in this part have the meanings given in section 3 of the FDIA (12 U.S.C. 1813).

**§ 507.2 Who is a senior examiner?**

An individual is a senior examiner for a particular savings association or savings and loan holding company if:

(a) The individual is an officer or employee of OTS (including a special government employee) who has been designated by OTS to conduct examinations or inspections of savings associations or savings and loan holding companies;

(b) The individual has been assigned continuing, broad and lead responsibility for the examination or inspection of that savings association or savings and loan holding company; and

(c) The individual's responsibilities for examining, inspecting, or supervising that savings association or savings and loan holding company:

(1) Represent a substantial portion of the individual's assigned responsibilities at OTS; and

(2) Require the individual to interact on a routine basis with officers and employees of the savings association, savings and loan holding company, or its affiliates.

**§ 507.3 What post-employment restrictions apply to senior examiners?**

(a) *Prohibition.* (1) *Senior examiner of savings association.* An individual who serves as a senior examiner of a savings association for two or more of the last 12 months of his or her employment with OTS may not, within one year after the termination date of his or her employment with OTS, knowingly accept compensation as an employee, officer, director, or consultant from:

(i) The savings association; or  
(ii) A savings and loan holding company, bank holding company, or any other company that controls the savings association.

(2) *Senior examiner of a savings and loan holding company.* An individual who serves as a senior examiner of a savings and loan holding company for two or more of the last 12 months of his or her employment with OTS may not, within one year after the termination date of his or her employment with OTS, knowingly accept compensation as an employee, officer, director, or consultant from:

(i) The savings and loan holding company; or

(ii) Any depository institution that is controlled by the savings and loan holding company.

(b) *Effective date.* The post-employment restrictions in paragraph (a) of this section do not apply to any senior examiner who terminated his employment at OTS before December 17, 2005.

(c) *Definitions.* For the purposes of this section:

(1) *Consultant.* An individual acts as a consultant for a savings association or other company only if he or she directly works on matters for, or on behalf of, the savings association or company.

(2) *Control.* Control has the same meaning given in part 574 of this chapter.

**§ 507.4 When will OTS waive the post-employment restrictions?**

The post-employment restriction in § 507.3 will not apply to a senior examiner if the Director certifies in writing and on a case-by-case basis that a waiver of the restriction will not affect the integrity of OTS's supervisory program.

**§ 507.5 What are the penalties for violating the post-employment restrictions?**

(a) *Penalties.* A senior examiner who violates § 507.3 shall, in accordance with 12 U.S.C. 1820(k)(6), be subject to one or both of the following penalties:

(1) An order:

(i) Removing the person from office or prohibiting the person from further participating in the conduct of the affairs of the relevant depository institution, savings and loan holding company, bank holding company or other company for up to five years; and  
(ii) Prohibiting the person from participating in the affairs of any insured depository institution for up to five years.

(2) A civil money penalty not to exceed \$250,000.

(b) *Scope of prohibition orders.* Any senior examiner who is subject to an order issued under paragraph (a)(1) of this section shall be subject to 12 U.S.C. 1818(e)(6) and (7) in the same manner and to the same extent as a person subject to an order issued under 12 U.S.C. 1818(e).

(c) *Procedures.* 12 U.S.C. 1820(k) describes the procedures that are applicable to actions under paragraph (a) of this section and the appropriate Federal banking agency authorized to take the action, which may be an agency other than OTS. Where OTS is the appropriate Federal banking agency, it will conduct administrative proceedings under 12 CFR part 509.

(d) *Other penalties.* The penalties under this section are not exclusive. A senior examiner who violates the restriction in § 507.3 may also be subject to other administrative, civil, or criminal remedy or penalty as provided by law.

**PART 509—RULES OF PRACTICE AND PROCEDURES IN ADJUDICATORY PROCEEDINGS**

2. The authority citation for part 509 is amended to read as follows:

**Authority:** 5 U.S.C. 504, 554–557; 12 U.S.C. 1464, 1467, 1467a, 1468, 1817(j), 1818, 1820(k), 3349, 4717; 15 U.S.C. 78(l); 78o–5, 78u–2; 28 U.S.C. 2461 note; 31 U.S.C. 5321; 42 U.S.C. 4012a.

3. In § 509.1, redesignate paragraph (g) as paragraph (h) and add a new paragraph (g) to read as follows:

**§ 509.1 Scope.**

\* \* \* \* \*

(g) Proceedings under section 10(k) of the FDIA (12 U.S.C. 1820(k)) to impose penalties on senior examiners for violation of post-employment prohibitions.

\* \* \* \* \*

Dated: July 26, 2005.

Office of Thrift Supervision.

**Richard M. Riccobono,**

*Acting Director.*

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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 300**

[FRL–7947–9]

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

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of intent to delete the Nutmeg Valley Road Site from the National Priorities List.

**SUMMARY:** The Environmental Protection Agency (“EPA” or the “Agency”) New England announces its intent to delete the Nutmeg Valley Road Site (“Site”) from the National Priorities List (“NPL”) and requests 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") of 1980, as amended. EPA and the Connecticut Department of Environmental Protection ("CT DEP") have determined that no further action is necessary or appropriate for this Site.

**DATES:** Comments concerning the proposed deletion of this Site from the NPL may be submitted on or before September 6, 2005.

**ADDRESSES:** Comments may be mailed to Karen Lumino, EPA New England, One Congress Street, Suite 1100 (HBT), Boston, MA 02114, or e-mailed to [lumino.karen@epa.gov](mailto:lumino.karen@epa.gov).

Comprehensive information on this Site is available through the EPA New England public docket which is available for viewing by appointment only by calling 617-918-1440. Requests for copies of the background information from the Regional public docket should be directed to the EPA New England office at the following address: Superfund Records Center, EPA New England, One Congress Street, Suite 1100 (HSC), Boston, MA 02114.

The deletion docket is also available for viewing at the following location: Wolcott Library, 469 Bound Line Road, Wolcott, CT 06716.

**FOR FURTHER INFORMATION CONTACT:** Karen Lumino, Remedial Project Manager, at 617-918-1348, or [lumino.karen@epa.gov](mailto:lumino.karen@epa.gov).

**SUPPLEMENTARY INFORMATION:**

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**I. Introduction**

EPA New England announces its intent to delete the Nutmeg Valley Road Site in Wolcott, New Haven County, Connecticut (EPA ID# CTD 980669261) from the NPL, which constitutes appendix B of the NCP, 40 CFR part 300, and requests comments on this deletion. EPA identifies sites that appear to present a significant risk to public health, welfare or the environment and maintains the NPL as a list of these sites. As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions in the unlikely event that conditions at the site warrant such action in the future.

EPA will accept comments on the proposal to delist this Site for thirty (30) days after publication of this document in the **Federal Register**.

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 the Site and explains how the Site meets the 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 a determination to delete a site from the NPL, EPA, in consultation with the state, shall consider whether any of the following criteria have been met:

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

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

(iii) The remedial investigation has shown that the release of hazardous substances poses no significant threat to public health or the environment and, therefore, remedial measures are not appropriate.

Even when a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the site above levels that allow for unlimited use and restricted exposure, EPA is required, by statute or policy, to conduct a subsequent review at least every five years after the initiation of the remedial action at the site to ensure that the site remains protective of human health and the environment. If new information becomes available that indicates a need for further action, EPA may initiate additional remedial actions. Whenever there is a significant release from a deleted site from the NPL, the site may be restored to the NPL, without application of the Hazard Ranking System.

**III. Deletion Procedures**

The following procedures were used for the intended deletion of this Site: (1) EPA New England issued a Record of Decision (ROD) on September 28, 2004, which documented the determination that no further action was warranted at this Site; (2) all appropriate responses under CERCLA have been implemented as documented in the Final Close-Out Report also dated September 28, 2004; (3) the CT DEP concurred with the proposed deletion; (4) 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 on EPA's Notice of Intent to Delete; and (5) all relevant documents have been made available for public review in the local Site information repository.

Deletion of sites from the NPL does not itself create, alter or revoke any individual's rights or obligations. The NPL is designed primarily for information purposes and to assist Agency management of Superfund sites. As referenced Section II of this document, § 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.

For deletion of this Site, EPA's Regional Office will accept and evaluate public comments before making a final decision to delete. If necessary, the Agency will prepare a Responsiveness Summary to address any significant public comments received.

A deletion occurs when the Regional Administrator places a final notice in the **Federal Register**. Generally, the NPL will reflect deletions in the final update following the notice. Public notices and copies of the Responsiveness Summary will be made available to local residents by the Regional 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.

*Site Background and History*

The Site is located in west-central Connecticut near the Wolcott/Waterbury town line, in New Haven County, Connecticut. It consists of a dozen small manufacturing facilities, light industrial facilities and repair shops over a 28-acre area. Past and present human activities have altered the area, offering minimal wildlife habitat. Private wells contaminated with volatile organic compounds (VOCs) were first discovered by state and local health officials in 1979. In 1986, the Town of Wolcott extended a public water supply line into the area. The Site was placed on the NPL in March 1989. Two metal-working and machine shops on Nutmeg Valley Road with a known history of dumping waste oil and solvents onto the ground were the focus of early remedial investigations; however the study area was expanded to 155 acres to include similar companies on Swiss Lane, Tosun Road, Wolcott Road and Town Line Road which were also seen as potential sources of groundwater contamination.

In 1995 and 1998, the U.S. Geological Survey ("USGS") performed regional groundwater studies concluding that: (a) although VOCs, metals and cyanide were found in the groundwater, the distribution was scattered and there was no evidence of a wide-spread plume of contamination; and (b) the levels of contaminants in much of the study area

were decreasing over time through natural degradation processes.

In 1999, using data collected by the USGS, EPA screened the area for human-health and ecological risk. Based on the findings of the USGS studies and EPA sampling, the study area was reduced to its current 28-acre configuration.

From 2000 to 2002, EPA conducted a more focused study of the groundwater, as well as surface water, soil and sediment. Based on the sampling results in this study, the levels of organic compounds and metals detected in soil, sediment and surface water do not appear to pose an unacceptable risk to human health. EPA did identify a potential non-carcinogenic health hazard from the future use of groundwater if used as a drinking water supply, with the primary risk driver being manganese. The ecological risk assessment did not identify risks to wildlife or its habitat attributable to activities at the Site.

#### *Response Actions*

In 1992, EPA conducted an emergency removal of 1,150 tons of sludge waste and contaminated soil from two unlined lagoons. This action addressed the threats posed by the electroplating wastes in surface soils, and removed a potential source of groundwater contamination.

In April 2004, the Town of Wolcott adopted the Wolcott Groundwater Ordinance #87 ("Groundwater Ordinance") prohibiting all uses of groundwater within a 25-acre area that overlaps with those portions of the Site where groundwater presents a potential non-carcinogenic health hazard.

In September 2004, the Town of Wolcott issued a "No Further Action" ROD for this Site. The basis for this decision was the combination of the Town's Groundwater Ordinance, and, a requirement in the Connecticut Public Health Code (section 19-12-B51m) that prohibits the future installation of private wells on parcels that are within 200 feet of a public water supply, a condition that applies to all parcels in the Site. EPA made the determination that conditions at the Site are protective of human health and the environment now and in the future, and that no further remedial action under CERCLA is necessary for this Site.

#### *Five-Year Review*

Because EPA's determination of no further action relies in part upon existing laws already in place, EPA will review the protectiveness of this determination every five years pursuant to 40 U.S.C. 9621(c) of CERCLA. This

review will be limited in scope to evaluating whether or not these legal mechanisms (or similar requirements) currently in place remain in place, and whether or not these mechanisms function sufficiently to prevent human exposure to contaminated groundwater. Should this review indicate that exposure is occurring, then EPA may take additional action to determine if such exposure presents an unacceptable risk.

#### *Community Involvement*

Throughout the Site's history, community concern has been high. EPA has kept the community and other interested parties apprised of Site activities through a series of public meetings, fact sheets, and press releases. An information repository was established at the Wolcott Library.

The Proposed Plan with EPA's preferred alternative was distributed to the 200 people on the Site's mailing list. A public comment period on the Proposed Plan was held from July 9 to August 9, 2004. Of the seven sets of comments received during the comment period, five supported the no further action remedy. None stated an opposition to the proposed remedy.

#### *Redevelopment Potential*

The current land use of the Site is industrial with some residential use along the northwestern boundary (Wolcott Road). Land use in adjacent and surrounding areas in close proximity to the Site is currently commercial, industrial and residential. The reasonably anticipated future use of the Site will continue to be industrial with limited residential. EPA's determination that no further action is required at the Nutmeg Valley Road Site has no bearing on Connecticut's Property Transfer Law, and remediation may be necessary to meet state requirements (see <http://www.dep.state.ct.us/pao/perdfact/proptran.htm>).

#### *Applicable Deletion Criteria*

In a letter dated July 12, 2005, Mayor Thomas Dunn of Wolcott certified full compliance with the Town's Groundwater Ordinance that required all affected properties to abandon all existing groundwater wells, and connect to the existing public water supply system. With this certification, EPA believes that the following criterion for the deletion of a site from the NPL has been met: all appropriate responses under CERCLA have been implemented, and no further action by responsible parties is appropriate. Consequently, EPA is proposing deletion of the

Nutmeg Valley Road Superfund Site from the NPL. Documents supporting this action are available in the docket.

#### *State Concurrence*

The Connecticut Department of Environmental Protection, in a letter from Gina McCarthy, Commissioner, dated July 5, 2005, concurs with the proposed deletion of the Nutmeg Valley Road Superfund Site from the NPL.

#### **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, 3CFR, 1991 Comp., p.351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Dated: July 25, 2005.

**Robert W. Varney,**

*Regional Administrator, EPA New England.*

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## **DEPARTMENT OF THE INTERIOR**

### **Fish and Wildlife Service**

#### **50 CFR Part 20**

**RIN 1018-AT76**

#### **Migratory Bird Hunting; Proposed Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands for the 2005-06 Season**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** The U.S. Fish and Wildlife Service (hereinafter, Service or we) proposes special migratory bird hunting regulations for certain Tribes on Federal Indian reservations, off-reservation trust lands, and ceded lands for the 2005-06 migratory bird hunting season.

**DATES:** We will accept all comments on the proposed regulations that are postmarked or received in our office by August 15, 2005.

**ADDRESSES:** Send your comments on these proposals to the Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, MS MBSP-4107-ARLSQ, 1849 C Street, NW., Washington, DC 20240 or fax comments to (703) 358-2272. All comments received will become part of the public record. You may inspect