



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA-HQ-SFUND-1983-0002; FRL-9718-4]

National Oil and Hazardous Substances Pollution Contingency Plan;

National Priorities List: Deletion of the Hooker (Hyde Park) Superfund Site

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) Region 2 is publishing a direct final Notice of Deletion of the Hooker (Hyde Park) Superfund Site (Site), located in Niagara Falls, New York, from the National Priorities List (NPL). 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). This direct final deletion is being published by EPA with the concurrence of the State of New York, through the Department of Environmental Conservation, because EPA has determined that all appropriate response actions under CERCLA, other than operation, maintenance, and five-year reviews, have been completed. However, this deletion does not preclude future actions under Superfund.

DATES: This direct final deletion is effective September 30, 2012 unless EPA receives adverse comments by [insert date 30 days from date of publication in the *Federal Register*]. If adverse comments are received, EPA will publish a timely withdrawal of

the direct final deletion in the *Federal Register* informing the public that the deletion will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID no. EPA-HQ-SFUND-1983-0002, by one of the following methods:

- Website: <http://www.regulations.gov> . Follow on-line instructions for submitting comments.
- Email: sosa.gloria@epa.gov.
- Fax: To the attention of Gloria M. Sosa at 212-637-4283
- Mail: To the attention of Gloria M. Sosa, Remedial Project Manager, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, Region 2, 290 Broadway, 20th Floor, New York, NY 10007-1866.
- Hand delivery: Superfund Records Center, 290 Broadway, 18th Floor, New York, NY 10007-1866 (telephone: 212-637-4308). (Monday to Friday from 9:00 a.m. to 5:00 p.m.). 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-1983-0002. 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 e-mail. 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 e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail 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 2

Superfund Records Center

290 Broadway, 18th Floor

New York, NY 10007-1866

Telephone: (212) 637-4308

Hours: Monday to Friday from 9:00 a.m. to 5:00 p.m.

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Buffalo, NY 14204-2026

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Hours: Monday to Friday from 8:30 a.m. to 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Gloria M. Sosa, Remedial Project Manager, U.S. Environmental Protection Agency, Region 2, 290 Broadway, 20th Floor, New York, NY 10007-1866 , telephone: (212) 637-4283, email: sosa.gloria@epa.gov.

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I. Introduction

EPA Region 2 is publishing this direct final Notice of Deletion of the Hooker (Hyde Park) Superfund Site (Site), from the National Priorities List (NPL). 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 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 § 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.

Because EPA considers this action to be noncontroversial and routine, this action will be effective September 30, 2012 unless EPA receives adverse comments by [insert date 30 days after this publication in the *Federal Register*]. Along with this direct final Notice of Deletion, EPA is co-publishing a Notice of Intent to Delete in the “Proposed Rules” section of the Federal Register. If adverse comments are received within the 30-day public comment period on this deletion action, EPA will publish a timely withdrawal of this direct final Notice of Deletion before the effective date of the deletion, and the deletion will not take effect. EPA will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of the Notice of Intent to Delete and the comments already received. There will be no additional opportunity to comment.

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 Hyde Park Landfill Superfund Site and demonstrates how it meets the deletion criteria. Section V discusses EPA’s action to delete the Site from the NPL unless adverse comments are received during the public comment period.

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 of New York prior to developing this direct final Notice of Deletion and the Notice of Intent to Delete co-published today in the “Proposed Rules” section of the Federal Register.
- (2) EPA has provided the state 30 working days for review of this notice and the parallel Notice of Intent to Delete prior to their publication today, and the State, through the New York Department of Environmental Conservation, has concurred on the deletion of the Site from the NPL.
- (3) Concurrently with the publication of this direct final Notice of Deletion, a notice of the availability of the parallel Notice of Intent to Delete is being published in *Niagara Gazette*, a major local newspaper. The newspaper notice announces the 30-day public comment period concerning the Notice of Intent to Delete the Site from the NPL.
- (4) 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.
- (5) If adverse comments are received within the 30-day public comment period on this deletion action, EPA will publish a timely notice of withdrawal of this direct final Notice of Deletion before its effective date and will prepare a response to comments and continue with the deletion process on the basis of the Notice of Intent to Delete and the comments already received.

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 Site, EPA ID No. NYD00831644, consists of approximately fifteen acres and is located in the northwest corner of the Town of Niagara, New York. The Site is immediately surrounded by several industrial facilities and property owned by the New York Power Authority. Residential neighborhoods are located to the northwest and south of the landfill. The Niagara River, an international boundary, is located 2,000 feet to the northwest, down the Niagara Gorge which descends approximately 350 feet below the surface of the landfill. The Niagara River flows into Lake Ontario approximately 10 miles downstream of the Site. Lake Ontario is a drinking-water source for millions. Niagara University, which has three thousand students, is less than one mile in distance from the Site.

The Bloody Run is a small drainage area flowing north from the landfill and considered part of the Site. The stream flows under a neighboring industry via a storm sewer, and under University Drive via a storm sewer which emerges at the Niagara Gorge.

The geology underlying the Site is glacial overburden overlying the fractured Lockport Dolomite bedrock. Groundwater in the vicinity of the landfill flows in both the

overburden and the bedrock. Generally, the overburden is saturated at depths below ten feet. The groundwater movement from the landfill is both downward and horizontal. Some of this groundwater exits the Niagara Gorge Face in the form of seeps which flow into the Niagara River. Contaminants migrate from the landfill in two forms: aqueous phase liquid (APL or contaminated groundwater) and dense non-aqueous phase liquid (NAPL).

Hooker Chemical and Plastic Corporation, now Occidental Chemical Corporation (OCC), disposed of approximately 80,000 tons of waste (drummed and bulk liquids, and solids) at the Site, from 1953 to 1975, primarily chlorobenzenes, chlorotoluenes, halogenated aliphatics and 2,4,5-trichlorophenol (TCP) still bottoms. An estimated 3,300 tons of TCP were disposed of at the Site; TCP wastes are known to contain significant amounts of 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD). EPA has estimated that approximately 0.7 - 1.6 tons of TCDD were associated with the TCP wastes at the Site.

The Site was proposed to the NPL in December 1982 (47 FR 58476) and was listed on the NPL in September 1983 (48 FR 40658).

Remedial Investigation and Feasibility Study (RI/FS)

EPA filed a lawsuit in 1979 in federal district court under the authority of the Resource Conservation and Recovery Act and the Clean Water Act seeking to require that OCC remediate the Site. EPA, New York State and OCC filed a *Stipulation and Judgment Approving Settlement Agreement* (Settlement Agreement) in January 1981, which the Court approved in April 1982. The Settlement Agreement required OCC to perform an Aquifer Survey (which can be compared to a Remedial Investigation) to define the extent of contamination in the overburden and bedrock and assess remedial

alternatives. OCC completed this effort in 1983. The results of the aquifer survey were used by the negotiation team (EPA/NY State and OCC) to agree on remedial actions to be performed at the Site. These required remedial actions were documented in a *Stipulation on Requisite Remedial Technology* (RRT Stipulation), which was approved by the Court in August 1986. During the RRT negotiations, EPA performed a risk assessment using worst case exposure scenarios which indicated that the greatest risk from the Site was the consumption of fish contaminated with TCDD.

Selected Remedy

EPA issued an Enforcement Decision Document (EDD - a precursor and equivalent to a Record of Decision) on November 26, 1985, which documented the remedial action selected for Site cleanup. EPA acknowledged that the APL and NAPL plumes would not be remediated to drinking water standards because of the persistent nature of NAPL. Therefore, the goal of the remedies selected in the EDD was to hydraulically contain contaminated groundwater (APL plume) in the vicinity of the Site, while extracting as much NAPL as is practicable.

The major components of the 1985 EDD included the following:

- Source control (prototype extraction wells);
- Containment and collection of APL and NAPL in the overburden;
- Containment and collection of APL and NAPL in the bedrock;
- Treatment of collected APL and NAPL;
- Community Monitoring Program (monitoring wells for early detection of Site chemicals);
- Intermediate and Deep Formations Study (monitoring wells);

- Industrial Protection Program (remediation of sumps and sealing of manholes);
- Perimeter Capping (clay cap around perimeter of landfill);
- Gorge face seeps remediation;
- Bloody Run Excavation or Capping;
- Final capping and Site closure; and,
- TCDD Bioaccumulation Study in Lake Ontario.

The RRT established APL Plume Flux Action Levels for the following chemicals: TCDD (0.5 grams/year); perchloropentacyclodecane [Mirex] (0.005 lbs/day); Aroclor 1248 (0.005 lbs/day); and, chloroform (1.7 lbs/day). These action levels represent concentrations of these contaminants that, if detected entering the river (flux of contaminants to the river) at or above these concentrations, would cause OCC to take additional remedial actions (e.g. increased pumping, installing additional wells or other remedial measures) to reduce these contaminant levels.

On May 7, 2012, EPA issued an ESD which had two components. This ESD documented the placement of an institutional control, a Declaration of Restrictive Covenants and Environmental Easement, on the property which constitutes the former Hyde Park Landfill. In addition, this ESD clarifies that the selected remedy for the Site in the EDD is a containment remedy and not an aquifer restoration remedy intended to restore the aquifer to its best beneficial use (i.e., a source of drinking water). The goal of a containment remedy is to prevent the migration of disposed waste and leachate along with affected groundwater from a landfill or site.

Response Actions

Source Control

The purpose of the source control program is to reduce the amount of chemicals migrating downward from the landfill by removing any mobile NAPL remaining in the landfill. OCC installed 6 source controls wells (two 36-inch wells and four 2-inch wells) in the landfill. Nine monitoring wells were also installed in the landfill. One source-control well has since been converted to a monitoring well because of low NAPL collection. The source control program has not yielded large amounts of NAPL. EPA believes that most of NAPL which was once present in the overburden in the landfill has either sorbed to the bedrock, been captured, or remains in pockets or pools that are not hydraulically connected to the source control wells. In addition, the installation of the final cap on the landfill has eliminated the continued production of leachate from rainfall and thereby dramatically reduced the hydraulic head of APL within the landfill, removing the driving force for the NAPL.

NAPL is extracted by the source-control wells and flows into a decanter at the onsite Storage and Treatment Facility. NAPL is transported by truck to a permitted offsite facility for incineration. To date, more than 300,000 gallons of NAPL have been removed and destroyed.

Overburden APL and NAPL Plume Containment System

The Overburden Barrier Collection System (OBCS), a drain around the entire landfill to contain and collect contaminated groundwater, was installed by OCC in 1991. Pumping wells create an inward hydraulic gradient. Water-level measurements indicate that an inward gradient is being achieved in the overburden, thereby capturing the contaminated groundwater associated with the Site. Both APL (above MCLs) and NAPL

were not observed in any of the overburden monitoring well locations after 1996, indicating that the OBCS serves as an effective barrier to offsite NAPL migration.

Bedrock NAPL Plume Containment System

The Bedrock NAPL Plume Containment System, consisting of extraction (pumping) wells, was designed and installed by OCC in a phased approach between 1990 and 1997. A total of 16 extraction wells were installed and are pumped to achieve an inward hydraulic gradient. Water-levels are measured quarterly to ensure capture of contaminated groundwater.

Bedrock APL Plume Containment System

The APL Plume Containment System, consisting of three purge wells installed at the Niagara Gorge Face in 1994, contains and collects a significant portion of the APL plume. The portion of the APL plume not collected by these wells is monitored by 3 flux monitoring well clusters to the west of the Site and 3 piezometer clusters in the northern and eastern portion of the APL plume.

Leachate Storage and Treatment Facility

APL is treated onsite at the Leachate Storage and Treatment Facility constructed by OCC which began operating in April 1990. The APL/NAPL mixture is pumped from the wells through force mains into a decant tank. The NAPL, denser than water, settles to the bottom. APL is taken off the top of the decanter and pumped into the storage tanks. The APL first passes through sacrificial activated carbon beds (which cannot be recycled because of the dioxin and are disposed of offsite). The APL is then treated in an activated carbon system. The facility currently has a capacity to treat 400 gallons per minute.

Landfill Cap

The perimeter cap of the landfill was completed in 1991, and the entire landfill was capped in 1994. The final cap consisted of the following: 36 inches of low-permeability clay; a synthetic membrane; a drainage layer and topsoil seeded with native vegetation for barrier protection. EPA routinely inspects the landfill cap for erosion. The current condition of the cap is excellent.

Bloody Run Remediation

The Bloody Run received drainage from the landfill prior to any remedial measures being conducted at the Site. OCC excavated approximately thirty thousand cubic yards of contaminated sediment from the Bloody Run drainage area. The area was then backfilled and covered with riprap. This work was completed in January 1993. The Bloody Run now flows via a storm sewer which surfaces at the Niagara Gorge. The restored area was observed to have abundant vegetation during a Site visit in June 2011.

Niagara River Gorge Face Remediation

Groundwater seeps from the rock at the Niagara Gorge, approximately 2000 feet from the Site. TCDD was detected in one sample from a seep during remedial investigations at 0.2 parts per trillion (ppt). EPA and New York State determined that humans should be isolated from the seeps to prevent an exposure pathway to the contaminants. The Gorge Face Seeps were remediated in 1988, except for the Bloody Run portion, which was remediated in 1994. Access by humans to the seeps has been prevented by the installation of fences and the diversion of seeps into culverts. All contaminated sediments were scraped away. Annual inspections of the Gorge Face are

conducted by representatives of EPA, New York State and OCC. The pumping of the APL wells has strongly influenced the seeps, drying many.

Institutional Controls

A Declaration of Restrictive Covenants and Environmental Easement was placed on the property and lodged with the County of Niagara on October 7, 2010. The Grantor (OCC) grants a permanent restrictive covenant and an environmental easement to the Grantee (Town of Niagara) to provide a right of access over the approximately twenty-one acre property (the "Property") for purposes of implementing, facilitating and monitoring the remedial action. The Property includes the Site as well as the Bloody Run Drainage area. The covenant/easement also imposes on the property use restrictions that will run with the land for the purpose of protecting human health and the environment in the future.

The following restrictions apply to the use of the Property, run with the land, and are binding on the Grantor: the Property shall not be used in any manner that would interfere with or adversely affect the implementation, integrity, or effectiveness of the remedial action performed at the Site, including, but not limited to: a) the extraction of on-site groundwater; b) any digging, excavation, extraction of materials, construction, or other activity outside the requirements of the remedial action that would disturb the cap placed upon the Landfill at the Site; or c) other activity that would disturb or interfere with any portion of the remedial action for the Site enumerated in the RRT Stipulation. The Property may not be used for residential use. However, the Property may be used for commercial or industrial use as long as designated, and long term engineering controls are employed and remain effective, specifically, the operation of the portion of the

Response Action pertaining to the extraction wells, treatment facility and maintenance of the cap.

In addition to the Site-specific institutional control, the Niagara County Department of Health imposes restrictions on the drilling and usage of wells. These restrictions ensure that drinking-water wells are not installed in areas of contaminated groundwater, effectively preventing exposure to Site-related contaminants through ingestion.

Additional Remedial Actions

OCC has performed additional remedial actions at the Site in addition to those previously discussed. The onsite lagoons were remediated in 1991. NAPL in the lagoons was pumped into the leachate storage facility and the lagoons were closed. NAPL was also pumped from four railroad tank cars, which had been used onsite for years as storage for NAPL generated from remedial investigations because there was no facility permitted to destroy dioxin. In 1991, the tank cars were placed in the waste disposal cells.

OCC also remediated sewers in the area. Sewers provided preferential pathways for contaminants to migrate through the overburden. OCC relocated a sewer at TAM Ceramics and remediated the College Heights sewer. The remediation of the University Drive (bordering Niagara University) sewer was completed in August 1993. NAPL contaminated soils were removed from under University Avenue.

Additional Studies Conducted

OCC conducted an Intermediate Formations Study to determine if contaminants from the Site had penetrated the Rochester Shale (aquitard) formation below the Lockport Dolomite. Most of the parameters were not detected above the concentrations of Lower

Formation Survey Parameters listed in the RRT Stipulation. However, phenol, total organic halogen, PCB-1248 and conductivity did exceed the survey levels. OCC calculated a flux in the monitoring report which was four to five orders of magnitude below the Flux Action Level. OCC was not required to install monitoring wells in the Deep Formations because the Intermediate Formations' investigation indicated that Site contaminants had not migrated through the shale and were not present in the Intermediate Formations.

Lake Ontario TCDD Bioaccumulation Study

The RRT established APL Plume Flux Action Levels based on EPA's worst-case bioaccumulation assumptions for the following chemicals: TCDD (0.5 grams/year); perchloropentacyclodecane [Mirex] (0.005 lbs/day); Aroclor 1248 (0.005 lbs/day); and, chloroform (1.7 lbs/day). These action levels represent concentrations of these contaminants that, if detected entering the river (flux of contaminants to the river) at or above these concentrations, would require OCC to take additional remedial actions (e.g. increased pumping, installing additional wells or other remedial measures) to reduce these contaminant levels. The only parameter detected in 2001 was TCDD. OCC calculated the flux of TCDD to the Niagara River as 7.06×10^{-5} grams/year, which is several orders of magnitude below the Flux Action.

The predicted steady-state TCDD concentrations for an input comparable to the TCDD APL Plume Flux Action Level of 0.5 grams/year are 0.026 nanograms/year (sorbed sediment concentrations) and 9.5×10^{-5} picograms/liter (water column dissolved concentration).

The TCDD Study, together with the model, indicated that TCDD was bioaccumulating in the tissues of various species of Lake Ontario fish at a range of rates such that the overall TCDD APL Plume Flux Action Level of 0.5 grams/year stipulated by the RRT remains protective.

Community Monitoring Program

The Community Monitoring Wells, a system of wells installed in 1987 in both the overburden and shallow bedrock throughout the neighborhood, provide early warning of the presence of Site-related contaminants in the groundwater. These wells are sampled and analyzed quarterly. Should Site-related contaminants be detected, OCC must take further remedial action. Site-related contaminants have never been detected in these wells. The data collected have demonstrated that the groundwater flow is vertically downward in the nearby community. EPA and New York State review the analytical results from sampling of these wells to ensure the community is being protected

Vapor monitoring is performed in the overburden community monitoring wells annually during the third quarter when temperature is high and the volatilization potential is greatest. If vapor readings for total VOCs exceed 0.050 parts per million by volume (ppmv), OCC is required to take a groundwater quality sample. Vapor readings, as document in the 2011 Annual Report, have been at 0 parts per billion by volume (ppbv) for all Community Monitoring Wells.

Cleanup Goals

The RRT established APL Plume Flux Action Levels for the following chemicals: TCDD (0.5 grams/year); perchloropentacyclodecane [Mirex] (0.005 lbs/day); Aroclor 1248 (0.005 lbs/day); and, chloroform (1.7 lbs/day). Sampling results from December

2011 indicate that the concentrations of the APL Flux parameters are significantly below their respective Flux Action Levels. None of the APL Flux Parameters were detected above their detection levels and calculation of the flux to the Niagara River Gorge was not required. The detection levels for the Polychlorinated Biphenyls (PCBs) are as follows: Pentachlorobiphenyl is 0.20 micrograms per liter ($\mu\text{g/L}$), Tetrachlorobiphenyl is 0.20 $\mu\text{g/L}$ and Trichlorobiphenyl is 0.098 $\mu\text{g/L}$. The detection levels for the pesticides are as follows: alpha-BHC 0.050 $\mu\text{g/L}$, beta-BHC 0.050 $\mu\text{g/L}$, delta-BHC 0.050 $\mu\text{g/L}$, gamma-Chlordane 0.050 $\mu\text{g/L}$. The detection limit for Mirex is 0.050 $\mu\text{g/L}$ and for 2,3,7,8- TCDD) is 9.52 picograms/L .

The performance goal for the remedy is containment of contaminated groundwater. EPA utilized multiple lines of evidence to determine that site related contamination is being hydraulically contained. These multiple lines of evidence include: potentiometric surface maps for the eight monitored flow zones; groundwater quality data; groundwater flow budget and particle tracking analysis using a numerical groundwater flow model; vertical hydraulic gradient data; historical groundwater quality trends from the NAPL Performance Monitoring Wells; groundwater relative age dating based on sulfate concentrations; and, comparison of the chemistry of the seeps in the Niagara River gorge to the chemistry of the bedrock groundwater.

Following all these lines of evidence, EPA concluded that the performance objectives of the remedy were maintained throughout the year. Based upon these results, the EDD remedy selected for the Site is deemed to be effective in protecting human health and the environment. Groundwater monitoring continues to demonstrate that

hydraulic containment is being achieved at the Site. The results of the groundwater monitoring are presented in the Site annual reports which document containment.

Although cleanup levels were not developed for Bloody Run, post excavation sampling indicated that contaminants were remediated to concentrations below 1 microgram per kilogram ($\mu\text{g/kg}$) for TCDD and 25 milligram per kilogram (mg/kg) for Arochlor 1248. The excavated area was backfilled with clean soil and covered in riprap, further reducing exposure.

Operation and Maintenance

OCC and CRA prepared the Hyde Park Collection and APL Treatment System Operation and Maintenance Manual (O&M Manual) in December 2003, which was approved by EPA and NYSDEC. The O&M Manual was subsequently revised and incorporated into the Performance Monitoring Plan in 2006.

The treatment system treats more than fifty million gallons of water each year and is monitored on a daily, weekly and quarterly basis to ensure compliance with the discharge requirements. There are nine locations in the system where water samples are collected to monitor system performance. The carbon beds at the Treatment Facility are routinely changed and regenerated. The sacrificial carbon beds, which cannot be regenerated, must also be changed and disposed.

OCC must perform extensive well and pump maintenance, as NAPL often fouls wells and pumps. Annual inspections of the monitoring wells are conducted to ensure that the casings and caps are in good condition.

Five-Year Review

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 reviews site remedies where such hazardous substances, pollutants, or contaminants remain no less often than every five years after the initiation of a remedy at a site.

Three Five-Year Reviews have been completed at this Site. The fourth Five-Year Review, completed in September 2011, concluded that the remedy is functioning as intended by the Site's decision documents. There have been no changes in the physical conditions of the Site that would affect the protectiveness of the remedy. The hydraulic containment stipulated in the EDD and RRT has been achieved. There have been no changes in the toxicity factors for the contaminants of concern and there has been no change to the standardized risk assessment methodology that could affect the protectiveness of the remedy. There is no other information that calls into question the protectiveness of the remedy. The next Five-Year Review is scheduled to be completed before September 2016.

Community Involvement

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. EPA held numerous public meetings through the remedy selection process and subsequent implementation of remedial activities by OCC. 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.

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

All of the completion requirements for this Site have been met, as described in the August 2012 Final Close-Out Report. The State of New York, in a July 29, 2008 letter, concurred with the proposed deletion of this Site from the NPL.

The NCP 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.” 40 CFR 300.425(e)(1)(ii). EPA, with the concurrence of the State of New York, through NYSDEC, believes that this criterion for deletion has been met because landfill cap has decreased leachate generation and as a result, NAPL mobility has decreased. In addition, overburden and bedrock hydraulic containment is effective in containing both NAPL and APL plumes within the TI zone documented in the 2011 ESD and prevent contaminants from seeping into the Niagara River. Finally, ICs prevent disturbance of the landfill cap and consumption of contaminated groundwater. Consequently, EPA is deleting this Site from the NPL. Documents supporting this action are available in the Site files.

V. Deletion Action

The EPA, with concurrence of the State of New York through the Department of Environmental Conservation, has determined that all appropriate response actions under CERCLA, other than operation, maintenance, monitoring and five-year reviews have been completed. Therefore, EPA is deleting the Site from the NPL.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication. This action will be effective on September 30, 2012 unless EPA receives adverse comments by [insert date within 30 days of this publication in the *Federal Register*]. If adverse comments are received within the 30-day public

comment period, EPA will publish a timely withdrawal of this direct final notice of deletion before the effective date of the deletion, and it will not take effect. EPA will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

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.

Dated: August 9, 2012

Judith A. Enck

Regional Administrator,

EPA, Region 2.

For the reasons set out in this document, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

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.

2. Table 1 of Appendix B to part 300 is amended by removing "Hooker (Hyde Park)", "Niagara Falls " under NY.

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