



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

EPA-HQ-SFUND-1990-0010; FRL 9846-2

National Oil and Hazardous Substances Pollution Contingency Plan;

National Priorities List: Deletion of the Mosley Road Sanitary Landfill (MRSL)

Superfund Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) Region 6 is publishing a direct final Notice of Deletion of the MRSL Superfund Site (Site), located in Oklahoma City, Oklahoma County, Oklahoma, 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 Oklahoma, through the Oklahoma Department of Environmental Quality (ODEQ), because EPA has determined that all appropriate response actions under CERCLA have been completed.

However, this deletion does not preclude future actions under Superfund.

DATES: This direct final deletion is effective [insert date 45 days from the date of publication in the *Federal Register*] 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-1990-0010, by one of the following methods:

- <http://www.regulations.gov> . Follow on-line instructions for submitting comments.
- Email: Michael Torres, Remedial Project Manager: torres.michael@epa.gov
- Fax: Michael Torres; Remedial Project Manager (RPM): 214-665-6660
- Mail: Michael Torres, RPM, US-EPA Region 6, Mail Code 6SF-RL, 1445 Ross Avenue, Dallas, Texas 75202
- Hand delivery: Michael Torres, RPM, US-EPA Region 6, 1445 Ross Avenue, 7th floor, Dallas, Texas 75202. 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-1990-0010.

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:

ODEQ Central Records, 405-702-1188, 707 N. Robinson, Oklahoma City, OK 73102, office hours: 8:00 to 4:30 Monday through Friday.

Ralph Ellison Library, 405-424-1437, 2000 NE 23rd Street, Oklahoma City, OK 73111, hours: 9:00 am to 8:00 pm Monday through Thursday, 9:00 am to 6:00 pm Friday, and 9:00 am to 5:00 pm Saturday..

FOR FURTHER INFORMATION CONTACT: Michael Torres, Remedial Project Manager, U.S. Environmental Protection Agency, Region 6, 6SF-RL, 1445 Ross Avenue, Dallas, Texas 75202, 214-665-2108, torres.michael@epa.gov

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I. Introduction

EPA Region 6 is publishing this direct final Notice of Deletion of the MRSL Superfund Site (Site), from the National Priorities List (NPL). The NPL constitutes Appendix B of 40 CFR part 300, which is the 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 [insert date 45 days from the date of publication in the *Federal Register*] 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 MRSL 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 ODEQ, 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 Oklahoma 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 Oklahoma Department of Environmental Quality, 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 The Daily Oklahoman. 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 closed Mosley Road Sanitary Landfill Superfund Site (MRSL or Site) is located at 3300 Mosley Road between NE 23rd and NE 36th Street in Oklahoma City, Oklahoma County, Oklahoma. The MRSL site consists of approximately 70 acres surrounded by predominantly undeveloped land between Oklahoma City and Midwest City, Oklahoma. The East Oak Recycling and Disposal Facility (East Oak), which is currently in operation, is located just to the west of the Site.

Waste management of Oklahoma (WMO) is the current owner of the MRSL. The MRSL was originally owned by Floyd Swen, who operated the site under the name A-1 Sanitation Company from 1971 to 1975. From 1975 through 1984, the landfill was owned and operated by Oklahoma City Disposal Inc. (OCD), which at the time was a subsidiary of SCA Services, Inc. Originally permitted by Oklahoma State Department of Health (OSDH) (now Oklahoma Department of Environmental Quality) as a sanitary landfill, OCD was authorized by OSDH to accept industrial hazardous wastes between February 20, 1976, and August 24, 1976, due to the temporary closure of the Royal Hardage Landfill in Criner, Oklahoma. During the six-month period, OCD reportedly accepted approximately 1.7 million gallons of predominantly liquid hazardous waste, which included industrial and plating sludge, caustics, acid solutions, oil emulsions, alkaline solutions, solvents, paint sludge, toxaphene, and trichloroethene. All of the hazardous waste was placed in three below-grade unlined pits (referred to as the waste pits) that are now buried beneath municipal waste. In 1984, WMO acquired the stock of

SCA Services, which thus transferred the ownership, operation, and maintenance of the MRSL site to WMO. The landfill reached its permitted capacity and was closed in November 1987. A compacted clay cover was installed over the landfill in 1988 in accordance with existing regulations governing landfill closure.

An EPA site assessment was conducted from November 1986 through November 1990. The Site was HRS scored by EPA on February 6, 1987. The MRSL was proposed to the NPL on June 24, 1988. On February 21, 1990, EPA added the MRSL to the NPL (55 FR 6154) and registered the site in the CERCLIS database as OKD980620868.

There were no removal action activities at the site, however, EPA enforcement activities continued in efforts to address the site's contamination issues. WMO plans on optimizing reuse of the property by integrating the site development plan for the East Oak Recycling and Disposal Facility into the MRSL footprint. Integration of the active East Oak facility with the inactive MRSL site will increase solid waste disposal capacity for the region. WMO's planned expansion will not interfere or compromise the Site's remedy.

Remedial Investigation and Feasibility Study (RI/FS)

The RI/FS identified primary constituents of concern (COCs) to be vinyl chloride (VC) in the Alluvium aquifer and benzene in the Garber-Wellington aquifer. Arsenic and barium were determined to be secondary COCs because they represented less risk to human health and the environment. Arsenic and barium, both of which are naturally occurring metals, were included as COCs primarily because they were detected in concentrations greater than Applicable or Relevant and Appropriate Requirements (ARARs) in ground water at the time the risk assessment was conducted and not because they were identified

as effective source area indicators. Investigation activities began in January 1990 and the FS was completed in August 1991. The RI and FS reports and the Proposed Plan for the MRSL were released by EPA to the public on April 8, 1992.

Selected Remedy

The major components of the selected remedy in the 1992 ROD include the following: enforcing institutional controls (ICs), such as land use restrictions, site access restrictions, posting of signs, fencing, and restrictions on the extraction and use of ground water from MRSL wells; restoring ground water as a potential source of drinking water through the process of natural attenuation; monitoring leachate migration via a ground water monitoring program and periodic sampling; implementing a landfill gas monitoring system (LGMS) to prevent explosion or inhalation hazards; and repairing and improving the existing cap, and adding a vegetative soil layer to reduce erosion and infiltration.

The ROD identifies source control and migration management as remedial performance objectives. Source control focuses on preventing surface water from infiltrating the waste unit and impacting ground water, and migration management focuses on monitoring ground water to detect and control contaminant releases. Source control is both a short-term and long-term protectiveness measure. Once constructed, the clay cap provided immediate protection and when properly maintained will continue to provide protection for the long term. Source control is achieved via the following engineering controls, technology, and administrative controls: prevent direct contact with and exposure to landfill contents through the use of the clay cap and institutional controls such as restrictions on future property use; restrictions on groundwater use, and restrictions and warnings in the property deed records; control surface runoff and

resulting erosion through a continued landfill maintenance program of the clay cap, which will result in the reduction or elimination of leachate formation within the landfill and transport of contaminants into the ground water; prevent inhalation of and explosion of landfill gas by implementing a landfill gas monitoring program; and prevent human and animal exposure to and ingestion of contaminated ground water. This will be accomplished through long-term ground water monitoring, landfill maintenance, ICs and, if necessary, implementation of contingency measures.

Ground water monitoring is a long-term protectiveness remedy component ensuring that the primary remedial measure (capping and landfill gas management systems) are functioning as designed. The ground water monitoring program included development of baseline values for each monitoring constituent, and comparison of new data to baseline or established ground water protection standards (GWPS) to identify potential contaminant releases. Contamination migration management is achieved by the following controls:

- Contain low-level ground water contamination within site boundaries. The ground water remediation goals were established for ROD-defined COCs only (i.e., benzene, vinyl chloride, barium, and arsenic).
- Prevent contamination of the Garber-Wellington aquifer above health-based risk levels by implementing a ground water monitoring program of alluvial and Garber-Wellington wells. The program includes contingencies for active remediation described in the ROD.
- Restore ground water to beneficial use.

- Prevent water infiltration through the landfill that could increase contaminant transport into ground water.

Response Actions

A Unilateral Administrative Order (UAO) was issued by EPA and the Remedial Design (RD) commenced on January 28, 1994. The effective date of the UAO was February 14, 1994. An Order to Proceed was issued to WMO on March 3, 1994, to prepare the Remedial Design Work Plan and Ground water Monitoring Work Plan (GWMP). Deed restrictions were filed with the Oklahoma County Clerk on April 1, 1994, and Deed Notices were filed on May 12, 1994. In October 1994, WMO submitted the Landfill Gas Assessment Report for the MRSL site. The Remedial Design Work Plan Ground water Monitoring Work Plan, and the Health and Safety Plan for the RD were submitted to EPA by WMO in November 1994. On February 25, 1995, Terracon Consultants completed the ground water monitoring well installation and soil boring program. On August 18, 1995, WMO completed the RD Work Plan.

Phase I construction activities for the LGMS began on August 24, 1995, and were completed in February 1996. The MRSL Construction Quality Assurance Plan for Phase I cap improvements was revised and approved in August 1995. The Final Cover Quality Assurance Testing Report was submitted to EPA on December 30, 2003. The Quality Assurance/Quality Control documents for Phase II construction activities of the site's gas system and final cap improvements were submitted to EPA on July 16, 2004.

Cleanup Goals

EPA and ODEQ conducted a pre-final inspection of the Site on August 3, 2004, which consisted of a walk-over survey including a description and schedule for correcting or

addressing minor construction contract items by WMO and its contractors. These “punch list” items included inspection of: 1) the MRSL site’s vegetative cover, 2) the drainage from the top of the landfill, 3) indications of subsidence or minor erosion, 4) the gas collection system and wells, and 5) adequate plugging and abandonment of a barren well. EPA and ODEQ also reviewed QA/QC construction documents for the ground water monitoring system and well summaries during the pre-final inspection process to check the natural attenuation progression. Furthermore, a review of implemented ICs shows that the deed restrictions and notices have been successful in providing human health and environmental protection at the Site. On September 8, 2004, EPA issued the Preliminary Close Out Report, which documents that EPA completed all construction activities for the remedial action at the Site in accordance with *Close Out Procedures for National Priorities List Sites* (EPA OSWER Directive 9320.22 May 2011).

Operation and Maintenance

A modified GWMP was developed by WMO for the MRSL to provide a transitional plan to ensure that the long-term protectiveness goals are achieved. The GWMP was approved by the ODEQ in April 2010 and endorsed by EPA in April 2011 to facilitate transition of the MRSL site to ODEQ under the East Oak Recycling and Disposal Facility solid waste permit (#3555036). With the approval by both agencies, ground water monitoring will continue through the operating and post-closure care periods of the active East Oak Recycling and Disposal Facility using sampling programs and statistical evaluation methods to ensure the underlying Garber-Wellington Aquifer is not adversely impacted at concentrations greater than ARARs. The ground water monitoring data will be submitted for primacy review to ODEQ and included in five-year review reports. The

MRSL Interim Operation and Maintenance Plan (OMP) was reorganized in a report dated April 2010. The OMP was subsequently approved by the ODEQ in a letter dated May 6, 2010. The OMP outlines protocols for maintenance inspection and monitoring of the cover, stormwater conveyance, and landfill gas system. As per ODEQ and EPA requests, the OMP now includes addition of a maintenance log reporting requirement to be housed at the active East Oak Recycling and Disposal Facility for review and inspection as needed.

All administrative requirements have been implemented at the MRSL Superfund Site. A deed notice identifying restrictions was filed with the Oklahoma County Clerk, and recorded in Book 2202, pages 0068 through 0070, on May 12, 1994. A Covenant was filed with the Oklahoma County Clerk and recorded in Book 6583, pages 1972 through 1974, on April 1, 1994. The deed restrictions include the following requirements and information: land use restrictions; access restrictions, posting of signs, restrictions to groundwater use, remedial activities at the facility, hazardous substances at the site, and warning of activities that could result in exposure.

Five-Year Review

Three five-year reviews have been conducted at the MRSL site, the first in 2000, the second in 2005, and the third completed in 2009. The implemented action taken at the Mosley Road Sanitary Landfill Superfund Site was found to be protective of human health and the environment in the short-term. However, a third five-year review addendum was performed and completed in July 2010. The Third Five-Year Review Report First Addendum for the Mosley Road Sanitary Landfill Superfund Site protectiveness determination follows: Because the deficiencies identified in the

September 2009 five-year review have been adequately addressed by the Responsible Party, EPA has now determined that the remedy implemented to date at the Mosley Road Sanitary Landfill Superfund Site is protective of human health and the environment in the long term. Current monitoring data indicate that the remedy is functioning as required to achieve ground water cleanup goals through monitored natural attenuation and the LGMS. Because the actions currently implemented at the MRSL site prevent exposure to residual Site contamination, the remedy is considered protective of human health and the environment in the long-term and will remain so as long as the remedy is properly maintained. Restrictions to access, signage, restrictions to ground water use, remedial activities, declaration of hazardous substances at the Site, and warning of activities that could result in exposure are institutional controls that are permanently in place to limit use of the site. These institutional controls are considered protective of human health and the environment. The next Five Year Review will be performed in 2015 and every five years in perpetuity or until on-site wastes that do not allow unlimited use and unrestricted exposure are removed from the MRSL Superfund Site.

Community Involvement

A public availability session was conducted by the EPA, ODEQ, and WMO in April 1992 to discuss with the community the proposed plan for the remedy. Public comments were received and addressed in the Responsive Summary portions of the June 1992 ROD. A public notice announcing initiation of the most recent or third five-year review was published in The Daily Oklahoman on June 27, 2009. EPA will accept public comments on the proposal to delete the Site for thirty (30) days after publication of this document in the Federal Register.

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

WMO has implemented all appropriate response action required. EPA Region 6 issued a ROD which documented the remedial action activities, and all appropriate responses under CERCLA have been implemented as documented in the Final Close-Out Report dated May 15, 2013. 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. All relevant documents have been made available for public review in the local Site information repository.

The NCP (40 CFR 300.425(e)) states that a site may be deleted from the NPL when no further response action is appropriate. EPA, in consultation with the State of Oklahoma, has determined that all appropriate response action under CERCLA has been implemented, and no further action by the PRP is appropriate.

V. Deletion Action

The EPA, with concurrence of the State of Oklahoma through the ODEQ, has determined that all appropriate response actions under CERCLA 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 [insert date 45 days from the date of publication in the *Federal Register*] 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 1, 2013.

Samuel Coleman,
Acting Regional Administrator,
EPA Region 6.

For the reasons set out in the preamble, 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.

Appendix B to Part 300 [Amended]

2. Table of Appendix B to part 300 is amended by removing "Mosley Road Sanitary Landfill Superfund Site", "Oklahoma City".

[FR Doc. 2013-19481 Filed 08/09/2013 at 8:45 am; Publication Date: 08/12/2013]