6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA-HQ-SFUND-2001-0002**;** FRL-9917-27-Region-2**]**

National Oil and Hazardous Substances Pollution Contingency Plan;

National Priorities List: Deletion of the Consolidated Iron and Metal Superfund Site

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; notice of intent.

SUMMARY: The Environmental Protection Agency (EPA), Region 2, is issuing a Notice of Intent to Delete the Consolidated Iron and Metal Superfund Site (Site), located in the City of Newburgh, Orange County, New York, from the National Priorities List (NPL) and requests public comments on this proposed action. 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). The EPA and the State of New York, through the New York State Department of Environmental Conservation (NYSDEC), have 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: Comments must be received by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].**

ADDRESSES: Submit your comments, identified by Docket ID no. EPA-HQ-SFUND-2001-0002, by one of the following methods:

- *Website:* http://www.regulations.gov. Follow the on-line instructions for submitting comments.

- *E-mail*: negrelli.mike@epa.gov.
- *Mail:* To the attention of Michael Negrelli, Remedial Project Manager, U.S. Environmental Protection Agency, Region 2, Emergency and Remedial Response Division, 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). Such deliveries are only accepted during the Record Center's normal hours of operation (Monday to Friday from 9:00 A.M. to 5:00 P.M.). Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID no. EPA-HQ-SFUND-2001-0002. 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* website 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 comments and with any

disk or CD-ROM that you submit. If EPA cannot read your comments due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comments. Electronic files should avoid the use of special characters and any form of encryption and should 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
Phone: 212-637-4308
Hours: Monday to Friday from 9:00 A.M. to 5:00 P.M.

and

Newburgh Free Library
Consolidated Iron and Metal Site Repository File
124 Grand Street
Newburgh, NY 12550
Phone: 845-563-3600
Hours: Monday &Thursday from 9:00 A.M. to 9:00 P.M.
Tuesday, Wednesday, & Friday from 9:00 A.M. to 5:00 P.M.
Saturday from 10:00 A.M. to 3:00 P.M.

FOR FURTHER INFORMATION CONTACT: Michael Negrelli, Remedial Project Manager, U.S. Environmental Protection Agency, Region 2, Emergency and Remedial Response Division, 290 Broadway, 20th floor, New York, NY 10007-1866; (212) 637-4278; negrelli.mike@epa.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. INTRODUCTION

EPA Region 2 is announcing its intent to delete the Consolidated Iron and Metal Superfund Site from the NPL and requests public comment on this proposed action. The NPL constitutes Appendix B of 40 CFR part 300, which is the NCP, which EPA promulgated pursuant to Section 105 of CERCLA, 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 40 CFR 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.

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

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Consolidated Iron and Metal Superfund Site and demonstrates how it meets the deletion criteria.

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 parties have implemented all appropriate response actions required;

ii. All appropriate Fund-financed 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, 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 before developing this Notice of Intent to Delete.

(2) EPA has provided the State 30 working days for review of this notice prior to publication of it today.

(3) In accordance with the criteria discussed above, EPA has determined that no further response is appropriate.

(4) The State of New York, through the NYSDEC, has concurred with deletion of the Site from the NPL.

(5) Concurrently with the publication of this Notice of Intent to Delete in the **Federal Register**, a notice is being published in a major local newspaper, The Times Herald Record. The newspaper notice announces the 30-day public comment period concerning the Notice of Intent to Delete the Site from the NPL.

(6) 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.

If comments are received within the 30-day public comment period on this document, EPA will evaluate and respond appropriately to the comments before making a final decision to delete. If necessary, EPA will prepare a Responsiveness Summary to address any significant public comments received. After the public comment period, if EPA determines it is still appropriate to delete the Site, the Regional Administrator will publish a final Notice of Deletion in the **Federal Register**. Public notices, public submissions and copies of the Responsiveness Summary, if prepared, will be made available to interested parties and in the Site information repositories listed above.

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 summary provides EPA's rationale for deleting the Site from the NPL.

Site Background and History

The Consolidated Iron and Metal Site is an inactive car and scrap metal junk yard located at the foot of Washington Street in the City of Newburgh, Orange County, New York. The facility operated from the 1950s until 1999. The Site occupies about eight acres of land bordering the Hudson River in a mixed industrial, commercial, and residential area.

Scrap metal processing and storage operations took place at the Site during its period of operation. Various types of scrap metal were received, including whole automobiles, automobile engines, transmissions, batteries, keypunch machines, computer parts, white goods (appliances), and transformers. A smelter was used primarily to melt aluminum transmissions to produce a reusable aluminum product. Other materials were also smelted, resulting in a lead-contaminated ash/slag by-product. Other operations included sorting ferrous and non-ferrous scrap metal for recycling, baling and shearing large pieces of metal, including whole cars, into smaller pieces for transport, and flattening of cars. From 1997 to 1999, the NYSDEC conducted several inspections at the facility and cited the owner for a number of violations. Subsequent inspections by NYSDEC noted that the owner had failed to adequately correct the violations and in the fall of 1999, the New York State Attorney General shut down operations at the Site for various violations, including illegal discharges to surface water without a permit.

In August 1998, EPA sampled an ash/slag pile at the Site that was generated by the aluminum smelting operation and found it to be contaminated with lead and polychlorinated biphenyls (PCBs). The scrap metal in the pile was segregated out and the resulting fines pile, estimated at 6,600 tons, was removed from the Site in 1999 and placed in an approved treatment, storage, and disposal facility (TSDF) for stabilization and landfilling. Also in 1999, EPA sampled other processed soil piles at the Site which were also found to be contaminated with lead and PCBs; these soil piles were similarly transferred to an approved TSDF. Additionally in 1999, EPA constructed a berm from Site soils to prevent storm water from carrying Site contaminants into the Hudson River.

In September 1999, EPA conducted a preliminary study at the Site to determine the horizontal and vertical extent of contamination. Surface and subsurface soil and groundwater samples were collected and analyzed, indicating the presence of volatile organic compounds (VOCs), semivolatile organic compounds (SVOCs), pesticides, PCBs, and metals at concentrations greater than background in the surface and subsurface soils. Further, PCBs and metals were detected in Hudson River sediments, which is a fishery and ecologically sensitive environment. Accordingly, the Site was proposed to the NPL on December 1, 2000 (65 FR 75215) and placed on the NPL on June 14, 2001 (66 FR 32235).

Remedial Investigation and Feasibility Study

In 2002, EPA developed a work plan for the performance of a remedial investigation and feasibility study (RI/FS) to more thoroughly determine the extent of contamination at the Site and to devise alternatives to mitigate the contamination. Prior to conducting the RI, it was necessary to clear the Site of the debris and some of the structures located on-Site. Accordingly, from June to September 2003, EPA conducted Site clearing operations which included the

removal of tires, scrap metal, concrete, lead-impacted soil, and hydraulic oil from the Site and the demolition and clearing of the office building and three process-area buildings. The RI was initiated in June 2004 and followed by a FS in 2005 to evaluate potential alternatives to address the widespread soil contamination at the Site. A preferred alternative was presented to the public for review and comment in July 2006. Results or the RI and FS were summarized in the Record of Decision (ROD) issued by EPA in 2006.

Selected Remedy

The Site remedy was selected and memorialized in the Site ROD which was issued on October 4, 2006. The elements of the selected remedy were as follows:

- A remedial design (RD) program to provide the details necessary for the construction and monitoring of the remedial program;
- Removal and off-Site disposal of surface debris and demolition, removal, and off-Site disposal of the foundations/basements of the former process area buildings and of the former garage in its entirety;
- Excavation and off-Site disposal of contaminated soil exceeding the residential preliminary remediation goal (PRG) for lead (400 parts per million (ppm)) down to six feet below ground surface (bgs);
- Excavation and off-Site disposal of contaminated soil exceeding the PRG for VOCs and PCBs in subsurface soils (10 ppm total for each) to the water table;
- Placement of a readily-visible demarcation material at the interface between the excavations and backfill;
- Backfilling the excavated soil with clean fill, meeting the PRG values, to grade;
- Imposition of institutional controls in the form of an environmental easement and/or restrictive covenant that will at a minimum require: (a) restricting any excavation below the

soil cover's demarcation layer of six feet unless the excavation activities are in compliance with an EPA-approved site management plan (SMP); (b) restricting new construction at the Site unless an evaluation of the potential for vapor intrusion is conducted and mitigation, if necessary, is performed in compliance with an EPA-approved SMP; and (c) restricting the use of groundwater as a source of potable or process water unless groundwater quality standards are met;

- Development of a SMP that provides for the proper management of all Site remedy components post-construction, such as institutional controls, and that shall also include: (a) monitoring of Site groundwater to ensure that, following the soil excavation, the contamination is attenuating and groundwater quality continues to improve; (b) an inventory of any use restrictions on the Site; (c) necessary provisions for ensuring the easement/covenant remains in place and is effective; (d) provision for any operation and maintenance required of the components of the remedy, and (e) the requirement that the owner or person implementing the remedy submit periodic certifications that the institutional and engineering controls are in place; and
- Periodic reviews by EPA to ensure that the remedy continues to be protective of public health and the environment.

Response Actions

In early 2007, EPA provided notice to the potentially responsible parties (PRPs) identified for the Site, offering them the opportunity to undertake the work. Negotiations concluded in 2008 with a Consent Decree cashout settlement entered into by certain of the PRPs and EPA, with EPA performing the work with a combination of PRP and federal funding. Under this Consent Decree, the City of Newburgh, as Site owner, also agreed to develop the SMP and the environmental easement/restrictive covenant placed on the Site. The Consent Decree was

entered by the Court in February 2009.

In spring 2008, EPA conducted a topographic survey, geophysical survey, geoprobe sampling program, and test pit excavations to develop a design document for the remedial construction. The RD report was completed in October 2009.

From September through November 2008, EPA conducted certain preparatory activities at the Site to facilitate the remedial construction. These activities included the demolition and removal of the garage, the demolition and removal of the remaining building foundations, the removal of scrap metal and debris, and the dismantling and removal of a truck frame and metal barges from the shoreline of the Site. The former building foundation areas were backfilled with clean material and the truck frame and barge areas of the Site were replaced with boulders to restore the shoreline. The contaminated soil associated with the building foundation removal was sampled for disposal purposes and shipped to an appropriate facility in December 2008.

Following the preparatory activities, construction of the remedial action commenced on July 6, 2009. The work was done by EPA under the Emergency Rapid Response Services contract; the prime contractor was WRS Infrastructure & Environment Inc. The work was divided into two phases: Phase One involved the excavation and off-Site disposal of 60,000 tons of Site soils across the southern half of the Site to a depth of approximately six feet and backfilling with clean fill. Phase Two involved the excavation and off-Site disposal of approximately 30,000 tons of PCB and VOC impacted soils to the water table and the excavation and off-Site disposal of remaining Site soils, approximately 27,000 tons, covering the northern third of the Site to a depth of six feet (or deeper in the areas where site processes were conducted) and backfilling with clean fill. Phase One was completed in October 2009 and Phase Two was completed in August 2010.

Soil excavation and transport was carried out using clean-diesel equipment in accordance with the Region 2 Clean and Green policy. Excavated soil was transported under Phase One to a nearby rail depot in Newburgh, while excavated soil was transported under Phase Two to a rail depot in Middletown, New York. Soil was tested before leaving the Site to ensure its disposal in an appropriate facility. Trucks and railcars were lined and sealed to prevent spillage of material during transport and transfer.

Backfilling was performed concurrently with the excavation, maintaining an adequate buffer zone to avoid cross contamination. Backfill material was tested for suitability before placement, meeting the guidelines set by NYSDEC for restricted residential use and the PRG values required by the ROD to be met for backfill. Prior to placement of the backfill, the base of the excavation was sampled on a 50-foot grid to characterize and document the soil remaining on Site; samples were analyzed for VOCs, SVOCs, PCBs, and metals. Geotextile fabric was then placed to demarcate the interface between potentially contaminated soil and clean backfill material. For approximately 80% of the Site, select structural fill suitable for redevelopment of the Site was placed in one-foot lifts and compacted to specification using a vibratory roller, and graded to design specification. The remaining 20% of the Site, essentially a 100-foot buffer along the river edge, required additional allowances for subsurface drainage and the backfill consisted of select structural fill, clean stone, geotextile, and silty loam or bank run. The eastern Site boundary adjacent to the Hudson River was graded to match the grade of the backfilled material and the bank fortified with rip rap along the entire river front. To allow for drainage along the north end of the Site, a shallow surface swale was constructed just inside the north fence line using the backfilled material. Following reaching final grade with backfill soil, the entire Site was covered with a minimum of six inches of topsoil and hydroseeded to provide a

vegetative cover to ensure dust and erosion control.

Excavation, transport and backfilling were conducted from July 2009 through August 2010. Surveying was performed during the entire operation by a New York State licensed surveyor for documentation purposes and to ensure that lift layer depths were accurate. Dust suppression and air monitoring were routinely performed in accordance with design specifications.

In addition to the work performed on the Site, at the request of the New York State Department of Health (NYSDOH), EPA removed soils just beyond the north and south property boundaries to a depth of approximately two feet (where not hindered by utilities) and backfilled with clean fill. This was done to ensure that any contaminated soil that may have migrated beyond the Site property was also mitigated.

EPA conducted a pre-final inspection with NYSDEC at the Site on June 9, 2010, and a punch list was compiled. A final inspection of the Ste conducted on August 18, 2010 confirmed that all of the punch list items were determined to be completed. EPA completed its Remedial Action Report (RAR) for the Site on March 16, 2012. The RAR documented all the remedial activities conducted at the Site and included as-built drawings to document Site conditions at completion. The City of Newburgh, as current property owner, is responsible for management of the Site in accordance with the SMP developed for post-remediation uses of the Site. Site management responsibilities will be transferred to any future Site owner.

The ROD called for the following with respect to institutional controls: imposition of institutional controls in the form of an environmental easement and/or restrictive covenant that will at a minimum require: (a) restricting any excavation below the soil cover's demarcation layer of generally six feet (deeper in some areas of the Site and shallower in others) unless the

excavation activities are in compliance with an EPA-approved SMP; (b) restricting new construction at the Site unless an evaluation of the potential for vapor intrusion is conducted and mitigation, if necessary, is performed in compliance with an EPA-approved SMP; and (c) restricting the use of groundwater as a source of potable or process water unless groundwater quality standards are met. The restrictions are memorialized in an environmental easement filed with the Orange County Clerk on September 11, 2012. The environmental easement is filed on the eight acre parcel comprising the Site, identified in municipal records as Section 40, Block 3, Lot 3.

Cleanup Levels

Data are collected and reviewed to ensure that remedial action objectives (RAOs) are met following implementation of the remedial action. For this Site, RAOs were only established for soil. The RAOs for soil are (1) prevent or minimize exposure to human and ecological receptors through ingestion and inhalation of or dermal contact with contaminated soils; and (2) minimize or eliminate contaminant migration from Site soils to groundwater and surface water. These RAOs and the associated cleanup levels set forth in the ROD were met upon completion of the remedial construction, documented in the RAR for the Site dated March 16, 2012.

Due to the limited risks and exposure to the groundwater at this Site, institutional controls are deemed adequate to address any potential future exposure. Specifically, deed restrictions have been imposed to prevent the use of groundwater as a source of potable or process water unless groundwater quality standards are met. Long-term monitoring will be conducted to ensure that the selected Site remedy is protective of human health and the environment. The groundwater will be monitored as part of the post-construction response action to ensure that the contamination is attenuating and groundwater quality continues to improve.

In May 2013, groundwater samples were collected from the ten monitoring wells (MWs) re-developed at the Site following construction. Samples were analyzed for VOCs, SVOCs, PCBs, and inorganics.

VOCs were detected above screening criteria in two samples. Benzene, toluene, ethylbenzene, and m,p-xylene exceeded screening criteria in the sample collected from MW-1, with values of 22 micrograms per liter (ug/L), 9.9 ug/L, 720 ug/L, and 73 ug/L respectively. The sample collected from upgradient monitoring well MW-9 contained benzene at 5 ug/L.

The inorganic elements iron, magnesium, manganese, sodium, and zinc exceeded the screening criteria in most wells. However, these metals occur in high concentrations naturally in New York State and the trend in the levels measured in 2013 compared to levels measured in 2004 indicates decreasing concentrations. In addition, these screening criteria are secondary maximum contaminant levels (MCLs) established by the Safe Drinking Water Act. They will continue to be monitored. The contaminant of concern, lead, was detected above the screening criterion in a single sample collected from MW-6, at 70 ug/L.

Groundwater data review indicates that the low levels of contamination in Site groundwater are attenuating and groundwater quality has improved compared to baseline levels measured prior to remedial activities. The main contaminants of concern identified in the ROD were benzene and lead. In the 2013 sampling event, benzene was detected in both the background well and one on-Site well. Lead was detected in only one well above federal drinking water standards. These data support the ROD assumption that the groundwater contamination is localized and the decrease in frequency indicates that limited residual groundwater contamination has attenuated. The environmental easement placed on the Site property restricts the use of groundwater as a source of potable or process water unless

groundwater quality standards are met. Groundwater quality will continue to be monitored in accordance with the SMP.

Operation and Maintenance

The ROD called for the development of an SMP to provide for the proper management of all post-construction remedy components. The SMP was approved in June 2014.

The SMP includes operation and maintenance (O&M) activities required for the Site. Because there are no mechanical systems installed at the Site, O&M activities consist of periodic inspections of the Site property (minimally once per year and additionally following severe weather events) to note general Site conditions and to ensure that the security fence and monitoring wells are in good repair. Groundwater sampling of the ten on-Site monitoring wells is conducted in accordance with the schedule established in the SMP to verify that the low levels of contamination in Site groundwater are attenuating and that groundwater quality improves as a result of the Site remediation.

In addition to media monitoring, O&M activities include periodic certification that the institutional controls established in the environmental easement attached to the Site property are unchanged and that nothing has occurred that would impair the ability to protect public health and the environment or otherwise constitute a violation or failure to comply with Site controls. This certification is provided in the Periodic Review Report, to be submitted annually by the Site owner.

Five-Year Review

Hazardous substances remain at this Site above levels that would allow for unlimited use and unrestricted exposure. Therefore, pursuant to CERCLA Section 121(c), EPA is required to conduct a review of the remedy at least once every five years. The first five-year review was

completed on July 16, 2014. No issues, recommendations or follow-up actions have been identified during the five-year review. The five-year review concluded that the implemented remedy for the Site is protective of human health and the environment.

Community Involvement

Public participation activities for this Site have been satisfied as required in CERCLA Sections 113(k) and 117, 42 U.S.C. 9613(k) and 9617. As part of the remedy selection process, the public was invited to comment on the proposed remedy. All other documents and information that EPA relied on or considered in recommending this deletion are available for the public to review at the information repositories identified above.

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

All of the completion requirements for this Site have been met, as described in the June 30, 2014 Final Close-Out Report. The State of New York, in a May 30, 2014 letter, concurred with the proposed deletion of this Site from the NPL. As described in this Notice of Intent to Delete, the implemented remedy achieves the degree of cleanup specified in the ROD for all exposure pathways; the selected RAOs for the Site and associated cleanup levels are consistent with agency policy and guidance; and no further Superfund response is needed to protect human health and the environment.

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)]. EPA, with the concurrence of the State of New York, believes that this criterion for deletion has been met. Consequently, EPA is intending to delete this Site from the NPL. Documents supporting this action are available for review at the information repositories identified above.

List of Subjects in 40 CFR Part 300

Environmental Protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Natural resources, Oil pollution, 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, 3 CFR 1991 Comp., p. 351; E.O.12580, 52 FR 2923, 3 CFR 1987 Comp., p. 193.

Dated: September 19, 2014.

Judith A. Enck,

Regional Administrator,

EPA, Region 2.

[FR Doc. 2014-23354 Filed 09/30/2014 at 8:45 am; Publication Date: 10/01/2014]