6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA-HQ-SFUND-2000-0006; FRL-9950-62-Region 2]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Deletion of the Jackson Steel Superfund Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Jackson Steel Superfund site (Site), located in the Village of Mineola, Nassau County, New York, contains a building formerly used as a metal-forming facility. The Site is bordered to the north by commercial spaces and single-family dwellings, to the east by a two-story apartment complex, to the south by a daycare center and to the west by an office building and restaurant.

The Environmental Protection Agency (EPA) Region 2 is publishing this direct final Notice of Deletion (NOD) of the Site 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 New York State Department of Environmental Conservation (NYSDEC), because EPA has determined that all appropriate response

actions under CERCLA have been completed at the Site and that the soil on the Site and the groundwater beneath the Site no longer pose a threat to public health or the environment. Because elevated concentrations of volatile organic compounds (VOCs) are present under the slab of the vacant Jackson Steel building and the occupied daycare center, operation and maintenance of the subslab vapor intrusion mitigation systems under the daycare center, periodic vapor intrusion monitoring, and five-year reviews will continue. The deletion does not preclude future actions under Superfund.

DATES: This direct final deletion 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 from publication in the *Federal Register*]**. If adverse comments are received, EPA will publish a timely withdrawal of this direct final NOD 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-2000-0006, by one of the following methods:

- *Website:* *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *E-mail*: singerman.joel@epa.gov.
- *Fax:* To the attention of Joel Singerman at 212-637-3966.
- *Mail:* To the attention of Joel Singerman, Chief, Central New York Remediation Section, 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). 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-2000-0006. EPA's policy is that all comments received will be included in the 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 for which disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or via 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 comments. If you send comments to EPA via e-mail, your e-mail address will be included as part of the comment that is placed in the Docket and made available on the website. If you submit electronic comments, EPA recommends that you include your name and other contact information in the body of your comments and with any disks or CD-ROMs that you submit. If EPA cannot read your comments because of technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comments fully. 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 for which disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly-available Docket materials can be obtained either electronically at *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: 9:00 A.M. to 5:00 P.M.

Town of North Hempstead

200 Plandome Road

Manhasset, NY 11030

Phone: (516) 489-5000

Hours: Monday - Friday, 8:15 A.M. - 4:00 P.M.

Garden City Public Library

60 Seventh Street

Garden City, NY 11530

Phone: (516) 742-8405

Hours: Monday - Thursday: 9:30 AM - 9:00 PM; Friday and Saturday: 9:30 AM - 5:00 PM; Sat: 9:30 AM - 5:00 PM and Sunday: 1:00 PM - 5:00 PM

Village of Mineola Hall

155 Washington Avenue

Mineola, NY 11501

Phone: (516) 746-0750

Hours: Monday - Friday 8:30 AM - 4:30 PM

FOR FURTHER INFORMATION CONTACT: Joel Singerman, Chief, Central New York Remediation Section, by mail at Emergency and Remedial Response Division, U.S. Environmental Protection Agency, Region 2, 290 Broadway, 20th floor, New York, NY 10007-1866; telephone at 212-637-4258; fax at 212-637-3966; or e-mail at singerman.joel@epa.gov.

SUPPLEMENTARY INFORMATION:

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I. INTRODUCTION

EPA Region 2 is publishing this direct final NOD of the Site from the NPL. The NPL constitutes Appendix B of 40 CFR 300, which is the NCP, which EPA promulgated pursuant to Section 105 of CERCLA, as amended. EPA maintains the NPL as the list of releases that appear to present a significant risk to public health, welfare, or the environment. The releases on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). As described in Section 300.425(e)(3) of the NCP, a site deleted from the NPL remains eligible for Fund-financed remedial action if future conditions at the site warrant such actions.

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 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 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 (RI) 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 the deletion of the Site:

(1) EPA consulted with the State of New York prior to developing this direct final NOD and the NOID also published today in the "Proposed Rules" section of the *Federal Register*.

(2) EPA has provided the State with 30 working days for review of this notice and the parallel NOID prior to their publication today, and the State, through NYSDEC, has concurred on the deletion of the Site from the NPL.

(3) Concurrent with the publication of this direct final NOD, a notice of the availability of the parallel NOID is being published in a major local newspaper, the *Mineola American*. The newspaper notice announces the 30-day public comment period concerning the NOID of the Site from the NPL.

(4) 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 NOD before its effective date and will prepare a response to comments. If appropriate, EPA may continue with the deletion process based on the NOID and the comments already received.

The NPL is designed primarily for informational purposes and to assist EPA's management of sites. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for further response actions should future conditions warrant such actions.

IV. BASIS FOR SITE DELETION

The following information provides the Agency's rationale for deleting the Site from the NPL.

Site Background and History

The 1.5-acre Site (CERCLIS ID NYD001344456) contains a one-story, 43,000-square-foot building formerly used as a metal-forming facility and an approximately 10,000-square foot paved parking area. It is bordered to the north by commercial spaces and single-family dwellings, to the east by a two-story apartment complex, to the south by a daycare center, and to the west by an office building and restaurant.

The property was used from the mid-1970s until 1991 as a "roll form metal shapes" manufacturing facility. Degreasers, including tetrachloroethylene (PCE), trichloroethylene, and 1,1,1-trichloroethane, were used at the facility until 1985. Sludges from degreasing equipment were stored in drums and in an on-property 275-gallon tank.

The analytical results from samples collected by the Nassau County Department of Health (NCHD) in the early 1990s from within, around, and below three on-property dry wells indicated the presence of VOCs at depths down to 40 feet below the ground surface. VOCs were also detected in groundwater samples collected from monitoring wells located downgradient of the dry wells.

Dumping of wastes into the dry wells and spills and leaks from drums storing various chemicals during the facility's operations are the likely sources of the contamination that was found at the Site.

The Site was proposed for listing on the NPL on October 22, 1999 (40 CFR Part 300 [FRL–6462–2]). The Site was listed on the NPL on February 4, 2000 (40 CFR Part 300 [FRL–6532–7])

Following the commencement of RI-related field work in October 2001, because of concerns about the proximity of the Site to the daycare center, NCHD performed air sampling inside the daycare center building. The air samples detected PCE

at levels below the New York State Department of Health's (NYSDOH's) guideline for indoor PCE exposure. Given the sensitivity of the population exposed (preschool children), NCHD collected additional samples in December 2001. At that time, indoor testing was also conducted inside the Jackson Steel building and the restaurant located adjacent to the Site. The results indicated that PCE levels in the indoor air of several rooms in the daycare center were above NYSDOH's guideline for PCE. As a result, in January 2002, a subslab depressurization system (*i.e.*, vapor intrusion mitigation system) was installed by EPA. In addition, a ventilation system was installed by the daycare center's contractor. Samples collected to assess the effectiveness of the implemented measures showed that the PCE levels in the air were significantly below NYSDOH's guideline and below EPA's acceptable noncancer risk levels. Because elevated PCE levels were also detected in a billiards club that shared common walls with the Site building and the daycare center, EPA installed a vapor intrusion mitigation system under the concrete slab of this building, as well. The billiards club was subsequently occupied as a retail store, and recently the daycare center (the Learn and Play Daycare Center) expanded to occupy this space, as well. The vapor intrusion mitigation systems were replaced by the property owner's contractor in May 2016.

The results of the RI, which was completed in 2002, indicated that VOCs, semi-volatile organic compounds, pesticides, and metals contamination were present in the surface soil, and VOC contamination was present at several subsurface soil locations. In addition, contamination was found in a trench and sumps located inside the building and dry wells located under the parking lot at the Site.

Groundwater from the three hydrogeologic units underlying the site—the Upper Glacial Aquifer (upper aquifer), Magothy Confining Bed (a low permeability, clay layer separating the upper and deep aquifers), and the Magothy Aquifer (deep aquifer)—were also sampled. VOC contamination above state and federal standards was detected both in the Upper Glacial Aquifer and Magothy Aquifer.

Based upon the results of the RI and a feasibility study, in September 2004, EPA selected a remedy for the Site in a Record of Decision (ROD). The ROD outlined the following remedial action objectives (RAOs):

- minimize or eliminate contaminant migration from contaminated soils and dry wells to the groundwater;
- minimize or eliminate any contaminant migration from contaminated soils and groundwater to indoor air;
- restore groundwater to levels which meet state and federal standards within a reasonable time frame;
- mitigate the migration of the affected groundwater; and
- reduce or eliminate any direct contact, ingestion, or inhalation threat associated with contaminated soils, soil vapor, contaminated surfaces in the on-property building, and groundwater.

The selected remedy includes the following actions:

- decontamination of the Jackson Steel building floor;
- in-situ soil vapor extraction (ISVE) to treat the contaminated subsurface soil;
- excavation and off-Site disposal of the contaminated surface soil and contaminated material in on-Site sumps, a trench, and dry wells;
- in-situ chemical oxidation (ISCO) to treat the contaminated groundwater in the Upper Glacial Aquifer;
- extraction and treatment of the contaminated groundwater in the deep aquifer if confirmatory groundwater sampling indicates that the Site is a principal source of the groundwater contamination to the aquifer underlying the Site;
- if it is determined that the Site is a principal source of the groundwater contamination to the deep aquifer underlying the Site, the selected remedy would be expanded, as necessary, to include off-property groundwater contamination; and
- long-term groundwater monitoring.

The soil cleanup objectives were established pursuant to New York State Technical and Administrative Guidance Memorandum (TAGM) No. 94-HWR-4046 objectives (Division Technical and Administrative Guidance Memorandum: Determination of Soil Cleanup Objectives and Cleanup Levels, Division of Hazardous Waste Remediation, January 24, 1994). As dictated by the TAGM objectives, the soil

cleanup levels selected in the ROD were the more stringent cleanup level between a human-health protection value and a value based on protection of groundwater. The groundwater cleanup goals were the more stringent of the state or federal promulgated standards. EPA and New York State Department of Health promulgated health-based, protective Maximum Contaminant Levels (MCLs) that are enforceable standards for various drinking water contaminants. MCLs ensure that drinking water does not pose either a short- or long-term health risk.

The building decontamination and the excavation of the contaminated surface soil and the contaminated material in the building sumps and trench and in the dry wells and their disposal were performed from 2005 to 2006. A total of 170 cubic yards of material was excavated and disposed of at an EPA-approved off-Site facility.

Groundwater ISCO injections were performed between July and December 2005. Approximately, 15,000 gallons of iron-catalyzed sodium persulfate (with small amounts of buffering agents) and 600 gallons of hydrogen peroxide were injected into the aquifer through a network of 20 injection wells to treat the contamination in the Upper Glacial Aquifer.

After a successful pilot test, an ISVE system consisting of nine ISVE wells and 11 vapor monitoring probes began operating in 2005.

A supplemental groundwater investigation was conducted from 2005 to 2006 to determine the source of the Magothy Aquifer contamination underneath the Site and to

establish whether there was a relationship between the contamination at the Site and the VOC contamination detected in nearby Village of Mineola Supply Well #4. Based on the results of the investigation, it was concluded that the Site was not a current source of contamination in the Magothy Aquifer. Therefore, EPA decided not to implement the Magothy Aquifer groundwater remedy. An Explanation of Significant Differences (ESD) was issued in 2007, documenting this decision.

While the cleanup objectives for the Upper Glacial Aquifer and soil were met in 2006 and 2008, respectively, EPA continued to operate the ISVE system until 2013 because VOC vapors were still being recovered from underneath the Jackson Steel building. The operation of the ISVE system was discontinued when the levels of vapor removal became too low for the system to continue to be efficient.

The aboveground ISVE infrastructure was removed by EPA in June 2013. From March to April 19, 2016, the groundwater monitoring wells, ISVE wells, vapor monitoring wells, ISCO injection wells, and ISCO monitoring wells, were decommissioned.

Although EPA successfully remediated the soil and the groundwater aquifer immediately underlying the Site, residual levels of VOCs remain. VOCs, even at low levels, can migrate as vapors through the soil into buildings. This process, which is called vapor intrusion, can result in unacceptable human exposures to VOCs inside occupied buildings. This pathway is currently incomplete at the Site, because the building on the

site is currently unoccupied, and subslab vapor intrusion mitigation systems prevent the migration of vapors into an adjacent occupied building.

Because the residual levels of VOCs are expected to dissipate slowly, EPA concluded that preventing human exposure to VOCs at the occupied building will be needed for a number of years to ensure the protectiveness of the remedy. Therefore, the existing vapor intrusion mitigation systems will need to continue to operate, and additional actions, from monitoring to the installation of an additional vapor mitigation system, may be needed should the currently unoccupied building be occupied or replaced with another structure in the future. EPA determined that institutional controls (ICs) (*i.e.*, property use restrictions) requiring the continued operation of the subslab vapor intrusion mitigation systems were needed. In addition, EPA determined that ICs requiring vapor intrusion sampling and/or mitigative measures were needed should the unoccupied Jackson Steel building be occupied or replaced with another structure in the future.

EPA issued an ESD on June 20, 2016, documenting its determination to incorporate into the remedy ICs to prevent exposure through vapor intrusion. The ICs will remain in place until the residual VOCs fully dissipate in the subsurface. EPA noted in the ESD that a Vapor Intrusion Management Plan (VIMP) and Institutional Control Implementation and Assurance Plan (ICIAP) would be prepared to ensure that the ICs were appropriately implemented and maintained. In addition, in the ESD EPA noted that it would communicate directly with the Village of Mineola Superintendent of Buildings, requesting that EPA and NYSDEC be notified if the existing building is to be refurbished

and used for human occupancy or demolished and a new structure constructed. The correspondence would also request that the Village not issue a Certificate of Occupancy until necessary vapor intrusion-related actions identified by EPA and NYSDEC are carried out.

A VIMP and ICIAP were completed on June 20, 2016.

On June 20, 2016, EPA sent a letter to the Village of Mineola Superintendent of Buildings, requesting that EPA and NYSDEC be notified if the existing building is to be refurbished and used for human occupancy or demolished and a new structure constructed and requested that the Village not issue a Certificate of Occupancy until necessary vapor intrusion-related actions identified by EPA and NYSDEC are carried out. Periodic reminders will be issued to the Village to help ensure the effectiveness of this measure.

On July 27, 2016, notices were placed on the deed of the two parcels occupied by the daycare center and the parcel occupied by the Jackson Steel building. The notice on the deed of the daycare center requires that the subslab vapor intrusion mitigation systems be operated as long as elevated levels of vapors remain under the buildings on the property and the buildings are occupied. The notice on the deed of the Jackson Steel building alerts any potential purchaser, lessee, or other user of the property that EPA and NYSDEC must be notified if and when a determination is made that the existing building will be refurbished and used for human occupancy or demolished and a new structure

constructed. EPA intends to effect an environmental easement on the Jackson Steel property in the future once a new owner takes control of the property.

Five-Year Review

It is the policy of EPA to conduct five-year reviews when remedial activities, including monitoring, will continue for more than five years. A five-year review that is required by policy is triggered by the date of the approval of the Preliminary Close-Out Report, which documents that EPA has determined that construction at a site has been completed. For this Site, the Preliminary Close-Out Report was approved on August 30, 2007.

The first five-year review was completed in August 2012. The review concluded that the remedy was functioning as intended in the decision documents and was protecting human health and the environment.

Subsequent to the 2012 five-year review, EPA determined that ICs were necessary to ensure the protectiveness of the remedy, as discussed above. Five-year reviews will be conducted as long as residual VOC levels remain that perpetuate the vapor intrusion concerns described in this ESD. The next five-year review will be conducted by August 2017.

Community Involvement

Public participation activities for the Site have been satisfied as required pursuant to 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 cleanup requirements for the Site have been met, as described in the September 2006 groundwater Interim Groundwater Remedial Action Report, September 2008 soil Remedial Action Report, August 2007 Preliminary Close-Out Report, July 2016 Final Close-Out Report, and 2012 Five-Year Review report. The State of New York, in a July 29, 2016 letter, concurred with the proposed deletion of the 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 the deletion of the Site has been met in that that the soil on the Site and the groundwater beneath the Site no longer pose a threat to public health or the environment. Consequently, EPA is deleting the Site from the NPL. Documents supporting this action

are available in the deletion docket at *http://www.regulations.gov* and at the Site information repositories.

V. Deletion Action

EPA, with the concurrence of the State of New York through NYSDEC, has determined that other than the ongoing operation and maintenance of the vapor intrusion mitigation systems at the daycare center, periodic vapor intrusion monitoring, insuring that the ICs are in place and effective, and five-year reviews, all appropriate responses under CERCLA have been completed at the Site. The soil and groundwater immediately underlying the Site no longer pose a threat to public health or the environment. Therefore, EPA is deleting the Site from the NPL. Periodic vapor intrusion monitoring and five-year reviews will still be required for the Site. The deletion does not preclude future action under CERCLA. Because EPA considers this action to be noncontroversial and routine, EPA is taking this action 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 30 days from the date of publication in the *Federal Register*]**. If adverse comments are received within the 30-day public comment period of this action, EPA will publish a timely withdrawal of this direct final NOD before the effective date of the deletion and the deletion will not take effect. EPA will prepare a response to comments and continue with the deletion process on the basis of the NOID and the comments received. In such a case, 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 2, 2016.

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—NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN

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

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601-9675; 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 "Jackson Steel," "Mineola/North Hempstead," "NY."

[FR Doc. 2016-19130 Filed: 8/11/2016 8:45 am; Publication Date: 8/12/2016]