



6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 300**

**EPA-HQ-SFUND-1986-0005; FRL 9964-03-Region 1**

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

**National Priorities List: Deletion of the Shpack Landfill Superfund Site**

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

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) Region 1 is publishing a direct final Notice of Deletion of the Shpack Landfill Superfund Site (Site), located on Union Rd. and Peckham Streets in Norton and Attleboro, Massachusetts, 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 Massachusetts, through the Massachusetts Department of Environmental Protection (MassDEP), because EPA has determined that all appropriate response actions under CERCLA, other than operation, maintenance, monitoring, and five-year reviews, have been completed. However, this deletion does not preclude future actions under Superfund.

**DATES:** This direct final deletion is effective [**insert date 60 days after the date of publication in the *Federal Register***] unless EPA receives adverse comments by [**insert date 30 days after 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-1986-0005 at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Comments may also be submitted by email or mail to Elaine Stanley, Remedial Project Manager, Office of Site Remediation and Restoration, Mail Code: OSRR07-4, U.S. Environmental Protection Agency, Region 1, 5 Post Office Square, Suite 100, Boston, MA 02109-3912, email address: [Stanley.ElaineT@epa.gov](mailto:Stanley.ElaineT@epa.gov) or Sarah White, Community Involvement Coordinator, Office of the Regional Administrator, Mail Code: ORA01-1, US Environmental Protection Agency at EPA – Region 1, 5 Post Office Square, Suite 100, Boston, MA 02109-3912, telephone: 617-918-1026, e-mail: [White.Sarah@epa.gov](mailto:White.Sarah@epa.gov). Once submitted, comments cannot be edited or removed from [Regulations.gov](http://www.regulations.gov). The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www2.epa.gov/dockets/commenting-epa>

dockets. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the site information repositories.

Locations, contacts, phone numbers and viewing hours are:

- U.S. EPA Region I, Superfund Records Center, 5 Post Office Square, Suite 100, Boston, MA 02109, Phone: 617-918-1440, Monday-Friday: 9:00 am – 5:00 pm, Saturday and Sunday - Closed and

- The Norton Public Library, 68 East Main Street, Norton, MA 02766, Phone: 508-285-0265, Monday, Tuesday, and Thursday: 10:00 am – 7: pm, Wednesday: 10am – 3 pm, Friday: 10am – 2 pm, Saturday: Closed until 9/10 Sunday - Closed

**FOR FURTHER INFORMATION CONTACT:** Elaine Stanley, Remedial Project Manager, Office of Site Remediation and Restoration, Mail Code: OSRR07-4, U.S. Environmental Protection Agency, Region 1, 5 Post Office Square, Suite 100, Boston, MA 02109-3912, telephone number: 617-918-1332, fax number: 617-918-0332, email address: Stanley.ElaineT@epa.gov or Sarah White, Community Involvement Coordinator, Office of the Regional Administrator, Mail Code: ORA01-1, US Environmental Protection Agency at EPA – Region 1, 5 Post Office Square, Suite 100, Mail Code ORA01-1, Boston, MA 02109-3912, telephone: 617-918-1026, fax number: 617-918-0026, e-mail: White.Sarah@epa.gov.

**SUPPLEMENTARY INFORMATION:**

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## **I. Introduction**

EPA Region 1 is publishing this direct final Notice of Deletion of the Shpack Landfill 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.

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 Shpack 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 Massachusetts 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 an opportunity to review of this notice and the parallel Notice of Intent to Delete prior to their publication today, and the state, through the Massachusetts Department of Environmental Protection (MassDEP), 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 a major local newspaper, The Sun Chronicle, Attleboro, MA. 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 Shpack Landfill Superfund Site, CERCLIS ID No. MAD980503973, is bordered to the north and northwest by Peckham Street (Attleboro) and Union Road (Norton); to the west and southwest by an approximately 55-acre municipal and industrial landfill owned by Attleboro Landfill Inc. (ALI); and on the southeast, east, and northeast by the Chartley Swamp. The Site covers approximately 9.4 acres and was operated as a landfill from 1946 until the early 1970s, receiving domestic and industrial waste, including low-level radioactive waste. In 1978, the Nuclear Regulatory Commission (NRC) conducted radiological surveys at the Site, detecting radium and uranium within the landfill after being contacted by a concerned citizen who had detected elevated radiation levels in the area. In 1980, the Site was added to the Department of Energy's (DOE) Formerly Utilized Sites Remedial Action Program (FUSRAP), which dealt with the legacy of the nation's early atomic energy programs. Responsibility was later transferred from DOE to the United States Army Corps of Engineers (USACE). Municipal water supplies did not extend to the area around the Site and there were 27

private wells located within 1-mile of the Site. In 1984, EPA evaluated the Site to determine if it should be listed on the National Priorities List (NPL) and found volatile organic compounds (VOCs) and metals in groundwater. The site was proposed to the NPL on October 15, 1984 (49 FR 40320). On June 14, 1986 (51 FR 21054), the Site was added to the NPL.

### **Remedial Investigation and Feasibility Study (RI/FS)**

The RI/FS was completed in 2003. As part of the investigation, soil, surface water, groundwater, sediments and air were evaluated. Among the primary contaminants identified at the Site were radium and uranium; volatile organic contaminants (VOCs); heavy metals such as nickel, cadmium, copper, lead and mercury; dioxin, polychlorinated biphenyls (PCBs) and per/cyclic aromatic hydrocarbons (PAHs). The RI found that the primary risks at the Site were to residents exposed to contaminants by using the groundwater as drinking water; recreational visitors exposed to contaminated soil or sediment; workers on the Site; and to wildlife from contaminated sediments in the wetland. The FS evaluated alternatives with various degrees of excavation and off-site disposal of contaminants, consolidation of remaining contaminated soil and sediments under a multi-barrier cap and providing water line to nearby residents.

### **Selected Remedy**

To address the risks presented by exposure to contaminants, EPA issued a Record of Decision (ROD) for the cleanup of the Site in September 2004. The ROD encompasses two response actions: one managed by the USACE under FUSRAP and the other managed by EPA under CERCLA.

The ROD identified the following remedial action objectives (RAOs):

Source Control: Soil – prevent ingestion, direct contact and inhalation with soil which contains contaminants in concentrations that exceed federal and state standards; prevent ingestion, direct contact and inhalation with soil which have no enforceable federal or state standards but which pose an unacceptable human health risk, and prevent exposure to contaminants in soil which present an unacceptable risk to the environment. Sediment - prevent exposure to contaminants in sediment which present an unacceptable risk to human health and/or environment. Surface water - reduce migration of contamination from site to surface water which present an unacceptable risk to human health and the environment.

Management of Migration: prevent ingestion of water which contains contaminants in concentrations that exceed Maximum Contaminants Levels (MCLs), non-zero Maximum Contaminants Level Goals (MCLGs) and/or pose an unacceptable human health risk and/or unacceptable risk to the environment.

In response to the RAOs, the remedy included the following major components: extension of the public water supply line; excavation and off-site disposal of soil and sediment with contaminant concentrations exceeding the cleanup levels specified in the ROD; placement of clean fill in excavated areas to grade and/or wetlands restoration/replication; relocation of existing power line structures, as needed, and traffic control plan to implement necessary soil removal and backfill actions; implementation of a surface water, sediment, and groundwater monitoring program; implementation of institutional controls necessary to restrict future use of property and groundwater, and monitoring compliance with institutional controls.

This remedy was based on the commitment by MassDEP to no longer consider this portion of the aquifer as a current or future water supply under the Massachusetts Contingency Plan once the remedial action is implemented, the two private drinking water supply wells abandoned, and Notices of Activity and Use Limitation (NAULs) were placed on the properties prohibiting the future use of groundwater. Since those conditions have been met, MassDEP revised its Groundwater Use and Value Determination to a low use and value, and EPA considers the groundwater not suitable as a drinking water source.

### **Response Actions**

#### **FUSRAP Remedial Action**

The FUSRAP Remedial Action was performed by USACE and required excavation and disposal of contaminated materials within the Landfill Interior portion of the Site. The action began in August 2005 and after excavation began, it was determined that the horizontal and vertical extent of radiological contamination was more extensive than estimated in the ROD. The FUSRAP activities originally initiated in 2005 resumed in June 2007 and were completed in October 2011. To manage groundwater, all pumped water was infiltrated on-site after treatment utilizing settling tanks, sand filtration vessels and bag filters.

A total of 57,805 cubic yards of material was excavated, of which 50,908 cubic yards were transported off-site for disposal. All wastes shipped off-site were ultimately transported by rail to the Energy Solutions disposal facility in Clive, Utah, a facility licensed for disposal of LLRW and/or mixed wastes. The USACE completed the

*Remedial Action Completion Report—Radiological Contamination in May 2012*

documenting all completed FUSRAP-related remedial action activities at the site.

CERCLA Remedial Action

The CERCLA Remedial Action was performed by the Performing Defendants under a Remedial Design/Remedial Action Consent Decree entered on January 27, 2009 in the U.S. District Court in Boston for the remainder of the site cleanup. The public water supply line extension was complete in October 2012, extending The City of Attleboro public water supply line approximately 2,600 feet along Peckham Street, to within 500 feet of the Site, prior to on-site remedial construction activities. The on-site CERCLA Remedial Action began in June 2013. CERCLA wastes requiring excavation and disposal were located within the Tongue Area, Inner Rung, and ALI Debris Area (ALIDA) portions of the Site. Management of extracted groundwater utilized a treatment system for removal of entrained solids prior to on-site infiltration into site soils. Initial wetland and upland plantings and seeding were completed in November and December 2013. CERCLA remedial construction was completed in December 2013. A total of 27,083 tons of waste material was transported off-site for disposal. The material included the following waste classifications: Special Nuclear Material (SNM) non-hazardous; hazardous waste (leachable cadmium); non-hazardous waste; asbestos in soil (AIS); and non-hazardous asbestos-containing building materials. Overall, approximately 79 percent of the wastes removed from the Site were transported by rail to the US Ecology disposal facility in Grand View, Idaho. Most of the remaining wastes (approximately 20 percent of the total) were classified as non-hazardous and were transported by truck to the Waste Management Turnkey Landfill in Rochester, New Hampshire. The remaining wastes

contained asbestos and were shipped to a construction debris landfill licensed to accept asbestos.

### **Cleanup Levels**

#### FUSRAP Remedial Action

In accordance with the requirements of the *Multi-Agency Radiation Survey and Site Investigation Manual, (MARSSIM), Revision 1* (August 2000), all excavated areas within the landfill interior required independent verification to ensure that site-specific cleanup criteria for radiological contaminants were met. The *Final FSS Report, Shpack FUSRAP Superfund Landfill Site, Norton/Attleboro, Massachusetts* (which included the Final Status Survey (FSS)) was issued in May 2012. The FSS included collection of confirmation samples from excavation floors and sidewalls prior to backfill of each excavation area. Excavations were backfilled only after FSS sampling and on-site lab analytical results confirmed that radiological contaminants were below cleanup criteria. Further information can be found in the FSS Report listed above.

#### CERCLA Remedial Action

The Inner Rung was a portion of Chartley Swamp that was slated for remedial activities due to ecological risk. To address potential risk to benthic organisms in the wetland ecosystem, the excavation removed the top 2 feet of material throughout the area. The restoration of the area included placement of a 1-foot thick layer of clean fill followed by placement of a 1-foot-thick layer of wetland topsoil to meet the pre-existing grades. Approximately 5,680 tons of waste material generated from the Inner Rung activities were removed and disposed of off Site. The Chemical-Only Soil Stockpile consisted of materials excavated by the USACE as part of the FUSRAP response actions.

Based on information provided by the USACE, impacts to this material exceeded the ROD chemical cleanup criteria, but did not exceed ROD radiological criteria. The USACE secured the stockpile to protect it from the elements following its demobilization from the Site. Approximately 3,580 tons of waste material from the Chemical-Only Soil Stockpile were removed and disposed of off-Site. The ALI Debris Area (ALIDA) was a portion of the Shpack Landfill Interior that was the location of a reported slope failure from the ALI Landfill. The material in this area consisted of ALI municipal landfill debris underlain by industrial landfill debris associated with the Shpack Landfill. The USACE excavated 17 test pits in the ALI Landfill Debris Area during the FUSRAP activities in 2005. The USACE's test pit data indicated that that material exceeded several of the ROD cleanup goals for chemical compounds, but not the radioactive ones. Approximately 7,970 tons of waste material from the ALIDA were removed down to native peat material and disposed of off-Site. Waste and debris from a fire at an industrial plastics manufacturing facility were reportedly disposed of in the Tongue Area which extended from the Shpack Landfill Interior toward the Inner Rung. Approximately 9,680 tons of waste material were removed from the Tongue Area down to native peat material and disposed of off-Site. The Remedial Action required disturbance of approximately 203,500 square feet of wetlands to remove waste materials and to restore the wetlands impacted by the FUSRAP response actions. The final square footage of wetlands restored and created on-site during the RA is approximately 231,313 square feet.

### **Operation and Maintenance**

Initial wetland and upland plantings and seeding under CERCLA Remedial Action were completed in November and December 2013. Routine monitoring and maintenance of the wetland area is scheduled to continue for seven years following completion of construction to ensure the success of the restored wetland. Inspections, maintenance, and any required plant replacement and re-seeding will occur during the first year. The Final Operation and Maintenance Plan includes monitoring criteria with specific wetland restoration and creation performance goals keyed to a designated schedule. Operation and Maintenance of the Remedy will be conducted by the City of Attleboro in accordance with the approved O&M Plan for the Site. The Performing Defendants have agreed that the City of Attleboro will perform the O&M activities, including: compliance monitoring; enforcing the ICs as necessary, and prepare and submit annual reports to EPA and MassDEP regarding the status of the ICs, as outlined in the *Operations and Maintenance Plan, Revision #1, dated July 2015*.

Prior to completion of the Remedial Action, an interim set of Institutional Controls (ICs) in the form of Easements, Restrictions, and Non-interference Agreements (ERNA) were placed on four properties. Following completion of the Remedial Action, a Notice of Activity and Use Limitation (NAUL) was recorded in November 2016 for each of the properties, except Union Road House 1 which was razed and the residential well decommissioned in 2012 thus no longer requiring NAUL. The NAUL prohibits activities and uses of the Site that may present an unacceptable risk to human health as well as providing Site access to the Performing Defendants for associated monitoring and O&M activities.

### **Five-Year Review**

Hazardous substances remain at this Site above levels which would allow for unlimited use and unrestricted exposure requiring EPA to conduct statutory five-year reviews. The first statutory Five-Year Review Report will be completed prior to June 12, 2018, which is five years from the initiation of construction of the CERCLA remedy.

### **Community Involvement**

Throughout the Site's history, EPA has kept the community and other interested parties apprised of Site activities through informational meetings, fact sheets, press releases, and public meetings. Local residents formed the Citizen's Advisory Shpack Team (CAST) to monitor Site activities. On numerous occasions during 2000-2004, EPA and MADEP held informational meetings to update the community on the results of the RI/FS, including a November 20, 2003, meeting to discuss the results of the RI. On June 23, 2004, EPA held an informational meeting to present the Agency's Proposed Plan. From June 24, 2004 to August 25, 2004, the Agency held a public comment period to accept public comment on the alternatives presented in the FS and the Proposed Plan and the September 28, 2004 ROD includes the Responsiveness Summary to comments received during the public comment period.

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

The remedial actions which have been implemented for the FUSRAP and CERCLA achieve the clean-up objectives and cleanup goals identified in the 2004 ROD for the Site. The remaining site related contaminants are present at levels protective of both human health and the environment and meet EPA's acceptable risk for all exposure pathways. All of the selected remedial actions and the remedial action objectives and associated cleanup goals are consistent with the Comprehensive Environmental

Response, Compensation, and Liability Act (CERCLA), the National Contingency Plan (NCP) and EPA policy and guidance.

All Institutional Controls are in place and currently EPA expects that no further Superfund response is needed to protect human health and the environment, except future operations and maintenance, monitoring, and Five Year Reviews.

## **V. Deletion Action**

The EPA, with concurrence of the State of Massachusetts through the MassDEP, 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 **[insert date 60 days after date of publication in the *Federal Register*]** unless EPA receives adverse comments by **[insert date 30 days after date of 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: May 31, 2017.

Deborah A. Szaro  
Acting Regional Administrator  
Region 1

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 is revised to read as follows:

Authority: 33 U.S.C. 1321(d); 42 U.S.C. 9601–9657; E.O. 13626, 77 FR 56749, 3 CFR, 2013 Comp., p. 306; 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 1 of Appendix B to part 300 is amended by removing "MA", "Shpack Landfill", "Norton/Attleboro".

[FR Doc. 2017-14112 Filed: 7/5/2017 8:45 am; Publication Date: 7/6/2017]