6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–2002–0001; FRL-9997-65-Region 2]

National Oil and Hazardous Substances Pollution Contingency Plan National Priorities List: Deletion of the Ellenville Scrap Iron and Metal Superfund Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) Region 2 is publishing a direct final notice of deletion of the Ellenville Scrap Iron and Metal Superfund Site, located in the Village of Ellenville, Town of Wawarsing, Ulster County, New York, from the National Priorities List (NPL). The NPL, promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), 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, other operation and maintenance, monitoring, and five-year reviews, have been completed. However, this deletion does not preclude future response actions under Superfund.

DATES: This direct final deletion is effective on **[INSERT DATE 50 DAYS FROM DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]** unless EPA receives adverse comments by **[INSERT DATE WITHIN 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 the *Federal Register (FR*) informing the public that deletion will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID no. EPA-HQ-SFUND-2002-0001, by one of the following methods:

- https://www.regulations.gov. Follow on-line instructions for submitting comments. Once submitted, comments cannot be edited or removed from the webpage. 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 for which 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. 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.

- Email: duda.damian@epa.gov.

- Mail: Damian J. Duda, Remedial Project Manager, U.S. Environmental Protection Agency, Region 2, 290 Broadway, New York, New York 10007-1866.

- Hand delivery: EPA, Region 2, Superfund Records Center, 290 Broadway, 18th Floor, New Yok New York 10007-1866 (telephone: 212-637-4308). Such

deliveries are only accepted during the Docket's normal hours of operation (Monday through Friday from 9 a.m. to 5 p.m.) and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID no. EPA-HQ-SFUND-2002-0001. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at https://www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be CBI or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through https://www.regulations.gov or e-mail. The https://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 https://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 because of 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 https://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 the hard copy. Publicly available docket materials are available either electronically in https://www.regulations.gov or in hard copy at:

USEPA-Region II

Superfund Records Center

290 Broadway, 18th Floor

New York, New York 10007-1866

(212) 637-4308

Hours: Monday – Friday: 9 AM to 5 PM

Information on the Site is also available for viewing at the Site Administrative Record repository located at:

Ellenville Public Library

40 Center Street

Village of Ellenville, New York 12428

Telephone: (845) 647-5530

Hours: Monday – Thursday: 9:30 AM to 8 PM

Friday: 9:30 AM to 3 PM

Saturday: 9:30 A.M. to 5 PM

FOR FURTHER INFORMATION CONTACT: Mr. Damian J. Duda, Remedial Project Manager, U.S. Environmental Protection Agency, Region 2, 290 Broadway, New York, New York 10007-1866, email: duda.damian@epa.gov.

SUPPLEMENTARY INFORMATION:

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I. *Introduction*

EPA Region 2 is publishing this direct final Notice of Deletion of the Ellenville Scrap Iron and Metal Site (Site) from the NPL. 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 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. As described in Section 300.425(e)(3) of the NCP, sites deleted from the NPL remains eligible for Fund-financed response action if future conditions at the sites 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, the taking of remedial measures is not appropriate.

Pursuant to CERCLA Section 121(c) and the NCP, EPA conducts five-year reviews (FYRs) to ensure the continued protectiveness of remedial actions where hazardous substances, pollutants, or contaminants remain at a site above levels that would otherwise allow for unlimited use and unrestricted exposure. EPA conducts such FYR 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 (NYS) prior to developing this direct final Notice of Deletion and the Notice of Intent to Delete 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 Notice of Intent to Delete prior to their publication today, and the State, through NYSDEC, 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 *Shawangunk Journ*al, and on the *Midhudsonnews.com* website. The newspaper notice announces the 30-day public comment period concerning the Notice of Intent to Delete 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 Notice of Deletion before its effective date and will prepare a response to comments and will 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'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 EPA's rationale for deleting the Site from the NPL:

Site Background and History

The Ellenville Site (CERCLIS ID NYSFN0204190) is a 24-acre parcel where a former scrap iron and metal reclamation facility operated, and the former facility is configured with an upper and lower plateau. The Site is bound to the north by Cape Avenue, to the south and west by the Beer Kill, and, to the east by residential properties. The Site also includes select residential properties in the vicinity, located on Cape Avenue and River Street in the Village of Ellenville, Town of Wawarsing, Ulster County, New York. Approximately 10 acres of the Site were used for a variety of scrap metal operations and battery reclamation. Approximately 4000 people, relying on both public and private drinking water supplies, live in the Village of Ellenville.

At the time of its operations, the Site included an office building, a truck scale, a hydraulic baling machine used for metal cans and other small parts, abandoned automobiles and trucks, scrap metal piles, railroad ties, storage of automobile batteries, emptied battery casings, abandoned tires, and assorted brush piles. Deteriorated drums were also found scattered throughout the Site property. An existing landfill embankment, approximately 40 feet in height, runs in a crescent along a northwesterly to southeasterly axis bisecting and dividing the Site into two plateaus, the upper and the lower. The

landfill is composed of construction and demolition debris, including a variety of finely shredded wastes, scrap brick, concrete, wood, and other metal-type debris. A Cape Avenue residential property, directly east of the entrance to the Site, was formerly part of the facility and was used for the storage and disposal of heavy equipment, as well as for the disposal of automobile battery casings.

Lead, polychlorinated biphenyls (PCBs), antimony, cadmium, and hydrogen sulfide are the contaminants of potential health concern associated with this Site. On-site soils and groundwater were contaminated with lead. Soils at nearby residential properties were contaminated with lead at levels that exceed EPA's threshold of a lead hazard in soils. These soil samples revealed detections above both background and noncancer health comparison values for antimony and cadmium and above background but below noncancer health comparison values for arsenic, barium, chromium, cobalt, copper, manganese, mercury, nickel, selenium, silver and zinc. Soils at the former facility and nearby residential areas were contaminated with PCB mixtures (Aroclors) above cancer and noncancer health comparison values.

The Site was proposed to the NPL on September 13, 2001, *Federal Register* (66 *FR* 47612). The Site was included on the NPL on Thursday, September 5, 2002, *Federal Register* (67 *FR* 56757). The effective date was October 7, 2002.

Area residents had complained about odors from the Site, stemming from hydrogen sulfide and other compounds released from the decomposition of the construction and demolition debris at the Site. Four sediment samples from the nearby Beer Kill did not contain Site-related contaminants at a level of concern. Groundwater from the seven monitoring wells at the Site was contaminated with lead, cadmium,

manganese, nickel, iron and tetrachloroethene at or above drinking water standards. However, adjacent residences are connected to the public water supply, and any private wells down-gradient and across the Beer Kill do not show any Site-related contaminants at concentrations of concern. An up-gradient monitoring well did not contain any site-related contamination.

Completed off-site exposure pathways include contact with contaminated soils and breathing contaminated ambient air. The completed soil pathway is dermal contact and incidental ingestion of metals (*i.e.*, lead, antimony and cadmium) or PCB-contaminated soil from five nearby residential yards. The completed air pathway is the inhalation of odor-producing gases from the site in the past (*e.g.*, hydrogen sulfide). Nearby residents were exposed in the past to Site-related contaminants, especially lead and PCBs, in their yards. The soil in the yards of three nearby properties showed levels of lead that exceeded the US EPA's definition of a lead hazard in soils. Additionally, the adjacent residence on Cape Avenue showed levels of lead up to 230,000 mg/kg in the surface soil prior to EPA's removal action. Based on these data and the Agency for Toxic Substances and Disease Registry's public health hazard consultation, the Site represented a public health hazard.

In June 2000, at the request of NYSDEC, EPA Region 2 and its Superfund Technical Assessment and Response Team contractors conducted a sampling event at the facility property and adjacent residential properties as part of the EPA Superfund Preliminary Assessment/Site Inspection process. Surface soil samples were collected throughout the facility property and at several adjacent residential properties. Sediments and surface water samples were also collected along the Beer Kill, the adjacent stream to

the Site. Samples were also collected from a minor amount of ponded leachate emanating from a small area of the landfill embankment at the Site. Analytical results from the June 2000 samples indicated contamination in surface soils, as well as in the Beer Kill. Because the Beer Kill is used by recreational fishermen and also discharges into two fisheries, a Hazard Ranking System evaluation for the Site's inclusion on the NPL resulted in the Site being proposed for and included on the NPL.

As discussed above, battery reclamation and disposal activities conducted at the Site on the adjacent Cape Avenue residential property also resulted in lead contamination of its residential soils. Further EPA sampling indicated that the lead contamination extended across the entire adjacent property, as well as into the face of an embankment that extended out from the rear of that property.

In June 2004, EPA conducted a removal assessment at the adjacent residential property. In November and December 2004, EPA implemented a removal action and excavated 8200 square feet of contaminated soils from the residential yard and from a portion of the surface of the embankment. EPA disposed of all hazardous materials at off-site permitted facilities. The excavated area of the residential yard was covered and secured with geotextile fabric, backfilled, and replanted with sod. EPA also installed silt fencing at the base of the embankment to curtail any further erosion into the adjacent area.

The June 2004 removal assessment also included sampling 20 deteriorating and leaking drums, as well as an aboveground tank. The analytical results indicated that the drums contained various hazardous substances, including volatile organic compounds (VOCs) (benzene and ethylbenzene), semi-volatile compounds (SVOCs) (anthracene and

pyrene) and pesticides (lindane and DDT). These materials were contained and disposed of at off-site permitted facilities.

During the Summer and Fall of 2005, EPA performed further cleanup actions at the Site in preparation for the continued RI field activities, including the following: 1) clearing, grading and stabilizing the Site support area; 2) characterization and off-site disposal of the various debris piles located throughout the Site property, including tires, battery casings, wood pallets, and concrete and construction debris; 3) characterization of the various remaining scrap iron and steel found on the Site, as well as the abandoned dumpsters, cars, trucks, baling, metal shearing and compactor units located on the Site; 4) dismantling and preparing these materials and equipment for recycling and/or for sale as scrap; 5) testing and disposal of any localized contaminated soils associated with the cleanup of the various debris piles and the metal-processing equipment at approved, regulated facilities; 6) demolishing all extant Site structures; and 7) the use of some of the crushed concrete materials and shredded wooden pallets as grading materials for areas of the Site.

Remedial Investigation and Feasibility Study (RI/FS)

During 2007-2008, the RI was performed to define the nature and extent of contamination at the Site. During the RI, the affected media that were investigated included surface and subsurface soils, groundwater, surface water, sediments, landfill leachate, and soil gas. EPA also conducted additional groundwater sampling in 2009 and 2010.

In summary, a human health risk assessment was conducted, and, as a result, EPA concluded that metals, polyaromatic hydrocarbons (PAHs), pesticides and PCBs in soils

and leachate found at the Site contributed to unacceptable risks and hazards to on-site trespassers, construction/utility workers, on-site recreational users, and on-site future residents. There were also unacceptable hazards for off-property residents from metals, especially lead. In addition, exposure to groundwater for future on-site residents exceeded the acceptable risk range for two metals, arsenic and chromium.

A screening-level ecological risk assessment was conducted to evaluate the potential for ecological effects from exposure to surface soils, leachate, groundwater discharging to sediment and surface water, and surface water and sediment from the Beer Kill. In this assessment, EPA concluded that there was a potential for adverse effects to terrestrial plants and soil invertebrates from direct exposure to chemicals in soils and sediments at the Site.

Off-site soils were sampled to determine background concentrations in native soils not impacted by Site operations. In general, the Site soils have been impacted by historic operations as evidenced by the type and distribution of contaminants in the area of the landfill, in the area of the former large debris piles at the base of the landfill and along a drainage channel to the southeast of the landfill.

Both surface and subsurface test pits (10 performed) and direct-push borings (30 performed) soil samples show concentrations of SVOCs, pesticides, PCBs and various metal concentrations above cleanup objectives. In addition, VOC concentrations were detected in some fill materials, as well as in subsurface soils of the landfill. The highest results for PCBs, several PAHs and SVOCS that were detected during the RI were on the lower plateau of the Site. Metals in surface and subsurface soils, including zinc, lead, copper, chromium, cadmium, mercury and nickel, exceeded soil cleanup objectives.

Previous EPA residential investigations documented the presence of high lead concentrations in deeper surface soils (> 12 inches) at the Cape Avenue residential property portion of the Site where the batteries had been stored and reclaimed. As part of EPA's June 2004 Removal Assessment, additional sampling was performed at this location to delineate further the extent of lead contamination. During the RI, surface and subsurface soil samples at depths of 0 to 6 inches and 6 to 24 inches were collected from locations on several residential properties to the south and southeast of the former facility property. PAHs, pesticides and lead, among other metals, were detected.

Groundwater samples were collected during the RI. No general plume of any group of constituents has been observed, but only localized low-level impacts and somewhat random exceedances have been shown.

During the FS, the Site was divided into six areas of concern (AOCs) that facilitated the development and evaluation of remedial alternatives, based on the nature and extent of contamination. The contaminants identified in the six AOCs are described below:

- AOC 1 - Landfill Area - VOCs, SVOCs, metals, PCBs and pesticides were detected in the soils within this area at concentrations greater than the NYS Restricted Use Soil Cleanup Objectives for residential properties (RSCOs– Residential).
- AOC 2 - Debris Pile Area - SVOCs, metals, PCBs and pesticides were detected in the soils within the area at concentrations greater than the RSCOs-Residential.
- AOC 3 - Dumpster Staging Area - VOCs, metals and PCBs were detected in the soils within this area at concentrations greater than the RSCOs – Residential.

- AOC 4 - Scattered Debris Area - Metals were detected in the soils at one location within this area at concentrations greater than the RSCOs-Residential.
- AOC 5 - Battery Disposal Area - Metals and PCBs were detected in the soils within this area at concentrations greater than the RSCOs-Residential.
- AOC 6 - Residential Properties Area - SVOCs and metals were detected in the soils within the area at concentrations greater than the RSCOs-Residential.

Selected Remedy

The following Remedial Action Objectives were established for the Site:

Groundwater

- Prevent ingestion of groundwater with contaminant concentrations greater than state water quality standards.
- rRestore groundwater contaminant concentrations to less than state water quality standards.
- ePrevent discharge of groundwater with contaminant concentrations greater than state water quality standards to adjacent surface water, *i.e.*, Beer Kill.

Soils

- oPrevent ingestion/direct contact to soils with contaminant concentrations greater than state residential soil cleanup objectives.
- rPrevent inhalation of soil dust with contaminant concentrations greater than state residential soil cleanup objectives.

- rPrevent migration of soils with contaminant concentrations greater than state residential soil cleanup objectives.

- rPrevent or minimize impacts to groundwater and/or surface water resulting from soil contamination with concentrations greater than state residential soil cleanup objectives.

Solid Wastes

- oPrevent ingestion/direct contact with solid wastes with contaminant concentrations greater than state residential soil cleanup objectives.

- rPrevent migration of solid wastes with contaminant concentrations greater than state residential soil cleanup objectives.

- rPrevent or minimize impacts to groundwater and/or surface water resulting from solid wastes with concentrations greater than state residential soil cleanup objectives.

Leachate

- ePrevent ingestion of leachate with contaminant concentrations greater than state water quality standards.

- rPrevent migration of leachate with contaminant concentrations greater than state water quality standards.

Air

- iPrevent exposure to or inhalation of volatilized contaminants from the solid wastes.

- rPrevent migration of landfill gas generated by the decomposition of solid waste.

The major components of the selected remedy of the September 2010 Record of Decision are as follows:

- aExcavation of selected contaminated soils in six AOCs (AOCs 1-6), which include residential properties adjacent to the former facility property where contaminants in the surface soils exceed the cleanup criteria;
- hBackfilling of the excavated areas with clean fill;
- aConsolidation of the excavated soils from AOCs 1-6 on the upper and central portion of the Site;
- oInstallation of a landfill cap system which meets the substantive requirements of NYS Part 360 regulations over the existing landfill and the consolidated soils, including long-term groundwater monitoring; and,
- vDevelopment of a Site Management Plan (SMP), in accordance with NYS landfill closure requirements, that would include 1) long-term groundwater monitoring, 2) engineering controls (ECs) with an operation and maintenance (O&M) plan, which may include periodic reviews and/or certifications and 3) a plan for implementing institutional controls (ICs).

EPA determined that an active groundwater remedy for the Site was not required because of the following: 1) limited groundwater contamination (both inorganic and organic) underlies the Site, 2) the isolated, low levels of contamination in the groundwater do not appear to be mobile and show no threat of migration nor significant, area-wide impact on Site groundwater, 3) there is no clearly defined inorganic plume in

the Site groundwater; 4) comprehensive groundwater monitoring program would be implemented as part of the selected remedy; and 5) the soil and groundwater data and the current hydrogeologic information at the Site indicate that the fill material in the landfill proper is located above the water table.

Response Actions

Upon the selection of the remedy on September 30, 2010, EPA began the preliminary design investigation (PDI) to fill any data gaps in the soil data that were necessary to complete an effective remedial design (RD) for the Site. The collection of soils data served both to delineate further the nature and extent of contamination at the Site and to provide sample results and post-excavation limits for construction purposes. This eliminated the need for confirmatory sampling post-excavation. The final PDI Report was issued in March 2011.

The Remedial Action (RA) Work Plan was completed in May 2011. As identified in the September 2010 ROD, RA activities included the excavation of contaminated soils in the six AOCs, consolidation of non-hazardous excavated soils within the final landfill footprint, transport and off-site disposal of hazardous materials, installation of a landfill cap system and restoration of all disturbed areas. The Site also includes adjacent residential properties where contaminants in the surface soils exceeded the NYS soil cleanup criteria.

Based on the RI and previous investigation findings, the PDI was conducted in October-November 2010 to fill gaps in soil data necessary to complete an effective RD, as well as to provide confirmatory post-excavation sample results required to complete the remedial construction. A second phase of the PDI was conducted in February 2011 to

collect samples from the residential areas after securing necessary access. To minimize the total number of samples to be collected during the PDI, pre-defined excavation areas of various depths were identified to develop the conceptual sampling plan. The areas were developed based on existing investigation results, Site history, aerial photographs, and observations made during Site visits.

During April and May 2011, pre-construction activities were performed. The Site was cleared and grubbed with erosion and sediment control measures implemented. All spoils from grubbing operations were consolidated within the landfill cap area. The major construction activities for this part of the overall project were excavation, backfilling and materials handling, primarily of soils. Excavations used conventional earthmoving equipment, including a hydraulic excavator. The overall depths of excavation varied from a minimum of about one foot up to a maximum depth of 11 feet.

On May 6, 2011, formal construction activities began with the major excavation work. Work progressed from the entrance to the southeast and along the south and the western part of the lower plateau. Concurrently, a separate field crew and equipment were mobilized and were dedicated to the remediation of the residential properties. During the remediation of the Site, several different waste streams were generated and were either consolidated within the landfill cap area or disposed of off-site.

Backfill and compaction of excavation areas were performed. Uncontaminated excavated soils were used for backfilling in excavated areas to the fullest extent possible. Imported clean fill was also necessary to complete the backfill of all excavated areas. This action consisted of "rolling-out" the excavated materials and "rolling-in" the clean backfill materials.

Concurrent with the consolidation of excavated soils (from both the former facility property and the residential properties), the landfill area was prepared for capping. Construction proceeded from the northwest (near the staging area) to the southeast.

Construction of the landfill subgrade consisted of the rough grading of the consolidated materials excavated from the AOCs, including tree stumps and acceptable demolition debris. To further protect the subsequent geocomposite and geomembrane installations, a 6-inch layer of select fill (free of any large, angular stones and finely graded) was imported to the Site and placed over the rough graded landfill subgrade. The landfill subgrade has a 3-to-1 maximum slope on the side slopes and a five percent minimum slope on the top.

An anchor trench around the perimeter of the landfill footprint was excavated upon completion of the landfill subgrade that extends two feet beyond the limits of the landfill waste and anchors the geocomposite and geomembrane layers of the landfill cap. The excavated trench soils were also incorporated under the landfill cap, and clean, imported fill was utilized to backfill the anchor trench. Each area of the subgrade layer was approved prior to further installation of each subsequent layer in order to expedite the installation of the double-sided gas vent geocomposite. Installation of this geocomposite layer proceeded as more areas of the subgrade were fine-graded, approved and released. The geocomposite drainage layer was accomplished in similar fashion with approval of the high-density polyethylene (HDPE) geomembrane in advance. The subsequent geocomposite layers were installed in similar fashion, with each roll being

unrolled down slope, keeping the geocomposite in slight tension to minimize wrinkles and folds.

The HDPE geomembrane liner was placed over the top of the gas vent geocomposite layer and has a nominal thickness of 60-mil (0.06 inches) and the physical properties indicated in the project specifications. The geomembrane extends down the front wall and across the bottom of the anchor trench and is secured in place from uplift by wind by using adequate ballast (*i.e.*, sandbags). Geomembrane seams were installed parallel to the line of the maximum slope. The "as-built" documentation indicates the repair/patch locations and the field seam destruct sample testing locations. Prior to covering the geomembrane with the geocomposite drainage layer, the geomembrane seams and non-seam areas were visually inspected for defects, holes or damage as a result of weather conditions or construction activities. The deployed and seamed geomembrane was covered with the required geocomposite drainage layer material.

The barrier protection layer material is comprised of select fill, in accordance with the design specifications, and consists of a completed 24-inch compacted depth. This compacted depth was accomplished by placing an initial 12-inch loose fill lift. This initial lift served as protection for the geocomposite and geomembrane layers from equipment utilized to place and compact the barrier protection layer. Grading conformed to the Final Grading Plan minus six inches for the subsequent topsoil layer installation.

The final layer of the landfill cap consists of a six-inch compacted lift of topsoil which was stabilized with erosion control blankets and reinforced matting. Upon completion of the installation of soil stabilizing measures, the entire landfill cap area was hydroseeded with a seed mix to promote good vegetative growth.

In summary, Site restoration activities included the installation of topsoil, slope stabilization materials, hydroseeding and landfill infrastructure items, including installation of the riprap channels and the storm water basin, chain-link fencing, and the stabilization of the east access road. Riprap channels were lined with a 12-ounce geotextile. The construction of the riprap channels proceeded from the high point of the channels, at the north end of the landfill, to the low point of the channels at south end of the landfill, where they discharged to the storm water basin. Gabion baskets were also installed at certain locations in the drainage swales to prevent washouts. The storm water basin was excavated and graded, as necessary, and did not receive any topsoil cover or seed.

Close attention was given to the remedial activities conducted on the three residential properties, ensuring that these activities, especially those adjacent to building structures, driveways, walkways and residential utilities, were performed in a manner that closely monitored the excavation, backfilling and compaction activities in these areas. Additional excavation work was performed on the adjacent Cape Avenue property in the area identified as the battery casing wall, because the majority of the battery casings were found here. After excavation and backfilling of the affected residential areas, including the battery slope behind the adjacent Cape Avenue property, affected areas topsoil was placed on the clean, backfill soils and then hydroseeded with straw matting in place to ensure good grass growth.

Restoration and expansion of an on-site wetland were also performed with the installation of clay matting and a number of wetlands plantings to replace wetlands affected by the installation of the landfill cap. Seven additional monitoring wells were

also installed in both the bedrock and the overburden in order to conform to the NYS requirements regarding the landfill cap installation.

The final restoration of the permanent north and east access roads ensured compliance with the grades and contours as shown on the as-built drawings. Similar to the riprap swales, these 12-inch thick gravel access roads were constructed atop a layer of 12-ounce geotextile fabric. A six-foot high permanent chain link fence, with posts and gates, was installed around the entire perimeter of the newly constructed landfill cap area, including the north access road, the staging area and the storm water basin.

New tree seedlings and assorted bushes were also installed at various locations on the adjacent Cape Avenue property as a replacement for the trees removed during the clearing phase of the project.

On August 28, 2011, Hurricane Irene affected the Site. Actions associated with restoring areas affected by the hurricane included restoration and stabilization of the hill (the battery-excavation area) located at the aforesaid Cape Avenue residential property.

On September 28, 2011, a final inspection of the Site was conducted. The Site was deemed construction complete on September 30, 2011.

Verification of Cleanup Levels

The remedy discussed herein has been implemented and constructed in accordance with all EPA and NYS-approved RD documents, which include the Design Analysis Report, construction drawings and technical specifications. These documents also substantially comply with the Parts 360 and 375 NYS regulations and NYSDEC Guidance Document 10.

The RA activities at the Site were undertaken in a manner consistent with the

remedy and with the RD plans and specifications, as modified by the as-built documentation. All applicable quality assurance and quality control procedures and protocols were incorporated into the RD. EPA analytical methods were used for all monitoring samples during all remedial activities. All procedures and protocols followed for groundwater, soil and air sample collection and analysis are documented in the RD and RA reports, and the sample analyses were performed at state-certified laboratories. EPA has determined that all analytical results are accurate to the degree needed to assure satisfactory execution of the RA and that the data are consistent with both the ROD and the RD plans and specifications, as modified by the as-built documentation.

Prior to the completion of the RA, groundwater monitoring data revealed limited exceedances of NYS standards for antimony, arsenic, chromium and lead in the overburden groundwater. High iron and manganese concentrations were attributed to the naturally occurring background conditions. Sodium levels were high in the upgradient wells, indicating that it is also naturally occurring. VOCs that were sampled were primarily at levels below detection limits.

In general, data from groundwater sampling events conducted in 2012 and 2016 revealed that iron, manganese and sodium levels were detected above the standards were consistent with naturally occurring conditions. Levels of other metals (arsenic, chromium, lead and nickel) were detected both above and below standards in one well. No SVOCs were detected. Some VOCs were detected but shown to be below standards. Overall, because of the low baseline contaminant concentrations in the groundwater and the installation of the landfill cap, which prevents infiltration to the groundwater,

groundwater contaminant concentrations at the Site are being monitored and are expected to continue to decrease.

Contaminated soils were excavated and removed from 1) an adjacent residential property (Cape Avenue) to the former Site facility and 2) two additional residential properties to the southeast along River Street. Metals (arsenic, barium, cadmium, copper, lead, mercury and zinc) were detected at these properties at concentrations in the soils greater than the RSCOs – Residential. The cleanup goals were met.

EPA's Preliminary Close-Out Report was signed on September 30, 2011, representing a successful construction completion at the Site.

Operation and Maintenance

As of March 2015, NYSDEC assumed the O&M responsibilities at the Site, in accordance with the Sire Management Plan (SMP) which specifies the methods necessary to ensure compliance with all ICs and ECs for the Site.

NYSDEC currently performs semi-annual Site inspections to ensure the remedial measures have not been compromised. These include inspection of the landfill cap, the storm water basin, the perimeter drainage swales, the monitoring wells, the gas vents, the constructed wetland area, the access roads, the guard rails, and the fence lines.

During the most recent assessment of current conditions, all entrances to the Site were noted as secure, and the inner fence that surrounds the main landfill area was intact but for a small, repairable break in the northeast corner. The landfill cap was dry and the soil stable. No animal presence was observed while on-site. The vegetation on the landfill is green and has grown to an average height of less than six inches. The landfill cap has been mowed. During the inspections, NYSDEC confirmed that the vegetation is at an

acceptable height and roots not penetrating the landfill cap. The landfill gas vents are in good condition. The drainage swales, located on the perimeter of the Site, did not contain any water, and there are no areas of active erosion or excessive vegetation growth. The storm water outfall structure leading to the wetland was inspected and was determined to be functioning as designed. The created wetland was also inspected and found to have no issues. Inspection of the formerly-forested wetland area on the lower plateau of the Cape Avenue residential property showed that a few of the trees planted during the RA may need replacement.

All monitoring wells were secure, and concrete well pads were free of large cracks and signs of deterioration. Outside the fenced area, each monitoring well's condition was inspected; the wellhead was screened with a photoionization detector (PID); and the total well depth, depth to product (if any) and depth to water measurements were recorded. No product or elevated PID readings were observed at any of the monitoring wells inspected.

Site access roads around the perimeter of the Site are in good condition. The interior fence line is in good condition and the gates are secure.

A Declaration of Covenants, Restrictions and Environmental Easements Survey Map was developed for the Site. This Declaration includes the metes and bounds descriptions of the various property parcels associated with the Site. The Map also identifies the fenced, capped landfill area that is to be maintained under strict and specific ECs.

EPA issued two notices to successors-in-title to the two properties impacted by the ECs implemented at the Site. Other than the existing groundwater extraction

restrictions though local ordinance, these notices are the primary ICs at the Site. ICs are necessary to ensure the protectiveness of the remedy.

Five-Year Review

The purpose of a FYR is to evaluate the implementation and performance of a remedy in order to determine if the remedy is and will continue to be protective of human health and the environment. The methods, findings and conclusions of FYRs are documented in FYR reports. In addition, FYR reports identify any issues that may have been found during the review period and document recommendations of how to address those issues.

EPA prepared the first FYR for the Site, pursuant to CERCLA Section 121, consistent with the NCP (40 CFR Section 300.430(f)(4)(ii)), and considering EPA policy. The FYR was a statutory review because hazardous substances, pollutants or contaminants remain at the Site above levels that would allow for unlimited use and unrestricted exposure. The first FYR for the Site was signed in August 2017. In the FYR report, EPA concluded that the remedy is functioning, as intended, and is protective of human health and the environment. The FYR had no issues or recommendations. FYRs will continue to be conducted at the Site. The next five-year review will be conducted by August 2022.

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 and at EPA's website for the Site: www.epa.gov/superfund/ellenville-scrap. The public is provided the opportunity to comment on this proposed action.

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

EPA, with the concurrence of the State of New York through NYSDEC, has determined that all required and appropriate response actions have been implemented. The criteria for deletion from the NPL, as set forth at 40 CFR 300.425(e)(1)(I)), are met. The implemented remedy achieves the protection specified in the ROD for all pathways of exposure. All selected remedial and removal action objectives, and associated cleanup levels are consistent with agency policy and guidance. No further Superfund response is needed to protect human health and the environment.

All of the cleanup requirements for the Site have been met, as described in the 2011 Preliminary Close-Out Report and 2017 FYR report. The State of New York, in a July 11, 2019 letter, concurred with the proposed deletion of the Site from the NPL.

The NCP (40 CFR 300.425(e)(1)(ii)) 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."

V. *Deletion Action*

EPA, with the concurrence of the State of New York through NYSDEC, has determined that all appropriate responses under CERCLA have been completed and that no further response actions, under CERCLA, other O&M, monitoring, and FYRs, have been completed. Therefore, EPA is deleting the Site from the NPL. Documents

supporting this action are available in the deletion docket at https://www.regulations.gov and at the Site information repositories.

Because EPA considers this action to be noncontroversial and routine, EPA is taking this action without prior publication. This action will be effective on **[INSERT DATE 50 DAYS FROM DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]** unless EPA receives adverse comments by **[INSERT DATE WITHIN 30 DAYS FROM 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 notice of deletion 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, as appropriate, on the basis of the notice of intent to delete and the comments received. If there is no withdrawal of this direct final notice of deletion, there will be no additional opportunity to comment.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: July 24, 2019.

Peter D. Lopez

Regional Administrator,

EPA, Region 2

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

PART 300—[AMENDED]

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

Authority: 33 U.S.C. 1321(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 the entry for "NY,"

"Ellenville Scrap Iron and Metal", "Ellenville".

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