



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 300**

**[EPA-HQ-SFUND-2002-0008; FRL-10004-52-Region 8]**

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

**National Priorities List:**

**Partial Deletion of the OU1 of the Libby Asbestos Superfund Site**

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

**ACTION:** Proposed rule; notice of intent.

**SUMMARY:** The Environmental Protection Agency (EPA) Region 8 is issuing a Notice of Intent to Delete Operable Unit 1 (OU1), Former Export Plant, of the Libby Asbestos Superfund Site (Site), located in Lincoln County, Montana, from the National Priorities List (NPL) and requests public comments on this proposed action. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the State of Montana (State), through the Department of Environmental Quality (DEQ), have determined that all appropriate response actions at OU1 under CERCLA, other than operation and maintenance and five-year reviews (FYR), have been completed. However, this partial deletion does not preclude future actions under Superfund. This partial deletion pertains only to OU1. Operable Unit 2 (OU2), Former Screening Plant, was deleted from the NPL on April 10, 2019. Operable Unit 3 (OU3), Former Vermiculite Mine; Operable Unit 4 and Operable Unit 7 (OU4/OU7), Residential/Commercial Properties of Libby and Troy; Operable Unit 5 (OU5), Former Stimson Lumber Mill; Operable

Unit 6 (OU6), BNSF Rail Corridor; and Operable Unit 8 (OU8), Highways and Roadways, are not being considered for deletion as part of this proposed action and will remain on the NPL.

**DATES:** Comments must be received by **[insert date 30 days after date of publication in the Federal Register]**.

**ADDRESSES:** Submit your comments, identified by Docket ID no. EPA-HQ-SFUND-2002-0008 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 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://www.epa2.gov/dockets/commenting-epa-dockets>.
- E-mail: Dania Zinner, [zinner.dania@epa.gov](mailto:zinner.dania@epa.gov).
- Mail: Dania Zinner, Remedial Project Manager, U.S. EPA, Region 8, Mail Code 8SEM-RB, 1595 Wynkoop Street, Denver, CO 80202-1129.

*Instructions:* Direct your comments to Docket ID no. EPA-HQ-SFUND-2002-0008. The 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 Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <https://www.regulations.gov> or e-mail. The <https://www.regulations.gov> web site is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to the 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, the 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 the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the 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 whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in the hard copy. Publicly available docket materials are available electronically in <http://www.regulations.gov>; by calling EPA Region 8 at (303) 312-7279 and leaving a message; and at the EPA Info Center, 108 E 9<sup>th</sup> Street, Libby, MT 59923, (406) 293-6194, Monday through Thursday from 8:00 am – 4:00 pm.

**FOR FURTHER INFORMATION CONTACT:** Dania Zinner, Remedial Project Manager, U.S. Environmental Protection Agency, Region 8, Mailcode SEM-RB, 1595 Wynkoop Street, Denver, CO 80202-1129, (303) 312-7122, email zinner.dania@epa.gov.

**SUPPLEMENTARY INFORMATION:**

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- I. Introduction
- II. NPL Deletion Criteria
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**I. Introduction**

EPA Region 8 announces its intent to delete all of Operable Unit 1 (OU1), Former Export Plant, of the Libby Asbestos Superfund Site (Site) from the NPL and requests public comment on this proposed action. The NPL constitutes appendix B of 40 CFR part 300 which is the NCP, which the EPA promulgated pursuant to section 105 of the CERCLA of 1980, as amended. The EPA maintains the NPL as those 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). This partial deletion of OU1 of the Libby Asbestos Superfund Site is proposed in accordance with 40 CFR 300.425(e) and is consistent with the Notice of Policy Change: Partial Deletion of Sites Listed on the National Priorities List. 60 FR 55466 (Nov. 1, 1995). As described in §300.425(e)(3) of the NCP, a portion of a site deleted from the NPL remains eligible for Fund-financed remedial action if future conditions warrant such actions.

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

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that the EPA is using for this action. Section IV discusses where to access and review information that demonstrates how the deletion criteria have been met at OU1 of the Libby Asbestos Superfund Site.

## **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), the 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, the 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. The EPA conducts such five-year reviews even if a site is deleted from the NPL. The 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 OU1 of the Libby Asbestos Superfund Site:

- (1) The EPA consulted with the State before developing this Notice of Intent for Partial Deletion.
- (2) The EPA has provided the State 30 working days for review of this document prior to its publication in the Federal Register.
- (3) In accordance with the criteria discussed above, EPA has determined that no further response is appropriate;
- (4) The State of Montana, through the DEQ, has concurred with deletion of OU1 of the Libby Asbestos Superfund Site, from the NPL.
- (5) Concurrently with the publication of this Notice of Intent for Partial Deletion in the Federal Register, notices are being published in the Western News, the Kootenai Valley Record, and The Montanian. The newspaper notices announce the 30-day public comment period concerning the Notice of Intent for Partial Deletion of the Site from the NPL.
- (6) The EPA placed copies of documents supporting the proposed partial deletion in the deletion docket, made these items available for public inspection, and copying at the Site information repositories identified above.

If comments are received within the 30-day comment period on this document, the EPA will evaluate and respond to the comments before making a final decision to delete OU1. If

necessary, the EPA will prepare a Responsiveness Summary to address any significant public comments received. After the public comment period, if the EPA determines it is still appropriate to delete OU1 of the Libby Asbestos Superfund Site, the Regional Administrator will publish a final Notice of Partial Deletion in the **Federal Register**. Public notices, public submissions and copies of the Responsiveness Summary, if prepared, will be made available to interested parties and included in the site information repositories listed above.

Deletion of a portion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a portion of a site from the NPL does not in any way alter the 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 Intended Partial Site Deletion**

The EPA placed copies of documents supporting the proposed partial deletion in the deletion docket. The material provides explanation of EPA's rationale for the partial deletion and demonstrates how it meets the deletion criteria. This information is made available for public inspection in the dockets identified above.

##### **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.

**Authority:** 33 U.S.C. 1321(c)(2); 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.

Dated: December 9, 2019.

Gregory E. Sopkin,  
Regional Administrator,  
EPA Region 8.

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