

been completed at the Site other than O&M and five-year reviews.

#### *E. Community Involvement*

Public participation activities have been satisfied as required by CERCLA section 113(k), 42 U.S.C. 9613(k), and CERCLA section 117, 42 U.S.C. 9617. Documents in the deletion docket which EPA relied on for its decision to delete the Site from the NPL are available to the public at the information repositories.

#### **V. Deletion Action**

The EPA, with concurrence of the NMED, has determined that responsible parties have implemented all appropriate response actions required at the Site and that no further response actions, under CERCLA, other than O&M and five-year reviews, are necessary. 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 of a notice of intent to delete. This action will be effective July 23, 2001 unless EPA receives adverse comments by June 21, 2001. If adverse comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final deletion before the effective date of the deletion and it will not take effect and 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: January 22, 2001.

**Jerry Clifford,**

*Deputy Regional Administrator, Region 6.*

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(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

#### **Appendix B—[Amended]**

2. Table 1 of Appendix B to Part 300 is amended by removing the site for Cleveland Mill, Silver City, NM.

[FR Doc. 01–12705 Filed 5–21–01; 8:45 am]

**BILLING CODE 6560–50–P**

#### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Part 300**

[FRL–6957–8]

#### **National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct Final Deletion of the Brodhead Creek Superfund Site from the National Priorities List.

**SUMMARY:** The Environmental Protection Agency (EPA) Region III is publishing a direct final deletion of the Brodhead Creek Superfund Site (Site) located in the Borough of Stroudsburg, Monroe County, Pennsylvania, 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 Appendix B of 40 CFR Part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being published by EPA with the concurrence of the Commonwealth of Pennsylvania, through the Pennsylvania Department of Environmental Protection (PADEP) because EPA has determined that all appropriate response actions under CERCLA have been completed and, therefore, further remedial action pursuant to CERCLA is not appropriate. **DATES:** This direct final deletion will be effective July 23, 2001, unless EPA receives adverse comments by June 21, 2001. 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:** Comments may be mailed to: William Hudson, Community Involvement Coordinator, (3HS43), U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103, (215) 814–5532.

#### *Information Repositories:*

Comprehensive information about the Site is available for viewing and copying at the Site Information Repositories at the following locations: U.S. EPA

Region III, Regional Center for Environmental Information (RCEI), 1650 Arch Street, Philadelphia, PA 19103, (215) 814–5364, Monday through Friday 8:00 a.m. to 4:30 p.m.; the Stroudsburg Borough Building, Seventh and Sarah Streets, Stroudsburg, PA 18360, (570) 421–5444, Monday through Friday 8:00 to 5:00 p.m.; and the Pennsylvania Department of Environmental Protection, Northeast Regional Office, 2 Public Square, Wilkes-Barre, PA 18711–0790, (570) 826–2511, Monday through Friday 9:00 a.m. to 3:00 p.m.

**FOR FURTHER INFORMATION CONTACT:** John Banks, Remedial Project Manager (3HS22), U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103, (215) 814–3214, Fax (215) 814–3002, e-mail [banks.john-d@epa.gov](mailto:banks.john-d@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **Table of Contents**

- I. Introduction
- II. NPL Deletion Criteria
- III. Deletion Procedures
- IV. Basis for Site Deletion
- I. Deletion Action

#### **I. Introduction**

EPA Region III is publishing this direct final deletion of the Brodhead Creek Superfund Site from the NPL.

The EPA identifies sites that appear to present a significant risk to public health or the environment and maintains the NPL as the list of those sites. As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions if conditions at a deleted site warrant such action.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication of a notice of intent to delete. This action will be effective July 23, 2001 unless EPA receives adverse comments by June 21, 2001. If adverse comments are received within the 30-day public comment period on this document, EPA will publish a timely withdrawal of this direct final deletion before the effective date of the deletion and the deletion will not take effect. EPA will, as appropriate, 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.

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 Brodhead Creek 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

Section 300.425(e) of the NCP provides that releases may be deleted from the NPL where no further response is appropriate. In making a determination to delete a release from the NPL, EPA shall 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 (Hazardous Substance Superfund Response Trust Fund) 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.

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the deleted site above levels that allow for unlimited use and unrestricted exposure, CERCLA Section 121(c), 42 U.S.C. 9621(c) requires that a subsequent review of the site be conducted at least every five years after the initiation of the remedial action at the deleted site to ensure that the action remains protective of public health and the environment. If new information becomes available which indicates a need for further action, EPA may initiate remedial actions. 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) The EPA consulted with the Commonwealth of Pennsylvania on the deletion of the Site from the NPL prior to developing this direct final deletion.

(2) The Commonwealth of Pennsylvania concurred with the deletion of the Site from the NPL.

(3) Concurrently with the publication of this direct final deletion, a notice of the availability of the parallel notice of intent to delete published today in the "Proposed Rules" section of the **Federal Register** is being published in a major local newspaper of general circulation at or near the Site and is being distributed to the appropriate federal, state, and local government officials and other

interested parties; 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 deletion in the Site information repositories identified above.

(5) If adverse comments are received within the 30-day public comment period on this document, EPA will publish a timely withdrawal of this direct final 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 action.

## IV. Basis for Site Deletion

The following information provides EPA's rationale for deleting the Site from the NPL:

### A. Site Location

The Brodhead Creek Site occupies approximately 12 acres of a flood plain area on the western bank of Brodhead Creek at the confluence of Brodhead Creek and McMichael Creek in the Borough of Stroudsburg in Monroe County, Pennsylvania.

### B. Site History

The Site is the former location of a coal gasification plant which operated from approximately 1888 to 1944. A waste product from these operations was a black tar-like liquid ("coal tar") which has a density greater than water and which is principally composed of polynuclear aromatic hydrocarbons ("PAHs"). The coal tar was placed in an open pit located on the Site. This practice continued to the mid-1940s when the plant was abandoned.

On October 7, 1980, during construction repairs to the flood control levee at the Site, materials identified as coal tar were observed seeping into Brodhead Creek. As a result, several investigations and emergency response measures were initiated by EPA, PADEP, and Pennsylvania Power and Light Company (PP&L) from 1981

through 1984, including: (1) Installation of temporary filter fences and underflow dams to intercept coal tar seepage; (2) installation of a temporary coal tar recovery pit on the west bank of Brodhead Creek; (3) construction of a slurry wall by EPA to mitigate coal tar migration from the Site toward Brodhead Creek; (4) excavation of a backwater channel area where coal tar seepage appeared to be particularly significant; and (5) installation of recovery wells in the main coal tar pool by PP&L, with the subsequent recovery of approximately 8,000 gallons of coal tar.

The Site was placed on the NPL in December 1982, with a Hazard Ranking Score of 31.09.

Remedial Investigation and Feasibility Study (RI/FS)

On August 20, 1987, PP&L and Union Gas Company (UGC) entered into a Consent Order and Agreement with the Commonwealth of Pennsylvania to conduct the original remedial investigation and feasibility study (RI/FS) for the Brodhead Creek Site. The original RI/FS was completed in 1991.

The results of the original RI indicated that coal tar from the former coal gasification operations had migrated vertically through the unsaturated and saturated portions of the stream gravel unit underlying the Site to the interface with the silty sand. The silty sand prevents further downward movement of the coal tar because of the higher capillary pressures within that unit. Approximately 4.28 acres of the gravel unit at the Site were contaminated with free and residual coal tar. The free coal tar (i.e., coal tar at 100% pore volume saturation) is limited to a small area of a stratigraphic depression east of the slurry wall near monitoring well MW-2 (the MW-2 Area) and to the lowest portion of the stratigraphic depression located west of the slurry wall (the RCC Area). Both of these free coal tar accumulations are confined from further downward migration by the top of the silty sand unit. Residual coal tar (i.e., coal tar at less than 100% pore volume saturation) can be found throughout the remainder of the 4.28 acres.

The total volume of free coal tar at the Site was estimated to be 9,000 gallons, 8,715 gallons at the RCC Area and 338 gallons at the MW-2 Area. The extent of residual coal tar contamination at the Site was estimated to be from 303,000 gallons to 409,000 gallons.

### Characterization of Risk

The risk assessment in the original RI identified PAHs, benzene, and arsenic

as the primary contaminants of concern at the Site. Federal Maximum Contaminant Levels (MCLs) for drinking water established pursuant to the Safe Drinking Water Act, 42 U.S.C. 300f *et seq.*, were exceeded for arsenic, benzene, and benzo(a)pyrene in the subsurface gravel unit. Proposed MCLs were exceeded in the ground water in the gravel unit for the following PAHs: benzo(a)anthracene; benzo(b)fluoranthene; benzo(k)fluoranthene; chrysene, dibenz(a,h)anthracene; and indenopyrene. These PAHs, as well as arsenic and benzene, are "hazardous substances" as defined in Section 101(14) of CERCLA.

After reviewing the results of the original RI/FS, EPA divided the remedial work to be undertaken at the Site into two operable units ("OUs"). These were as follows:

OU-1: Contaminated subsurface soils containing free coal tar in the stream gravel unit

OU-2: Ground water in the stream gravel unit to and including bedrock

EPA determined that an interim remedial action should be taken for OU-1 to initiate reduction of the toxicity, mobility, and volume of contaminants in the stream gravel unit at the Site. The interim remedial action would entail the removal of the free coal tar from the stream gravel unit. The free coal tar was a principal threat to human health and the environment since it imparted high levels of contaminants to the ground water in the stream gravel unit and could serve as a potential source of release of contamination to the ground water in bedrock. Implementation of an interim remedial action would remove the source of the highest level of contamination and would reduce further leaching of contaminants into the ground water. Data generated during the implementation of the interim action and further investigations for OU-2 would provide the information necessary to assist EPA in determining whether (and where) restoration of ground water to beneficial use was feasible. This in turn would enable EPA to issue a final Record of Decision for the Brodhead Creek Site.

#### Record of Decision Findings for OU-1

In a Record of Decision (ROD) issued on March 29, 1991, EPA selected an interim remedial action for OU-1 which included the following major components:

- Recovery of free coal tar from the subsurface soils utilizing the innovative technology of enhanced recovery (referred to as the Contained

Recovery of Oily Waste (CROW process);

- Disposal of the recovered coal tar at an off-site permitted facility;
- Imposition of institutional controls to limit future use of the Site; and
- Monitoring of ground water and biota in Brodhead Creek to ensure protection of human health and the environment.

#### Response Actions for OU-1

On September 2, 1992, EPA, PP&L and UGC entered into a Consent Decree under which the companies agreed to implement the remedial design/remedial action (RD/RA) for OU-1 at the Site. The original performance standard in the ROD required that at least 60% of the free coal tar in the subsurface soils be removed. On July 14, 1994, EPA issued an Explanation of Significant Differences (ESD) which revised the performance standard in the ROD by requiring the operation of the CROW process until the increase in cumulative recovery of the coal tar dropped to 0.5% or less per pore volume flushed through the formation. This revision of the performance standard was based on EPA's determination that accurate measurement of the removal of 60% of the free coal tar would not be possible because of the geology of the Site and the nature of the subsurface coal tar contamination. By June of 1996, approximately 1,500 total gallons of coal tar had been removed from the RCC Area and the performance standard had been met.

EPA determined during the CROW operational period that it would not be practical to implement CROW at the MW-2 Area (the area located at monitoring well MW-2) since the MW-2 Area contained only a small amount of free coal tar. Instead, EPA determined that the relatively minor amount of coal tar in the MW-2 Area wells should be removed via intermittent pumping. Approximately 100.5 gallons of coal tar were recovered from the MW-2 Area between February 1996 and March 1997.

Because of the variable nature of the coal tar recovery effort at the MW-2 wells, EPA determined that continued active intermittent pumping of the MW-2 wells could be suspended. However, as part of operation and maintenance of the Site, EPA has required that the MW-2 wells, and any wells in the RCC Area that have historically contained coal tar, be monitored for a free coal tar surface as part of the long-term ground water monitoring requirement at the Site. If a coal tar layer greater than six inches is discovered, it will be removed by pumping at that time.

These changes for the MW-2 Area were documented in a second Explanation of Significant Differences dated September 30, 1997. This second ESD also converted the interim remedy in the ROD for OU-1 into the final remedy for the Site and described the long-term monitoring strategy for the Site.

#### Record of Decision Findings for OU-2

On June 3, 1992, EPA, PP&L and UGC entered into a Consent Order under which the companies agreed to conduct a Focused RI/FS for OU-2 to further investigate ground water contamination at the Site. On June 30, 1995, EPA issued a ROD for OU-2 at the Brodhead Creek Site. This ROD addressed ground water contamination and residual coal tar contamination in the subsurface soils. In the ROD for OU-2, EPA selected a No Further Action alternative and established a technical impracticability ("TI") zone within which the Agency determined it would be impracticable to remediate ground water and residual coal tar contamination. EPA waived federal MCLs and Pennsylvania's Applicable or Relevant and Appropriate Requirement (ARAR) for cleanup to "background" levels of contamination on the basis of "Technical Impracticability." Several Site-specific constraints made the implementation of engineering solutions to the residual coal tar contamination impracticable. As stated in the OU-2 ROD, these included: (1) the need to temporarily reroute Brodhead Creek to access coal tar-impacted soils beneath the creek bed; (2) the need to reinforce the existing interstate I-80 bridge abutments in order to protect them from the increased velocity and height of the creek which would result from rerouting the creek; and (3) the need to restore wetlands which would be impacted by any remediation alternative. In addition, the existing earthen levee which currently bisects the Site, and which protects the Borough of Stroudsburg and the slurry wall installed by EPA as an emergency action in the early 1980s, would probably sustain damage from the implementation of any engineering alternative, and require repair.

In the ROD for OU-2, EPA determined that the No Further Action alternative, in conjunction with the OU-1 selected remedy, is protective of human health and the environment. Implementation of the OU-1 enhanced recovery program for the free coal tar areas on-site reduced the areas of highest subsurface soil contamination. The OU-1 monitoring program will provide the data required to evaluate the fate of the coal tar-related constituents,

the integrity of the slurry wall and the "health" of the biological community in Brodhead Creek. This will provide long term protection against the unlikely event that Site conditions might change and potential exposures increase. In addition, the slurry wall installed at the Site will continue to prevent free coal tar from discharging to Brodhead Creek.

#### C. Future Activity

##### Operation and Maintenance

Operation and Maintenance (O&M) activities, which are performed by PP&L (now known as PPL Electric Utilities Corporation (PPL)) with EPA oversight, include periodic inspections, ground water monitoring, stream sediment and biota monitoring, and the removal of relatively minor amounts of free coal tar from the two stratigraphically isolated areas of the Site, as necessary, but no less often than annually, and any other activities necessary to ensure continued protection of public health and the environment. The free coal tar removal, in conjunction with long-term ground water monitoring, will continue to ensure the effectiveness of the completed remedy at the Brodhead Creek Site.

##### Five-Year Review

CERCLA requires a five-year review of all sites with hazardous substances remaining above the health based levels for unrestricted use of the Site. Since residual coal tar contamination and ground water contamination remain at the Site, the five-year review process will be used to ensure that the selected remedy continues to be protective of human health and the environment. EPA completed the first five-year review of the Brodhead Creek Site on May 28, 1999. In that five-year review, EPA determined that the remedy was not completely protective of human health and the environment because institutional controls on future land use at the Site had not yet been implemented. On September 22, 2000, institutional controls which limit future land use at the Brodhead Creek Site were implemented by PPL and UGC (now known as PFG Gas, Inc.), and recorded at the Monroe County Courthouse, Recorder of Deeds Office, in Stroudsburg, Pennsylvania. These controls include restricting use of ground water at the Site and prohibiting excavation at the Site unless prior written approval is provided by the property owner, EPA, and PADEP. These institutional controls will reinforce the protectiveness of the selected remedy. EPA has determined

that all requirements of the ROD for OU-1, as modified by the ESDs dated July 14, 1994 and September 30, 1997, have been achieved at the Site and the Site is protective of human health and the environment. EPA plans to complete the next five year review prior to May 28, 2004.

#### D. Community Involvement

Public participation activities have been satisfied as required in CERCLA Section 113(k), 42 U.S.C. 9613(k), and CERCLA Section 117, 42 U.S.C. 9617. Documents in the deletion docket which EPA relied on for recommendation of the deletion from the NPL are available to the public in the information repositories.

#### V. Deletion Action

The EPA, with the concurrence of the Commonwealth of Pennsylvania, has determined that all appropriate responses under CERCLA have been completed, and that no further response actions, under CERCLA, other than O&M and five-year reviews, are necessary. 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 of a notice of intent to delete. This action will be effective July 23, 2001 unless EPA receives adverse comments by June 21, 2001 on this document. If adverse comments are received within the 30-day public comment period on this document to delete, EPA will publish a timely withdrawal of this direct final 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 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 Substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: March 8, 2001.

**Thomas C. Voltaggio,**

*Acting Regional Administrator, U.S. EPA Region III.*

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(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p.351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

#### Appendix B—[Amended]

2. Table 1 of Appendix B to Part 300 is amended by removing the site for "Brodhead Creek, Stroudsburg, PA."

[FR Doc. 01–12707 Filed 5–21–01; 8:45 am]

**BILLING CODE 6560–50–P**

#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Part 300

[FRL–6969–7]

#### National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

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

**ACTION:** Direct final deletion of the Salem Acres Superfund Site from the National Priorities List.

**SUMMARY:** EPA—New England is publishing a direct final deletion of the Salem Acres Superfund Site (Site), located in Salem, 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 Appendix B of 40 CFR Part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being published by EPA with the concurrence of the Commonwealth of Massachusetts, through the Department of Environmental Protection (MADEP) because EPA has determined that all appropriate response actions under CERCLA have been completed and, therefore, further remedial action pursuant to CERCLA is not appropriate.

**DATES:** This direct final deletion will be effective July 23, 2001 unless EPA receives adverse comments by June 21, 2001. 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:** Comments may be mailed to Elaine Stanley, Remedial Project Manager, U.S. Environmental Protection Agency—New England, One Congress