

- Are not Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory actions because these actions are either exempted or not significant under Executive Order 12866;

- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);

- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- Do not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed actions do not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will they impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: June 8, 2018.

Onis “Trey” Glenn, III,

Regional Administrator, Region 4.

[FR Doc. 2018–13146 Filed 6–19–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1986–0005; FRL–9979–21–Region 3]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Deletion of the Ordnance Works Disposal Areas Superfund Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; notice of intent.

SUMMARY: The Environmental Protection Agency (EPA), Region 3, is issuing a Notice of Intent to Delete the Ordnance Works Disposal Areas Superfund Site (Site) located in Morgantown, West Virginia, from the National Priorities List (NPL) and requests public comments on this proposed action. For purposes of this action, the Site consists of Operable Unit 1 (OU1), an NPL-listed area of approximately 6 acres. Also for purposes of this action, and unless otherwise noted, the Site does not include Operable Unit 2 (OU2), a non-NPL listed area of approximately eight hundred acres. 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 West Virginia, through the West Virginia Department of Environmental Protection (WVDEP), have determined that all appropriate response actions under CERCLA, other than operation and maintenance, monitoring, and five-year reviews have been completed. However, this deletion does not preclude future actions under Superfund.

DATES: Comments must be received by July 20, 2018.

ADDRESSES: Submit your comments, identified by Docket ID no. EPA–HQ–SFUND–1986–0005, 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://www2.epa.gov/dockets/commenting-epa-dockets>.

- **Email:** Jeffrey Thomas at thomas.jeffrey@epa.gov.

- **Mail:** Jeffrey Thomas (3HS23), Remedial Project Manager, United States Environmental Protection Agency 1650 Arch Street, Philadelphia, PA 19103.

- **Hand delivery:** United States Environmental Protection Agency, 1650 Arch Street, Philadelphia, PA 19103. Such deliveries are only accepted during the Docket’s normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID no. EPA–HQ–SFUND–1986–0005. 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 email. 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 email comment directly to EPA without going through <https://www.regulations.gov>, your email 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 due to 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 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 either electronically in <https://www.regulations.gov> or in hard copy at: U.S. EPA Region 3, Superfund Records Center, 6th Floor, 1650 Arch Street, Philadelphia, PA 19103-2029; (215) 814-3157, Monday through Friday 8:00 a.m. to 5:00 p.m., Morgantown Public Library, 373 Spruce Street, Morgantown, WV 26505; (304) 291-7425, Monday through Saturday 9:00 a.m. to 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Jeffrey Thomas, Remedial Project Manager, U.S. Environmental Protection Agency, Region 3, 3HS23, 1650 Arch Street, Philadelphia, PA 19103, (215) 814-3377, email thomas.jeffrey@epa.gov.

SUPPLEMENTARY INFORMATION:

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- I. Introduction
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I. Introduction

EPA Region 3 announces its intent to delete the Ordnance Works Disposal Areas Superfund Site from the National Priorities List (NPL) and requests public comment on this proposed action. For purposes of this action, the Site consists of Operable Unit 1 (OU1), an NPL-listed area of approximately 6 acres. This action does not include Operable Unit 2 (OU2), a non-NPL listed area of approximately eight hundred acres. Both OU1 and OU2 are located in an industrial/commercial complex formally known as the Morgantown Ordnance Works in Morgantown, West Virginia. Unless otherwise stated, references to the "Site" shall mean OU1 only. 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 40 CFR 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.

EPA will accept comments on the proposal to 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 EPA is using for this action. Section IV discusses the Ordnance Works Disposal Areas Superfund Site and demonstrates how it meets the deletion criteria.

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 before developing this Notice of Intent to Delete;

(2) EPA has provided the State 30 working days for review of this action prior to this publication;

(3) In accordance with the criteria discussed above, EPA has determined that no further response is appropriate;

(4) The State of West Virginia, through the WVDEP, has concurred with deletion of the Site from the NPL;

(5) Concurrently with the publication of this Notice of Intent to Delete in the **Federal Register**, a notice is being published in a major local newspaper, The Dominion Post. The newspaper notice announces the 30-day public comment period concerning the Notice of Intent to Delete the Site from the NPL;

(6) 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.

If comments are received within the 30-day public comment period on this document, EPA will evaluate and respond appropriately to the comments before making a final decision to delete. If necessary, EPA will prepare a Responsiveness Summary to address any significant public comments received. After the public comment period, if EPA determines it is still appropriate to delete the Site, the Regional Administrator will publish a final Notice of 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 in the site information repositories listed above.

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 Intended Site Deletion

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

Site Location and Use History

The Ordnance Works Disposal Areas Superfund Site (EPA Identification Number WVD000850404) consists of a disposal area designated by EPA as OU1 containing approximately 6 acres within a commercial/industrial development known as the Morgantown Ordnance Works outside of Morgantown, West Virginia. See Section I (Introduction) for details regarding OU1 and OU2. Within the geographical limits of OU2 is a third area consisting of two separate parcels currently being studied under the Resource Conservation and Recovery Act (RCRA). OU1 was a disposal location used by entities that operated in the remainder of the Morgantown Ordnance Works complex.

A removal action was conducted at OU2 on hotspots identified in a Remedial Investigation completed in 1995. Cleanup of OU2 occurred pursuant to a 1996 settlement with potentially responsible parties (PRPs) to perform a removal action and was based on exposure scenarios for the current and future anticipated land use. The work was conducted between March 1997 and June 1997. After the removal action was completed, EPA determined, based on the residual risk assessment analysis, that the potential for adverse carcinogenic and non-carcinogenic effects to industrial workers and youth trespassers was negligible and within the limits considered acceptable by EPA. No further response actions at OU2 are anticipated.

The Site is located approximately one mile southwest of the city of Morgantown, West Virginia, near the west bank of the Monongahela River. The population of Monongalia County is approximately 75,509; the city of Morgantown accounts for 25,879 of this total. The majority of the population lives to the northeast and northwest of the Site and obtains drinking water from a public supply. There are several houses within a one-mile radius of the Site that utilize wells in one capacity or another, however they are not located downgradient of the Site.

The Morgantown Ordnance Works, which later became the Morgantown Industrial Park, has been the location of a variety of industrial and chemical production facilities since the 1940's. These activities occurred primarily in OU2 of the Site; OU1 was used as a disposal area for various industrial concerns operating in OU2. Beginning in October 1940, the Morgantown Ordnance Works property was developed as a coke plant and chemical production facility by E.I. DuPont de Nemours and Company under contract

to the United States Government. From 1943–1962, the United States held title to the property. Between 1941 and 1958, various businesses were operated by private parties, in some cases pursuant to government contracts and operating agreements, and in other cases pursuant to commercial leases. During these years, substances such as hexamine, ammonia, methyl alcohol, formaldehyde, ethylene diamine, and coke were produced. The plant was idle from 1958–1962.

In 1962, the property was sold to Morgantown Ordnance Works, Inc. which then leased and/or sold portions of the property to various industrial and chemical manufacturing operations. In 1964 Weston Chemical Company purchased a portion of the property totaling 62 acres that is split between two facilities known as the North and South plants. Weston Chemical Company was purchased by the Borg-Warner Corporation in 1969. General Electric (GE) purchased Borg-Warner Corporation in 1988 and in 2003 the GE North and South plants were purchased by Crompton Corporation. The Crompton Corporation then sold the two plants to Chemtura Corporation which in turn sold the two facilities, in 2013, to Addivant US, LLC, the current owner. The North and South plants are active facilities currently being addressed through a June 1990 RCRA settlement with EPA.

Except for parcels previously sold, which were portions of OU2, the Morgantown Ordnance Works property was acquired by Princess Coals, Inc. in 1978. In 1982, the property was purchased by private individuals who later formed Morgantown Industrial Park, Inc. In 1983, the property was conveyed to Morgantown Industrial Park Associates, which retained ownership of OU1, but then sold all of the other parcels comprising the industrial park property.

Initial Response, NPL Listing, and Study

As a result of the industrial activities that occurred at the Morgantown Ordnance Works facility, hazardous substances were disposed of within a small area in the southern portion of the facility that is OU1 of the Site. OU1 contained an inactive landfill, two lagoons, a former drum staging area, and an area used for the shallow disposal of wastes called the scraped area. Investigation of this disposal area by EPA began in 1981. OU1 was proposed to the NPL on October 15, 1984 (49 FR 40320). On June 10, 1986, OU1 was added to the NPL (51 FR 21054).

Sampling at OU1 of the Site occurred in various phases between 1988 and

1998. Samples were collected, both by EPA as well as by PRPs, from groundwater, surface and subsurface soils, surface water, and sediments. Analyses revealed no connection between disposal activities at OU1 and the groundwater. The surface and subsurface soils, surface water, and sediment at OU1 were all impacted to varying degrees by organic and inorganic contaminants.

Test pits installed in the scraped area during the 1988 Remedial Investigation (RI) revealed cinder-like backfill material, blue and black catalyst pellets, and yellow solid material. Additional Phase II soil borings taken in the scraped area exposed visible tar at depths of up to eight feet and revealed total carcinogenic polycyclic aromatic hydrocarbons (cPAHs) ranging from 94 parts per million (ppm) to 36,000 ppm. Some elevated levels of inorganic contaminants were detected during the RI but were not detected in the scraped area during the 1996 Phase II Interim Design Tasks.

A portion of the lagoon area was excavated in 1981 to address metal plating wastes disposed in two surface impoundments between 1970 and 1976. During this action, miscellaneous wastes including coal tars were observed in the lagoon. Further investigation during the Phase II Interim Design Tasks indicated cPAH concentrations ranging from 3.2 ppm to 30,000 ppm; however, the inorganic contaminants detected during the 1988 RI were not found.

The northern section of OU1 was the location of the abandoned, inactive landfill estimated to have a fill depth of 20 feet at its thickest location. No records exist on quantities or types of material disposed of in the landfill. Eyewitness reports and direct observation reveal that the landfill contained construction debris, slag, ash, and catalyst pellets. Leachate from the landfill drained to the northeast into a wetland. The wetland drained directly to a feature known as "Swale 3," which eventually discharged to the Monongahela River. During pre-design sampling, the sediment layer of both the wetland and upper portion of Swale 3 were determined to have been impacted by heavy metals contamination.

As part of the 1988 Remedial Investigation/Feasibility Study (RI/FS), EPA prepared a Baseline Human Health Risk Assessment (BHHRA) for the Site in order to identify and define possible existing and future human health risks associated with exposure to the contaminants present in the various media at OU1 if no action were taken. The BHHRA was revised in the 1989

Focused Feasibility Study (FFS) report. In both the 1988 original and 1989 revised BHHRA documents, EPA concluded that action was necessary to prevent contact with contaminated soil and sediments found at OU1 of the Site.

A comprehensive Ecological Risk Assessment was not conducted during either the 1988 RI/FS or the 1989 FFS. While drafting the September 29, 1999 Record of Decision (ROD), EPA's Biological Technical Assistance Group reviewed the 1988 RI data and concluded that inorganic contaminants were present in surface water and sediments within OU1 at levels that were acutely toxic to potentially affected ecosystems.

Selected Remedy

In March 1988, EPA issued a Record of Decision (ROD) for OU1 selecting onsite incineration of soils and sediments contaminated with cPAHs and heavy metals. In November 1988, EPA opened an additional 30-day comment period for out-of-state PRPs who had not received notice of the original Proposed Plan. Based on comments received during this period, EPA conducted a focused feasibility study (FFS) in 1989 to re-evaluate the alternatives described in the March 1988 ROD and to conduct a risk-based analysis of cleanup levels. This FFS was completed in June 1989.

On September 29, 1989, EPA issued a ROD that superseded the 1988 ROD. The 1989 ROD selected a remedy and contingency remedy for OU1. The selected remedial action included, among other things, excavation and treatment of inorganic hot spots from the lagoon and scraped areas; disposal of treated inorganic contaminants at the former landfill area; capping the former landfill; and excavation and treatment of organics-contaminated soils and sediments using bioremediation. The contingency remedial action called for treatment of soils and sediments using soil washing technology. In June 1990, EPA issued an administrative order directing several PRPs to implement the September 1989 ROD.

The human health risk assessment conducted in conjunction with the OU1 RI was completed in 1988. This assessment was completed prior to the issuance of a revised cancer potency factor (CPF) established in the Integrated Risk Information System (IRIS) for benzo(a)pyrene (BAP) and the interim comparative potency estimates provided by EPA's Office of Research and Development (ORD) in a guidance document entitled "Provisional Guidance for Quantitative Risk Assessment of Polycyclic Aromatic

Hydrocarbons" (EPA/600/R-93/089 (July 1993)). In 1995, during implementation of remedial design conducted under EPA's June 1990 administrative order, the PRPs recalculated the cleanup standards for cPAHs at OU1 using the new CPF established in IRIS and the interim comparative potency estimates established by ORD. The resulting cleanup standard was less stringent than the cleanup standard identified in the September 1989 ROD. The PRPs submitted a proposal to EPA in July 1995 requesting that the Agency adopt the newly calculated cleanup standard of 78 ppm total cPAHs. EPA evaluated this proposal using a Monte Carlo simulation and determined that this cleanup level would result in risk within the 1×10^{-4} to 1×10^{-6} acceptable risk range established by the NCP. The Monte Carlo risk assessment verified that 78 ppm total cPAHs was an acceptable cleanup standard as long as the associated BAP value did not exceed 18.2 ppm. Achieving a cleanup level of 78 ppm total cPAHs with no more than 18.2 ppm BAP became the cPAH cleanup standard approved by EPA.

The PRPs completed treatability studies for the bioremediation component in March 1997 under EPA's June 1990 administrative order. The PRPs concluded, and EPA agreed, that bioremediation was not capable of meeting the 78 ppm total cPAH cleanup standard within a reasonable time-frame and was not cost-effective. The PRPs and EPA also concluded that the soil washing contingency action described in the September 1989 ROD was similarly deficient. In the Spring of 1997, the PRPs submitted a proposal to EPA to conduct a second FFS to identify a replacement remedial action for OU1. EPA agreed and negotiated a new agreement with the PRPs for this study work in October 1997. The second FFS was completed in 1998.

On September 30, 1999, EPA issued a ROD that superseded the 1989 ROD. The 1999 ROD selected a replacement remedial action for OU1. The selected remedy consisted of off-site thermal treatment of visibly stained stream, lagoon, and scraped area soils/sediments; consolidation of contaminated media into the existing landfill; restoration of streams and wetland areas where sediment was excavated; capping of the existing landfill; long-term monitoring; and institutional controls to protect the cap and prohibit residential development, recreational use, schools, and child care facilities within OU1. Neither the March 1988 ROD nor the September 1989 ROD required action to address groundwater.

There was no evidence that the groundwater had been significantly impacted by disposal operations at OU1 and no unacceptable risks were posed to receptors of the groundwater at OU1. Therefore, the remedy selected in the 1999 ROD also did not include a groundwater remediation component.

Response Actions

The PRPs implemented the remedy selected for OU1 pursuant to an administrative order originally issued in 1989 and modified in 1999 to direct the PRPs to implement the 1999 ROD. The Remedial Design (RD) was conducted in conformance with the approved work plan and 1999 ROD. The Remedial Action (RA) was initiated in August 2000. The target areas were excavated as part of the RA and soils and sediments containing visible coal tar were separated for treatment and utilization as a fuel source for a local power plant. Utilization of the treated coal tar as a fuel source achieved destruction of the contaminants of concern through thermal treatment as well as beneficial reuse of the coal tar to produce electricity. The rest of the excavated material found to be above the ROD cleanup criteria was consolidated into the former landfill which was covered with a multi-layer RCRA Subtitle C cap.

EPA and WVDEP conducted a final inspection of OU1 on September 11, 2003 and determined that the remedy had been constructed in accordance with the Remedial Design plans and specifications and that no further construction was anticipated. EPA and WVDEP reviewed the remedial action contract and construction for compliance with quality assurance and quality control (QA/QC) protocols. Construction activities at the Site were determined to be consistent with the 1999 ROD, Remedial Design plans and specifications, and EPA's June 1990 administrative order.

The PRP's construction contractor adhered to the approved Construction Quality Assurance Plan (CQAP). The CQAP incorporated all EPA and State requirements. All confirmatory inspections, independent testing, audits, and evaluations of materials and workmanship were performed in accordance with the construction drawings, technical specifications, and the CQAP. Construction quality assurance was performed by the United States Army Corps of Engineers, Huntington District, which maintained a constant on-site presence. The EPA Remedial Project Manager and State regulators visited OU1 approximately twice a month during construction activities to review construction

progress and evaluate and review the results of QA/QC activities. Institutional controls to protect the cap, limit land use to industrial/commercial operations, and prohibit use of groundwater were implemented in 2006 with the recording of an Environmental Covenant in the office of the Clerk of the County Commission of Monongalia County, West Virginia, in Deed Book 1327, at Page 557.

Cleanup Levels

The remedy addressed visible tar-like material and contaminated soil and sediment exceeding site-specific cleanup standards. Cleanup standards specified in the 1999 ROD for the surface and subsurface soils in the Lagoon Area and Scraped Area are as follows: Total cPAH 78 ppm, with a BAP value not to exceed 18.2 ppm; arsenic 88.8 ppm; cadmium 642 ppm; copper 41,100 ppm; and lead 500 ppm. Cleanup standards specified in the 1999 ROD for stream and wetlands sediments are as follows: Total cPAH 78 ppm, with a BAP value not to exceed 18.2 ppm; arsenic 9.62 ppm; cadmium 0.35 ppm; chromium 30.2 ppm; copper 22.7 ppm; lead 31.6 ppm; mercury non-detect; and zinc 86.8 ppm. The project team determined that total removal of the existing sediments and replacement with clean fill would be the most the appropriate way to achieve cleanup of the sediments. Removal of the contaminated sediment and replacement with clean fill was completed as part of the Remedial Action.

The Quality Assurance Project Plan (QAPP) incorporated all EPA and State QA/QC procedures and protocols. EPA analytical methods were used for all confirmation and monitoring samples during RA activities. Sampling and analysis during construction and during Operation and Maintenance (O&M) monitoring was performed in accordance with approved Sampling and Analysis Plans. Procedures and protocols followed for soil sample analysis during the RA were conducted in accordance with the Contract Laboratory Program. EPA and the State determined that analytical results are accurate to the degree needed to assure satisfactory completion of the RA.

Operation and Maintenance

Site O&M requirements are contained in the approved O&M Plan dated April 13, 2012. This plan includes inspection of the landfill cover and wetlands and associated drainage systems, and sampling requirements for groundwater and treatment wetland effluent. O&M activities are performed by the PRPs

under the 1990 EPA administrative order.

The treatment wetlands were initially inspected every six months during the first two years following the completion of the RA and continue to be inspected and maintained to ensure flow-through of leachate in the pond system. The integrity of the treatment ponds system has been monitored and has not required modification to date.

The replacement wetlands, located adjacent to the Monongahela River, are inspected annually as part of the landfill cap inspection. Beginning in 2008, the PRPs undertook efforts to eradicate invasive plant species from the replacement wetlands at the request of EPA and WVDEP. Recent inspections of the replacement wetlands have verified that the wetlands have developed into a high quality mosaic of forested, shrub-scrub, and emergent wetlands habitats. Invasive plants are present, but at low density as a result of the control measures implemented after construction. The presence of numerous wetland terrestrial, aquatic, and avian species was noted through visual and auditory observation.

Landfill cap inspections currently occur on a semi-annual basis. The cap has remained in good condition and has required only minor revegetation in small areas affected by erosion. No cracking or movement of surficial soils has occurred on the top of the cap slope. Storm water conveyance channels remain in good condition and no obvious signs of ponding water have been found. Overall the vegetative cover remains robust and well established and the drainage system operates as designed.

Five-Year Reviews

Five-Year Reviews were conducted at the Site in 2006, 2011, and 2016. In the Five-Year Review report issued on September 12, 2016, EPA concluded that the remedial action objectives for the remedy had been achieved. EPA found that the remedy is protective of human health and the environment, that the remedy was implemented in accordance with the remedial action objectives of the 1999 ROD, and that the remedy was functioning as intended. The landfill has not been found to be a significant source of contamination to the groundwater in the area and the contaminants of concern identified in the 1999 ROD have not been detected in groundwater samples during the review period. The multi-layer RCRA landfill cap was determined to be effective in containing hazardous waste materials, the treatment wetland ponds appeared to be functioning as intended, and

access restrictions were found to be functional. Institutional controls are in place to prohibit disturbing the landfill cap, use of groundwater, and non-commercial use of any kind within OU1. O&M including annual inspections, leachate monitoring, and treatment wetland monitoring are performed by the PRPs pursuant to the 2012 approved O&M Plan. There were no issues or recommendations identified in the 2016 report. The next review for OU1 is required by September 2021.

Community Involvement

Throughout the Site's history, EPA has kept the community and other interested parties apprised of Site activities through fact sheets, press releases, and public meetings. Public participation activities have been performed in accordance with Sections 113(k) and 117 of CERCLA. Documents in the deletion docket upon which EPA relied for recommending deletion of OU1 from the NPL are available to the public in the information repositories. EPA notified local officials in advance about Five-Year Reviews and placed notices in The Dominion Post to inform the public that the Five-Year Reviews were being conducted and when the findings of each would be available.

Determination That the Criteria for Deletion Have Been Met

The implemented remedy achieves the degree of cleanup and protection specified in the 1999 ROD and meets EPA's acceptable risk for all exposure pathways. The remedial action at OU1 has been completed in accordance with the 1999 ROD, institutional controls are in place, and O&M is being conducted in accordance with the approved O&M Plan. All remedial action objectives, performance standards, and cleanup goals established in the 1999 ROD have been achieved and the remedy is protective of human health and the environment in both the short- and long-term. No further Superfund response, other than O&M, monitoring, and Five-Year Reviews, is necessary to continue to protect human health and the environment. All of the selected remedial actions and the remedial action objectives and associated cleanup goals are consistent with CERCLA, the NCP, and EPA policy and guidance.

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.

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.

Dated: May 30, 2018.

Cosmo Servidio,

Regional Administrator, U.S. Environmental Protection Agency Region 3.

[FR Doc. 2018–12709 Filed 6–19–18; 8:45 am]

BILLING CODE 6560–50–P

COUNCIL ON ENVIRONMENTAL QUALITY

40 CFR Parts 1500, 1501, 1502, 1503, 1504, 1505, 1506, 1507, and 1508

[Docket No. CEQ–2018–0001]

RIN: 0331–AA03

Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act

AGENCY: Council on Environmental Quality (CEQ).

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Council on Environmental Quality (CEQ) is considering updating its implementing regulations for the procedural provisions of the National Environmental Policy Act (NEPA). Over the past four decades, CEQ has issued numerous guidance documents but has amended its regulations substantively only once. Given the length of time since its NEPA implementing regulations were issued, CEQ solicits public comment on potential revisions to update the regulations and ensure a more efficient, timely, and effective NEPA process consistent with the national environmental policy stated in NEPA.

DATES: Comments should be submitted on or before July 20, 2018.

ADDRESSES: Submit your comments, identified by docket identification (ID) number CEQ–2018–0001 through the Federal eRulemaking portal at <https://www.regulations.gov>. Follow the online instructions for submitting comments.

FOR FURTHER INFORMATION CONTACT: Edward A. Boling, Associate Director for the National Environmental Policy Act, Council on Environmental Quality, 730 Jackson Place NW, Washington, DC 20503. Telephone: (202) 395–5750.

SUPPLEMENTARY INFORMATION:

I. Background

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, was enacted in 1970. NEPA states that “it is the continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.” 42 U.S.C. 4331(a). NEPA also established CEQ as an agency within the Executive Office of the President. 42 U.S.C. 4342.

By Executive Order (E.O.) 11514, “Protection and Enhancement of Environmental Quality” (March 5, 1970), President Nixon directed CEQ in Section 3(h) to issue “guidelines to Federal agencies for the preparation of detailed statements on proposals for legislation and other Federal actions affecting the environment, as required by section 102(2)(C) of the Act.” CEQ published these guidelines in April of 1970 and revised them in 1973.

President Carter issued E.O. 11991 (May 24, 1977), “Relating to Protection and Enhancement of Environmental Quality,” which amended Section 3(h) of E.O. 11514 to direct CEQ to issue regulations providing uniform standards for the implementation of NEPA, and amended Section 2 of E.O. 11514 to require agency compliance with the CEQ regulations. CEQ promulgated its “Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act” (CEQ’s NEPA regulations) at 40 CFR parts 1500–1508. 43 FR 55978 (November 29, 1978). Since that time, CEQ has amended its NEPA regulations substantively only once, to eliminate the “worst case” analysis requirement of 40 CFR 1502.22. 51 FR 15618 (April 25, 1986).

On August 15, 2017, President Trump issued E.O. 13807, “Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects.” 82 FR 40463 (August 24, 2017). Section 5(e) of E.O. 13807 directed CEQ to develop an initial list of actions to enhance and modernize the Federal environmental review and authorization process. In response, CEQ published its initial list of actions pursuant to E.O. 13807 and stated that it intends to

review its existing NEPA regulations in order to identify changes needed to update and clarify these regulations. 82 FR 43226 (September 14, 2017).

II. Request for Comment

CEQ requests comments on potential revisions to update and clarify CEQ NEPA regulations. In particular, CEQ requests comments on the following specific aspects of these regulations, and requests that commenters include question numbers when providing responses. Where possible, please provide specific recommendations on additions, deletions, and modifications to the text of CEQ’s NEPA regulations and their justifications.

NEPA Process

1. Should CEQ’s NEPA regulations be revised to ensure that environmental reviews and authorization decisions involving multiple agencies are conducted in a manner that is concurrent, synchronized, timely, and efficient, and if so, how?

2. Should CEQ’s NEPA regulations be revised to make the NEPA process more efficient by better facilitating agency use of environmental studies, analysis, and decisions conducted in earlier Federal, State, tribal or local environmental reviews or authorization decisions, and if so, how?

3. Should CEQ’s NEPA regulations be revised to ensure optimal interagency coordination of environmental reviews and authorization decisions, and if so, how?

Scope of NEPA Review

4. Should the provisions in CEQ’s NEPA regulations that relate to the format and page length of NEPA documents and time limits for completion be revised, and if so, how?

5. Should CEQ’s NEPA regulations be revised to provide greater clarity to ensure NEPA documents better focus on significant issues that are relevant and useful to decisionmakers and the public, and if so, how?

6. Should the provisions in CEQ’s NEPA regulations relating to public involvement be revised to be more inclusive and efficient, and if so, how?

7. Should definitions of any key NEPA terms in CEQ’s NEPA regulations, such as those listed below, be revised, and if so, how?

- a. Major Federal Action;
- b. Effects;
- c. Cumulative Impact;
- d. Significantly;
- e. Scope; and
- f. Other NEPA terms.

8. Should any new definitions of key NEPA terms, such as those noted below, be added, and if so, which terms?