

Dated: August 9, 2012.

Judith A. Enck,

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(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.

■ 2. Table 1 of Appendix B to part 300 is amended by removing “Hooker (Hyde Park)”, “Niagara Falls ” under NY.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–2005–0011; FRL 9717–3]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Deletion of the W.R. Grace & Co., Inc./Wayne Interim Storage (USDOE) Superfund Site

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) Region II is publishing a direct final Notice of Deletion of the W.R. Grace & Co., Inc./Wayne Interim Storage (USDOE) Superfund Site (the Site), located at 868 Black Oak Ridge Road, Wayne Township, NJ 07470, from the National Priorities List (NPL). The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being published by EPA with the concurrence of the State of New Jersey, through the Department of Environmental Protection, because EPA has determined that all appropriate response actions under CERCLA, have been completed. However, this deletion does not preclude future actions under Superfund.

DATES: This direct final deletion is effective on September 30, 2012, unless EPA receives adverse comments by September 19, 2012. If adverse

comments are received, EPA will publish a timely withdrawal of the direct final deletion in the **Federal Register** informing the public that the deletion will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID no. EPA–HQ–SFUND–2005–0011, by one of the following methods:

- <http://www.regulations.gov>. Follow on-line instructions for submitting comments.
- **Email:** ingrisano.paul@epa.gov.
- **Fax:** 212–637–3256.
- **Mail:** Paul G. Ingrisano, Project Manager, Federal Facilities Section, Emergency & Remedial Response Division, U.S. EPA, Region II, 290 Broadway, 18th floor, New York, NY 10007–1866.
- **Hand Delivery:** U.S. EPA Superfund Records Center, Region II, 290 Broadway, 18th floor, New York, NY 10007–1866. 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–2005–0011. EPA’s policy is that all comments received will be included in the public docket without change and may be made available online at <http://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 <http://www.regulations.gov> or email. The <http://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 email comment directly to EPA without going through <http://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 <http://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 <http://www.regulations.gov> or in hard copy at:

U.S. EPA Superfund Records Center, Region II, 290 Broadway, 18th floor, New York, NY 10007–1866. Business hours: 9 a.m. to 5 p.m., Monday through Friday. Phone 212–637–4308. Wayne Public Library, 461 Valley Road, Wayne, NJ 07470. Business hours: 9 a.m. to 9 p.m., Monday through Thursday; 9 a.m. to 5:30 p.m., Friday; 10 a.m. to 5 p.m., Saturday; closed Sunday, June through August; 1 p.m. to 5 p.m., September through May. Phone 973–694–4272.

FOR FURTHER INFORMATION CONTACT: Paul G. Ingrisano, Project Manager, U.S. EPA, Region II, 18th Floor, 290 Broadway, New York, NY 10007–1866, 212–637–4337, email: ingrisano.paul@epa.gov.

SUPPLEMENTARY INFORMATION:

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I. Introduction

EPA Region II is publishing this direct final Notice of Deletion of the 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 sites that appear to present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). As described in 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for Fund-financed remedial actions if future conditions warrant such actions.

Because EPA considers this action to be noncontroversial and routine, this action will be effective on September 30, 2012, unless EPA receives adverse comments by September 19, 2012. Along with this direct final Notice of Deletion, EPA is co-publishing a Notice of Intent To Delete in the “Proposed Rules” section of the **Federal Register**. If adverse comments are received within the 30-day public comment period on this deletion 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, 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 Site and demonstrates how it meets the deletion criteria. Section V discusses EPA's action to delete the Site from the NPL unless adverse comments are received during the public comment period.

II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making such a determination pursuant to 40 CFR 300.425(e), EPA will consider, in consultation with the state, whether any of the following criteria have been met:

- i. Responsible parties or other persons have implemented all appropriate response actions required;
- ii. All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or
- iii. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

III. Deletion Procedures

The following procedures apply to deletion of the Site:

(1) EPA consulted with the State of New Jersey prior to developing this direct final Notice of Deletion and the Notice of Intent to Delete co-published today in the "Proposed Rules" section of the **Federal Register**.

(2) EPA has provided the State 30 working days for review of this notice and the parallel Notice of Intent to Delete prior to their publication today, and the state, through the Department of Environmental Protection, 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 North Jersey Herald & News. The newspaper notice announces the 30-day public comment period concerning the Notice of Intent to Delete the Site from the NPL.

(4) The EPA placed copies of documents supporting the proposed deletion in the deletion docket and made these items available for public inspection and copying at the Site information repositories identified above.

(5) If adverse comments are received within the 30-day public comment period on this deletion action, EPA will publish a timely notice of withdrawal of this direct final Notice of Deletion before its effective date and will prepare a response to comments and continue with the deletion process on the basis of the Notice of Intent to Delete and the comments already received.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

IV. Basis for Site Deletion

The following information provides EPA's rationale for deleting the W.R. Grace & Co., Inc./Wayne Interim Storage (USDOE) Superfund Site (the Site) from the NPL:

Site Background and History

The Site is approximately 6.5 acres located at 868 Black Oak Ridge Road at the intersection with Pompton Plains Cross Road in Wayne Township, Passaic County, New Jersey. The Vicinity Properties (VPs) are commercial and residential areas, and a Township Park, all located within one-half mile to the west and west-southwest of the Site which were affected by contaminant migration from the Site along Sheffield Brook, which flows downstream to the Pompton River. The Site is in a highly developed area of northern New Jersey, approximately 20 miles north-northwest of Newark, New Jersey. The Site CERCLIS ID Number is NJ1891837980.

From 1948 through 1957, Rare Earths, Inc. processed monazite sand at the Site to extract thorium and rare earth metals. The Davison Chemical Division of W.R. Grace acquired the Site in 1957 and processing activities continued until July 1971. After processing ceased in

1971, the facility was licensed by the Atomic Energy Commission (AEC) for storage only. In 1974, W.R. Grace partially decontaminated the Site. Some buildings were razed and the rubble and processing equipment were buried on the property.

In 1974, the Nuclear Regulatory Commission (NRC) assumed licensing responsibilities formerly held by the AEC. In 1975, the storage license for radioactive materials was terminated by the NRC following Site decommissioning and the Site was released without radiological restriction; the only stipulation was that the property deed state that radioactive materials were buried on the property.

In 1981, as part of the review of formerly licensed facilities, the NRC measured direct radiation levels and radionuclide concentrations in soil on the Site. Elevated survey measurements were noted, indicating the Site was contaminated with radium (Ra)-226, thorium (Th)-232, and uranium (U)-238, and associated daughter products. The chemical contaminants of concern (COC) are antimony, arsenic, chromium, lead, mercury, molybdenum, and thallium.

In July 1983, the U.S. Department of Energy (USDOE) was authorized by the Energy and Water Development Appropriations Act of 1984 to conduct a decontamination research and development project at the Site. From 1984 to October 1997, the USDOE managed the Site under the Formerly Utilized Sites Remedial Action Program (FUSRAP). The Site was proposed to the NPL on September 8, 1983, (48 FR 40674). The Site was included on the NPL on September 21, 1984 (49 FR 37070). In September 1985, ownership of the Site transferred from W.R. Grace & Co. to the U.S. Government.

In July 1990, the USDOE signed a Federal Facility Agreement (FFA) that established cleanup responsibilities under CERCLA. The FFA was signed by the EPA in September 1990.

In October 1997, Congress transferred administration and execution of the FUSRAP program from the USDOE to the U.S. Army Corps of Engineers (USACE) in the Energy and Water Development Appropriations Act of 1998. In March 1998, the original USDOE/EPA Site FFA was renegotiated between EPA and the USACE.

Between 1985 and 1987, the USDOE conducted removal actions to remove contaminated material from some of the off-site VP locations in the vicinity of the Site. The adjacent VPs had received contaminants during historical W.R. Grace processing operations, which required remediation. Excavated soils

and debris were stored at the Site where the historic thorium processing operations occurred because no disposal facilities were available which were licensed or permitted to accept radiological wastes at the time. These actions were outlined in the *Action Description Memorandum, Proposed FY 1984 Remedial Actions at Wayne, New Jersey* (1984).

During 1993, removal actions at the remaining Site VPs were conducted under the *Engineering Evaluation/Cost Analysis (EE/CA) for the Proposed Removal of Contaminated Materials from Vicinity Properties at the Wayne Site* (1993). The majority of the waste from the 1993 cleanup actions was shipped directly to a commercial disposal facility. A small amount of contaminated soil from the 1993 cleanup actions was added to the interim storage pile at the Site due to off-site waste disposal constraints in effect at the time.

For the VPs surrounding the Site, the USDOE implemented residual contamination guidelines governing the release of formerly contaminated property for unrestricted use. The *DOE Guidelines for Residual Radioactivity at FUSRAP and Remote SPMP Sites* (1985), provided the following guidelines:

- External gamma radiation levels on a site released for unrestricted use to not exceed 20 microRems/hour above the ground surface;
- Maximum permissible concentration of Ra-226 and Th-232 in soil above background levels averaged over 100 cubic meters; 5 picoCuries/gram (pCi/g) averaged over the first 15 centimeters (cm) of soil at the surface; 15 pCi/g when averaged over 15-cm thick soil layers more than 15 cm below the surface (i.e., for sub-surface soils at depths greater than 15 cm); and,
- Maximum permissible concentration of U-238 in soil; 150 pCi/g above background.

The guidelines were derived using conservative assumptions protective of human health and the environment. The USDOE applied the surface and subsurface soil criteria when evaluating the effectiveness of the removal actions. The USDOE implemented the guidelines on the basis of compatibility with the criteria used for the same purpose by the EPA. No further removal was conducted when sampling data demonstrated that the residual contamination guidelines for soil were met for that property.

The USDOE revised the guidelines in the early 1990's by the application of the As Low As Reasonably Achievable (ALARA) principle. In applying the

principle of reducing exposure to levels ALARA, the USDOE established cleanup goals for properties of 5 pCi/g, regardless of depth of contamination. These guidelines applied to Th-232 and Ra-226 concentrations; however, they were not applicable to naturally occurring background radioactivity in soils near the Site.

In 1997, when disposal facilities which were licensed or permitted to accept radiological wastes came online, the approximately 38,500-cubic yard interim storage pile was removed by the USDOE and shipped off-site for disposal.

Approximately 41,500 cubic yards of buried contaminated materials within the footprint of the former interim storage pile were removed and shipped off-site for disposal by the USACE under a separate CERCLA removal action that began in 1998. This action is documented in the *Engineering Evaluation/Cost Analysis for the Removal of Subsurface Materials at the Wayne Site* (1998).

Remedial Investigation and Feasibility Study

The Site was addressed through a Remedial Investigation/Feasibility Study (RI/FS) process which evaluated the conditions at the Site, the need for remedial action, and the possible cleanup alternatives. In late 1989, the USDOE began an intensive study of the remaining contamination at and around the Site. The field work was completed in December 1991. Historical data and the results documented in the RI Report (1993) delineated the nature and extent for contamination. The Baseline Risk Assessment (BRA) evaluated potential health and ecological risks if no remedial action was taken at the Site. The BRA determined that remedial action was warranted because of the potential for cancer risks above the upper risk threshold of 10^{-4} identified by EPA as protective to occur if existing institutional controls are not maintained in the future. The main exposure pathway of concern was direct contact with radiologically contaminated soils remaining at the Site.

The FS Report (1999) evaluated the alternatives for remedial action at the Site. The evaluation of a range of remedial actions for the Site was based upon the risk assessment presented in the FS. The overall strategy was to address the radioactively contaminated wastes which had been disposed at the Site. The FS evaluated technologies that were appropriate for the media of concern, developed and screened alternatives capable of addressing the contaminated media, and evaluated in

detail a subset of the developed alternatives using evaluation criteria specified under CERCLA.

Selected Remedy

In May 2000, the EPA and the USACE issued a Record of Decision (ROD) identifying the selected remedy to address the remaining radioactive wastes, chemical waste, operations building demolition, and groundwater at the Site. The Remedial Action Objectives specified in the ROD were:

- To eliminate or minimize the potential for humans to ingest, come into dermal contact with, or inhale particulates of radioactive constituents, or to be exposed to external gamma radiation to achieve the level of protection required by the NCP (10^{-4} to 10^{-6} risk range) and meet the substantive requirements of 10 CFR part 20, subpart E.
- To reduce chemical COC levels in impacted media to levels that would be protective based on site-specific risk and groundwater impact evaluations.
- To return impacted groundwater to conditions consistent with groundwater applicable or relevant and appropriate requirements (ARARs).
- To protect the integrity of the clay layer in order to ensure protection of the lower groundwater aquifer.
- To reduce potential exposure to radium and thorium in soil to levels that would be protective for the intended land use as established by site-specific risk analysis.
- To reduce exposure to uranium to levels that would be protective for the intended land use.
- To eliminate or minimize toxicity, mobility, and/or volume of impacted soils.
- To eliminate or minimize the potential migration of contaminants into stream and storm drain sediments by surface water runoff, or by infiltration or percolation that would result in contamination of the groundwater.
- To comply with chemical and action-specific ARARs.
- To prevent exposures from radioactivity in buildings and structures greater than the guideline limits.
- To access and address the contaminated soils beneath the building.
- To eliminate or minimize potential exposure to external gamma radiation.
- To eliminate or minimize toxicity or mobility, and/or volume of contaminants.

The major components of the selected remedy and remedial actions performed at the Site are summarized below:

- Excavation and disposal of the remaining contaminated subsurface

materials to an average concentration of 5 pCi/g of Ra-226 and Th-232 combined, above naturally occurring background concentrations at the Site, and an average concentration of 100 pCi/g of total uranium above naturally occurring background, as determined by surveys consistent with the *Multi-Agency Radiation Survey and Site Investigation Manual* (MARSSIM) (2000).

- Excavation and disposal of chemically contaminated soils above levels calculated to be protective of groundwater or above levels protective for unrestricted uses of the property (with regard to chemicals of concern) as specified in the ROD.
- Decontamination and demolition of the site operations building on the Site, removal and off-site disposal of demolition debris, and removal and off-site disposal of contaminated materials under this building.
- Removal and treatment of groundwater encountered during excavation to meet the pretreatment discharge standards of the receiving Publicly Owned Treatment Works prior to release.
- Implementation of a five-year groundwater monitoring program to establish groundwater quality after contaminated soil has been removed.
- Maintenance of the integrity of the subsurface clay layer that acts as a hydraulic barrier protecting the lower aquifer at the Site.
- Site restoration activities that will allow for beneficial unrestricted use in the future.

Remedial Actions

Wayne Interim Storage Site (The Site)

Under the May 2000 ROD, an additional 55,410 cubic yards of contaminated material and building debris were excavated and disposed of at an off-site licensed disposal facility. The elements of the remedial construction activities and construction quality assurance and quality control (QC) are detailed in the *Post Remedial Action Report Wayne Interim Storage Site (PRAR)* (2004). The USACE managed and supervised all construction activities to ensure compliance with the remedial design, work plans, and construction specifications. The EPA provided oversight of the cleanup actions.

Vicinity Properties

Following the remedial actions at the Site, the USACE reviewed the cleanup actions previously taken by the USDOE at the VPs. The review consisted of comparing the USDOE radiological screening and sampling data from the

VPs and the unrestricted use criteria applied by the USDOE to the cleanup values established in the ROD, and as appropriate, the State of New Jersey Administrative Code.

A Technical Memorandum documented the evaluation of the VPs and specifically identified and listed each property previously remediated by the USDOE. On the basis of this paper review, the USACE conducted additional subsurface soil sampling at four VPs in May and June 2003. Following the review and sampling, the USACE determined that prior USDOE actions were sufficient to meet the ROD cleanup criteria at all VPs, with the exception of the Wayne Township (Sheffield) Park and a small right-of-way (ROW) area adjacent to the Pompton Plains Cross Road.

The USACE conducted additional excavation and off-site disposal of contaminated residual soils in July and August 2003 at the Wayne Township (Sheffield) Park and the road ROW property consistent with the cleanup levels documented in the ROD. These actions were documented in an *Explanation of Significant Differences (ESD)* (2003). Final Status Surveys performed in compliance with MARSSIM demonstrated that ROD cleanup levels were achieved for radiological and chemical constituents of concern. Approximately 2,300 cubic yards of additional soil were excavated from these two VPs.

The elements of the remedial construction activities including construction QC requirements, the USACE inspections, post-excavation final status surveys, and final as-built drawings, are described in the *Post Remedial Action Report Wayne Interim Storage Site Vicinity Properties Wayne Township (Sheffield) Park* (2008) and *Post Remedial Action Report Wayne Interim Storage Site Vicinity Properties Pompton Plains Crossroad Right-of-Way Property* (2008). The USACE managed and supervised all construction activities at the VPs to ensure compliance with the remedial action work plans and construction specifications. The EPA provided oversight of the cleanup actions.

Transfer of the real property at 868 Black Oak Ridge Road, Wayne Township, New Jersey from the U.S. Government to the Township of Wayne was completed in 2006.

Inaccessible Soils

After the remediation of the Site, documented in the PRAR, it became necessary to examine the then-current status of a section of Black Oak Ridge Road and Pompton Plains Cross Road

that is adjacent to the Site. In August 2004, a characterization survey of this roadway was performed and the results showed areas of subsurface contamination remained along certain roadway and utility features. These findings were also documented in the EPA Five-Year Review, indicating that this area would need to be addressed in the future.

The previously inaccessible soils in this area were made accessible and addressed in 2009 and 2010. During the 2009 remediation at the Black Oak Ridge Road, a total of 13 intermodal containers were filled with 475,000 pounds (237 tons) of contaminated soil and disposed of at U.S. Ecology in Grandview, Idaho (USEI). During the 2010 remediation, 43 containment sacks containing 447,550 pounds (224 tons) of contaminated soil, pipe, and debris were disposed of at USEI.

For radiologically-contaminated soil below the Black Oak Ridge Road roadway, the selected remedy in the ROD, complete excavation and off-site disposal, was applied. All regions of contamination in previously inaccessible soils under the Black Oak Ridge Road have been completely remediated. The analytical data presented in the *Construction Close-Out Report for Roadways and Inaccessible Soils* (2011) demonstrate compliance with the unrestricted use cleanup criteria as set forth in the ROD.

Groundwater Monitoring

A Long-Term Groundwater Monitoring Program was implemented to monitor groundwater quality at the Site within the unconfined and confined aquifers for a period of five years from the conclusion of remedial activities. Criteria in the ROD were used to evaluate radioactive and chemical constituent results. A total of 21 wells were monitored from 2002 until 2006 in accordance with the *Wayne Interim Storage Site Long-Term Groundwater Monitoring Plan Addendum for USACE In-House Sampling* (2003).

Over the course of the five-year monitoring period, a few results did exceed ROD and other criteria, but did not impact the conclusion that all groundwater criteria in the ROD had been met. Arsenic was detected in one well in excess of the ROD criteria, but did not exceed the EPA maximum contaminant level. This well was in a confined aquifer located up-gradient of all former disposal areas and was considered representative of background conditions. Chromium was detected above the ROD criteria in one monitoring well during the May 2006 sampling event. The elevated result was

found in a well that was in a confined aquifer located up-gradient of all former disposal areas. The well was considered to be representative of background conditions. The source of the elevated reading was attributed to chromium leaching into the well water column from the stainless steel well casing and screen. Previously, an on-site stainless steel well demonstrated similar elevated chromium results and was replaced by a polyvinyl chloride (PVC) well. The PVC-cased well demonstrated true groundwater chromium much less than the ROD criteria.

Following the March 2006 sampling event, the USACE determined that all monitoring requirements set forth in the ROD had been met. The Five-Year Review Report completed by EPA in September 2008 stated that the groundwater monitoring program requirements, as established in the ROD, had been met. The 21 monitoring wells were abandoned in September 2011 in accordance with New Jersey Department of Environmental Protection (NJDEP) regulations, specifically *Well Construction and Maintenance; Sealing of Abandoned Wells*, N.J.A.C. 7:9D.

Cleanup Goals

The cleanup levels for contaminated soils and groundwater at the Site and VPs are listed in Table 1, of the *Final Close-Out Report for the W.R. Grace and Co./Wayne Interim Storage Site* (2012). Attainment of these levels will allow for unrestricted use and unlimited exposure of the properties, as demonstrated in the risk assessment.

Post remedial action sampling was conducted following excavation at the Site property and VPs including the Wayne Township (Sheffield) Park, a small ROW area adjacent to the Pompton Plains Cross Road, and a section of Black Oak Ridge Road. Access was obtained to all properties and soil was excavated. Post excavation sampling indicated all cleanup levels for these soils had been met.

After five years of groundwater monitoring, the USACE determined that all monitoring requirements set forth in the ROD had been met. This was stated in the 2008 Five-Year Review Report.

Operation and Maintenance

No ongoing monitoring or maintenance is required by the U.S. Government at the Site. The remediation of previously inaccessible soils in 2009 and 2010 allowed for the Site to be closed with no land use controls to monitor.

Five-Year Review

The EPA published a Five-Year Review Report for the Site in September 2008. The assessment of this five-year review was that the selected remedy was functioning as intended by the decision documents and was protective of human health and the environment in the short-term.

The *Issues, Recommendations, and Follow-Up Actions and Protectiveness Statement* of the Five-Year Review Report both state that “the implemented remedy has left all groundwater and soils suitable for use without restriction, except for two suspected sub-soil areas which are currently not accessible.” The areas in question were located beneath a roadway to which the USACE could not gain access for characterization and remediation. The Five-Year Review Report went on to explain that there were no current risks for either groundwater or soils and none were expected, as long as access controls for the inaccessible areas were maintained, resulting in the likely need for a deed restriction on the areas. However, funds made available through the American Reinvestment and Recovery Act of 2009 allowed the USACE to work with Passaic County and remediate the areas consistent with the selected remedy in the ROD and ESD. This remediation is documented in the *Construction Close-Out Report for Roadways and Inaccessible Soils* (2011).

The remediation of previously inaccessible soils under the roadway allowed for the Site to be released for unrestricted use with no need for further Five-Year Reviews.

Community Involvement

Public participation activities for this Site have been satisfied as required in CERCLA sections 113(k) and 117, 42 U.S.C. 9613(k) and 9617. Throughout the removal and remedial process, EPA and the NJDEP have kept the public informed of the activities being conducted at the Site by way of public meetings, progress fact sheets, and the announcement through local newspaper advertisements on the availability of documents such as the RI/FS, Risk Assessment, ROD, Proposed Plan and the Five-Year Review Report.

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

The Site meets all site completion requirements as specified in the OSWER Directive 9320.2-22, *Close-Out Procedures for National Priorities List Sites*. All remedial activities at the Site are complete and the implemented remedy achieves the degree of cleanup

specified in the ROD and ESD, for all pathways of exposure. Therefore, EPA has determined that no further response action is necessary at the Site to protect human health and the environment.

V. Deletion Action

The EPA, with concurrence of the State of New Jersey, through the Department of Environmental Protection, dated on June 22, 2012, has determined that all appropriate response actions under CERCLA have been completed. Therefore, EPA is deleting the Site from the NPL.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication. This action will be effective on September 30, 2012, unless EPA receives adverse comments by September 19, 2012. If adverse comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final notice of deletion before the effective date of the deletion, and it will not take effect. EPA will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

List of Subjects in 40 CFR Part 300

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

Dated: August 2, 2012.

Judith A. Enck,

Regional Administrator, Region II.

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:

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- 2. Table 2 of Appendix B to Part 300 is amended by removing “W. R. Grace & Co., Inc./Wayne Interim Storage (USDOE)”, “Wayne Township” under NJ.

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