

Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 4, 2011.

**Judith A. Enck,**

*Regional Administrator, Region 2.*

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

## **PART 52—[AMENDED]**

■ 1. The authority citation for part 52 continues to read as follows:

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

### **Subpart HH—New York**

■ 2. Section 52.1670 is amended by adding an entry to end of table in paragraph (e) to read as follows:

## **§ 52.1670 Identification of plan.**

\* \* \* \* \*

(e) \* \* \*

Action/SIP element	Applicable geographic or nonattainment area	New York submittal date	EPA approval date	Explanation
* * *	* * *	* * *	* * *	* * *
2002 base year emissions inventory; 2008 projection year emissions inventories; 2008 motor vehicle emissions budgets used for planning purposes; 2008 ozone reasonable further progress (RFP) plan; and 2008 RFP Plan contingency measures.	New York portion of the New York-Northern New Jersey-Long Island 8-hour ozone non-attainment area.	2/8/2008 supplemented on 12/28/2009 and 1/26/2011	August 18, 2011.	
2002 base year emissions inventory.	Poughkeepsie 8-hour ozone moderate nonattainment area.	2/8/2008 supplemented on 12/28/2009 and 1/26/2011	August 18, 2011.	
2002 base year emissions inventory.	State-wide .....	2/8/2008 supplemented on 12/28/2009 and 1/26/2011	August 18, 2011.	

■ 3. Section 52.1683 is amended by adding paragraph (l) to read as follows:

### **§ 52.1683 Control Strategy: Ozone.**

\* \* \* \* \*

(l)(1) The following State Implementation Plan (SIP) elements are approved: The 2002 base year emissions inventory, the 2008 projection year emissions inventories, the 2008 motor vehicle emissions budgets used for planning purposes, the 2008 ozone reasonable further progress (RFP) plan, and the 2008 RFP Plan contingency measures as they apply to the New York portion of the New York-Northern New Jersey-Long Island, NY-NJ-CT 8-hour ozone moderate nonattainment area. These elements are included in the package entitled “New York SIP for Ozone-Attainment Demonstration for New York Metro Area,” dated February 8, 2008 and supplemented on December 28, 2009 and January 26, 2011.

(2) The following SIP elements are approved: The 2002 base year emissions inventory for the Poughkeepsie 8-hour ozone moderate nonattainment area and the state-wide 2002 base year emissions inventory. These elements are included in a package entitled, “New York SIP for Ozone-Attainment Demonstration for Poughkeepsie, NY Area,” dated February 8, 2008 and supplemented on

December 28, 2009 and January 26, 2011.

[FR Doc. 2011–21097 Filed 8–17–11; 8:45 am]

**BILLING CODE 6560–50–P**

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 300**

**[EPA–HQ–SFUND–1983–0002; FRL–9452–3]**

### **National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Deletion of the Barceloneta Landfill 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 Barceloneta Landfill Superfund Site (Site), located in Florida Afuera, Puerto Rico, 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 Commonwealth of Puerto Rico, through the Puerto Rico Environmental Quality Board, because EPA has determined that all appropriate response actions under CERCLA, other than operation, maintenance, and five-year reviews, have been completed. However, this deletion does not preclude future actions under Superfund.

**DATES:** This direct final deletion is effective October 3, 2011 unless EPA receives adverse comments by September 19, 2011. 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–1983–0002, by one of the following methods:

- *http://www.regulations.gov.* Follow on-line instructions for submitting comments.

- *E-mail:* Luis E. Santos, Remedial Project Manager, *santos.luis@epa.gov.*

- *Fax:* 787–289–7104.

- *Mail:* Luis E. Santos, Remedial Project Manager, U.S. Environmental Protection Agency, Region II, Caribbean Protection Division, Centro Europa Building, Suite 417, Ponce de León

Ave., Stop 22, San Juan, Puerto Rico 00907-4127.

• **Hand delivery:** U.S. Environmental Protection Agency, Region II, Caribbean Protection Division, Centro Europa Building, Suite 417, Ponce de León Ave., Stop 22, San Juan, Puerto Rico 00907-4127. 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-1983-0002. 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 e-mail. 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 e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment 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. Environmental Protection Agency, Region II, Superfund Records Center,

290 Broadway, 18th Floor, New York, NY 10007-1866, *Phone:* 212-637-4308, *Hours:* Monday to Friday from 9 a.m. to 5 p.m.

Or

U.S. Environmental Protection Agency, Region II, Caribbean Environmental Protection Division, Centro Europa Building, Suite 417, 1492, Ponce de León Ave., Stop 22, San Juan, Puerto Rico 00907-4127, *Phone:* (787) 977-5802, *Hours:* 8:30 a.m. to 4:30 p.m.—Monday through Friday (excluding holidays), *Contact:* Luis E. Santos.

**FOR FURTHER INFORMATION CONTACT:** Luis E. Santos, Remedial Project Manager, U.S. Environmental Protection Agency, Region II, telephone at (787) 977-5824; fax at 787-289-7104; or e-mail at [santos.luis@epa.gov](mailto:santos.luis@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Table of Contents

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

##### I. Introduction

EPA Region II is publishing this direct final Notice of Deletion of the Barceloneta Landfill Superfund Site (Site), from the National Priorities List (NPL). 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 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 October 3, 2011 unless EPA receives adverse comments by September 19, 2011. 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 Barceloneta Landfill 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

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 Commonwealth of Puerto Rico 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 Commonwealth, through the Puerto Rico Environmental Quality Board, 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, *El Norte y Puerto Rico Daily Sun*. 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 summary provides the Agency's rationale for recommending deletion of the Barceloneta Landfill Superfund Site from the NPL:

##### *Site Background and History*

The Barceloneta Landfill, an inactive non-hazardous domestic and industrial waste disposal facility, is located in Barceloneta, Puerto Rico on the north coast of the island, approximately 20 miles due west of San Juan. The Landfill is about 4.5 kilometers south of the

Town of Barceloneta in Florida Afuera Ward. The property which contains the Barceloneta Landfill is approximately 32.6 hectares (80.6 acres) in size and is owned by the Municipality of Barceloneta. The Landfill is surrounded by a tropical forest. The Quebrada Cimarrona, a tributary of the Rio Grande de Manatí, is located 0.8 kilometers north of the Landfill. A small residential area of approximately 150 residences in Barrio Bajura Adentro is located approximately one kilometer east of the Landfill. Approximately two kilometers north of the Landfill, in an area with more gentle topographic relief, there are a series of manufacturing facilities. The nearest village is Cruce Magueyes, located approximately two kilometers to north-west of the Landfill. The residences in the area of the Landfill are served by a public water supply system that uses ground water as a source.

The property contained three surface depressions which were used for waste disposal. These waste disposal areas are known as the northern, southern, and southeastern disposal areas. Each disposal area was located in a depression or "sumidero" (sinkhole) that is surrounded by conical limestone hills referred to as "mogotes". The three waste disposal areas cover about 15 acres. The northern disposal area is separated into two sections by an access road. The southern disposal area was also known as the Superfund disposal area or "El Superfondo". The northern and southern disposal areas were filled and inactive at the time of the 1996 Record of Decision (ROD). The southeastern disposal area remained active until December 31, 1998. Although the southern disposal area was known as the Superfund disposal area, all three disposal areas are covered by the Superfund National Priorities List (NPL) site listing and were addressed under CERCLA.

The Barceloneta Landfill is located in a belt of rugged karst topography that extends along the north coast from 30 kilometers (19 miles) east of San Juan to the west of the island. In the vicinity of the Site, this belt is located from about one kilometer south of the coast to about 20 kilometers (12 miles) inland. North (seaward) of this rugged karst region is a belt of relatively flat coastal plain sediments. South (landward), the rugged karst terrain transitions into the central mountainous core of the island. Features of this karst landscape include numerous sumideros, steep scarp cliffs on the mogotes and adjoining ridges which surround the sumideros, and a lack of surface streams or drainage features associated with individual sumideros.

The Site is underlain by the northern limestone province of Puerto Rico which consists of blanket deposits, the Aymamon Limestone, the Aguada Limestone, the Cibao Formation, and the Lares Formation. Groundwater exists under unconfined conditions in the Aymamon and Aguada Limestones and under confined conditions in the Cibao and Lares Formations. Groundwater flow is to the north.

Groundwater in this area of the northern province discharges to the Rio Grande de Manatí (river) and the Cano Tiburones (wetlands) which are 2.7 kilometers (1.7 miles) north of the Site. Groundwater also feeds the Ojo de Guillo spring located 1 kilometer (0.6 miles) northeast of the Site.

The property on which the Barceloneta Landfill is located was purchased by the Municipality of Barceloneta during the early 1970s. Preparation of the Site for landfill use began in April 1972, and the landfill operations commenced in August 1973. Reportedly, the Landfill was initially approved to receive both municipal and industrial waste, but was restricted to only municipal waste disposal in 1975. However, disposal of industrial wastes appears to have continued past 1975. Specific dates of active filling in each of the three disposal areas are difficult to determine given the lack of detailed record keeping. The Puerto Rico Environmental Quality Board (EQB) has information which indicates that the Landfill (all three disposal areas) was used in the late 1970's for disposal of wastes which contained hazardous substances. Personnel from EQB and the Department of Health conducted numerous inspections of the Site and listed various violations. These violations included: Insufficient cover material; allowing refuse to burn; the presence of flies, rats and mosquitoes; allowing unlimited access to the Landfill; and, allowing people to inhabit structures in the Landfill. The Site was proposed for inclusion on the NPL in December 1982 (47 FR 58476), and was subsequently approved and listed as an NPL site in September 1983 (48 FR 40658). No activities were conducted using EPA removal authority at this site. The site property consists mainly of forested areas which provide a habitat for various plant, insect and animal species. In order to protect the landfill cap, trees will not be allowed to grow on the capped area. However, grasses will be permitted to grow and it is expected that the landfill areas will be comparable to surrounding ecology. No reuse is planned for the site.

### Remedial Investigation/Feasibility Study

In 1984, a Remedial Action Master Plan (RAMP) was prepared by an EPA contractor for the Site. Based on the RAMP, a Remedial Investigation and Feasibility Study (RI/FS) Work Plan was developed. In September 1990, Consent Order was signed in which ten Settling Defendants (SDs) agreed to perform the RI/FS for the Site. Pursuant to the Work Plan, sampling of subsurface soils, ground water and surface water was completed. The first phase of the RI was completed in 1992 and the second phase of the RI field work was completed in January 1994. A final RI report was received by EPA in March 1995 and the streamlined Risk Assessment was completed in May 1995. An abbreviated Final FS was conducted in accordance with EPA's Presumptive Remedy approach and was received by EPA in September 1995.

Consistent with EPA's Presumptive Remedy approach, EPA conducted a streamlined baseline Risk Assessment by comparing the levels of contaminants in ground water to MCLs. These levels were exceeded, indicating that the Landfill is a source of contamination to the ground water and therefore remedial measures are necessary to protect human health and the environment. EPA's Risk Assessment indicated that the levels of contaminants present in the ground water pose a relatively low long-term threat to the human health. However, if no action were to be taken with respect to the Landfill, the continued release of contaminants into ground water could potentially result in a greater risk at some point in the future. Therefore, based on the results of the Risk Assessment, it was determined that actual or threatened release of hazardous substances from this Site present a threat to public health, welfare, or the environment.

### Selected Remedy

On July 5, 1996, the Regional Administrator signed a ROD. The following remedial action objectives were established for the Site:

- To prevent direct contact with waste material;
- To reduce or eliminate the potential for the Landfill disposal areas to release hazardous substances to ground water;
- To reduce or eliminate the potential for migration of hazardous substances to ground water downgradient of the Landfill;
- To prevent the migration of and control Landfill gas; and
- To minimize any potential future impacts of hazardous substances that may migrate into environmental media.

The major components of the selected remedy are as follow:

- Installing a low permeability cover system for the three Landfill cells meeting the requirements of the RCRA Subtitle D and Puerto Rico's Regulations Governing Landfill Closure. This cover system or landfill cap(s) will further reduce infiltration of precipitation water into the landfill and reduce leachate generation thus mitigating impacts to ground water.

- Regrading the Site and installing storm water management improvements at the Site to reduce infiltration of storm water into the Landfill and reduce leachate generation.

- Conducting long term ground water and surface water monitoring to evaluate the effectiveness of the cover system. It is anticipated that monitoring will be conducted on a quarterly basis for the first year, semi-annually for the next four years, and then annually. Monitoring will include the eight existing monitoring wells. Initially, the wells will be sampled for a broad parameter list. The list has been developed based on constituents detected above Safe Drinking Water Act Maximum Contaminant Levels in the Remedial Investigation and on the requirements of the RCRA Subtitle D and Puerto Rico's Regulation Governing Landfill Closure (RMNHSW). After the first five years, the parameter list would be reviewed and those parameters not detected above standards would be omitted. The exact long term ground water monitoring program will be further defined remedial design (RD).

- Conducting a landfill gas survey during predesign to determine the necessity of a landfill gas collection system. The appropriate type of system, if necessary, will be determined during RD.

- Implementing a long term operation and maintenance program for the cover system which will include inspection of the system and provision for repair.

- Recommending to appropriate authorities that institutional controls be emplaced. Institutional controls are recommended in order to protect the integrity of the landfill cover system and to reduce potential exposure to landfill contents. The institutional controls will include recommending that zoning restrictions be applied to the Site to limit future land use and recommending that a deed restriction be established to limit future land and ground-water use.

- Installing a perimeter fence with signs to restrict access.

- Reevaluating Site conditions at least once every five years to determine if a modification of the selected remedy is necessary.

### Response Actions

A September 30, 1997 Consent Decree (CD) memorialized a settlement whereby ten parties agreed to implement the remedy which was selected in the ROD. The SDs hired M&S Ingenieria y Ciencia Asociados who prepared remedial design plans and specifications, which EPA approved on September 17, 1999. On December 16, 1999, EPA approved the Remedial Action Work Plan and M&S Ingenieria y Ciencia Asociados as the Settling Defendants proposed a remedial action contractor.

During the RD activities a new area of waste disposal was discovered at the Site outside the limits of the three waste cells delineated for closure in the ROD. The waste was located in a sinkhole which lies immediately to the east of the Superfund cell. In agreement with EPA & EQB, the SDs relocated this waste material and performed a clean closure. This waste was incorporated and capped with the waste in Superfund disposal area.

The gas venting system was constructed on the Site. The gas venting system is monitored by the PRPs' contractor and results reviewed by EPA. The system is functioning as intended and it is not a necessity landfill gas collection system.

The groundwater monitoring program was developed during the RD phase: The system included the eight existing monitoring wells. It was determined that groundwater sampling would be conducted quarterly for the first year, semi-annually for the next four years, and then conducted annually. It was determined that the wells would be sampled for a broad parameter list developed based on constituents detected above MCLs and SDWS in the RI, RCRA Subtitle D requirements, and Puerto Rico's Regulation Governing Landfill Closure. This initial list of parameters included:

- Volatile Organic Compounds of Concern (VOCs). Only 1,1-dichloroethane was detected above MCLs during the RI. However, a more conservative approach that included the complete EPA Method Scan for volatile organic compounds was implemented.
- Metals of Concern include mercury, chromium, manganese and nickel. These were detected above MCLs and SDWS during the RI.

After the first five years, the parameter list would be reviewed and those parameters not detected above standards would be omitted; The O&M Plan, dated March 28, 2000, and approved by EPA, establishes the criteria used to reevaluate and modify

the number of wells and list of parameters sampled.

EPA approved early Remedial Actions to be carried out prior to the final approval of the Remedial Design Report. These activities included the excavation and stockpiling of clay and the excavation and relocation of waste from the discovered waste area. These activities were started on September 7, 1999. The Remedial Action on-site construction started in January 24, 2000 and was completed on August 30, 2000.

On September 5, 2000, EPA and the State conducted a prefinal inspection and notified the Settling Defendants to proceed with the development of the draft Remedial Action (RA) Report. Punch list items identified during the prefinal inspection will be addressed in the final inspection. On September 27, 2001, EPA approved the final RA Report.

The Municipality of Barceloneta has implemented the Institutional Controls at the Site. The Institutional Controls including zoning restrictions and a deed restriction are in place. These controls were implemented at Barceloneta Landfill Deed on February 22, 2010.

#### Cleanup Goals

The ROD called for conducting long-term groundwater monitoring to evaluate the effectiveness of the cover system, ensure that the concentrations of contaminants in the groundwater are decreasing over time, and monitor the natural attenuation of contaminants within the plume.

MW-3, has had only one parameter, 1,1-dichloroethene, exceeding MCLs during the two years of monitoring. However, on two consecutive monitoring periods (March 2003 and October 2003), the results for 1,1-dichloroethene were non-detect and 4.9 mg/L, respectively, and below the MCL of 7 mg/L. Based on the June 2004 groundwater monitoring report for the Site and according to the criteria in the O&M Plan, on September 2004, groundwater monitoring was reduced to five of the original eight wells and to the following parameters: mercury, chromium, manganese and nickel. These five wells are currently sampled annually. Mercury and chromium are monitored to ensure that levels remain below MCLs. Chromium was identified below the MCLs for three consecutive monitoring events it was omitted from the parameter list according to the O&M Plan, dated March 28, 2000. Since the ROD was signed, the MCL and MCLG were remanded for nickel. As a result, EPA no longer has an enforceable legal limit for nickel in drinking water. Therefore, mercury, nickel and

manganese contaminant concentrations are still monitoring but there is no MCL threshold. The remaining five wells (MW-1, MW-4, MW-6, MW-7 and MW-8) are currently sampled annually.

Since 2004, the results of the Site Groundwater Analytical Results are summarized on a well by well basis below:

- MW-1, the background well, had concentrations below MCLs and SDWS for manganese, mercury and nickel during the Spring 2011 sampling event. These results showed similar concentrations to the last annual sampling event in March 2010.

- MW-4, located in the middle of the site, had concentrations of mercury below the MCL of 0.002 mg/L (0.00132 mg/L) during the Spring 2011 sampling event. These concentrations have decreased since 2004. Manganese and nickel were below SDWS during this sampling event.

- MW-6, a downgradient well, had concentrations of mercury below the MCL of 0.002 mg/L during the Spring 2011 sampling event. These concentrations have been consistently below the MCL since 2004. Nickel was found at a concentration of 0.192 mg/L. Concentrations of nickel at this well continue to decrease compared to previous sampling events. Manganese was detected above the SDWS and shows concentrations similar to the March 2010 sampling event.

- MW-7, a downgradient well, had concentrations of mercury, nickel and manganese below MCLs and SDWS. The last sampling event of March 2010 also showed concentrations similar to this sampling event.

- MW-8, a downgradient well, had concentrations of mercury, nickel and manganese below MCLs and SDWS. The last two sampling events, October 2009 and March 2010, show all parameters below MCLs and SDWS.

In summary, all wells monitored at the site show contaminants below MCLs. Although nickel and manganese are present in groundwater, these contaminants do not have an enforceable MCL and will continue to be monitored.

#### Operation and Maintenance

Currently, five groundwater monitoring wells are sampled and analyzed on an annually basis for mercury, manganese and nickel, and the results are compared to the Maximum Contaminant Levels or Secondary Drinking Water Standards identified in the Record of Decision. The five groundwater monitoring wells are designated MW-1, MW-4, MW-6, MW-7 and MW-8 will continue to be

monitored by annual inspections and the five-year review process.

#### Five-Year Review

Hazardous substances were not remediated to levels that would allow for unlimited use and unrestricted exposure, therefore the five-year review requirement of Section 121(c) of CERCLA, as amended, is applicable. On August 2005 and 2010 respectively, two five-year reviews (FYR) were conducted. In August 2010, the FYR concluded that the remedy at the Barceloneta Landfill currently protects human health and the environment in the short term because all remedy components are functioning as intended and institutional controls are in place to prevent exposure to contaminated groundwater. In order for the remedy to be protective in the long term, the O & M plan should be reviewed to ensure that the appropriate monitoring wells are being sampled and the correct analytes are being reported.

Since the FYR was conducted, EPA requested the PRP to review the O & M plan to ensure that the appropriate monitoring wells are being sampled and the correct analytes are being reported. It was concluded that the correct monitoring wells are being sampled and the appropriate parameters are being evaluated and reported. However, because Chromium was identified below the MCL for three consecutive periods, it was omitted from the parameter list. The groundwater will continue to be monitored annually based on the criteria identified in the 2000 O&M Plan.

In addition, the ROD stated that surface water monitoring would be conducted. After the FYR was completed, it was concluded that surface water sampling would not be conducted because there was no surface waters present at the Site. The nearest surface water is the Ojo de Guillo, a spring located 1 kilometer (0.6 miles) northeast of the Site. Therefore, this recommendation was not implemented.

The next FYR will be completed on or before August 30, 2015.

#### 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 remedial process, EPA and the Puerto Rico Department of Environmental Quality 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 advertisement on the availability of documents such as the RI/FS, Risk

Assessment, ROD, Proposed Plan and Five-Year Reviews.

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

EPA has determined that this Site poses no significant threat to public health or the environment because the landfill has been capped, removing direct contact exposure (*i.e.*, ingestion or dermal contact of soil) to the public. In addition, the Municipality of Barceloneta put in place deed restrictions for future land use and groundwater extraction. The potential impacts to the groundwater have been addressed and groundwater monitoring indicates MCLs are being met at the landfill unit boundary. Groundwater monitoring will continue to ensure groundwater protection continues to be achieved.

#### V. Deletion Action

The EPA, with concurrence of the Puerto Rico Environmental Quality Board, has determined that all appropriate response actions under CERCLA, other than operation, maintenance, monitoring and five-year reviews 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 October 3, 2011 unless EPA receives adverse comments by September 19, 2011. 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 8, 2011.

**Judith Enck,**

*Regional Administrator, 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 Barceloneta Landfill”, “Florida Afuera, PR”.

[FR Doc. 2011–21123 Filed 8–17–11; 8:45 am]

**BILLING CODE 6560–50–P**

#### FEDERAL COMMUNICATIONS COMMISSION

##### 47 CFR Part 90

[PS Docket No. 06–229; WT Docket 06–150; WP Docket 07–100; FCC 11–6]

#### Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Commission adopts an initial set of rules necessary to ensure the development of a nationwide interoperable public safety broadband network. The establishment of a common air interface for 700 MHz public safety broadband networks will create a foundation for interoperability and provide a clear path for the deployment and evolution of the nationwide network.

**DATES:** *Effective:* August 18, 2011, except § 90.1407(f) which contains information collections requirements that have not been approved by OMB. The Federal Communications Commission will publish a document in the **Federal Register** announcing the effective date. The incorporation by reference of certain publications listed in the rules is approved by the Director of the Federal Register as of August 18, 2011.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Manner, Federal Communications Commission, Public Safety and Homeland Security Bureau, 445 12th Street, SW., Room 7–C761, Washington, DC 20554. Telephone: (202)–418–3619, e-mail: [jennifer.manner@fcc.gov](mailto:jennifer.manner@fcc.gov).

**SUPPLEMENTARY INFORMATION:** In the *Third Report and Order*, FCC 11–6, adopted January 25, 2011, and released January 26, 2011, the Commission adopted rules to promote development

of a nationwide interoperable public safety broadband network. The Commission designated Long Term Evolution (LTE), in particular at least 3GPP Standard, Evolved Universal Terrestrial Radio Access (E–UTRA) Release 8 (LTE) and associated Evolved Packet Core (EPC), as the common technology platform for the nationwide network. The Commission also required that public safety broadband network operators submit to the Public Safety and Homeland Security Bureau a certification that their networks support required LTE interfaces. The Commission also stayed certain Part 90 rules that were designed to implement a mandatory public-private partnership that has not materialized. These rules include 47 CFR 90.1403(b)(1), (2), (3), (5), (8); 90.1405 through 90.1430; and 90.1435. The *Third Report and Order* is available at [http://www.fcc.gov/Daily\\_Releases/Daily\\_Business/2011/db0204/FCC-11-6A1.pdf](http://www.fcc.gov/Daily_Releases/Daily_Business/2011/db0204/FCC-11-6A1.pdf).

As required by the Regulatory Flexibility Act, the Commission certifies that the requirements of the *Third Report and Order* will not have a significant economic impact on a substantial number of small entities. The *Third Report and Order* contains new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. It will be submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the new or modified information collection requirements contained in this proceeding. The Commission shall send a copy of the *Third Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

#### List of Subjects in 47 CFR Part 90

Administrative practice and procedure, Business and industry, Civil defense, Common carriers, Communications equipment, Emergency medical services, Incorporation by reference, Individuals with disabilities, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

**Marlene H. Dortch,**  
*Secretary.*

For the reasons discussed in the preamble, The Federal Communications Commission amends 47 CFR part 90 as follows: