

**40 CFR Part 300**

[FRL-5558-9]

**National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List****AGENCY:** Environmental Protection Agency.**ACTION:** Notice of Intent to Delete Ambler Asbestos site from the National Priorities List: Request for Comments.

**SUMMARY:** The Environmental Protection Agency (EPA) Region III announces its intent to delete the Ambler Asbestos site from the National Priorities List (NPL) and requests public comment on this action. 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), as amended. EPA and the State of Pennsylvania have determined that all appropriate CERCLA response actions have been implemented and that no further cleanup by responsible parties is appropriate. Moreover, EPA and the State have determined that remedial activities conducted at the site to date have been protective of public health, welfare, and the environment.

**DATES:** Comments concerning the proposed deletion of this site from the NPL may be submitted on or before October 7, 1996.

**ADDRESSES:** Comments may be submitted to James J. Feeney, (3HW21), Project Manager, U.S. Environmental Protection Agency, 841 Chestnut Building, Philadelphia, Pennsylvania, 19107, (215) 566-3190.

Comprehensive information on this site is available for viewing at the Site information repositories at the following locations:

U.S. EPA, Region 3, Hazardous Waste Technical Information Center, 841 Chestnut Building, Philadelphia, PA 19107, (215) 566-5363

Wissahickon Valley Public Library, Ambler Branch, 209 Race Street, Ambler, PA 19002, (610) 646-1072

**FOR FURTHER INFORMATION CONTACT:** Mr. James J. Feeney (3HW21), U. S. Environmental Protection Agency, Region 3, 841 Chestnut Building, Philadelphia, PA, 19107, (215) 566-3190.

**SUPPLEMENTARY INFORMATION:**

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## I. Introduction

The Environmental Protection Agency (EPA) Region 3 announces its intent to delete the Ambler Asbestos site, Montgomery County, Pennsylvania, from the National Priorities List (NPL), Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), and requests comments on this deletion. The EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of those sites. Sites on the NPL may be the subject of remedial actions financed by the Hazardous substance Superfund Response Trust Fund (Fund). Pursuant to Section 300.425(e) of the NCP, any site deleted from the NPL remains eligible for Fund-financed remedial actions if conditions at the site warrant such action.

EPA will accept comments on the proposal to delete this site from the NPL for thirty calendar days after publication of this notice in the Federal Register.

Section II of this notice explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses how the site meets the deletion criteria.

## II. NPL Deletion Criteria

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

(i) EPA, in consultation with the State, has determined that responsible or other parties have implemented all appropriate response actions required; or

(ii) All appropriate Fund-financed responses under CERCLA have been implemented and EPA, in consultation with the State, has determined that no further cleanup by responsible parties is appropriate; or

(iii) Based on a remedial investigation, EPA, in consultation with the State, has determined that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

(iv) In addition to the above, for all remedial actions which result in hazardous substances, pollutants, or contaminants remaining at the site above levels that allow for unlimited

use and unrestricted exposure, it is EPA's policy that sites should generally not be deleted from the NPL until at least one five-year review has been conducted following completion of all remedial actions at a site (except operation and maintenance), any appropriate actions have been taken to ensure that the site remains protective of public health and the environment, and the site meets EPA's deletion criteria as outlined above. EPA must also assure that five-year reviews will continue to be conducted at the site until no hazardous substances, pollutants, or contaminants remain above levels that allow for unlimited use and unrestricted exposure. States may conduct five-year reviews pursuant to Cooperative Agreements or Superfund State Contracts with EPA, and submit five year review reports to EPA.

An exception to this requirement involves situations where a Consent Decree contains language specifically committing EPA to delete a site from the NPL upon completion of certain response activities. In such cases, EPA Regions must consult with EPA Headquarters prior to initiation of any deletion activities. However, such an exception would apply only to the general policy of not deleting sites before completion of the first five-year review, not to the requirement to conduct reviews. EPA would still need to assure that five-year reviews will be conducted at the site. Given the October 30, 1989 policy directive from the Acting Assistant Administrator for the Office of Solid Waste and Emergency Response (OSWER) regarding the performance of five-year reviews and their relationship to the deletion process, Consent Decrees should now require one five-year review following completion of the remedial action (except operation and maintenance) before deletion.

## III. Deletion Procedures

In the NPL rulemaking published on October 15, 1984 (49 FR 40320), the Agency solicited and received comments on whether the notice of comment procedures followed for adding sites to the NPL should also be used before sites are deleted. Comments were also received in response to the amendments to the NCP proposed on February 12, 1985 (50 FR 5862). Deletion of sites from the NPL does not itself create, alter, or revoke any

individuals rights or obligations. The NPL is designed primarily for informational purposes and to assist Agency management.

EPA Region III will accept and evaluate public comments before making a final decision to delete. The Agency believes that deletion procedures should focus on notice and comment at the local level. Comments from the local community may be the most pertinent to deletion decisions. The following procedures were used for the intended deletion of this site:

(i) EPA Region III has recommended deletion and has prepared the relevant documents.

(ii) The State of Pennsylvania has concurred with the deletion decision. Concurrent with this National Notice of Intent to Delete, local notice will be published in local newspapers and distributed to appropriate federal, state and local officials, and other interested parties. This local notice presents information on the site and announces the thirty (30) day public comment period on the deletion package.

(iii) The Region has made information supporting the proposed deletion available in the Regional Office and local site information repository.

The comments received during the notice and comment period will be evaluated before the final decision to delete. The Region will prepare a Responsiveness Summary, which will address significant comments received during the public comment period.

A deletion will occur after the EPA Regional Administrator places a notice in the Federal Register. The NPL will reflect any deletions in the next final update. Public notices and copies of the Responsiveness Summary will be made available to local residents by Region III.

#### IV. Basis for Intended Site Deletion

The Ambler Asbestos Superfund Site is composed of three piles of asbestos-containing wastes and a series of waste water settling and filter bed lagoons. The Site, which covers approximately twenty-five (25) acres, is located in the center of a mixed commercial/residential area in Ambler, Pennsylvania.

Historically, the Site was owned by Keasbey & Mattison Company (K&M), a manufacturer of pharmaceuticals, such as Milk of Magnesia, and asbestos insulation products. K&M owned the site from the late 1800's to 1962, when it sold the property and operations in parcels. One parcel, including the CertainTeed Scrap Pile (also known as the Pipe Plant Pile), was sold to CertainTeed, Inc. That pile became Operable Unit Two (OU-2) of the Site.

Nicolet Industries, Inc. purchased the remaining property, including the Locust Street Pile, the Plant Pile and the filter bed lagoons. Those two piles and the lagoons constitute Operable Unit One (OU-1) of the Site. The total volume of asbestos-containing waste in the piles is estimated to exceed 1.5 million cubic yards.

The Site came under the scrutiny of the EPA in 1971, and subsequent field investigations showed visible dust emissions that were determined to contain asbestos. In 1974, the State denied disposal permit applications and ordered both companies to stop dumping and to stabilize and cover the piles. CertainTeed stabilized the CertainTeed Scrap Pile with a vegetated soil cover in 1977. The Nicolet Corporation decontaminated and removed the equipment from the Locust Street playground in 1984. The Locust Street and Plant Piles were regraded and stabilized by EPA and Nicolet and the Site was partially fenced in removal actions undertaken in 1984 and 1989. The Site was proposed for inclusion on the Superfund National Priorities List October 10, 1984 and finalized on that list on June 6, 1986.

The Remedial Investigations and Feasibility Studies for the operable units were conducted separately by EPA and CertainTeed Corporation and showed the potential for exposure to airborne asbestos particles originating from the Site if the existing cover systems were not upgraded. Potential erosion of the Piles by the action of the Wissahickon and Stuart Farm Creeks was also identified. Remedies for the Operable Units were selected and described in separate Records of Decision issued September 3, 1988, for OU-1, and September 29, 1989, for OU-2.

Negotiations with the potentially responsible parties continued for the design and actual construction of the remedies selected for the operable units of the Site. Nicolet, however, dissolved in bankruptcy in 1988. Subsequently, T&N Industries, Inc. (T&N) was joined for CERCLA liability as the parent corporation of the former owner, K&M. Two parties, T&N and CertainTeed, entered into separate Consent Decrees for the Remedial Designs and Remedial Actions, under the oversight of EPA, of their respective operable units. Physical construction of the remedies for the Site was completed by the parties in October 1992 and both construction Remedial Action Reports were accepted by EPA on April 28, 1993.

The Remedial Action selected and constructed for OU-1 included draining and back-filling the lagoons, installing a semi-permeable cap and surface

drainage system on the piles, and constructing an erosion control device; a concrete revetment installed on the west slope of the Locust Street Pile to inhibit the erosion of the stream bank and the pile by the action of the Wissahickon. The west slope of the pile abuts against and into the Wissahickon Creek along Butler Pike. The existing fences on the property were also moved and repaired to discourage trespassing and vandalism. This remedy eliminated the lagoons and stabilized the piles against erosion by wind, precipitation and the action of the Wissahickon, reducing the threat of release to the air or surface water, and potential exposure to airborne asbestos.

The Remedial Action selected and constructed for OU-2 included supplementing the existing soil cover, clearing and grading to promote proper surface drainage, revegetating the pile, and installing gabion boxes to reinforce the banks of the Stuart Farm Creek along the East slope of the pile. The existing fences on the property were upgraded and replaced to discourage trespassing and vandalism. A verification study was also conducted during the Remedial Design to determine the extent and source of metals contamination in the creek. That study showed no significant contamination attributable to the Site. This remedy stabilized the pile against erosion by wind, precipitation and the action of the Stuart Farm Creek, reducing the threat of release to the air or surface water, and potential exposure to airborne asbestos.

Separate long-term Operation and Maintenance (O&M) Plans were submitted and subsequently approved for each Operable Unit to ensure the continued integrity of the pile cover. There are no operating facilities. As such there will be only maintenance of the remedies, which will be performed by the Respondents. Inspections will be conducted to ensure the continuing maintenance of the security fence, gates, warning signs, cap system, cap vegetation and the constructed erosion and sedimentation control measures. Site inspections will also be conducted after major storm events that cause local flooding to ensure the integrity of all permanent erosion and sedimentation controls. Specific Maintenance will be triggered by the inspections and performed as necessary. The O&M Plans were prepared in sufficient detail to allow the EPA and the State of Pennsylvania to determine that the protectiveness of the remedy for the site will be maintained over time.

A statutory Five-Year Review of the selected Remedy is to be completed on or before July 27, 1997 to ensure that no

future threats to the public health or environment exist. Further Five-Year Reviews will be conducted pursuant to OSWER Directive 9355.7-02. "Structure and Components of Five-Year Reviews," or other applicable guidance where it exists.

The remedies selected for this Site have been implemented in accordance with the Records of Decision, as modified and expanded in the EPA-approved Remedial Designs for the two Operable Units. These remedies have resulted in the significant reduction of the long-term potential for release of asbestos fibers to the surrounding surface soils, the ambient air and the aquatic environment. Human health threats and potential environmental impacts have been minimized. EPA and the State of Pennsylvania find that the remedies implemented continue to provide adequate protection of human health and the environment.

EPA, with concurrence of the State of Pennsylvania, believes that the criteria for deletion of this Site have been met. Therefore, EPA is proposing deletion of this Site from the NPL.

Dated: August 12, 1996.

Thomas J. Maslany,

Acting Regional Administrator, USEPA  
Region III.

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 1 and 73

[MM Docket No. 96-16, DA 96-1279]

#### Revision of Broadcast EEO Policies

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule; extension of comment and reply comment period.

**SUMMARY:** In *Streamlining Broadcast EEO Rules and Policies*, DA 96-1279, released August 9, 1996, (*Streamlining*), the Commission granted a motion for extension of time and for waiver of filing deadline concerning the Commission's *Order and Notice of Proposed Rule Making*, MM Docket No. 96-16, (*NPRM*). A group of organizations requested the extension of time and waiver of filing deadline due to difficulties resulting from staff shortages, computer failures, and "obtaining consensus" from each of the 20 participating organizations. In the interest of compiling a full record in the rulemaking, the Commission extended

the dates for filing comments and reply comments.

**DATES:** Initial comments were due August 26, 1996; reply comments due September 25, 1996.

**ADDRESSES:** Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** Hope G. Cooper, Mass Media Bureau, Enforcement Division. (202) 418-1450.

#### SUPPLEMENTARY INFORMATION:

*Adopted:* August 9, 1996.

*Released:* August 9, 1996.

*Comment Date:* August 26, 1996.

*Reply Comment Date:* September 25, 1996.

1. On February 8, 1996, the Commission adopted an *Order and Notice of Proposed Rule Making*, 11 FCC Rcd 5154 (1996), 61 FR 9964 (March 12, 1996) (*NPRM*), which vacated the Commission's *EEO Forfeiture Policy Statement* and requested comment on proposals for amending the Commission's EEO Rule and policies. Comment and reply comment dates were established for April 30, 1996, and May 30, 1996, respectively.

2. On April 12, 1996, twenty organizations, including the Minority Media and Telecommunications Council (hereinafter "Petitioners"), filed a Motion for Extension of Time to file comments in response to the above-captioned proceeding.<sup>1</sup> On April 26, 1996, the Commission granted the Petitioners' request for extension of time.<sup>2</sup> The date for filing comments was extended to July 1, 1996, and the date for filing reply comments was extended to July 31, 1996.

3. On June 20, 1996, Petitioners filed a Motion for Further Extension of Time. Therein, Petitioners requested that we extend further the date for submission of comments in response to the *NPRM* by ten days, until July 11, 1996.<sup>3</sup> On June 26, 1996, we granted the Petitioners' request for extension of time to file comments and, on our own motion, extended the date for filing reply comments.<sup>4</sup> The date for filing comments was extended to July 11, 1996, and the date for filing reply

<sup>1</sup> See National Council of Churches *et al.*, Petition For Reconsideration and Clarification, MM Docket No. 96-16, filed April 11, 1996, at 1.

<sup>2</sup> FCC 96-198 (released: April 26, 1996), 61 FR 25183 (May 20, 1996).

<sup>3</sup> Minority Media and Telecommunications Council *et al.*, Motion For Further Extension of Time, MM Docket No. 96-16, filed June 20, 1996, at 1.

<sup>4</sup> 11 FCC Rcd 7624 (1996), 61 FR 37241 (July 17, 1996).

comments was extended to August 12, 1996.

4. On August 5, 1996, the Petitioners filed a Further Motion for Extension of Time, and for Waiver of Filing Deadline. Therein, Petitioners request that the Commission waive the filing deadline for its comments and extend the reply comment deadline. In support of their request, Petitioners state that staff shortages, computer failures, and "obtaining consensus" from each of the 20 organizations, have presented difficulties in assembling their filing. They state that they need "approximately two weeks" to complete their research and file comments.

5. It is Commission policy that extensions of time not be routinely granted. See Section 1.46(a) of the Commission's Rules, 47 CFR Section 1.46(a). Petitioners have requested and received two extensions of time to file comments in this rulemaking. In addition, the instant motion was filed more than three weeks after the deadline for filing comments in this proceeding. Finally, Petitioners' failure to file comments in a timely manner is entirely attributable to matters under their control. Nevertheless, in the interest of compiling a full record in this rulemaking, we will accept comments through August 26, 1996. Consequently, we shall extend the deadline for filing reply comments to September 25, 1996. Petitioners are hereby advised that we do not contemplate further extensions of time in this proceeding.

6. *Accordingly, it is ordered that* the Further Motion for Extension of Time, and for Waiver of Filing Deadline is granted.

7. *It is further ordered that* comments will be accepted through August 26, 1996, and reply comments will be due on September 25, 1996.

8. This action is taken pursuant to authority found in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. Sections 4(i) and 303(r), and Sections 0.204(b), 0.283 and 1.46 of the Commission's Rules, 47 CFR Sections 0.204(b), 0.283 and 1.46.

Federal Communications Commission.

Roy J. Stewart,

Chief, Mass Media Bureau.

Editorial Note: This document was received at the Office of the Federal Register on August 29, 1996.

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