



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

EPA-HQ-SFUND-2008-0577; FRL-10011-55-Region 5

**National Oil and Hazardous Substances Pollution Contingency
Plan;**

**National Priorities List: Partial Deletion of the U.S. Smelter
and Lead Refinery, Inc. Superfund Site**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; notification of intent.

SUMMARY: The Environmental Protection Agency (EPA) Region 5 is issuing a Notice of Intent to Delete 671 properties located in Zones 2 and 3 of Operable Unit 1 (OU1) of the U.S. Smelter and Lead Refinery, Inc. Superfund Site (USS Lead Site or Site) in East Chicago, Indiana, from the National Priorities List (NPL) and requests public comments on this proposed action. The NPL, promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the State of Indiana, through the Indiana Department of Environmental Management (IDEM), have determined that all appropriate response actions under CERCLA have been completed

for the identified properties. However, this deletion does not preclude future actions under Superfund.

DATES: Comments must be received by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-SFUND-2008-0577, by one of the following methods:

<https://www.regulations.gov>. Follow the on-line instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

Email: Deletions@usepa.onmicrosoft.com.

Phone: Public comment by phone may be made by calling (312) 353-6284 and following the directions provided for public comment.

Written comments submitted by mail are temporarily suspended and no hand deliveries will be accepted. We encourage the public to submit comments via email or at <https://www.regulations.gov>.

Instructions: Direct your comments to Docket ID No. EPA-HQ-SFUND-2008-0577. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <https://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be 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 <https://www.regulations.gov> or email. The <https://www.regulations.gov> website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through <https://www.regulations.gov>, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment,

EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the <https://www.regulations.gov> index, Docket ID No. EPA-HQ-SFUND-2008-0577. 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 hard copy. Publicly available docket materials are available electronically at <https://www.regulations.gov>, Docket ID No. EPA-HQ-SFUND-2008-0577 and at <https://www.epa.gov/uss-lead-superfund-site> or you may contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

The EPA is temporarily suspending its Docket Center and Regional Records Centers for public visitors to reduce the risk of transmitting COVID-19. In addition, many site information repositories are closed and information in these repositories, including the deletion docket, has not been updated with

hardcopy or electronic media. For further information and updates on EPA Docket Center services, please visit us online at <https://www.epa.gov/dockets>.

The EPA continues to carefully and continuously monitor information from the Centers for Disease Control and Prevention (CDC), local area health departments, and our Federal partners so that we can respond rapidly as conditions change regarding COVID-19.

FOR FURTHER INFORMATION CONTACT: Karen Cibulskis, NPL Deletion Coordinator, U.S. Environmental Protection Agency Region 5, at (312) 886-1843 or via email at cibulskis.karen@epa.gov.

SUPPLEMENTARY INFORMATION:

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I. Introduction

EPA Region 5 announces its intent to delete 671 properties located in Zones 2 and 3 of OU1 of the USS Lead Site from the NPL and requests public comment on this proposed action. The properties proposed for deletion are listed in Attachment B of the report: Site-Specific Justification for the Deletion of 671 Properties in Zones 2 and 3 of Operable

Unit 1 of the U.S. Smelter and Lead Refinery, Inc. Superfund Site from the National Priorities List, East Chicago, Indiana (Site-Specific Justification Report). A copy of the Site-Specific Justification Report is available in the deletion docket for the Site.

The other portions of the USS Lead Site, including Zone 1 of OU1, the other properties in Zones 2 and 3 of OU1 not listed in Attachment B of the Site-Specific Justification Report, and Operable Unit 2, are not being considered for deletion as part of this action and will remain on 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 of 1980, as amended. EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). As described in 40 CFR § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for Fund-financed remedial actions if future conditions warrant such actions.

EPA will accept comments on its proposal to delete these 671 properties from the NPL for thirty (30) days after publication of this document in the **Federal Register**.

Section II of this document explains the criteria for deleting sites from the NPL. Section III of this document discusses the procedures that EPA is using for this proposed action. Section IV of this document discusses where to access and review information that demonstrates how the deletion criteria have been met for the 671 properties in Zones 2 and 3 of OU1 of the USS Lead Site proposed for deletion.

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, or portions thereof, 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 or a portion of 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 671 properties in Zones 2 and 3 of OU1 of the USS Lead from the NPL:

(1) EPA consulted with the State of Indiana prior to developing this Notice of Intent for Partial Deletion.

(2) EPA has provided the State thirty (30) working days for review of this notice prior to publication of it today.

(3) In accordance with the criteria discussed above, EPA has determined that no further response is appropriate for the 671 properties in Zones 2 and 3 of OU1 of the USS Lead Site proposed for deletion.

(4) The State of Indiana, through the IDEM, concurred with deletion of these 671 properties in Zones 2 and 3 of OU1 of the USS Lead Site from the NPL on June 10, 2020.

(5) Concurrently with the publication of this Notice of Intent for Partial Deletion in the **Federal Register**, an announcement of the availability of the Notice of Intent for Partial Deletion is being published in a major local newspaper, the Northwest Indiana Times. The newspaper notice announces the 30-day public comment period concerning the Notice of Intent for Partial Deletion of the USS Lead Site from the NPL.

(6) EPA placed copies of documents supporting the proposed partial deletion in the deletion docket and made these items available for public inspection and copying at <https://www.regulations.gov>, Docket ID No. EPA-HQ-SFUND-2008-0577 and at <https://www.epa.gov/uss-lead-superfund-site>.

If comments are received within the 30-day public comment period on this proposed action, EPA will evaluate and respond appropriately to the comments before making a final decision to delete these 671 properties in Zones 2 and 3 of OU1 of the USS Lead Site from the NPL. If necessary, EPA will prepare a Responsiveness Summary to address any significant public comments received. After the public comment period, if EPA determines it is still appropriate to delete these 671 properties in Zones 2 and 3 of OU1 of the USS Lead Site from the

NPL, the EPA will publish a final Notice of Partial Deletion in the **Federal Register**. Public notices, public submissions, and copies of the Responsiveness Summary, if prepared, will be made available to interested parties and in the docket listed above.

Deletion of a portion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a portion 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 or a portion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

IV. Basis for Partial Site Deletion

The EPA placed copies of a Site-Specific Justification Report and other documents supporting the proposed partial deletion in the deletion docket. The material provides explanation of EPA's rationale for the partial deletion and demonstrates how the 671 properties in Zones 2 and 3 of OU1 of the USS Lead Site proposed for deletion meet the deletion criteria. This information is made available for public inspection in the deletion docket at the locations identified above.

List of Subjects in 40 CFR Part 300

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

Authority: 33 U.S.C. 1251 *et seq.*; 42 U.S.C. 9601-9657; E.O.
13626, 77 FR 56749, 3 CFR, 2013 Comp., p. 306; E.O. 12777, 56
FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3
CFR, 1987 Comp., p. 193.

Dated: June 29, 2020.

Kurt Thiede,
Regional Administrator,
Region 5.

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