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**Stanley F. Mires,**

*Chief Counsel, Legislative.*

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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 300**

[FRL-6844-7]

**National Oil and Hazardous Substances, Pollution Contingency Plan; National Priorities List**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final deletion of the Superfund Site from the National Priorities List (NPL).

**SUMMARY:** EPA Region 5 announces the deletion of the Windom Municipal Landfill Site (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 Substance Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, (CERCLA). EPA and the Minnesota Pollution Control Agency (MPCA) have determined that the Site poses no significant threat to public health or the environment and, therefore, further remedial measures pursuant to CERCLA are not appropriate.

**DATES:** This "direct final" action will be effective October 6, 2000 unless EPA

receives dissenting comments by September 6, 2000. If written dissenting comments are received, EPA will publish a timely withdrawal of the rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Comments may be mailed to Gladys Beard, Associate Remedial Project Manager, U.S. Environmental Protection Agency, Superfund Division, U.S. EPA, Region 5, 77 W. Jackson Blvd., (SR-6J), Chicago, IL 60604. Requests for comprehensive information on this Site is available through the public docket which is available for viewing at the Site Information Repositories at the following locations: U.S. EPA Region 5, Administrative Records, 77 W. Jackson Blvd., Chicago, IL 60604, 312-886-0900; and The Minnesota Pollution Control Agency, 520 Lafayette Road North, Saint Paul, Minnesota 55155-4184.

**FOR FURTHER INFORMATION CONTACT:**

Gladys Beard (SR-6J), U.S. Environmental Protection Agency, 77 W. Jackson, Chicago, IL, (312) 886-7253, FAX (312) 886-7253, e-mail beard.gladys@epa.gov

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**I. Introduction**

The U.S. Environmental Protection Agency (EPA) Region 5 announces the deletion of the Windom Municipal Landfill Site, Windom, Cottonwood County, Minnesota, from the National Priorities List (NPL), Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300. 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 these sites. EPA and the State of Minnesota have determined that the remedial action for the Site has been successfully executed. EPA will accept comments on this action thirty days after publication of this action in the **Federal Register**.

Section II of this action explains the criteria for deleting sites from the NPL. Section III discusses the procedures that EPA is using for this action. Section IV discusses the history of the Windom Site and explains how the Site meets the deletion criteria. Section V states EPA's action to delete the Site from the NPL unless dissenting comments are received during the comment period.

**II. NPL Deletion Criteria**

Section 300.425(e) of the NCP provides that Sites may be deleted from, or recategorized on the NPL where no further response is appropriate. In making a determination to delete a Site from the NPL, EPA shall consider, in consultation with the state, whether any of the following criteria has been met:

(i) Responsible parties or other persons have implemented all appropriate response actions required;

(ii) All appropriate Fund-financed response under CERCLA have 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, taking of remedial measures is not appropriate.

Even if the Site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the site above levels that allow for unlimited use and unrestricted exposure, EPA's policy is that a subsequent review of the Site will be conducted at least every five years after the initiation of the remedial action at the Site to ensure that the Site remains protective of public health and the environment. In the case of this Site, EPA conducted a Five-Year Review in February 1995 and a second one in December 1999. Based on these reviews, EPA determined that conditions at the Site remain protective of public health and the environment. As explained below, the Site meets the NCP's deletion criteria listed above. If new information become available which indicates a need for further action, EPA may initiate remedial actions. Whenever there is a significant release from a site deleted from the NPL, the site shall be restored to the NPL without the application of the Hazard Ranking System (HRS).

**III. Deletion Procedures**

The following procedures were used for the intended deletion of the Site:

(1) All appropriate response under CERCLA have been implemented and no further action by EPA is appropriate; (2) The Minnesota Pollution Control Agency concurred with the proposed deletion decision; (3) A notice has been published in the local newspaper and has been distributed to appropriate federal, state, and local officials and other interested parties announcing the commencement of a 30-day dissenting public comment period on EPA's Direct Final Action to Delete; and, (4) All relevant documents have been made available for public review in the local

Site information repositories. EPA is requesting only dissenting comments on the Direct Final Action to Delete.

For deletion of the Site, EPA's Regional Office will accept and evaluate public comments on EPA's Final Notice before making a final decision to delete. If necessary, the Agency will prepare a Responsiveness Summary, responding to each significant comment submitted during the public comment period. Deletion of the Site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. The NPL is designed primarily for informational purposes and to assist Agency management. As mentioned in Section II of this document, § 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.

#### IV. Basis for Intended Site Deletion

The following site summary provides the Agency's rationale for the proposal to delete this Site from the NPL.

##### *Site Background and History*

The City operated a municipal landfill from the 1930's to 1974. The Site covers approximately 11.4 acres and accepted municipal refuse, and manufacturing waste including paint sludges, from the Toro Company. Concern about the proximity of the Site to the City's municipal well field prompted the MPCA to evaluate the potential of the landfill to impact the wells. Analysis of the groundwater consistently revealed volatile organic compounds downgradient of the landfill. The Site was listed on the National Priorities List in April 1986. On June 24, 1986, the MPCA issued a Request for Response Action (RFRA) to the City and the Toro Company, which required them to conduct a Remedial Investigation (RI), and Feasibility Study (FS), and to prepare a Response Action Plan (RAP).

The City conducted the RI to determine the extent and magnitude of contamination in 1987, and followed that with a Feasibility Study in 1988. The City submitted the RAP in January 1989, which was revised in March 1989, and subsequently, approved by the MPCA. The RAP included the following response action objectives:

- Protect the municipal water supply;
- Minimize leachate generation; and
- Control contaminant migration.

The EPA Region V Administrator concurred with the MPCA Record of Decision (ROD) and the selected remedy for the Site on September 29, 1989. The major components of the selected remedial action included: (i) protection of the municipal water supply through modifications to the existing water

plant; (ii) minimization of leachate generated by grading and capping of the Site; and (iii) monitoring of groundwater quality with a contingency plan to be implemented if significant groundwater impacts are detected at the Site perimeter.

The groundwater at the Site is located in glacial outwash deposited from the Des Moines lobe during the Wisconsin glaciation. The glacial outwash is underlain by a thick, low permeability clay layer, which serves as a natural barrier to water flow and protects deeper aquifers from contamination. Depth to the water table is about 50 feet the ground surface. The saturated thickness of the sand and gravel deposit ranges from 50 to 150 feet. The direction of groundwater flow is generally to the southwest toward the Des Moines River, but can be locally affected by extended pumping from the municipal system.

Water quality monitoring in the early 1980s revealed that chlorinated volatile compounds (VOCs) were detected near the fill area, most notably 1,1,2,2-tetrachloroethene (PCE), 1,1,2-trichloroethene (TCE), cis-1,2-dichloroethene (DCE), and vinyl chloride (VC). As a result of active groundwater pumping and treatment and natural attenuation, contaminant concentrations have declined to the point that DCE and VC have become the only compounds detected consistently at the landfill since 1996. There have been no quantified detections of VC since April 1998. In fact there have been no quantified detections of any VOC compound analyzed at the Site since July 1998.

Various inorganics historically have been detected slightly above background levels. A notable exception is nitrate, which was detected at a level of 15 milligrams per liter (mg/l) at MW1. Inorganics were dropped from the monitoring program in 1997. Two consecutive years of inorganic data indicated levels below the action levels, including MW1 where the nitrate concentration dropped to 0.1 mg/l.

The City well field is located northwest of the Site. City Well 7 is the closest well to the Site, and is approximately 500 feet northwest of the Site. City Well 7 was impacted with VOC concentrations, most notably VC as high as 26 micrograms per liter (ug/l) in April 1990. As a result, City Well 7 was removed from the municipal supply system. City Well 7 was used as a groundwater recovery well and connected to the spray treatment system at the landfill. City Well 7 operated as a recovery well until August of 1994. City Well 7 remains disconnected from the public water supply and monitoring

shows there have been no detections of vinyl chloride since July 1993.

To protect the water supply, the filter units at the municipal water treatment plant were modified in September 1988. The purpose of the modifications was to enhance aeration of raw water and hence, remove low levels of VOCs. Modifications of the filter unit involved installation of: (1) a series of pressure spray nozzles on the header distribution pipe to the filter; and (2) power roof ventilators with mist eliminators in the filter venting system. These modifications break the raw water into fine droplets when sprayed onto the gravity filter and increase airflow through the existing vents.

The City constructed a new water treatment plant in 1997. The first step in the new water treatment plant process is aeration. The primary purpose of the aerator is to enhance oxidation of iron and manganese but this aerator also has the dual purpose of volatilizing any VOCs. The aerator is comprised of numerous slotted trays through which a forced draft fan blows to aerate the water much like a stripping tower. After the aerator, the water flows to an open detention tank and filter basins that provide additional opportunities for volatilization.

Construction of the landfill cap began on June 1, 1989. The landfill surface was graded to obtain a minimum slope of 2 percent and a maximum slope of 25 percent. After grading, the landfill was covered with two layers of low-permeability material compacted in six-inch lifts. A six inch granular buffer was placed on the low-permeability material layer which, in turn, was covered by a layer of topsoil. Vegetation was established on the final cover. A gas venting system was also installed upon completion of the cap. The cap has been regularly inspected and maintenance performed as required. Maintenance has included mowing the vegetation, repairing minor erosion as necessary, and pocket gopher control.

The ROD called for initial periodic monitoring of groundwater with subsequent implementation of a contingency plan for contaminant migration control if established water quality limits were exceeded. The contingency action specified in the FS, and adopted in the ROD was a groundwater pump-out treatment system to control and treat the VOCs in the groundwater. When monitoring of City Well 7 and monitoring well MW-9C detected concentrations of vinyl chloride above the action level, initiation of groundwater remedial activities were triggered in accordance with the RAP.

A groundwater recovery well (RWA) was installed along the western property boundary in September 1989. An aquifer test, coupled with a pilot treatment test, was conducted in October 1989. The tests showed that spray treatment of groundwater at the Site was effective in removing VOCs from recovered groundwater and the spray treatment process did not pose a significant health threat.

Following approval of the final design, Recovery Wells B and C (RW-B and RW-C) were completed on October 24, 1990. On October 31, 1990, the final recovery system began operation. This system consisted of Wells RW-A and RW-C, and City Well 7 discharging through two spray guns to the main spray treatment area, and RW-B pumping to spray area B. This system operated continuously in this configuration, except for brief period of downtime for operation and maintenance, until August 1, 1994, when City Well 7 was removed from the treatment system. City Well 7 was removed from the recovery system because it had not had a detection of vinyl chloride since April 1993.

The system operated with the RW-B and RW-C configuration from August 1994 until April 9, 1998. RW-C was removed from the groundwater extraction system for the following reasons: it was always a clean well (except for a few one time unconfirmed VOC detections); landfill capture was able to be maintained without it; and it would change the groundwater flow stagnation points between recovery wells, thus enhancing cleanup. The system has operated with RW-A and RW-B since April 9, 1998.

Each of the remedial objectives specified in the ROD has been accomplished. The City water supply has been protected through modifications to the former water treatment plant along with the construction of the new water treatment plant. The landfill capping has effectively reduced infiltration thereby reducing the risk of further groundwater impacts. The groundwater recovery and treatment system has effectively contained the VOC-impacted groundwater on-site and the treatment has now reduced all concentrations to below the laboratory detection limits.

This site meets all the site completion requirements as specified in OSWER Directive 9320.2-3C, Procedures for Completion and Deletion of National Priorities List Sites and Update. In addition, the Safe Drinking Water Act (SDWA) (40 CFR Parts 141-146) establishes federal Maximum Contaminant Levels (MCLs) for public

drinking water supplies. The MCL for vinyl chloride is 2.0 ug/l. Since there are non-detectable levels of vinyl chloride in each city well and the distribution system, the municipal water supply is in compliance with the SDWA and the established MCL for vinyl chloride.

Monitoring of the landfill monitoring wells and city wells will continue on a semi-annual basis to maintain protection of the city water supply. MPCA will maintain project oversight reviewing data submitted and approving the monitoring plans.

The City employees perform a monthly inspection of the Site as part of their routine monitoring. The inspections include an evaluation of soil erosion, settlement, vegetative cover maintenance, groundwater monitoring wells, and site security. Two times a year, typically April and October, a similar but more comprehensive inspection is performed by the PRPs.

The City of Windom, submitted a Five-Year Review and 1998-1999 Annual Evaluation Report to the MPCA in June 1999. This Five Year Review concluded that all remedial action objectives had been met and recommended that the groundwater extraction system be shut down and the site delisted from the NPL and the Minnesota Permanent List of Priorities (PLP). The MPCA concurred and the system was shut down on September 21, 1999. The Site was delisted from the PLP on February 2, 2000. A contingency plan is in place to reactivate the system if MCLs are exceeded in any monitoring well or municipal well. Semi-annual groundwater monitoring will continue until the next Five-Year Review, which is scheduled for June 2004. At that time, the MPCA will determine if groundwater monitoring will continue.

#### V. Action

The remedy selected for this Site has been implemented in accordance with the Records of Decision. The remedy has resulted in the significant reduction of the long-term potential for release of contaminants, therefore, threats to human health and the environment have been minimized. EPA and the State of Minnesota find that the remedy implemented continues to provide adequate protection of human health the environment.

The MPCA concurs with the EPA that the criteria for deletion of the Site have been met. Therefore, EPA is deleting the Site from the NPL.

This action will be effective October 6, 2000. However, if EPA receives dissenting comments by September 6,

2000, EPA will publish a document that withdraws this action.

#### 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.

Dated: July 21, 2000.

**William E. Muno,**

*Acting Regional Administrator, EPA, Region 5.*

Part 300, title 40 of chapter 1 of the Code of Federal Regulations 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.

#### Appendix B—[Amended]

2. Table 1 of Appendix B to Part 300 is amended by removing the site for "Windom Dump, Windom, Minnesota." [FR Doc. 00-19786 Filed 8-4-00; 8:45 am]

**BILLING CODE 6560-50-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 2, 74, 78, and 101

[ET Docket No. 95-18; FCC 00-233]

#### Allocation of Spectrum at 2 GHz for Use by the Mobile-Satellite Service

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document confirms the Commission's decision to require new Mobile-Satellite Service (MSS) licensees in the reallocated 1990-2025 MHz and 2165-2200 MHz bands to bear the cost of relocating Broadcast Auxiliary Service (BAS, including the Cable Television Relay Service and the Local Television Transmission Service) licensees in the 1990-2110 MHz band, and Fixed Service (FS) microwave licensees from the 2165-2200 MHz bands in cases where sharing between MSS and FS is not possible. The Commission also declines a request for mandatory submission of information by incumbent BAS and FS licensees, and dismisses a petition requesting a freeze on new BAS licenses.