

that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a "major" rule as defined by 5 U.S.C. 804(2).

#### *H. National Technology Transfer and Advancement Act*

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use "voluntary consensus standards" (VCS) if available and applicable when developing programs and policies unless doing so

would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

#### *I. Petitions for Judicial Review*

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 7, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide,

Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: October 18, 1999.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

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

#### **PART 52—[AMENDED]**

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

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

#### **Subpart RR—Tennessee**

2. The entries for sections 1200–3–10–.02 and 1200–3–12–.04 in the table in § 52.2220 (c) are revised to read as follows:

#### **§ 52.2220 Identification of plan.**

\* \* \* \* \*

(c) EPA approved regulations.

#### **EPA APPROVED TENNESSEE REGULATIONS**

State citation	Title/subject	Adoption date	EPA approval date	FEDERAL REGISTER notice
* * *	* * *	* * *	* * *	* * *
Section 1200–3–10–.02 .....	Monitoring of Source Emissions, Recording, Reporting of the Same are Required.	02/14/96	01/07/00	[65 FR 1070]
* * *	* * *	* * *	* * *	* * *
Section 1200–3–12–.04 .....	Monitoring Required for Determining Compliance of Certain Large Sources.	12/28/96	01/07/00	[65 FR 1070].
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[FR Doc. 00–268 Filed 1–6–00; 8:45 am]

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#### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Part 300**

[FRL 6517–3]

#### **National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final rule to delete the D.L. Mud, Inc., Superfund Site from the National Priorities List and Request for Comments.

**SUMMARY:** The Environmental Protection Agency (EPA) Region 6 announces its direct final action to delete the D.L. Mud, Inc., Superfund Site (Site), located in Vermilion Parish, Louisiana, from the

National Priorities List (NPL) and requests public comments on this deletion.

The NPL, promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is Appendix B of 40 CFR Part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final action to delete is being taken by EPA with the concurrence of the State of Louisiana, through the Louisiana Department of Environmental Quality (LDEQ) because EPA has determined that all appropriate response actions under CERCLA have been completed and that the Site poses no significant threat to public health or the environment and, therefore, further remedial action pursuant to CERCLA is not appropriate.

**DATES:** This direct final rule will be effective March 7, 2000 unless EPA

receives significant adverse or critical comments by February 7, 2000. If significant adverse or critical comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Comments may be mailed to: Ms. Janetta Coats, Community Involvement Coordinator (6SF–PO), U.S. EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–7308 or 1–800–533–3508. Information Repositories: Comprehensive information about the Site is available for viewing and copying at the Site information repositories located at: U.S. EPA Region 6 Library, 12th Floor, 1445 Ross Avenue, Suite 12D13, Dallas, Texas 75202–2733, (214) 665–6524, Monday through Friday 8:00 a.m. to 12:00 p.m.; Vermilion Parish Library, 200 North Magdalen Square, Abbeville, Louisiana 70511, (318) 893–2674, Monday and Thursday 9:00 a.m. to 8:00

p.m.; Tuesday, Wednesday, and Friday 9:00 a.m. to 5:30 p.m.; and Saturday 9:00 a.m. to 1:00 p.m.; Louisiana Department of Environmental Quality, 7290 Bluebonnet Road, Baton Rouge, Louisiana 70809, (225) 765-0487, Monday through Friday 8:00 a.m. to 4:00 p.m.

**FOR FURTHER INFORMATION CONTACT:** Ms. Katrina Higgins, Remedial Project Manager (6SF-LP), U.S. EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, (214) 665-8143 or 1-800-533-3508.

#### **SUPPLEMENTARY INFORMATION:**

##### **Table of Contents**

- I. Introduction
- II. NPL Deletion Criteria
- III. Deletion Procedures
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- V. Deletion Action

### **I. Introduction**

EPA Region 6 announces its direct final action to delete the D.L. Mud, Inc., Superfund Site from the NPL and requests public comments on this deletion.

The EPA identifies sites that appear to present a significant risk to public health or the environment and maintains the NPL as the list of those sites. As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions if conditions at a deleted site warrant such action.

The EPA will accept comments concerning this direct final action to delete for 30 days after publication of this document in the **Federal Register**. If no significant adverse or critical comments are received, the Site will be deleted from the NPL effective March 7, 2000. However, if significant adverse or critical comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final action to delete within 60 days of publication of the original document. The EPA will prepare a response to the comments and continue with the rulemaking process on the basis of the proposal to delete filed simultaneously with this document and the comments already received.

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 D.L. Mud, Inc., Superfund Site and demonstrates how it meets one of the deletion criteria. Section V discusses EPA's action to delete the Site from the NPL unless significant adverse or critical comments are received during the public comment period.

### **II. NPL Deletion Criteria**

Section 300.425(e) of the NCP provides that releases may be deleted from the NPL where no further response is appropriate. In making a determination to delete a release from the NPL, EPA shall 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 (Hazardous Substance Superfund Response Trust Fund) 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.

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the deleted site above levels that allow for unlimited use and unrestricted exposure, CERCLA Section 121(c), 42 U.S.C. 9621(c) requires that a subsequent review of the site be conducted at least every five years after the initiation of the remedial action at the deleted site to ensure that the action remains protective of public health and the environment. If new information becomes 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 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) The EPA consulted with LDEQ on the deletion of the Site from the NPL prior to developing this direct final action to delete.

(2) LDEQ concurred with deletion of the Site from the NPL.

(3) Concurrently with the publication this direct final action to delete, a notice of availability of this direct final action to delete is being published in a major local newspaper of general circulation at or near the Site and is being distributed to appropriate federal, state, and local government officials and other interested parties; the notice announces the 30-day public comment period concerning this deletion of the Site from the NPL.

(4) The EPA placed copies of documents supporting the deletion in the Site information repositories identified above.

(5) If significant adverse or critical comments are received within the 30-day public comment period, EPA will publish a notice of withdrawal of this direct final action to delete within 60 days of the publication of this notice and will prepare a response to comments and continue with the rulemaking process on the basis the proposal to delete filed simultaneously with this notice 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.

For deletion of this Site, EPA Region 6 will accept and evaluate comments on EPA's direct final action to delete before making a final decision to delete. If necessary, EPA will prepare a responsiveness summary to address any significant comments received. If none of the comments received during the public comment period are significantly adverse or critical, the Site will be deleted from the NPL effective on March 7, 2000.

### **IV. Basis for Site Deletion**

The following information provides EPA's rationale for deleting the Site from the NPL:

#### **A. Site Location**

The Site is located in a rural area of southern Louisiana, approximately 20 miles north of the Gulf of Mexico and approximately 3 miles southwest of Abbeville, Louisiana. The Site comprises approximately 12.8 acres in Range 3 East, Township 12 South, Sections 60, 58, 38, and 32 in Vermilion Parish. The surrounding property is chiefly agricultural consisting of livestock grazing, crawfish farming, and crop production. Approximately 116 residences are located within a one mile radius of the Site on Parish Road P-7-31 and Louisiana Highway 335.

#### **B. Site History**

The Site took its present form on October 1, 1980, when G.H. Fluid Services, Inc., sold 12.78 acres of the 25.56 acre parcel to GCVS (this later became the GCVS site). On February 11, 1981, G.H. Fluid Services, Inc., sold the remaining 12.78 acres to Dowell, a

division of the Dow Chemical Company. Ownership of the Site was transferred to Dowell Schlumber, Inc., (DSI) in April 1984. The Site was then sold to D.L. Mud, Inc., in March 1985 by DSI.

The 25.56 acre parcel was used for agricultural purposes prior to 1969. From 1969 to 1980 (prior to the division of the property), the portion of the property that later became the D.L. Mud, Inc., Site was used as a barium sulfate based drilling mud storage and formulating facility. The D.L. Mud, Inc., Site remained relatively inactive after 1980. A citizen's complaint through the Vermilion Association to Protect the Environment led to Site identification by EPA on June 27, 1980. After considerable investigation, the Site was proposed for inclusion on the NPL in June 1988, and inclusion was finalized on October 4, 1989, pursuant to Section 105 of CERCLA, qualifying the Site for investigation and remediation under CERCLA.

#### State Lead Removal

Some time in 1985 or 1986, DOW/DSI, by way of agreement with D.L. Mud, Inc., agreed to take responsibility for the cleanup of the Site in cooperation with LDEQ. Between April 18, 1986, and August 18, 1986, under the supervision of LDEQ, DOW/DSI constructed a security fence around the majority of the Site. At the same time, DOW/DSI began development of a tank sampling, analysis, and disposal plan for the 16 on-site tanks.

From April 14, 1987, through July 11, 1987, DOW/DSI performed a remediation of the drilling mud storage tank farm under the supervision of LDEQ by completing the following tasks:

- Removal of tank contents and associated soils, destruction by incineration, and disposal of ash in a hazardous waste landfill,
- Decontamination and demolition of the tanks, supports and piping,
- Removal and disposal of approximately 800 cubic yards of contaminated soil from eight on-site areas, including tank pads, one "bare" area, and two areas identified by EPA in the southern portion of the Site, and
- Placement of clean off-site fill material on-site in the excavated areas.

The limits of excavation for the removal action were determined by LDEQ representative using an Hnu photoionization meter. Verification soil samples were collected from the eight excavated areas. On December 17, 1987, DOW/DSI submitted a report of decommissioning and restoration of the Site which was approved by LDEQ on February 29, 1988. It should be noted

that the information used by EPA to list the Site on the NPL was gathered before the 1987 cleanup activities were completed.

#### Remedial Investigation and Feasibility Study (RI/FS)

DOW/DSI conducted the RI/FS pursuant to an administrative order on consent signed on June 20, 1990. The objectives of the RI, completed in December 1992, were to confirm the efficacy of prior remedial actions performed at the Site by DOW/DSI and determine the nature of residual Site contamination (if any) and associated public health and environmental risks. The objectives of the FS, completed in November 1993, were to determine and evaluate alternatives for remedial action (if any) to prevent, mitigate, or otherwise respond to or remedy any release or threatened release of hazardous substances, pollutants, or contaminants from the Site.

#### Record of Decision Findings

On September 22, 1994, EPA signed a record of decision (ROD) for the Site. The remedy was chosen in accordance with CERCLA and the NCP. The decision was based on the administrative record for this Site and the State of Louisiana concurred on the selected remedy.

The Site was addressed as one operable unit. The principal concerns addressed at the Site were from surface soils contaminated with residual barium and contaminated subsurface soils associated with former impoundments. The major components of the selected remedy include:

- Imposition of institutional controls to address the low level threats posed by the residual barium contamination in the surface soils (such controls consisting of fencing and deed notices/restrictions to ensure that future residential use of the property does not occur),
- Excavation and off-site disposal of visually contaminated subsurface soils to eliminate the potential for migration of the contaminants into the ground water, and
- Ground water monitoring to ensure that waste excavation actions are successful and potential ground water degradation from residual surface soil contaminants does not occur.

The selected remedy is protective of public health and the environment, complies with federal and state requirements that are legally applicable or relevant and appropriate to the remedial action, and is cost effective. This remedy utilizes permanent

solutions to the maximum extent practicable for this Site.

Because the remedy will result in hazardous substances remaining on-site above health-based concentration levels, a review will be conducted every five years after commencement of the remedial action to ensure that the remedy continues to provide adequate protection of public health and the environment.

#### C. Characterization of Risk

On June 16, 1998, the responsible parties placed deed notices in the property files associated with the Site in accordance with the remedial design/remedial action (RD/RA) consent decree (CD). The deed notices serve to notify future owners that the property is subject to certain land use restrictions and EPA access rights as stated in the CD.

Remedial action activities commenced with the baseline ground water sampling followed by the construction RA. Construction RA activities included the excavation of contaminated subsurface soils based on visual observations of soil staining. A total of 4,362 tons of non-hazardous solid waste materials were transported and disposed of off-site. After the subsurface materials were excavated, confirmatory samples were collected from the excavated bottom which verified that the Site has achieved the cleanup standards set forth in the ROD. The excavated area was backfilled with a total of 3,988 cubic yards of off-site fill material that also met ROD cleanup standards. The filled areas were graded to provide for uniform drainage of runoff from the Site. Removal of all discolored subsurface soil was completed and remediation equipment removed by November 13, 1998. The entire Site was fenced with a 6 foot tall chain link fence with triple strands of barbed wire in order to restrict access to the property and to address the low level threats posed by the residual barium contamination in the surface soils. Site fencing work was completed by February 5, 1999.

Upon review of the ground water data obtained in October 1998, it was noted that there were concentrations above the maximum contaminant levels (MCLs) for barium, chromium, lead, and cadmium. Although the ROD calls for annual ground water sampling, the ground water program during the operation and maintenance (O&M) phase was increased to quarterly monitoring based on the presence of barium, cadmium, chromium, and lead concentrations above MCLs. This increased frequency of sampling will

aid in the evaluation and assessment of statistical trends of the contaminants' concentrations.

This Site meets all the site completion requirements as specified in OSWER Directive 9320.2-09, "Close Out Procedures for National Priorities List Sites" (1995), and the June 1999 Site close out report.

#### *D. Future Activity*

Site O&M activities will include an annual engineer's inspection and report of the condition of the Site along with quarterly ground water monitoring. The responsible parties, as agreed upon in the CD and accompanying statement of work and as detailed in the remedial action report, have assumed all responsibility for O&M at the Site. Plans for O&M are in place and are sufficient to maintain the protectiveness of the remedy. The responsible parties are fulfilling obligations to perform the O&M.

Matters to be investigated during the annual inspections concern the integrity of land use restrictions and the perimeter fencing; the existing ground water wells will be monitored quarterly. These activities are required for a minimum of 30 years. If the integrity of any of these items is found to be unduly compromised, correction to a fully functional state is required. The annual inspection report will include information gathered during the inspections and ground water monitoring data from previous quarters. Every five years an additional ground water statistics report will be made to evaluate statistical trends and relationships with background data.

The ROD specifies that ground water monitoring will be conducted in existing wells in order to evaluate whether the post-construction RA has

an impact on ground water quality beneath the Site. The ROD requires ground water analyses to include target compound list (TCL) volatiles, TCL semivolatiles, and target analyte list dissolved and total metals.

Because the remedy will result in hazardous substances remaining on-site above health-based concentration levels, five-year reviews will be conducted pursuant to OSWER Directive 9355.7-02, "Structure and Components of Five-Year Reviews," May 23, 1991, and OSWER Directive 9355.7-02A "Supplemental Five-Year Review Guidance," July 26, 1994 or other guidance where it exists. All response activities have been completed at the Site other than O&M and five-year reviews.

#### *E. Community Involvement*

Public participation activities have been satisfied as required in CERCLA Section 113(k), 42 U.S.C. 9613(k), and CERCLA Section 117, 42 U.S.C. 9617. Documents in the deletion docket which EPA relied on for recommendation of the deletion from the NPL are available to the public in the information repositories.

#### **V. Deletion Action**

The EPA, with concurrence of the State of Louisiana (LDEQ), has determined that the Site poses no significant threat to public health or the environment, that all appropriate responses under CERCLA have been completed, and that no further response actions, other than O&M and five-year reviews, are necessary. 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 proposal. This action will be effective March 7, 2000 unless EPA receives significant adverse

or critical comments by February 7, 2000. If significant adverse or critical comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final action to delete within 60 days from the date of publication of the original notice in the **Federal Register** and will prepare a response to comments and continue with the rulemaking process on the basis of the proposal to delete and the comments already received.

#### **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: December 21, 1999.

**Lynda F. Carroll,**

*Acting Regional Administrator, EPA, Region 6.*

For the reasons set out in this document, 40 CFR part 300 is amended as follows:

#### **PART 300—[AMENDED]**

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 under Louisiana ("LA") by removing the site name "D.L. Mud, Inc." and the city/county "Abbeville". [FR Doc. 00-359 Filed 1-6-00; 8:45 am]

**BILLING CODE 6560-50-P**