EPA certifies that it does not have a significant impact on affected small entities. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The CAA forbids the EPA to base its actions concerning SIPs on such grounds (*Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256–66 (S. Ct. 1976); 42 U.S.C. 7410 (a)(2)).

Executive Order 12866

Under Executive Order 12866, (58 FR 51735 (October 4, 1993)), the EPA must determine whether the regulatory action is "significant", and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866, and is therefore not subject to OMB review.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: December 9, 1994.

Carol M. Browner,

Administrator

40 CFR part 52 is proposed to be amended as follows:

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

Authority: 42 U.S.C. 7401–7671q.

Subpart SS—Texas

2. Section 52.2308 is proposed to be amended by reserving paragraph (c) and adding paragraph (d) to read as follows:

§ 52.2308 Area-wide nitrogen oxides (NOx) exemptions.

* * * *

(c) [Reserved]

(d) The TNRCC submitted to the EPA on August 17, 1994, with supplemental information submitted on August 31, 1994, and September 9, 1994, a petition requesting that the Houston and Beaumont ozone nonattainment areas be temporarily exempted from the NO_x control requirements of section 182(f) of the CAA. The Houston nonattainment area consists of Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller counties. The Beaumont nonattainment area consists of Hardin, Jefferson, and Orange counties. The exemption request was based on photochemical grid modeling which shows that reductions in NO_x would be detrimental to attaining the ozone NAAQS. On (insert date), the EPA approved the State's request for a temporary exemption. The temporary exemption automatically expires on December 31 1996, without further notice from the EPA. Upon the expiration of the temporary exemption, the State is required to either, (1) have received a permanent NO_x exemption from the EPA prior to that time, or (2) begin implementing the State's NO_x requirements, with NO_x Reasonably Available Control Technology compliance required as expeditiously as practicable but no later than May 31, 1997.

[FR Doc. 94–30872 Filed 12–14–94; 8:45 am]

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40 CFR Part 300

[FRL–5111–2]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List Update

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete the Kenmark Textiles Printing Corporation Superfund site from the National Priorities List: Request for Comments.

SUMMARY: The Environmental Protection Agency (EPA) Region II announces its intent to delete the Kenmark Textiles Printing Corporation Superfund site (Kenmark 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). EPA and the State of New York have determined that no further action is appropriate at the Kenmark Site under CERCLA. Moreover, EPA and the State have determined that activities conducted at the Kenmark Site to date have been protective of public health, welfare, and the environment.

DATES: Comments concerning the deletion of the Kenmark Site from the NPL may be submitted on or before January 17, 1995.

ADDRESSES: Comments concerning the Kenmark Site deletion may be mailed to: Kathleen C. Callahan, Director, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, Region II, 26 Federal Plaza, Room 737, New York, NY 10278.

Background information on the Kenmark Site is contained in the EPA Region II public docket, which is located at EPA's Region II Office, and is available for viewing, by appointment only, from 9:00 A.M. to 5:00 P.M., Monday through Friday, excluding holidays. For further information, or to request an appointment to review the public docket, please contact: Sharon L. Trocher, Remedial Project Manager, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, Region II, 26 Federal Plaza, Room 29–100, New York, NY 10278, (212) 264–8746.

Background information from the Regional public docket related to the Kenmark Site is also available for viewing at the information repository noted below: East Farmingdale Fire House, 930 Conklin Street, East Farmingdale, New York 11735.

FOR FURTHER INFORMATION CONTACT: Doug Garbarine, 212–264–0106.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction.
II. NPL Deletion Criteria.
III. Deletion Procedures.
IV. Basis for Intended Site Deletion.

I. Introduction

The Environmental Protection Agency (EPA) Region II announces its intent to delete the Kenmark Site from the NPL and requests public comment on this action. The NPL constitutes Appendix B to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), codified at 40 CFR Part 300, which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. Section 9605. 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 Substances Superfund Response Trust Fund (Fund). Pursuant to § 300.425(e)(3) of the NCP, any site deleted from the NPL remains eligible for Fund-financed remedial actions, if conditions at such sites warrant such action.

The EPA will accept comments concerning the Kenmark Site for thirty 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 Kenmark 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 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making this determination, EPA will, in consultation with the State, consider whether any of the following criteria has been met:

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

(ii) All appropriate Fund-financed responses 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 to the environment and, therefore, taking remedial measures is not appropriate.

III. Deletion Procedures

The NCP provides that EPA shall not delete a site from the NPL until the State in which the release was located has concurred, and the public has been afforded an opportunity to comment on the proposed deletion. Deletion of a site from the NPL does not affect responsible party liability or impede Agency efforts to recover costs associated with response efforts. The NPL is designed primarily for informational purposes and to assist Agency management.

EPA Region II 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 most pertinent to deletion decisions. The following procedures were used for the intended deletion of the Kenmark Site:

1. EPA Region II has recommended deletion and has prepared the relevant documents.
2. The State of New York has concurred with the deletion decision.
3. Concurrent with this notice of intent to delete, a notice has been published in local newspapers and has been distributed to appropriate Federal, State and local officials and other interested parties. This notice announces a thirty (30) day public comment period on the deletion package.
4. EPA has made all relevant documents available in the Regional Office and local Kenmark Site information repository.

The comments received during the comment period will be evaluated before any final decision is made. If necessary, EPA Region II will prepare a Responsiveness Summary which will address any significant comments received during the public comment period.

If, after consideration of comments, EPA decides to proceed with deletion, the EPA Regional Administrator will place a notice of deletion 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 the Region II Office.

IV. Basis for Intended Site Deletion

The Kenmark Site, now occupied by the Susquehanna Textile Company, is located in a light industrial area at 921 Conklin Street in East Farmingdale, New York. Since at least 1917, the Kenmark Site has been the location of several successive silk and textile dye, printing and screening operations. The waste disposal areas at the Kenmark Site included a leaching pit, sludge drying beds and three leaching pools. A building and a paved parking lot occupy the majority of the Kenmark Site. The areas north and east of the Kenmark Site are characterized by light industry Residential developments are located to the south and west, with an estimated 6,200 residents living within one mile of the Kenmark Site. Public supply wells are the primary source of drinking water in the area. The closest downgradient public supply well is located about 1.5 miles from the Kenmark Site.

As early as 1972, process wastewater generated at the Kenmark Site was chemically treated, resulting in the precipitation of solids from the wastewater. The sludge from the wastewater was distributed to outdoor concrete-lined beds for settling and drying. The sludge was periodically removed from the sludge drying beds and placed in drums. The resulting wastewater (supernatant) was discharged to the leaching pit located on-Site and east of the building. Beginning in November 1984, the wastewater was discharged to the Suffolk County Publicly Owned Treatment Works.

Sampling conducted between January 1974 and May 1984 by the Suffolk County Department of Health Services and a contractor hired by a representative of the Kenmark Site, revealed that wastewater discharged into the on-Site leaching pit contained hexavalent chromium, copper, iron, lead, silver, and phenols in violation of New York State groundwater discharge standards. Based on these findings, the Kenmark Site was added to EPA's NPL in June 1986.

In 1988, an owner of property at the Site conducted a remedial investigation (RI) under the supervision of the New York State Department of Environmental Conservation (NYSDEC) to determine the extent of contamination at the Kenmark Site. In July 1991, EPA entered into an Administrative Consent Order (ACO) with the owner to complete the RI. The RI consisted of drilling borings, constructing monitoring wells and collecting soil and groundwater samples.

During the RI, ten monitoring wells were installed and sampled to determine the extent of groundwater contamination at the Kenmark Site. In addition, approximately 80 soil samples were collected from the areas of the sludge drying beds, leaching pit and leaching pools. Organic and inorganic contaminants detected in the groundwater sampled at the Kenmark Site were generally present at levels below Federal and State human health-based drinking water standards. Numerous inorganic and organic contaminants were detected in the soil at the Kenmark Site, but were detected below levels that would pose any unacceptable risks based on current land use conditions.

The EPA community relations activities at the Kenmark Site included a public meeting on February 28, 1994 to present the results of the RI, and EPA's preferred remedial alternative. Public comments were received and addressed

At the conclusion of the RI process, EPA, in consultation with the State of New York, issued a Record of Decision on March 30, 1994, that determined that the Kenmark Site does not pose a significant threat to human health or the environment and that no remedial action was required.

Having met the deletion criteria, EPA proposes to delete the Kenmark Site from the NPL. EPA and the State of New York have determined that the response actions are protective of human health and the environment.

Dated: October 26, 1994.

William Muszynski,

Acting Regional Administrator, USEPA Region II.

[FR Doc. 94–28840 Filed 12–14–94; 8:45 am]

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