



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF  
SOLID WASTE AND EMERGENCY  
RESPONSE

**November 12, 2002**

**MEMORANDUM**

**SUBJECT:** Guidelines for Withdrawing a Proposal to List a Site on the NPL (De-Proposal)

**FROM:** David Evans, Director (**signed 11/12/2002**)  
State, Tribal & Site Identification Center

**TO:** Site Assessment Managers, Regions I - X;  
NPL Coordinators, Regions I - X

**Purpose:**

There is a growing universe of sites that have been proposed to be placed on the NPL but have never been finalized. There are many reasons for this which could include any of the following: sites cleaned up under State or removal authority; Superfund Alternative cleanups; further investigation finds contamination to be below action levels; etc. By withdrawing proposals to list sites in cases where listing is no longer appropriate, we can reduce our backlog of proposed sites and focus essential resources elsewhere. For example, when adequate cleanup has been accomplished following a proposal to list a site but before a final rule to list such site has been promulgated, it should not be necessary to continue the NPL listing process. Once cleanup goals are attained or the determination is made that the site does not pose a significant threat to human health or the environment, it may be appropriate to de-propose the site, thus reserving the NPL for our highest priority sites.

## **General Guidelines for De-Proposal:**

A site being de-proposed generally should meet criteria similar to site deletion. The deletion provisions (40 CFR 300.425(e)) state that releases may be deleted from the NPL where no further response is appropriate. Further, in determining whether a release should be deleted, EPA considers whether any of the following criteria has been met:

- ▶ Responsible or other parties have implemented all appropriate response actions required;
- ▶ All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or
- ▶ 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.

The decision document that addresses withdrawal of the proposed listing generally should demonstrate that deletion-equivalent criteria have been met or explain why such criteria should not be applicable to the decision to withdraw the proposal. This decision document may be supported by an EPA-approved Risk Assessment, ROD, RI/FS, EE/CA, PCOR or FCOR, and should provide an adequate rationale for determining that no further response under Superfund is appropriate.

## **De-Proposal Checklist:**

For a site to be de-proposed, the Regional NPL Coordinator should:

- ✓  Apply de-proposal criteria to evaluate de-proposal eligibility.
- ✓  Where possible, obtain informal State concurrence for de-proposal and involve community and stakeholders.
- ✓ Have decision document that outlines reasons for de-proposal completed and ready to be placed in public docket. Decision document may be supported by any of the following: EPA or EPA-approved Risk Assessment, ROD, RI/FS, EE/CA, PCOR or FCOR.
- ✓ Complete the following and send to HQ NPL Coordinator:
  - ▶ Prepare memo from Region (NPL Coordinator or Section Chief) to HQ (Director, State, Tribal & Site Identification Center) which details reasons for wanting de-proposal and why the site qualifies; e.g., what response actions have taken place to clean up the site and verification that response has adequately addressed site threats. This will be included in the public docket. See example in Attachment #1.
  - ▶ Submit to HQ decision document along with memo.

## **Conclusion**

Following the steps outlined in the de-proposal checklist above, the HQ NPL coordinator will immediately confer with the HQ NPL Team. Once a determination is made that the site qualifies for de-proposal and the documentation is sufficient, HQ will take steps to de-propose the site in the next appropriate NPL proposed rule Federal Register Notice. See Federal Register language (which is written by HQ) shown in Attachment #2.

The above guidelines supersede my September 20, 2001 memorandum titled Policy for Removing Sites from Proposal to the NPL (De-Proposal) and are effective immediately for all future site de-proposals. Please feel free to contact Terry Jeng at (703) 603-8852 with any questions regarding these guidelines.

Attachments

## ***Attachment #1***

### **Example De-Proposal Memo from Region to HQ:**

#### **MEMORANDUM**

**SUBJECT:** De-Proposal of Lincoln Creosote Site

**FROM:** Brenda Cook, Region 6 NPL Coordinator

**TO:** David Evans, Director  
State, Tribal & Site Identification Center

**DATE:** October 26, 2000

Region 6 is requesting to withdraw its earlier proposal to list the Lincoln Creosote site on the NPL. The proposal was published in the Federal Register on January 18, 1994 (59 FR 2568). This decision is supported by the results of a baseline risk assessment and a No Action Record of Decision.

The Lincoln Creosote site is located in Bossier City, Louisiana, and consists of a 20-acre industrial area that includes the former location of a wood treatment plant. In addition to the plant, the Site also includes parts of an adjacent residential neighborhood which has been contaminated by storm water runoff from the wood-treatment facility that operated on the plant.

In 1985, EPA conducted an investigation of the plant. The analytical samples of soil collected on the plant indicated high concentrations of hazardous substances including creosote-related semi-volatile organic compounds, pentachlorophenol, and chromated copper arsenate. A remedial investigation of the plant was completed by Joslyn Manufacturing, a former owner and operator of the plant in 1989, under Louisiana Department of Environmental Quality (LDEQ) oversight. Joslyn began remedial activities at the plant in February 1992 under an LDEQ order. Remedial activities included excavation and off-site disposal of contaminated soils.

Due to a request from a citizen who lives in the neighborhood northeast of the plant, EPA conducted an Expanded Site Inspection (ESI) in March 1992. EPA found hazardous substances including creosote-related semi-volatile organic compounds at concentrations significantly above background levels in the neighborhood surrounding the plant. In 1994, EPA began comprehensive sampling in the neighborhood near the plant. The results of this investigation are contained in the ESI/RI Report.

In April 1994, Joslyn approached EPA, and proposed to undertake a removal action to address contamination found in a drainage ditch basin located in a neighborhood northeast of the plant. Joslyn prepared a Engineering Evaluation and Cost Analysis (EE/CA) and submitted it to EPA for review. Utilizing the EE/CA, EPA selected a removal action calling for excavation of residential soils, off-site disposal, and backfill with clean soils. EPA memorialized its decision in

an Action Memorandum issued on August 17, 1995.

EPA entered into an Administrative Order on Consent with Joslyn to implement the removal action. After obtaining access agreements from affected property owners, Joslyn began the removal action in May 1996. Approximately 15,000 tons of contaminated soils were removed from the residential areas. The removal work was completed in October 1996.

In September 1997, EPA issued a Proposed Plan of No Action to solicit community input. EPA based the proposal of No Action on the results of a risk assessment. The risk assessment documents that the removal actions taken at the Site eliminate the need for further response action, and that the Site poses no current or potential threat to human health or the environment. A public meeting was held on September 29, 1997. No written public comments were received on the proposed plan. The Record of Decision selecting No Action was signed on November 26, 1997.

For the foregoing reasons, withdrawal of the proposal to add the Lincoln Creosote site to the NPL is appropriate.

## ***Attachment #2***

### **Example Federal Register Language (HQ Writes This):**

#### **Withdrawal of Site from Proposal to the NPL:**

EPA is withdrawing the proposal to add the Hazardous Chemical Inc. site in Toxicville, New Jersey to the NPL. The proposed rule can be found at \_\_\_ F.R. \_\_\_ (date). Refer to the Superfund docket for supporting documentation regarding this action.