

(iv) Respond to each significant comment and any significant new data submitted during the comment period in a Responsiveness Summary.

If appropriate after consideration of comments received during the public comment period, EPA then publishes a notice of deletion in the Federal Register and places the final deletion package, including the Responsiveness Summary, in the Site repositories.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. As stated in Section II of this Notice, Section 300.425(e)(3) of the NCP provides 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 EPA's rationale for the proposal to delete the Sealand, Limited Site from the NPL.

The Site is a former waste oil recycling facility operated between August of 1982 until August of 1983 by Sealand, Limited, Incorporated (Inc.). It is located in Mt. Pleasant, Delaware, approximately two miles south of the Chesapeake and Delaware Canal and several hundred feet east of the intersection of Routes 896 and 71/301. Land use in the area surrounding the site is a mix of residential and industrial. The Site is bordered on the west by an active Conrail spur, to the south by Route 71/301, and to the north and east by a 15-acre parcel of land owned by Ticon Minerals, Inc.

During its operation, Sealand, Limited accepted a variety of waste oil products for treatment and recycling. The facility was abandoned in August of 1983. Twenty-one steel tanks or hoppers, one 10,000 gallon wooden storage tank, approximately 300 55-gallon drums, and various mixing chambers and pressure vessels were left onsite. An inspection by the Delaware Department of Natural Resources and Environmental Control (DNREC) revealed that the wooden storage tank and numerous 55-gallon drums were leaking hazardous substances onto the ground.

In response, EPA initiated an emergency removal action in December of 1983. During this action, all of the drums were removed from this site, as was all of the liquid contained in the various tanks, which were cleaned and left near the Site. The process area was capped with one foot of clay and six inches of topsoil.

In December of 1988, EPA and 14 Potentially Responsible Parties (PRPs) entered into an Administrative Order on Consent to conduct a Remedial

Investigation/Feasibility Study (RI/FS) at the Site. During the Remedial Investigation, both ground water and the soil beneath and near the capped area were sampled. Low levels of volatile organic compounds and some semivolatile compounds were found in the soil beneath the cap. Metals were found in Site soil at levels generally consistent with background levels. Neither volatile nor semivolatile compounds were found at significant concentrations in the ground water. One onsite well contained elevated levels of metals, particularly nickel; however, there was no clear correlation between the Site and the metals.

During the Risk Assessment, ground water was not considered a potential contaminant exposure pathway. The most likely exposure scenarios included children who could be exposed to shallow soil while trespassing on the Site, and workers who could be exposed to subsurface soil during construction activities. The Risk Assessment assumed that the Site, which is zoned for industrial use and is bordered by an active Conrail freight line and a paving company, would not be rezoned for residential use. Given this assumption, the risks associated with the two most likely exposure scenarios were below the lower boundary of the acceptable risk range. It was determined that the Site did not pose a threat to human health or the environment, and the Region issued a Record of Decision (ROD) calling for no further action in September of 1991.

During the preparation of the ROD, DNREC expressed concern about the proposed remedy. They believed that the contaminants which would be left in place beneath the cap could pose a future threat to ground water. In response to this concern, EPA included in the selected remedy a review of the site five years after the signing of the ROD, even though a five year review would not ordinarily be required for this type of remedy. Furthermore, EPA acknowledged in the ROD that although Federal law did not require action at the site, the State was still free to act under its own laws. Nonetheless, DNREC did not concur with the ROD.

Subsequent to the signing of the ROD, DNREC took action pursuant to the authority of 7 Del. C., Chapter 91, the Delaware Hazardous Substance Cleanup Act (HSCA). HSCA was not considered an Applicable or Relevant and Appropriate Requirement (ARAR) during the remedy selection process, as ARARs are not considered in a no action decision. DNREC required the PRPs to install additional monitoring wells and to resample the ground water. The

results of the sampling showed no organic contamination in the wells. However, some metals, including nickel, were present at elevated levels in some wells. There was no clear pattern to the wells containing metals; one is apparently upgradient of the contaminated soil, and adjacent to the active Conrail tracks.

Using this information, DNREC issued a Proposed Plan of Remedial Action in October of 1995. The proposed remedial action included five years of continued ground water monitoring, as well as deed restrictions to ensure that the property's zoning does not change from industrial to residential. This plan has since been finalized, and DNREC is negotiating with the PRPs to conduct this work.

Based on the information presented above, EPA has determined that the Site does not pose a significant threat to human health or the environment and that no further action, consistent with CERCLA, is required. Thus, the required NPL deletion criteria presented in Section II, above, have been met. DNREC has concurred on this determination. Correspondence documenting this concurrence is included in the Site repositories.

The ROD stated that EPA would conduct a review of the Site five years after the signing of the ROD to reevaluate Site conditions. The evaluation was completed in September of 1996, and concluded that the remedy selected in the ROD remained protective of human health and the environment and that no further action, and no additional site reviews, will be necessary, particularly in light of DNREC's planned actions.

EPA, with the concurrence of DNREC, believes that the criteria for deletion of the Site have been met. Therefore, EPA is proposing deletion of the Site from the NPL. Documents supporting this action are available in the Site repositories described above.

Dated: January 15, 1997.  
Stanley L. Laskowski,  
*Acting Regional Administrator, EPA Region 3.*

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#### 40 CFR Part 300

[FRL-5684-8]

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

AGENCY: Environmental Protection Agency.

**ACTION:** Notice of intent to delete the Conklin Dumps site from the National Priorities List: Request for comments.

**SUMMARY:** The Environmental Protection Agency (EPA) Region II announces its intent to delete the Conklin Dumps site from the National Priorities List (NPL) and requests public comment on this action. The NPL is 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), as amended. EPA and the State of New York have determined that no further cleanup by responsible parties is appropriate under CERCLA. Moreover, EPA and the State have determined that CERCLA activities conducted at the Conklin Dumps to date have been protective of public health, welfare, and the environment.

**DATES:** Comments concerning the deletion of the Conklin Dumps site from the NPL may be submitted on or before March 12, 1997.

**ADDRESSES:** Comments concerning the deletion of the Conklin Dumps site from the NPL may be submitted to: Arnold R. Bernas, P.E., Remedial Project Manager, U.S. Environmental Protection Agency, Region II, 290 Broadway, 20th floor, New York, NY 10007-1866.

Comprehensive information on the Conklin Dumps site is contained in the EPA Region II public docket, which is located at EPA's Region II office (the 18th floor), 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 Mr. Bernas at (212) 637-3964.

Background information from the Regional public docket is also available for viewing at the Conklin Dumps site's Administrative Record repository located at: Conklin Town Hall, 1271 Conklin Road, Conklin, NY 13748.

**FOR FURTHER INFORMATION CONTACT:** Arnold Bernas at (212) 637-3964.

**SUPPLEMENTARY INFORMATION:**

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**I. Introduction**

EPA Region II announces its intent to delete the Conklin Dumps site from the NPL and requests public comment on this action. The NPL is Appendix B to

the NCP, which EPA promulgated pursuant to Section 105 of CERCLA, as amended. 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 (RAs) financed by the Hazardous Substances Superfund Response Trust Fund (the "Fund"). Pursuant to § 300.425 (e)(3) of the NCP, any site deleted from the NPL remains eligible for Fund-financed RAs, if conditions at such site warrant action.

EPA will accept comments concerning the Conklin Dumps site for thirty (30) days after publication of this document in the Federal Register (until March 12, 1997).

Section II of this notice explains the criteria for deleting sites from the NPL. Section III discusses the procedures that EPA is using for this action. Section IV discusses how the Conklin Dumps 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, in consultation with the State, will consider whether any of the following criteria have been met:

1. That responsible or other persons have implemented all appropriate response actions required; or
2. All appropriate Fund-financed responses under CERCLA have been implemented, and no further cleanup by responsible parties is appropriate; or
3. The remedial investigation has shown that the release poses no significant threat to public health or 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.

The following procedures were used for the intended deletion of the Conklin Dumps 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 starting on February 10, 1997 and concluding on March 12, 1997.

4. The Region has made all relevant documents available in the regional office and the local site information repository.

EPA Region II will accept and evaluate public comments and prepare a Responsiveness Summary, which will address the comments received, before a final decision is made. 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. If, after consideration of these 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 update. Public notices and copies of the Responsiveness Summary will be made available to the public by EPA Region II.

**IV. Basis for Intended Site Deletion**

*Site History and Background*

The Conklin Dumps site originally consisted of two landfilled areas totaling about 37 acres, referred to as the Upper and Lower Landfills. The Lower Landfill, which was operated between 1964 and 1969, contained approximately 48,000 cubic yards of wastes before it was excavated and consolidated with the Upper Landfill. The Upper Landfill, which originally contained approximately 55,000 cubic yards of waste, was operated from 1969 until 1975, when a closure order was issued by the New York State Department of Environmental Conservation (NYSDEC). The property is currently owned by the Town of Conklin.

A two-phase hydrogeologic investigation was completed by O'Brien and Gere Engineers for the Broome County Industrial Development Agency in 1984 and 1985; additional field work was performed in 1986. In June 1986, the site was nominated for inclusion on the National Priorities List. In June 1987, a Consent Order was signed

between the Town of Conklin and NYSDEC, which covered the performance of a remedial investigation and feasibility study (RI/FS) and the remedial design (RD)/remedial action (RA).

The RI, which was completed in December 1988, indicated limited ground-water contamination in the immediate vicinity of the Upper Landfill. Confirmatory sampling, performed in June 1990, confirmed the RI findings and provided additional validated data.

An FS report was completed in January 1991.

EPA, in consultation with NYSDEC, issued a Proposed Plan on February 3, 1991. A public comment period began on February 4, 1991 and extended until March 6, 1991. A public meeting was held at the Conklin Town Hall on February 25, 1991. A ROD, which was signed by the EPA Regional Administrator on March 29, 1991, called for, among other things, capping of the Upper Landfill and the Lower Landfill in-place, leachate collection, either on- or off-site treatment of the leachate, and long-term monitoring.

During preliminary design activities associated with the selected remedy, it was determined that the construction of a leachate collection trench and cap at the Lower Landfill would present significant engineering difficulties due to the proximity of an adjacent wetland and railroad tracks. In order to eliminate the leachate seeps at the Lower Landfill, it would be necessary to install a leachate collection system below the water table. A leachate collection system installed below the water table, however, would collect vast amounts of uncontaminated ground water and could adversely impact the adjacent wetland by dewatering a portion of it, unless hydraulic barriers were installed (which in itself could adversely impact the wetland). In addition, installing a cap on the Lower Landfill could negatively impact the adjacent wetland in that it would encroach on the wetland. Due to these technical feasibility and environmental concerns, the selected remedy was modified by an Explanation of Significant Differences (ESD) in September 1992. The modified remedy consists of the excavation of the Lower Landfill, consolidation of the excavated Lower Landfill contents onto the Upper Landfill, capping of the Upper Landfill, construction of a leachate collection system, and either on- or off-site treatment of the leachate.

#### Lower Landfill

The RD associated with the excavation of the Lower Landfill and

consolidation of the excavated wastes onto the Upper Landfill commenced in April 1991 and was completed in September 1992.

The excavation of the Lower Landfill began in January 1993. The composition of the wastes that were encountered during the excavation was primarily soil and decomposed organic matter intermixed with scrap metal, bottles and fabric from a local tent manufacturer. Although four 55 gallon drums were encountered, they were found to be empty or contained non-hazardous debris, and were crushed and disposed of in the Upper Landfill.

The waste that was excavated from the Lower Landfill was deposited on the Upper Landfill in approximately one-foot lifts. This effort was completed in July 1993.

A Remedial Action Report, documenting the completion of the excavation of the Lower Landfill was approved on September 29, 1993.

#### Upper Landfill

The RD associated with the capping of the consolidated wastes on the Upper Landfill and the construction of a leachate collection, storage, and pre-treatment system commenced in April 1991 and was completed in July 1993.

The compaction and regrading of the excavated waste mass, installation of a leachate recovery system, construction of a final cover system for the Upper Landfill, and the installation of an eight-foot high chain linked fence around the Upper Landfill to restrict access, was performed from October 1993 to November 1994.

#### Leachate Storage and Pre-Treatment System

In June 1995, the Binghamton-Johnson City Joint Sewer Board approved the Town of Conklin's application for discharge of the leachate from the Upper Landfill into the sanitary sewer system for treatment at the Binghamton-Johnson City Joint Sewage Treatment Plant in Vestal, New York. This approval required that the Town obtain an industrial wastewater discharge permit and temporarily store the leachate in an on-site storage tank while it is sampled and analyzed to determine if it meets the discharge requirements of the permit.

The construction of a leachate storage, pre-treatment system, and pipeline to the sewer interceptor, which began in November 1995, included the installation of a 30,000 gallon horizontal steel storage tank with a secondary containment dike, installation of a leachate pre-treatment system, consisting of a series of bag filters to

remove solids, and installation of a pipe to discharge the leachate from the storage and pre-treatment system to the sanitary sewer system. Although the work was completed in January 1996, a final inspection could not be conducted until after the snow melt in June 1996.

A Remedial Action Report, documenting the completion of the construction of the final cover system and leachate collection system for the Upper Landfill, leachate collection tank installation, and construction of a pipeline to the sewer interceptor was approved on July 15, 1996.

A Superfund Site Close-Out Report for the site was approved on September 13, 1996.

#### *Summary of Operation and Maintenance and Five-Year Review Requirements*

Pursuant to terms of the Consent Order signed with NYSDEC on June 12, 1987, the Town of Conklin will perform post-remediation operation and maintenance associated with the Upper Landfill's final cover system and the leachate collection and pre-treatment systems. These activities will consist of landfill cover system inspection and maintenance (including grass mowing, fence repairs, soil cover repairs); leachate collection system inspection, operation, and maintenance; and leachate pre-treatment system inspection, operation, and maintenance. In addition, groundwater, surface water, and leachate sampling and analysis will be performed.

A statutory review of the long-term monitoring and inspection program reports will be performed in January 1998, five years after the initiation of the RA, to assure that the remedy remains effective in protecting human health and the environment.

#### *Summary of How the Deletion Criteria Has Been Met*

All of the completion requirements for this site have been met as specified in OSWER Directive 9320.2-09. Specifically, based on the field observations associated with NYSDEC construction oversight, the results of the preliminary post-construction and the final post-construction inspections, and the results of samples collected during the implantation of the remedy, it has been determined that construction for the Conklin Dumps site has been completed and that the construction activities performed on-site were consistent with the RD plans and specifications and conform with the remedies selected in the ROD, as modified by the ESD.

EPA, with concurrence from the State on December 16, 1996, has determined that the response actions undertaken at the Conklin Dumps site are protective of human health and the environment.

In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. EPA, in consultation with the State, has determined that all appropriate responses under CERCLA have been implemented and that no further cleanup by responsible parties is appropriate. Having met the deletion criteria, EPA proposes to delete the Conklin Dumps site from the NPL.

Dated: January 17, 1997.

William J. Muszynski,

*Acting Regional Administrator.*

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Public Health Service

#### 42 CFR Part 68a

RIN 0905-AE56

#### National Institutes of Health Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds

**AGENCY:** National Institutes of Health, Public Health Service, DHHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The National Institutes of Health (NIH) proposes to issue a regulation to implement provisions of the Public Health Service Act authorizing the NIH Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds. The purpose of the program is the recruitment and retention of highly qualified health professionals who are from disadvantaged backgrounds to clinical research, as employees of the NIH, by providing repayment of qualified educational loans.

**DATES:** Comments must be received on or before April 11, 1997, in order to assure that NIH will be able to consider the comments in preparing the final rule.

**ADDRESSES:** Comments should be sent to Jerry Moore, NIH Regulations Officer, Office of Management Assessment, NIH, Building 31, Room 1B05, 31 CENTER DR MSC 2075, BETHESDA, MD 20892-2075.

**FOR FURTHER INFORMATION CONTACT:** Jerry Moore at the address above, or

telephone (301) 496-4606 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:** The NIH Revitalization Act of 1993 (Pub. L. 103-43) was enacted June 10, 1993, adding section 487E of the Public Health Service (PHS) Act, 42 U.S.C. 288-5. Section 487E authorizes the Secretary to carry out a program of entering into contracts with appropriately qualified health professionals from disadvantaged backgrounds with substantial educational loan debt relative to income. Under such contracts, qualified health professionals agree to conduct clinical research as NIH employees for a minimum of two years, in consideration of the Federal Government agreeing to repay a maximum of \$20,000 annually of the principal and the interest of the educational loans of such health professionals. This program is known as the NIH Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds. The NIH is proposing to amend title 42 of the Code of Federal Regulations by adding a new part 68a to govern the administration of this loan repayment program.

The proposed regulation specifies the scope and purpose of the program, who is eligible to apply, how individuals apply to participate in the program, how participants are selected, and the terms and conditions of the program. The purpose of this notice is to invite public comment on the proposed regulation. The following is provided as public information.

#### Executive Order 12866

Executive Order 12866 requires that all regulatory actions reflect consideration of the costs and benefits they generate, and that they meet certain standards, such as avoiding the imposition of unnecessary burdens on the affected public. If a regulatory action is deemed to fall within the scope of the definition of the term "significant regulatory action" contained in section 3(f) of the Order, pre-publication review by the Office of Management and Budget's Office of Information and Regulatory Affairs (OIRA) is necessary. This proposed rule has been reviewed under Executive Order 12866 by OIRA and has been deemed not significant.

#### Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 requires that regulatory proposals be analyzed to determine whether they create a significant impact on a substantial number of small entities. I certify that any final rule resulting from

this proposal will not have any such impact.

#### Paperwork Reduction Act

This proposed rule does not contain any information collection requirements which are subject to Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The application forms for use by the NIH Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds have been submitted to OMB for approval.

#### Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbered program affected by the proposed regulation is:

93.220—NIH Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds

List of Subjects in 42 CFR Part 68a

Health—clinical research, medical research; Loan programs—health.

Dated: December 2, 1996.

Harold Varmus,

*Director, National Institutes of Health.*

For reasons presented in the preamble, it is proposed to amend title 42 of the Code of Federal Regulations by adding a new Part 68a to read as set forth below.

#### PART 68A—NATIONAL INSTITUTES OF HEALTH (NIH) CLINICAL RESEARCH LOAN REPAYMENT PROGRAM FOR INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS (CR-LRP)

##### Sec.

68a.1 What is the scope and purpose of the NIH Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds (CR-LRP)?

68a.2 Definitions.

68a.3 Who is eligible to apply?

68a.4 Who is eligible to participate?

68a.5 Who is ineligible to participate?

68a.6 How do individuals apply to participate in the CR-LRP?

68a.7 How are applicants selected to participate in the CR-LRP?

68a.8 What does the CR-LRP provide to participants?

68a.9 What loans qualify for repayment?

68a.10 What does an individual have to do in return for loan repayments received under the CR-LRP?

68a.11 How does an individual receive loan repayments beyond the initial two-year contract?

68a.12 What will happen if an individual does not comply with the terms and conditions of participation in the CR-LRP?