

DEPARTMENT OF AGRICULTURE**Forest Service****36 CFR Part 223**

RIN 0596-AB21

**Disposal of National Forest Timber;
Cancellation of Timber Sale Contracts**

AGENCY: Forest Service, USDA.

ACTION: Proposed rule; extension of public comment period

SUMMARY: A proposed rule to change the procedure for calculating damages when timber sale contracts are cancelled was published on December 30, 1996 (61 FR 68690) with the comment period closing February 13, 1997. Timber industry reviewers have asked for additional time to complete their review of this proposed rule because a substantial amount of this comment period was used for the review of two other timber-related rules proposed by Forest Service.

DATES: Comments must be received by close of business March 17, 1997.

ADDRESSES: Send written comments to Director, Timber Management Staff, MAIL STOP 1105, Forest Service, USDA, P.O. Box 96090, Washington, DC 20090-6090.

FOR FURTHER INFORMATION CONTACT: Rex Baumbach, Timber Management Staff, (202) 205-0855.

Dated: February 3, 1997.

David G. Unger,
Associate Chief.

[FR Doc. 97-3160 Filed 2-7-97; 8:45 am]

BILLING CODE 3410-11-M

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

[FRL-5685-5]

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

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete the Sealand, Limited Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region 3 announces its intent to delete the Sealand, Limited Site from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes Appendix B of 40 CFR Part 300 which is the National Oil and

Hazardous Substances Pollution Contingency Plan (NCP), which the EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA). EPA has determined that the Site poses no significant threat to public health or the environment, as defined by CERCLA, and, therefore, further remedial measures pursuant to CERCLA are not appropriate.

DATES: Comments concerning this Site may be submitted on or before March 12, 1997.

ADDRESSES: Comments may be submitted to Lesley Brunker, Remedial Project Manager, 3HW23, Environmental Protection Agency Region 3, 841 Chestnut Building, Philadelphia, Pennsylvania, 19107, (215) 566-3239.

Comprehensive information on this Site is available for viewing at the Site information repositories at the following locations: U.S. EPA Region 3, Hazardous Waste Technical Information Center, 841 Chestnut Building, Philadelphia, PA, 19107, (215) 566-5363; Appoquinimink Public Library, 118 Silver Lake Road, Middletown, DE 19709, (302) 378-5290.

FOR FURTHER INFORMATION CONTACT: Lesley Brunker (3HW23), EPA Region 3, 841 Chestnut Building, Philadelphia, PA, 19107, (215) 566-3239.

SUPPLEMENTARY INFORMATION:

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I. Introduction

The Environmental Protection Agency (EPA) Region 3 announces its intent to delete the Sealand, Limited Site located in Mount Pleasant, New Castle County, Delaware 19709 from the National Priorities List (NPL), Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR Part 300, and requests comments on this deletion. 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. As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions in the unlikely event that conditions at the site warrant such action.

EPA will accept comments on the proposal to delete this 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 the procedures that EPA is using for this action. Section IV discusses the Sealand, Limited Site and explains how the Site meets the deletion criteria.

II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that releases may be deleted from, or recategorized on 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 parties have implemented all appropriate response actions required;

(ii) All appropriate response under CERCLA has been implemented, and no further 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.

Sites may not be deleted from the NPL until the state in which the site is located has concurred on the proposed deletion. EPA is required to provide the state with 30 working days for review of the deletion notice prior to its publication in the Federal Register.

Pursuant to the NCP, 40 CFR 300.425(e)(3), all sites deleted from the NPL are eligible for further Fund-financed remedial action should future conditions warrant such action. When there is a significant release from a site deleted from the NPL, the site may be restored to the NPL without the application of the Hazard Ranking System.

III. Deletion Procedures

Section 300.425(e)(4) of the NCP sets forth requirements for site deletions to assure public involvement in the decision. During the proposal to delete a site from the NPL, EPA is required to conduct the following activities:

(i) Publish a notice of intent to delete in the Federal Register and solicit comment through a public comment period of a minimum of 30 calendar days;

(ii) Publish a notice of availability of the notice of intent to delete in a major local newspaper of general circulation at or near the site that is proposed for deletion;

(iii) Place copies of information supporting the proposed deletion in the information repository at or near the site proposed for deletion; and,

(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.