

## Appendix B to Part 4044—Interest Rates Used to Value Benefits

For valuation dates occurring in the month—	The values of $i_t$ are:					
	$i_t$	for $t =$	$i_t$	for $t =$	$i_t$	for $t =$
September 2000	.070	1–25	.0625	25	N/A	N/A

Issued in Washington, DC, on this 10th day of August 2000.

**David M. Strauss,**

*Executive Director, Pension Benefit Guaranty Corporation.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 300

[FRL–6849–9]

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

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct Final deletion of the Warwick Landfill Superfund Site from the National Priorities List.

**SUMMARY:** The Environmental Protection Agency (EPA), Region II, announces the deletion of the Warwick Landfill Superfund Site (Site) from the National Priorities List (NPL) and requests public comment on this action. The NPL constitutes Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR Part 300, which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). EPA and the New York State Department of Environmental Conservation (NYSDEC) have determined that all appropriate CERCLA actions have been implemented and that, aside from operations and maintenance, no further response actions by responsible parties are appropriate. Moreover, EPA and NYSDEC have determined that the Site poses no significant threat to public health and the environment.

**DATES:** This “direct final” action will be effective October 16, 2000 unless EPA receives significant adverse or critical comments by September 14, 2000. If written significant adverse or critical comments are received, EPA will publish a timely withdrawal of the rule in the **Federal Register**, informing the public that the rule will not take effect.

**ADDRESSES:** Written comments should be submitted to: Damian J. Duda, Remedial Project Manager, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, Region II, 290 Broadway, 20th Floor, New York, New York 10007–1866, Fax: (212) 637–3966, E-mail: [duda.damian@epa.gov](mailto:duda.damian@epa.gov).

Comprehensive information on this Site is available through the public docket contained at: U.S. Environmental Protection Agency, Region II, Superfund Records Center, 290 Broadway, Room 1828, New York, New York 10007–1866, (212) 637–4308, Hours: 9:00 AM to 5:00 PM, Monday through Friday.

Information on the Site is also available for viewing at the following information repositories: Warwick Town Hall, 132 Kings Highway, Warwick, New York 10990, (914) 986–1120 and the Greenwood Lake Village Hall, Church Street, Greenwood Lake, New York 10925, (914) 477–9215.

**FOR FURTHER INFORMATION CONTACT:** Mr. Duda may be contacted at the above address, by telephone at (212) 637–4269, by FAX at (212) 637–3966 or via e-mail at [duda.damian@epa.gov](mailto:duda.damian@epa.gov).

#### SUPPLEMENTARY INFORMATION:

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#### I. Introduction

EPA Region II announces the deletion of the Warwick Landfill Site (Site), located in the Town of Warwick, Orange County, New York, from the National Priorities List (NPL) and requests public comment on this action. The NPL constitutes Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR Part 300. 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. 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 in the unlikely event that conditions at the Site warrant such action.

EPA will accept comments, concerning this document, for thirty days after publication of this notice in the **Federal Register**.

Section II of this document 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 Warwick Landfill Site and explains how the 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 § 300.425(e) of the NCP, sites may be deleted from the NPL where no further response is appropriate. In making this determination, EPA, in consultation with New York State, shall consider whether any of the following criteria have been met:

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

(ii) All appropriate Fund-financed responses under CERCLA have 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 remedial measures is not appropriate.

Deletion of a site from the NPL does not preclude eligibility for subsequent Fund-financed actions at the Site if future Site conditions warrant such actions. Section 300.425(e)(3) of the NCP provides that Fund-financed actions may be taken at sites that have been deleted from the NPL. Further, deletion of a site from the NPL does not affect the liability of responsible parties or impede Agency efforts to recover costs associated with response efforts.

#### III. Deletion Procedures

The following procedures are being used for the intended deletion of this Site:

(1) EPA Region II issued Records of Decision (RODs) in June 1991 and

September 1995, which describe the appropriate response actions for the Site.

(2) PRPs designed, constructed and implemented the appropriate response actions at the Site. EPA and the State of New York oversaw the design and construction activities.

(3) EPA Region II issued a Final Close Out Report, dated July 28, 2000, which found that responsible parties or other persons have implemented all appropriate response actions.

(4) EPA Region II recommends deletion and has made all relevant documents available in the Regional office and the local information repositories.

(5) The New York State Department of Environmental Conservation has concurred with the deletion decision in a letter dated July 12, 2000.

(6) A notice has been published in a local newspaper and has been distributed to appropriate Federal, State and local officials and other interested parties, announcing a thirty (30) day public comment period on EPA's Direct Final Action to Delete.

EPA is requesting public comments on the Direct Final Action to Delete. The NCP provides that EPA shall not delete a site from the NPL until 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 of Superfund sites.

EPA Region II will accept and evaluate public comments before making a final decision to delete. If necessary, EPA Region II will prepare a Responsiveness Summary to address any significant comments received during the public comment period.

If EPA does not receive significant adverse or critical comments and/or significant new data submitted during the comment period, the Site will be deleted from the NPL effective October 16, 2000.

#### IV. Basis for Intended Site Deletion

The Site is located approximately one and one-half miles northeast of the Village of Greenwood Lake in the Town of Warwick, Orange County, New York and is approximately three-quarters of a mile north of State Route #17A and fronts Penaluna Road on its western boundary between Old Tuxedo Road and Old Dutch Hollow Road.

The Warwick Landfill was owned and farmed by the Penaluna family from 1898 to the mid-1950's. The Town of

Warwick leased the property from the Penaluna family and utilized it as a refuse disposal area from the 1950's until the Spring of 1977. During the Spring of 1977, the lease was turned over to Grace Disposal Inc., located in Harriman, New York. Under the operation by the Town of Warwick and Grace Disposal, both municipal and industrial wastes and sludges were disposed at the Landfill. It was during Grace Disposal's operation that most of the hazardous substances were disposed. In March 1989, the Site was listed on the NPL.

On June 27, 1991, EPA issued a ROD for Operable Unit One (OU-1), which addressed the principal threats posed by the Site by controlling the source of contamination and providing a point-of-use treatment system to local residents as an interim measure to ensure that area residents had a potable water supply.

The major components of the OU-1 selected remedy included capping of the Warwick Landfill; installation and monitoring of gas vents throughout the landfill mound; development and implementation of a residential well sampling program; provision of point-of-use treatment systems to local residential wells, as needed; development and implementation of a groundwater monitoring program; construction of fencing around the perimeter of the 25-acre leasehold; recommendations that ordinances be established or restrictions imposed on the deed to ensure that future use of the Site property will maintain the integrity of the cap; and, implementation of measures to mitigate potential disturbance of adjacent wetlands.

EPA subsequently issued a Unilateral Administrative Order (UAO) to potentially responsible parties (PRPs) on February 28, 1992 to perform the design and construction of the selected remedy. The final remedial design was completed in May 1995. Construction of the cap began in the Spring of 1996 and was completed in September 1998.

The landfill closure system was designed to prevent infiltration of precipitation into the landfill, thereby reducing leachate production and the subsequent migration of contaminants into the groundwater.

Construction activities consisted of (1) regrading and relocation of waste within the footprint of the landfill, (2) construction of a gas-venting layer consisting of geotextile, gas-venting piping, passive gas-venting wells and a layer of gas-venting sand, (3) construction of a cap, consisting of installation of a 60-mil textured geomembrane to prevent infiltration, a

geocomposite layer to promote drainage, two feet of protective material, six inches of topsoil and a vegetative cover on the topsoil; (4) construction of permanent drainage swales; (5) the cleanup of the adjacent wetlands; and, (6) final Site restoration. A Remedial Action Report, dated March 23, 1999, documents the completion of this work.

A Remedial Investigation for Operable Unit Two (OU-2), performed by the PRPs under an Administrative Order on Consent, provided the basis for a September 1995 ROD, which selected No Further Action for groundwater. Environmental monitoring is being performed as part of the OU-1 remedy.

The Site is currently in the long-term operation and maintenance (O&M) phase, which is being conducted by the PRPs under the UAO. Under the O&M plan, ambient air, surface water, sediments, groundwater and landfill gas will be monitored. Regular inspections of the physical components of the capping system, which include fencing, gas vents, surface water controls and the multi-layer cover system, will be conducted. The monitoring and inspection activities will ensure that the remedy remains protective.

EPA issued a Final Close Out Report dated July 28, 2000, which documents the implementation of all response actions at the Site.

In accordance with Section 121(c) of CERCLA, as amended, the Site is subject to a five-year review of the Site remedies. The first review will be performed by May 2001. These reviews will continue into the future to ensure that the Site remains protective of human health and the environment.

#### V. Action

The appropriate response actions selected for this Site have been implemented in accordance with the Records of Decision for OU-1 and OU-2. Therefore, no further response action is necessary, other than operation, maintenance and monitoring. The appropriate response actions have resulted in the significant reduction of any further release of contaminants from the Site. Therefore, human health and potential environmental impacts have been minimized. EPA and NYSDEC find that the appropriate response actions implemented are protective of human health and the environment.

NYSDEC concurs with EPA that the criteria for deletion of the release have been met. Therefore, EPA is deleting the Site from the NPL.

This action will be effective October 16, 2000. However, if EPA receives significant adverse or critical comments by September 14, 2000, EPA will

publish a document that withdraws this action.

#### List of Subjects in 40 CFR Part 300

Environmental protection, Chemicals, Hazardous substances, Hazardous wastes, Intergovernmental relations, Penalties, Superfund, Water pollution control, Water supply.

Dated: July 28, 2000.

**William J. Muszynski,**

*Acting Regional Administrator, Region II.*

Part 300, title 40 of chapter I of the Code of Federal Regulations is amended as follows:

#### PART 300—[AMENDED]

1. The authority citation for Part 300 continues to read as follows:

**Authority:** 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9675; 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 by removing the site for “Warwick Landfill, Warwick, New York”.

[FR Doc. 00–20422 Filed 8–14–00; 8:45 am]

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### FEDERAL MARITIME COMMISSION

#### 46 CFR Part 506

[Docket No. 00–09]

#### Inflation Adjustment of Civil Monetary Penalties

**AGENCY:** Federal Maritime Commission.

**ACTION:** Final rule.

**SUMMARY:** This final rule implements the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996. The rule adjusts the amount of each statutory civil penalty subject to Federal Maritime Commission jurisdiction in accordance with the requirements of that Act.

**EFFECTIVE DATE:** August 15, 2000.

#### FOR FURTHER INFORMATION CONTACT:

Vern W. Hill, Director, Bureau of Enforcement, Federal Maritime Commission, 800 North Capitol Street, NW., Room 900, Washington, DC 20573, (202) 523–5783.

**SUPPLEMENTARY INFORMATION:** The Federal Civil Penalties Inflation Adjustment Act of 1990 (“1990 Act”), Public Law 101–410, 104 Stat. 890, 28 U.S.C. 2461 note, as amended by the Debt Collection Improvement Act of 1996 (“1996 Act”), Public Law 104–134,

Title III, 31001(s)(1), April 26, 1996, 110 Stat. 1321–373, requires the inflation adjustment of Civil Monetary Penalties (“CMP”) to ensure that they continue to maintain their deterrent value. The 1996 Act requires that not later than 180 days after its enactment, October 23, 1996, and at least once every 4 years thereafter, the head of each agency shall, by regulation published in the **Federal Register**, adjust each CMP within its jurisdiction by the inflation adjustment described in the 1990 Act. The Federal Maritime Commission (“Commission”) last adjusted each CMP subject to its jurisdiction effective November 7, 1996. (61 FR 52704).

The inflation adjustment under the 1990 Act is to be determined by increasing the maximum CMP by the cost-of-living adjustment, rounded off as set forth in section 5(a) of that Act. The cost-of-living adjustment is the percentage (if any) for each CMP by which the Consumer Price Index (“CPI”) <sup>1</sup> for the month of June of the calendar year preceding the adjustment, exceeds the CPI for the month of June of the calendar year in which the amount of such CMP was last set or adjusted pursuant to law. Any increased penalties shall apply only to violations which occur after the date on which the increase takes effect.

One example of an inflation adjustment of a CMP is as follows. The CPI for June 1999 (the year preceding this adjustment) was 166.2 and the CPI for June 1996 was 156.7.<sup>2</sup> The inflation factor, therefore, is 1.06 (166.2 divided by 156.7). Section 13 of the Shipping Act of 1984 (“1984 Act”), 46 U.S.C. app. 1712, imposes a maximum \$25,000 penalty for a knowing and willful violation of the 1984 Act which was inflation adjusted in 1996 to \$27,500. The maximum penalty amount after calculating the increase and applying the statutory rounding would be \$30,000.

A similar calculation was done with respect to each CMP subject to the jurisdiction of the Commission. In compliance with the 1990 Act, as amended, the Commission is hereby amending 46 CFR 506.4(d) of its regulations which sets forth the newly adjusted maximum penalty amounts.

This final rule has been issued without prior public notice or opportunity for public comment. The Administrative Procedure Act (5 U.S.C.

553(b)(B)) does not require that process “when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.” In this instance, the Commission finds, for good cause, that solicitation of public comment on this final rule is unnecessary and impractical. The Congress has required that the agency periodically make the inflation adjustments contained in the rule, and provided no discretion regarding the substance of the adjustments. All that is required of the Commission for determination of the amount of the inflation adjustment are ministerial computations.

The Commission certifies pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605(b), that this rule will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units, and small governmental jurisdictions because it merely increases the maximum statutory civil monetary penalty by 6 percent for those entities that commit violations after the effective date of this rule. The Commission rarely has imposed the statutory maximum civil monetary penalty and, moreover, considers ability of a respondent to pay a civil monetary penalty in determining its amount. The size of a company necessarily enters into a determination of its ability to pay.

The rule does not contain any collection of information requirements as defined by the Paperwork Reduction Act of 1995, as amended. Therefore, Office of Management and Budget review is not required.

#### List of Subjects in 46 CFR Part 506

Administrative practice and procedure, Claims.

For the reasons set out in the preamble, the Commission amends 46 CFR Part 506 as follows:

#### PART 506—CIVIL MONETARY PENALTY INFLATION ADJUSTMENT

1. The authority citation for part 506 continues to read as follows:

**Authority:** 28 U.S.C. 2461.

2. Revise § 506.4(d) to read as follows:

#### § 506.4 Cost of living adjustments of civil monetary penalties.

\* \* \* \* \*

(d) *Inflation adjustment.* Maximum civil monetary penalties within the jurisdiction of the Federal Maritime Commission are adjusted for inflation as follows:

<sup>1</sup> CPI is defined as the CPI for all urban consumers published annually by the Department of Labor.

<sup>2</sup> The above CPI figures are taken from the Department of Labor, Bureau of Labor Statistics “All Items” index which uses 1982–84 as the reference base period. The 1982–84 base period was adopted pursuant to changes to the CPI in 1998.