

and pests, Reporting and recordkeeping requirements.

Dated: June 27, 2005.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

§ 180.466 [Amended]

■ 2. In § 180.466, amend the entry in the table underparagraph (b) for “currant” by revising the Expiration/Revocation Date “12/31/03” to read “12/31/08.”

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7932–9]

National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Direct final notice of deletion of the Fadrowski Drum Disposal Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region V is publishing a direct final notice of deletion of the Fadrowski Drum Disposal Superfund Site (Site), located in Franklin, Wisconsin, from the National Priorities List (NPL).

The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final notice of deletion is being published by EPA with the concurrence of the State of Wisconsin, through the Wisconsin Department of Natural Resources (WDNR) because EPA and WDNR have determined that all appropriate response actions under CERCLA have been completed, other than operation and maintenance and five-year reviews and, therefore, further remedial action pursuant to CERCLA is not appropriate.

DATES: This direct final deletion will be effective September 6, 2005 unless EPA receives adverse comments by August 5, 2005. If adverse comments are received, EPA will publish a timely withdrawal of the direct final deletion in the **Federal Register** informing the public that the deletion will not take effect.

ADDRESSES: Comments may be mailed to: Sheila Sullivan, Remedial Project Manager at (sullivan.sheila@epa.gov) or U.S. EPA (SR–6J), 77 W. Jackson Blvd., Chicago, IL, USA 60604–3590 or at (312) 886–5251 or 1–800–621–8431.

Information Repositories:

Comprehensive information about the Site is available for viewing and copying at the Site information repositories located at: U.S. EPA Region 5 Library, 77 Jackson Blvd., Chicago, IL, USA 60604–3590, (312) 353–5821, Monday through Friday 8 a.m. to 12 p.m.; Franklin Public Library, 9151 W. Loomis Rd., Franklin, WI 53132, (414) 425–8214, Monday through Thursday 10 a.m. to 8:30 p.m., Friday through Saturday 10 a.m. to 5 p.m.; Franklin City Hall, City Clerk’s Office, 9229 W. Loomis Rd., Franklin, WI 53132, (414) 275–7500, Monday through Friday 8:30 a.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT:

Sheila Sullivan, Remedial Project Manager at (312) 886–5251, (sullivan.sheila@epa.gov) or Gladys Beard, State NPL Deletion Process Manager at (312) 886–7253, (beard.gladys@epa.gov), or 1–800–621–8431, U.S. EPA (SR–6J), 77 W. Jackson Blvd., Chicago, IL, USA 60604–3590.

SUPPLEMENTARY INFORMATION:

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I. Introduction

EPA Region 5 is publishing this direct final notice of deletion of the Fadrowski Drum Disposal Superfund Site from the NPL.

The 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. As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions if conditions at a deleted site warrant such action.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication of a notice of intent to delete. This action will be effective September 6, 2005 unless EPA receives adverse comments

by August 5, 2005 on this notice or the parallel notice of intent to delete published in the Proposed Rules section of today’s **Federal Register**. If adverse comments are received within the 30-day public comment period on this notice or the notice of intent to delete, EPA will publish a timely withdrawal of this direct final notice of deletion before the effective date of the deletion and the deletion will not take effect. EPA will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Fadrowski Drum Disposal Superfund Site and demonstrates how it meets the deletion criteria. Section V discusses EPA’s action to delete the Site from the NPL unless adverse comments are received during the public comment period.

II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that releases may be deleted from 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 persons have implemented all appropriate response actions required;
- ii. All appropriate Fund-financed (Hazardous Substance Superfund Response Trust Fund) response under CERCLA has 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 the environment and, therefore, the taking of remedial measures is not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the deleted site above levels that allow for unlimited use and unrestricted exposure, CERCLA section 121(c), 42 U.S.C. 9621(c) requires that a subsequent review of the site be conducted at least every five years after the initiation of the remedial action at the deleted site to ensure that the action remains protective of public health and the environment. If new information becomes available which indicates a need for further action, EPA may initiate remedial actions. Whenever there is a

significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

III. Deletion Procedures

The following procedures apply to deletion of the Site:

(1) The EPA consulted with the State of Wisconsin on the deletion of the Site from the NPL prior to developing this direct final notice of deletion.

(2) The State of Wisconsin concurred with deletion of the Site from the NPL.

(3) Concurrently with the publication of this direct final notice of deletion, a notice of the availability of the parallel notice of intent to delete published today in the "Proposed Rules" section of the **Federal Register** is being published in a major local newspaper of general circulation at or near the Site and is being distributed to appropriate federal, state, and local government officials and other interested parties; the newspaper notice announces the 30-day public comment period concerning the notice of intent to delete the Site from the NPL.

(4) The EPA placed copies of documents supporting the deletion in the Site information repositories identified above.

(5) If adverse comments are received within the 30-day public comment period on this notice or the companion notice of intent to delete also published in today's **Federal Register**, EPA will publish a timely notice of withdrawal of this direct final notice of deletion before its effective date and will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

IV. Basis for Site Deletion

The following information provides EPA's rationale for deleting the Site from the NPL:

Site Location

The Fadrowski Drum Disposal Site (FDDS or "the Site") occupies approximately 20 acres of suburban

land in the southeast quarter of Section 1, Township 5 North, Range 21 East, Milwaukee County, Wisconsin. The Site is located within the corporate limits of the City of Franklin and is fronted by U.S. 41 (also known as South 27th Street) on the east, Rawson Avenue is about 1,400 feet to the south and College Avenue is located approximately 3,400 feet to the north. An unnamed tributary flows southward along the western boundary of the Site and eventually empties into the Root River approximately three miles southwest of the Site. The tributary carries overflow water from Mud Lake in Grobschmidt Park, approximately one-quarter mile north of the Site and also receives storm water discharge from South 27th Street and other upgradient paved areas. The Site abuts and is downgradient of the defunct Menard lumber and retail facility situated directly to the north. Several commercial retail facilities are situated directly south and southwest of the Site. The new Menard Home Improvement Center is located directly east of the Site, across U.S. 41. Residential subdivisions and multi-unit residential properties are situated west of the unnamed tributary and also along Rawson Avenue.

Site History

Between 1970 and 1982, the FDDS was owned and operated by Edward J. Fadrowski as an unlicensed disposal facility that accepted demolition and construction wastes. Pursuant to applicable state regulations, the operation would have been exempt from regulation had it only accepted solid wastes consisting of clean earth fill and containing less than 25 percent demolition waste. During that time frame, Mr. Fadrowski was also the principal operator of a waste collection and transportation company (Ed's Trucking) which was licensed to collect and transport noncombustible waste, wood, refuse and garbage. The clients of Ed's Trucking included diverse local businesses and industries that generated a variety of wastes. The Wisconsin Department of Natural Resources (WDNR) discovered the unlicensed disposal of nonexempt waste at the Site in 1981 during an inspection. A subsequent WDNR inspection confirmed that the disposal of metal, wood, foundry waste, crushed drums, and slag-type boiler waste had occurred at the Site.

In December 1982, Menard, Inc. of Eau Claire, Wisconsin purchased the FDDS property and two adjacent land parcels to the north and began constructing its lumber and retail facility at 6801 S. 27th Street, Franklin,

Wisconsin. The FDDS property was intended as a source of borrow soil to be used during grading and construction of Menard's lumber and retail facility on the adjacent parcels. During excavation at the Site for soil fill material in May 1983, buried drums containing unknown liquids and sludges were uncovered; some of the drums had been ruptured and their contents released. The WDNR sampled the drum contents and found them to be hazardous, as defined by Chapter NR 181 of the 1981 Wisconsin Administrative Code (WAC). The samples revealed high concentrations of lead at 32,700 parts per million (ppm) and chromium at 6,800 ppm. Also identified were trace levels of arsenic (less than 5 ppm), the pesticide DDT at 1,450 ppm, and various petroleum-derived volatile organic compounds (VOCs). Other waste samples collected by the WDNR at the Site were determined to be hazardous because their flash points were below 140 degrees Fahrenheit, indicating ignitability. The EPA's Office of Health and Environmental Assessment determined that the carcinogenic risks from the principal threat, i.e., buried containerized wastes, exceeded EPA's upper threshold of acceptable risk (1×10^{-4}). The EPA and the WDNR believe that a number of potential responsible parties (PRPs) generated the hazardous wastes that were disposed of at the Site and/or caused the release of these substances at the Site.

The Site was proposed for listing on the NPL on October 15, 1984 (49 FR 40320). Pursuant to Section 105 of CERCLA, 42 U.S.C. 9605; the FDDS listing on the NPL was finalized on June 10, 1986 (51 FR 21054). An Administrative Order on Consent (AOC) was signed in May 1987 by the PRPs, U.S. EPA, and WDNR, compelling the PRPs to conduct a Remedial Investigation and Feasibility Study (RI/FS) to determine the nature and extent of the contamination as well as alternatives for cleaning up the Site.

Remedial Investigation and Feasibility Study (RI/FS)

Pursuant to the 1987 AOC, the RI/FS was initiated in May 1987 by INX International Ink Company (INX), formerly ACME Ink Printing Company of Milwaukee, Wisconsin, and was completed in June 1991. The RI results indicated that three generalized geological layers exist at the Site: clay till, sand and gravel, and dolomite bedrock. The uppermost clay till layer is between 80 and 100 feet thick and is continuously saturated up to within 3 to 10 feet of the ground surface; however, the soils are of such low permeability

that this aquifer does not sustain domestic water supply. The underlying sand and gravel aquifer yields adequate amounts of water to sustain domestic use and several domestic wells are screened in this unit. Beginning at about 175 feet below ground surface and ranging up to 320 feet in thickness, the deep dolomite bedrock aquifer is the primary source of domestic water supply in the vicinity of the FDDS. Although there were very few inorganic or organic compounds detected at elevated levels in the groundwater at the FDDS, the RI results confirmed that the groundwater in the clay till aquifer contained cyanide (67 parts per billion or ppb), chromium (13 ppb), and barium (273 ppb), in excess of the 1988 Wisconsin Preventive Action Limits (PALs). During one sampling event, benzene and mercury were also found to exceed the 1988 Wisconsin PALs and Enforcement Standards (ESs); however these results could not be confirmed. The benzene detections have since been attributed to sampling and/or laboratory error. The concentrations of mercury and other inorganic constituents, e.g., chromium, barium, and cyanide, have declined steadily to below the PALs and ESs. Several private wells are located within 2,000 feet of the Site and several emergency back up wells for the cities of Franklin and Oak Creek are located within three miles of the Site; however, testing showed that drinking water has not been impacted by the Site.

Surface water on the Site was contained by a large manmade pond in the west central portion of the Site. The pond intercepted most surface water runoff from the Site and was also a point of groundwater discharge. The pond contained elevated cyanide levels. The water in the unnamed tributary on the western Site boundary was found to contain low levels of VOCs. Other contaminants detected downstream of the Site, namely ethylbenzene and xylenes, were not detected onsite. Cyanide and mercury were detected in both upstream and downstream samples, and were therefore not likely to be site-related. No semi-volatile organic chemicals (SVOCs) were detected in the unnamed tributary water.

The sediments sampled in the onsite pond contained site-related contaminants. Sediments collected downstream of the Site in the unnamed tributary showed higher concentrations of certain polynuclear aromatic hydrocarbons (PAHs) than did the upstream samples. Similarly, total PAHs and inorganics, including aluminum, barium, beryllium, calcium, lead, and magnesium showed higher

concentrations in the downstream samples compared to the samples collected upstream of the Site, indicating that the stream sediments may have been contaminated by the Site. Subsequent monitoring results showed that the surface water and sediments in the tributary had not been contaminated by the FDDS, but instead, were more likely to have been affected by urban runoff.

Surface soils from the western slope of the fill pile showed PAH concentrations as high as 10,290 ppb. This was consistent with the character of onsite subsurface soils and indicated that runoff or seeps from the fill pile were impacting surface soil adjacent to the pile and west of the pile near the unnamed tributary. Subsurface soils collected onsite were contaminated with organic compounds—namely toluene at levels ranging from 34 to 1,800 ppb. Total PAHs were also frequently detected in the subsurface soil at levels as high as 24,300 ppb. The subsurface soil borings also revealed DDT at its highest concentration of 310 ppb and the polychlorinated biphenyl, Arochlor 1254, at a maximum concentration of 1,900 ppb. Cyanide was found in one boring at 6,360 ppb and numerous inorganic compounds were also detected.

The draft RI/FS was completed in March 1991. The final FS was completed in June 1991 and provided an in-depth summary and discussion of Site sampling activities and a health risk assessment. Six cleanup alternatives were also evaluated as part of the FS; however, no groundwater alternatives were among the six evaluated due to the low contaminant levels detected in the groundwater and the limited extent of groundwater contamination. The considered alternatives included source-control actions that relied on natural attenuation of groundwater contaminants.

Record of Decision Findings

Based on the results of the RI/FS, a Remedial Action (RA) was selected for cleaning up the Site and was documented in the Record of Decision (ROD) of June 10, 1991, with concurrence from the WDNR. The selected remedy was to eliminate or reduce migration of the contaminants from the Site to the groundwater and to reduce the risk associated with exposure to the contaminated materials, thus protecting human health and environment. The major components of the selected remedy included:

- Excavation of previously identified drums and associated characteristically hazardous soils;

- Construction of trenches to find and excavate additional containerized waste and associated characteristically hazardous soils;

- Off-site recycling or treatment and disposal of drummed wastes;

- Treatment and disposal of contaminated soil;

- Construction of a landfill cover (cap) in compliance with Section NR 504.07, Wisconsin Administrative Code (WAC) landfill closure requirements;

- Use of institutional controls on landfill property to limit land and groundwater use; and,

- Monitoring of groundwater and surface water to ensure effectiveness of the remedial action and to evaluate the need for future groundwater treatment.

Characterization of Risk

The health risk assessment, performed during the RI, indicated that people may have been exposed to hazardous substances by drinking contaminated groundwater and surface water or by accidentally ingesting contaminated soil. Residents in the vicinity of the Site, especially children, may have used the manmade pond located at the eastern edge of the Site for swimming, thereby potentially exposing them to Site contaminants. Most risks from these exposures fell within a risk range of 1×10^{-4} (one in ten-thousand) to 1×10^{-6} (one in one-million), which is considered acceptable by EPA.

However, other Site conditions, such as the onsite buried drums of hazardous materials, would pose unacceptable risks to construction workers and possibly residents should the Site be commercially or residentially developed in the future. The RI indicated that some of the drums had ruptured, causing further contamination of the environment. Approximately nine acres of wetlands border the onsite pond on the west. Levels of cyanide in the onsite pond exceeded the Ambient Water Quality Criteria for the protection of aquatic life. Cyanide was also found in the upstream and downstream tributary samples. Prior to the cleanup, runoff from the Site flowed toward the wetlands; however, no threatened or endangered species had been previously identified in this area.

Response Actions

A Remedial Design (RD) was completed by Menard, Inc., a PRP for the Site, under the September 30, 1991 AOC. The RD was approved by the EPA in March 1993 and included the final design of the selected RA alternative. This RA alternative prescribed the removal of drummed waste from the Site, waste consolidation, pond closure,

clay cap installation over the consolidated waste, and the installation of a groundwater monitoring network. One component of the RA—institutional controls—was effected by placing deed restrictions on the portion of the property that included but was not limited to the waste footprint. The deed restrictions, effective since June 1993, prohibit certain activities within the fill area on the Site unless prior written approval is obtained from the EPA, in consultation with the WDNR.

On April 21, 1993, EPA issued a Unilateral Administrative Order (UAO) to the PRPs to implement the Remedial Action (RA) specified in the 1991 ROD. Menard, Inc. undertook the RA field activities in September 1993. The majority of the work was completed by September 1994, including:

- Removal and off-site treatment and disposal of 167 buried drums;
- Excavation, treatment, and disposal of approximately 100 cubic yards of contaminated soils;
- De-watering and backfilling the 2.6 million gallon onsite pond;
- Consolidation of more than 18,000 cubic yards of waste (primarily demolition debris) in order to minimize the capped area;
- Construction of a multilayered landfill cover system and leachate collection system, complicit with section NR 504.07, WAC, for placement over the consolidated wastes;
- Installation of both upgradient and downgradient nested monitoring wells, screened within the three geological units (clay, sand and gravel, and dolomite bedrock) at the Site; and,
- Installation of a perimeter fence.

Since the completion of the RA, the Site has been in the monitoring phase, which was projected to continue for a 30-year period. As part of the RA, the Scope of Work (SOW) required that after two years and five years of respective monitoring, a comprehensive statistical analysis of the data at each of these milestones was to be prepared in order to evaluate the effectiveness of the remedy and the potential for reduced monitoring at the Site. The monitoring network included nine groundwater monitoring wells, one leachate tank, one private well on the southeast side of the Site, and two surface water/sediment sample locations in the unnamed tributary—one each upstream and downstream of the Site. The nine nested monitoring wells intercept three aquifers at the Site (*i.e.*, clay, sand and gravel, dolomite) and are located just outside the four corners of the landfill boundary. The prescribed monitoring included quarterly monitoring of the groundwater for field parameters

(temperature, pH, conductivity), EPA Target Analyte List (TAL) parameters (inorganics), EPA Target Compound List (TCL) parameters (VOCs, SVOCs, and pesticides), WAC NR 508 parameters (alkalinity, chemical oxygen demand, hardness, sodium, dissolved iron, chloride, and fluoride), and percent organic material and grain size analysis for stream sediment samples.

Cleanup Standards

Beginning in November 1995, the effectiveness of the remedy was monitored through quarterly sampling of the nine monitoring wells, leachate tank, surface water, and sediments from the unnamed tributary. The requisite two-year statistical evaluation of contaminant levels in the groundwater, leachate, surface water and sediment was prepared by Menard, Inc. using data from eight monitoring events. The data were evaluated to ascertain whether the Site was meeting cleanup requirements and whether the monitoring frequency and parameters needed adjustment. The cleanup requirements for the FDDS, established in the 1991 ROD, are the groundwater quality standards in Chapter NR 140 WAC, 1988. As previously mentioned, these values are referred to as the Wisconsin PALs and ESs. The report concluded that natural attenuation of site-related contaminants was effective; surface water and sediment monitoring could be discontinued, and the monitoring frequency of onsite wells, the private well, and the leachate tank could be reduced from quarterly to semiannual. Concurring with these recommendations, EPA and the WDNR approved the report in November 2000; the revised monitoring schedule was implemented at that time.

The five-year statistical evaluation was completed in June 2003 and utilized data collected from the onsite monitoring wells and leachate tank during fifteen monitoring events, and surface water and sediment data collected during nine monitoring events. The results showed that site-related contaminants follow a declining trend in their respective concentrations. Statistical evaluation of the groundwater data indicated that the PALs had been met for all contaminants except iron, manganese, and fluoride. These three constituents have been consistently detected above their respective PALs in the onsite groundwater at a five percent statistical significance level.

Although fluoride, iron, and manganese exceed their respective PALs, they are also common constituents found naturally in the groundwater of Wisconsin. An

evaluation of the background groundwater quality in Milwaukee County, prepared by Menard, Inc. and approved by EPA and WDNR as part of the five-year statistical evaluation, indicated that concentrations of fluoride, iron, and manganese above the 1988 Chapter NR 140 PALs are common. The PAL exceedances reported onsite are, therefore, unlikely to be caused by past FDDS activities and more probably reflect the naturally occurring groundwater quality in the region. The consistency of these onsite groundwater levels with background levels, also exceeding the PALs for these three constituents, demonstrates that the groundwater has been restored to its pre-FDDS condition. This finding also indicates that achieving PALs for these three constituents via natural attenuation or related methods is neither technically nor economically feasible. To address these higher constituent levels in groundwater, an exemption was granted by the WDNR, pursuant to WAC Sections NR 140.28 and NR 507.29, allowing the calculation of Wisconsin alternative concentration levels (WACLs) for iron, fluoride, and manganese in the monitoring wells where the PALs are exceeded. The WACLs, respectively calculated for iron in three monitoring wells, manganese in five wells, and fluoride in two wells (see Table 1), remain protective of human health and the environment and have been approved by the WDNR in its letter of July 29, 2003 to the EPA. These actions have brought the FDDS into full compliance with WAC 1988 Chapter NR 140 Groundwater Quality Standards and the RA cleanup goals set forth in the 1991 ROD and RD/RA SOW. Moreover, Lake Michigan is the source of the municipal water supply for the City of Franklin. The City provides potable water to all of the large commercial establishments and residential developments in the vicinity of the Site. Though several emergency back up wells for the cities of Franklin and Oak Creek are within three miles of the Site, and some private wells still exist within 2,500 feet of the Site, such as those located south of Rawson Avenue, test results show that these wells are not being affected by the Site. The City of Franklin expects to extend its water distribution lines to this area within the next five years, at which time the use of private wells will be unnecessary. Surface water and sediment from the unnamed tributary at the Site have been sampled and analyzed during nine previous monitoring events at both upgradient and downgradient flow locations with respect to the FDDS.

Analytical results indicated that while surface water and sediment quality have been affected by urban runoff, the results do not reflect that surface water and sediment in the unnamed tributary have been affected by the FDDS.

TABLE 1.—WACLS TO BE APPLIED AT THE FADROWSKI DRUM DISPOSAL SITE

Monitoring Well (MW)	Parameter	Mean concentration (mg/l)	PAL/ES (mg/l)	Calculated ACL (mg/l)	Rounded ACL (mg/l)
MW-8 CO	Fluoride	0.74	0.44/2.2	3.6	4.0
MW-9S	Fluoride	1.30	0.44/2.2	1.48	1.5
MW-6COR	Iron	0.05	0.15/0.3	0.347	0.35
MW-6S	Iron	0.10	0.15/0.3	0.303	0.30
MW-7S	Iron	0.06	0.15/0.3	0.372	0.37
MW-6COR	Manganese	0.19	0.025/0.05	0.513	0.51
MW-6S	Manganese	0.15	0.025/0.05	0.235	0.24
MW-8CO	Manganese	0.25	0.025/0.05	0.625	0.63
MW-8D	Manganese	0.04	0.025/0.05	0.056	0.06
MW-9S	Manganese	0.04	0.025/0.05	0.051	0.05

Operation and Maintenance

Menard, Inc. has assumed operation and maintenance (O&M) responsibility

since the completion of RA activities through its primary RA contractor, Ayres Associates of Eau Claire, Wisconsin. These responsibilities, listed

in Table 2, have been performed by Ayres Associates' subcontractor, Environmental Sampling Corporation of Muskego, Wisconsin.

TABLE 2.—OPERATION AND MAINTENANCE ACTIVITIES AT THE FADROWSKI DRUM DISPOSAL SITE

Activity	Inspection frequency	Maintenance frequency
Site Fencing	Annually	As Required.
Site Access Road	Annually	As Required.

ENVIRONMENTAL MONITORING PROGRAM

Sample Collection and Monitoring Point Inspection	Each Sampling Event	As Required.
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FINAL COVER SYSTEM

Erosion of Soil Cap	Semi-annually ^a	As Required.
Grass Cover	Semi-annually ^a	As Required.
Storm Water Control Structures	Semi-annually ^a	As Required.
Mowing and Pruning	Twice/Year	Twice/Year ^b .

LEACHATE COLLECTION SYSTEM

Full Tank Monitoring	(^c)	(^c)
Leachate Level Measure	(^c)	(^c)
Leachate Disposal		As Required.
Test Cycle Pump	Quarterly	As Required.
Jet Leachate Collection Line	Five-Year Interval ^d	Five-Year Interval.
Tank Leak Detection	Quarterly	As Required.
Cathodic Protection	Annually	As Required.

^a Inspection of the final cover system will occur semi-annually for the first two years, until vegetation has been established, and annually hereafter.

^b Mowing of vegetation will occur twice each year during the growing season; usually in early July and late September.

^c None required as direct discharge permit to Milwaukee Metropolitan Sanitary District sewer has been established.

^d Leachate collection line will be jet cleaned after two years of operation and at five-year intervals thereafter.

Annual O&M reports are filed each June summarizing the O&M work conducted over the past year and documenting any problems at the Site, corrective actions taken, and changes in the monitoring and reporting requirements. The O&M items of note that have occurred at the Site since RA completion are the following:

1. Installation of a shallow subsurface drain system in 1999 to intercept the surface water seeping from the west slope of the Site. The drain system directed the water via piping to the

leachate collection system where it was discharged to the Milwaukee Metropolitan Sanitary District. This system eliminated a seep that was detected; no problems with the cover system have been detected since that time.

2. Miscellaneous repairs and/or replacement of the fencing, locks, and access road, as well as annual mowing of the grass cover at the Site; and,

3. Reduction in groundwater and leachate monitoring frequency from quarterly to semiannually. Surface water

and sediment sampling of the unnamed stream were eliminated in 2000 due to the inability to detect site-related contaminants over a two-year period, as documented in the Two-Year Ground Water Monitoring Report approved by the Agencies in November 2000. Under the terms of a Consent Order signed on March 28, 2005 between the WDNR and Menard, Inc., and with the concurrence of EPA, the frequency of groundwater and leachate monitoring was further reduced from semiannually to annually.

Since June 1993, a deed restriction has been in effect for this Site. The deed restriction, specified in the 1991 ROD, prohibits certain activities within the fill area on the Site. These activities include: no consumptive or other use of the groundwater underlying the property; no use of, or activity at, the property that may interfere with the work performed or to be performed under the UAO at the Site, or any activity which may damage any RA component contracted for or installed pursuant to the UAO or otherwise impair the effectiveness of any work to be performed pursuant to the UAO; no installation, construction, removal or use of any buildings, wells, pipes, roads, ditches or any other landfill cap except as approved by the EPA as consistent with the UAO and SOW; and, no residential use of the property.

During the O&M phase, some modifications have occurred in the vicinity of the FDDS. On July 24, 2001, EPA and WDNR rescinded portions of the existing deed restrictions on the private property adjacent to the Site, thereby allowing commercial development of the property outside the Site boundary fencing, as appropriate. These areas had previously been considered buffer areas around the Site; however, due to the stable Site conditions, the agencies have allowed limited development in these areas. This development is consistent with current Site conditions and has not caused storm water management or unauthorized Site access problems to develop. This area of the City of Franklin is considered to be an active commercial district and future development will likely occur in the vicinity of the FDDS. The Final Close-Out Report, signed August 8, 2003, documented that Menard, Inc. completed all response actions for the FDDS in accordance with OSWER Directive 9320.2-09A-P, *Close Out Procedures for National Priorities List Sites, January 2000*, as overseen by EPA and WDNR. The WDNR will continue to oversee and ensure the performance of O&M activities at the Site by Menard, Inc. using the provisions of its March 28, 2005 Consent Order with Menard, Inc. This oversight will continue for the remaining 22 years of the 30-year O&M phase or until such time as the WDNR determines that the annual groundwater and leachate monitoring requirements may be modified or terminated.

Five-Year Review

The first statutory five-year review for the Site was completed by EPA on September 14, 1998 pursuant to CERCLA section 121 (C) and as

provided in OSWER Directive 93 55.7-02, *Structure and Components of Five-Year Reviews, May 23, 1991*. This review was completed five years from the date (September 1993) on which the first contract was awarded by the responsible parties to implement RA.

The second statutory five-year review was completed by EPA on September 25, 2003, about five years from the date of completion of the first five-year review. This review was prepared according to OSWER Directive No. 9355.7-03B-P (EPA 540-R-01-007), *Comprehensive Five-Year Review Guidance, June 2001*.

Community Involvement

Public participation activities have been satisfied as required in CERCLA section 113(k), 42 U.S.C. 9613(k), and CERCLA section 117, 42 U.S.C. 9617. Documents in the deletion docket that EPA relied on for the recommendation of the deletion from the NPL are available to the public in the information repositories.

V. Deletion Action

The EPA, with concurrence of the State of Wisconsin, has determined that all appropriate responses under CERCLA have been completed, and that no further response actions, under CERCLA, other than O&M and five-year reviews, are necessary. Therefore, EPA is deleting the Site from the NPL.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication of a notice of intent to delete. This action will be effective September 6, 2005 unless EPA receives adverse comments by August 5, 2005 on a parallel notice of intent to delete published in the Proposed Rule section of today's **Federal Register**. If adverse comments are received within the 30-day public comment period on the proposal, EPA will publish a timely withdrawal of this direct final notice of deletion before the effective date of the deletion and it will not take effect and, EPA will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: June 21, 2005.

Norman Niedergang,

Acting Regional Administrator, EPA Region 5.

■ For the reasons set out in this document, 40 CFR part 300 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. 9601-9657; 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 under Wisconsin ("WI") by removing the site name "Fadrowski Drum Disposal Site" and the city "Franklin."

[FR Doc. 05-13172 Filed 7-5-05; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 20, and 43

[WC Docket No. 04-141; FCC 04-266]

Local Telephone Competition and Broadband Reporting

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: On May 26, 2005, the Federal Communications Commission received Office of Management and Budget (OMB) approval for the revised information collection, Local Telephone Competition and Broadband Reporting, WC Docket 04-141, OMB Control No. 3060-0816. The Commission previously stated in the Data Collection Order that the revised information collection requirements had not been approved by OMB, and that it would publish a document announcing the effective date, 69 FR 77912, December 29, 2004. By this document, we announce that OMB Control No. 3060-0816 and the amended rules 47 CFR 1.7001(b), 20.15(b)(1), and 43.11(a) implementing it were effective on May 26, 2005.

DATES: The amendments to 47 CFR 1.7001(b), 20.15(b)(1), and 43.11(a), published at 69 FR 77938, December 29, 2004, became effective on May 26, 2005.

FOR FURTHER INFORMATION CONTACT: Ellen Burton, Assistant Chief, James Eisner, Senior Economist, or Darryl Cooper, Attorney-Advisor, Industry