

Federal Register Notice

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300
[FRL-3630-5]

National Priorities List for Uncontrolled Hazardous Waste Sites

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY:

The Environmental Protection Agency ("EPA") is proposing an update to the National Priorities List ("NPL"). The NPL is Appendix B to the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), which was promulgated on July 16, 1982, pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"). CERCLA has since been amended by the Superfund Amendments and Reauthorization Act of 1986 ("SARA") and is implemented by Executive Order 12580 (52 FR 2923, January 29, 1987). CERCLA requires that NCP include a list of national priorities among the known releasee or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States, and that the list be revised at least annually. The NPL, initially promulgated on September 8, 1983 (48 FR 40658), constitutes this list.

This update proposes to add two new sites to the NPL, the Radium Chemical Company Site, in Woodside Queens, New York, and the Forest Glen Mobile Home Subdivision Site in Niagara Falls, New York. Both are proposed for the NPL on the basis of § 300.66(b)(4) of the NCP (50 FR 37624, September 16, 1985). Section 300.66(b)(4) provides that, in addition to those releases identified by their Hazard Ranking System (HRS) scores as candidates for the NPL, EPA may identify for inclusion on the NPL any other release that the Agency determines is a significant threat to public health, welfare or the environment. This notice provides the public with an opportunity to comment on placing the Radium Chemical Company Site and the Forest Glen Mobile Home Subdivision Site on the NPL.

This proposed rule brings the number of proposed NPL sites to 337, 74 of them in the Federal section; 889 sites are on the final NPL, 41 of them in the Federal section. Final and proposed sites now total 1,226.

DATE:

Comments must be submitted on or before September 15, 1989.

ADDRESSES:

Comments may be mailed, in triplicate, to:

Larry Reed
Acting Director, Hazardous Site Evaluation Division (Attn: NPL Staff)
Office of Superfund Remediation Technology Innovation (OS-230)
U.S. Environmental Protection Agency
401 M Street, SW.
Washington, DC 20460

Addresses for the Headquarters and Region 2 dockets are provided below. For further details on what these dockets contain, see the Public Comment Section, Section I, of the **SUPPLEMENTARY INFORMATION** portion of this preamble.

Tina Maragousis
Headquarters, U.S. EPA CERCLA Docket Office
Waterside Mall
401M Street, SW.
Washington, DC 20460
202/382-3046

U.S. EPA
Region 2
Document Control Center Superfund Docket
26 Federal Plaza, 7th Floor, Room 740
New York, NY 10278
Latchmin Serrano 212/264-5540
Ophelia Brown 212/264-1154

FOR FURTHER INFORMATION CONTACT:

Martha Otto
Hazardous Site Evaluation Division
Office of Superfund Remediation Technology Innovation (OS-230)
U.S. Environmental Protection Agency
401 M Street, SW.
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or the Superfund Hotline, Phone (800) 424-9346 (or 382-3000 in the Washington, DC, metropolitan area).

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Introduction
- II. Purpose and Implementation of the NPL
- III. NPL Update Process
- IV. Contents of this NPL Update
- V. Regulatory Impact Analysis
- VI. Regulatory Flexibility Act Analysis

I. Introduction

Background

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601-9657 ("CERCLA" or "the Act") in response to the dangers of uncontrolled or abandoned hazardous waste sites. CERCLA was amended on October 17, 1986, by the Superfund Amendments and Reauthorization Act ("SARA"), Public Law 99-499, stat. 1613 *et seq.* To implement CERCLA, the Environmental Protection Agency ("EPA" or "the Agency") promulgated the revised National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 CFR part 300, on July 16, 1982 (47 FR 31180), pursuant to CERCLA section 105 and Executive Order 12316 (46 FR 42237, August 20, 1981). The NCP, further revised by EPA on September 16, 1985 (50 FR 37624), and November 20, 1985 (50 FR 47912), sets forth the guidelines and procedures needed to respond under CERCLA to releases and threatened releases of hazardous substances, pollutants, or contaminants. On December 21, 1988 (53 FR 51394), EPA proposed revisions to the NCP in response to SARA.

Section 105(a)(8)(A) of CERCLA, as amended by SARA, requires that the NCP include "criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action and, to the extent practicable, take into account the potential urgency of such action for the purpose of taking removal action." Removal action involves cleanup or other actions that are taken in response to emergency conditions or on short-term or temporary basis (CERCLA section 101(23)). Remedial action tends to be long-term in nature and involves response actions that are consistent with a permanent remedy for a release (CERCLA section 101(24)).

Criteria for determining priorities for possible remedial actions financed by the Trust Fund established under CERCLA are included in the Hazard Ranking Systems ("HRS"), which EPA promulgated as Appendix A of the NCP (47 FR 31219, July 16, 1982). On December 23, 1988 (53 FR 51962), EPA proposed revisions to the HRS in response to CERCLA section 105(c), added by SARA.

In addition to the applications of the HRS, there are two other mechanisms by which EPA prioritizes sites for the purpose of taking remedial action. Under CERCLA section 105(a)(8)(B) each State may designate a single site as its top priority, regardless of the HRS score. Under the third mechanism, included in the NCP at 40 CFR 300.66(b)(4), the Agency may address sites as which the Agency for Toxic Substances and Disease Registry (ATSDR) recommends dissociation of individuals from the release, at which EPA determines that the release poses a significant public health threat, and for which EPA anticipates that it would be more cost effective to use remedial rather than removal authorities for cleanup. The three mechanisms are described in more detail in the NPL Update Process section, Section III, of the Supplementary Information portion of this preamble.

Based on these criteria, and pursuant to section 105(a)(8)(B) of CERCLA, as amended by SARA, EPA prepared a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The list, which is Appendix B of the NCP, is the National Priorities List ("NPL"), CERCLA section 105(a)(8)(B) also requires that the NPL be revised at least annually. A site can undergo CERCLA-financed remedial action only after it is placed on the NPL, as provided in the NCP at 40 CFR 300.66(c)(2) and 300.68(a).

An original NPL of 406 sites was promulgated on September 8, 1983 (48 FR 40658). The NPL has been expanded since then, most recently on March 31, 1989 (54 FR 13296). The Agency also has published a number of proposed rulemakings to add sites to the NPL, most recently Update #9 on July 14, 1989 (54 FR 29820).

EPA may delete sites from the NPL where no further response is appropriate, as explained in the NCP at 40 CFR 300.66(c)(7). To date, the Agency has deleted 27 sites from the final NPL, most recently on May 31, 1989 (54 FR 23212), when Voortman Farm, Upper Saucon Township, Pennsylvania, was deleted.

Pursuant to the NCP at 40 CFR 300.66(b)(4), this notice proposes to add two sites to the NPL. Adding these two sites to the 335 sites previously proposed brings the total number of proposed sites to 337. The final NPL contains 889 Sites, for a total of 1,226 final and proposed sites.

EPA may include on the NPL sites at which there are or have been releases or threatened releases of hazardous substances, pollutants, or contaminants. The discussion below may refer to "releases or threatened releases" simply as "releases," "facilities," or "sites."

Public Comment Period

This **Federal Register** notice opens the formal 30-day comment period for this NPL Update. Comments may be mailed to:

Larry Reed
Acting Director, Hazardous Site Evaluation Division (Attn: NPL staff)
Office of Superfund Remediation Technology Innovation (OS-230)
U.S. Environmental Protection Agency
401 M Street, SW.
Washington, DC 20460

The Headquarters and Region 2 public dockets for the NPL (see Addresses portion of this notice) contain documents relating to the scoring of these proposed sites. The dockets are available for viewing, by appointment only, after the appearance of this notice. The hours of operation for the Headquarters docket are from 9:00 a.m. to 4:00 p.m., Monday through Friday excluding Federal holidays. The hours of operation for the Region 2 docket are from 8:00 a.m. to 5:00 p.m., Monday through Friday excluding Federal holidays.

The Headquarters docket for the two sites proposed in this NPL Update contain HRS score sheets, a Documentation Record describing the information used to compute the score, a list of documents referenced in the Documentation

Record, the public health advisory issued by the Agency for Toxic Substances and Disease Registry, and EPA memoranda supporting the findings that the release poses a significant threat to public health and that it would be more cost-effective to use remedial rather than removal authorities at the sites.

The Regional docket includes all information available in the Headquarters docket, as well as the actual reference documents, which contain the data EPA relied upon in calculating or evaluating the HRS score for these sites. These reference documents are available only in the Region 2 docket.

An informal written request, rather than a formal request, should be the ordinary procedure for obtaining copies of any of these documents.

EPA considers all comments received during the formal comment period. During the comment period, comments are available to the public only in the Headquarters docket. A complete set of comments will be available for viewing in the Regional docket approximately one week after the formal comment period closes. Comments received after the comment period closes will be available in the Headquarters docket and in the Regional Office docket on an "as received" basis. An informal written request, rather than a formal request, should be the ordinary procedure for obtaining copies of any comments. After considering the relevant comments received during the comment period, EPA will add these sites to the NPL if they continue to meet requirements set out in the NCP. EPA will read all comments received on these sites, including late comments. In past rules, EPA responded even to late comments. However, given the need to make final decisions on all currently proposed sites prior to the date that the revised HRS takes effect, EPA will not be able to respond to all late comments received for sites in this rule. However, the Agency has routinely responded to late comments that result from EPA correspondence that provided commenters with more recent data or requested that the commenters be more specific in their comments.

Early Comments

In certain instances, interested parties have written to EPA concerning sites that were not, at that time, proposed to the NPL. Because such submissions were not sent to EPA during a formal comment period on the sites of concern, they are not considered to be formal comments. If those sites are later proposed to the NPL, parties should review their earlier concerns and, if they still consider them appropriate, resubmit those concerns for consideration during the formal comment period. Site-specific correspondence received prior to formal proposal generally will not be included in the docket.

Comments Lacking Specificity

EPA anticipates that some comments will consist of or include additional studies or supporting documentation, e.g., hydrogeology reports, lab data, and previous site studies. Where commenters do not indicate what specific scoring issues the supporting documentation addresses, or what they want EPA to evaluate in the supporting documentation, EPA can only attempt to respond to such documents as best it can. Any commenter submitting additional documentation should indicate what specific points in that documentation that it would like for EPA to consider. As the U.S. Court of Appeals for the District of Columbia Circuit noted in *Northside Sanitary Landfill v. Thomas & EPA*, 849 F. 2d 1516, 1520 (D.C. Cir. 1988) *cert. denied*, 109 S. Ct. 1528 (1989), during notice-and-comment rulemaking a commenter must explain with some specificity how any documents submitted are relevant to issues in the rulemaking.

II. Purpose and Implementation of the NPL

Purpose

The primary purpose of the NPL is stated in the legislative history of CERCLA (Report of the Committee on Environment and Public Works, Senate Report No. 96-848, 96th Cong., 2d Sess. 60 (1980)):

The priority lists serve primarily informational purposes, identifying for the States and the public those facilities and sites or other releases which appear to warrant remedial actions. Inclusion of a facility or site on the list does not in itself reflect a judgment of the activities of its owner or operator, it does not require those persons to undertake any action, nor does it assign liability to any person. Subsequent government action in the form of remedial actions or enforcement action will be necessary in order to do so, and these actions will be attended by all appropriate procedural safeguards.

The purpose of the NPL, therefore, is primarily to serve as an informational and management tool. The identification of a site for the NPL is intended primarily to guide EPA in determining which sites warrant further investigation to assess the nature and extent of the public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. The NPL also serves to notify the public of sites that EPA believes warrant further investigation.

Implementation

EPA has limited, by regulation, the expenditure of Trust Fund monies for remedial actions to those sites that have been placed on the final NPL, as outlined in the NCP at 40 CFR 300.66(c)(2) and 300.68(a). However, EPA may take enforcement actions under CERCLA or other applicable statutes against responsible parties regardless of whether the site is on the NPL, although, as a practical matter, the focus of EPA's CERCLA enforcement actions has been and will continue to be on NPL sites. Similarly, in the case of CERCLA removal actions, EPA has the authority to act at any site, whether listed or not, that meets the criteria of the NCP at 40 CFR 300.65-67.

EPA's policy is to pursue cleanup of NPL sites using the appropriate response and/or enforcement actions available to the Agency, including authorities other than CERCLA. Listing a site will serve as notice to any potentially responsible party that the Agency may initiate CERCLA-financed remedial action. The Agency will decide on a site-by-site basis whether to take enforcement or other action under CERCLA or other authorities, proceed directly with CERCLA-financed response actions and seek to recover response costs after cleanup, or do both. To the extent feasible, once sites are on the NPL, EPA will determine high-priority candidates for Superfund-finance response action and/or enforcement action through both State and Federal initiatives. These determinations will take into account which approach is more likely to most expeditiously accomplish cleanup of the site while using CERCLA's limited resources as efficiently as possible.

Remedial response actions will not necessarily be funded in the same order as a site's ranking on the NPL. Most sites are listed in the order of their HRS scores, and the Agency has recognized that the information collected to develop HRS scores is not sufficient in itself to determine either the extent of contamination or the appropriate response for a particular site. EPA relies on further, more detailed studies in the remedial investigation/feasibility study (RI/FS) to address these concerns.

The RI/FS determines the nature and extent of the threat presented by the contamination (40 CFR 300.68(d)). It also takes into account the amount of contaminants in the environment, the risk to affected populations and environment, the cost to correct problems at the site, and the response actions that have been taken by potentially responsible parties or others. Decisions on the type and extent of action to be taken at these sites are made in accordance with the criteria contained in Subpart F of the NCP. After conducting these additional studies, EPA may conclude that it is not desirable to initiate a CERCLA remedial action at some sites on the NPL because of more pressing needs at other sites, or because a private party cleanup is already underway pursuant to an enforcement action. Given the limited resources available in the Trust Fund, the Agency must carefully balance the relative needs for response at the numerous sites it has studied. It is also possible that EPA will conclude after further analysis that the site does not warrant remedial action.

III. NPL Update Process

There are three mechanisms for placing sites on the NPL. The principal mechanism is the application of the HRS. The HRS serves as a screening device to evaluate the relative potential of uncontrolled hazardous substances to cause human health or safety problems, or ecological or environmental damage. The HRS score represents an estimate of the relative "probability and magnitude of harm to the human population or sensitive environment from exposure to hazardous substances as a result of the contamination of ground water, surface water, or air (47 FR 31180, July 16, 1982). Those sites that score 28.50 or greater on the HRS are eligible for the NPL.

Under the second mechanism for adding sites to the NPL, each State may designate a single site as its top priority, regardless of the HRS score. This mechanism is provided by section 105(a)(8)(B) of CERCLA, as amended by SARA, which requires that, to the extent practicable, the NPL include within the 100 highest priorities, one facility designated by each State representing the greatest danger to public health, welfare, or the environment among known facilities in the State.

The third mechanism for listing, included in the NCP at 40 CFR 300.66(b)(4) (50 FR 37624-28, September 16, 1985), allows certain sites with HRS scores below 28.50 to be eligible for the NPL if all of the following occur:

- The Agency for Toxic Substances and Disease Registry (ATSDR) of the U.S. Department of Health and Human Services has issued a health advisory that recommends dissociation of individuals from the release.
- EPA determines that the release poses a significant threat to public health.
- EPA anticipates that it will be more cost-effective to use its remedial authority than to use its removal authority to respond to the release.

This third mechanism was added to the NCP by rulemaking, during which the Agency explained that there are certain types of sites for which the risk may not be fully reflected in the HRS score. For example, direct contact scores are not included in calculating the total HRS score, and thus some sites involving direct contact to residents may pose a serious threat but not receive a sufficiently high score to qualify for the NPL. Similarly, where a small number of people are exposed to a hazardous substance, the site may fail to qualify for listing due to the low targets score. After accepting and responding to public comment, EPA issued a regulation that would allow the Agency to list sites where the ATSDR issues a health advisory, EPA determines that the site poses a significant health threat, and the Agency finds that it would be more cost-effective to use remedial rather than removal authority to respond to the release (50 FR at 37624-25).

The two sites proposed for the NPL today are proposed under the third mechanism for adding sites to the NPL. The specific application of the criteria for this mechanism to the Radium Chemical Company Site and the Forest Glen Mobile Home Subdivision Site is discussed in Section IV of this notice.

States have the primary responsibility for identifying non-Federal sites, computing HRS scores, and submitting candidate sites to the EPA Regional Offices. EPA Regional Offices conduct a quality control review of the States' candidate sites, and may assist in investigating, sampling, monitoring, and scoring sites. Regional Offices also may consider candidate sites in addition to those submitted by States. EPA Headquarters conducts further quality assurance audits to ensure accuracy and consistency among the various EPA and State offices participating in the scoring. The Agency then proposes the sites that meet one of the three criteria for listing (and EPA's listing requirements) and solicits public comment on the proposal. Based on these comments and further review by EPA, the Agency determines final HRS scores and places those sites that still qualify on the final NPL.

IV. Contents of This Proposed NPL Update

The Radium Chemical Company (RCC) Site, in Woodside, Queens Borough, New York City, New York and the Forest Glen Mobile Home Subdivision Site in Niagara Falls, New York are being proposed for the NPL on the basis of section 300.66(b)(4) of the NCP (50 FR 37624, September 16, 1985). Section 300.66(b)(4) provides that, in addition to those releases identified by their HRS scores as candidates for the NPL, EPA may identify for the NPL any other release that the Agency determines is a significant threat to public health, welfare, or the environment EPA may make such a determination when ATSDR has issued a health advisory as a consequence of the release.

Radium Chemical Company

The site consists of a one-story brick building located in a densely populated residential and commercial area of New York City. Established in Manhattan in 1913, RCC transferred operations to Woodside in the late 1950s. A separate manufacturing company, which is unrelated to the RCC operation, occupies part of the same building and shares a common wall with RCC.

Initially, RCC produced luminous paint for watch dials and instruments. Later, it manufactured radium-containing needles and other sealed medical devices, largely for cancer therapy.

In 1983, the State suspended RCC's operating license because of various disposal and safety infractions, and in 1986, the company was denied permission to resume operations. In 1987, the State ordered RCC to remove the radium and decontaminate the building. In 1987, the facility was abandoned leaving a large number of radium-containing sealed

containers at the site, some of which were suspected of releasing radium and radon gas. The amount of radium-226 at the site was estimated to be 110 curies. Also on the site were hundreds of containers of laboratory chemicals, many of which were reactive, corrosive, flammable, and/or potentially shock sensitive.

The State formally requested that EPA secure the plant and remove the radioactive materials. In July 1988, EPA undertook a limited removal action using CERCLA emergency funds. EPA provided 24-hour security and took measures to stabilize the site. In April 1988, EPA began to remove the radioactive and hazardous materials and transport them to approved disposal facilities.

Elevated levels of radiation have been measured inside certain areas of the building. On February 10, 1989, ATSDR issued an advisory warning that the RCC Site poses a significant threat to public health because of the potential for the release of radium-226.

The advisory discusses two concerns. One is that an intruder might enter the RCC Site from the adjoining manufacturing facility (as has happened in the past) and remove radioactive materials. The second concern relates to the potential for release of radioactive materials to the ambient environment as a result of physical disturbance to the building. The RCC building is located approximately 15 feet from the Brooklyn-Queens Expressway, a major highway used extensively for commercial trucking. The U.S. Department of Energy's Lawrence Livermore Laboratory has modelled scenarios involving a gasoline tanker accident on the Brooklyn-Queens Expressway in the vicinity of the site, and has determined that the estimated 27,000 people who live within 1 mile of the site could be exposed to radiation if any were released in the event of a major accident.

As a result of these concerns, ATSDR has recommended dissociation of the radioactive materials from individuals in the community. (See "Public Health Advisory for Radium Chemical Company, Woodside, Queens, New York," issued by the ATSDR, February 10, 1989. This advisory is included in the Superfund docket for this proposed rule.)

EPA's assessment is that the site poses a significant threat to human health and the environment, and EPA anticipates that it will be more cost-effective to use remedial authority than to use removal authority to respond to the site. This finding is set out in a memorandum dated March 17, 1989, from Timothy Fields, Jr., Director, Emergency Response Division to Larry Reed, Acting Director of the Hazardous Site Evaluation Division, both in the Office of Solid Waste and Emergency Response. This memorandum is available in the Superfund docket for this proposed rule. Based on this information, and the references in support of the proposal, EPA believes that the Radium Chemical Site is appropriate for the NPL pursuant to 40 CFR 300.66(b)(4).

Forest Glen Mobile Home Subdivision Site

The Forest Glen Mobile Home Subdivision Site is located in Niagara Falls, Niagara County, New York. The 21-acre site consists of 52 mobile homes and two permanent residences. Approximately 150 residents live in the area. Surface and subsurface soils at the site are contaminated with a variety of chemicals.

Prior to the 1960's the area was wooded wetland. During the 1960's the area was cleared, and in the early 1970's, the area was filled with unspecified materials. The area was developed into a mobile home community in the 1970's. Analysis of soil samples collected from the site in 1988 and 1989 identified polyaromatic hydrocarbons, aniline, phenothiazine, benzothiazine, and mercaptobenzothiazole.

On July 21, 1989, ATSDR issued a preliminary Health Assessment, and on July 31, 1989 ATSDR issued a final Health Advisory recommending the dissociation of the residents of the community from the wastes and contaminated soil at the site. The advisory was based on the concern that residents of the community may be exposed to hazardous substances as a result of dermal contact with the soil (i.e, gardening, playing), through ingestion of produce growth in the soil, or as a result of inhalation of concentrated vapors collected in poorly ventilated, confined areas such as the space under the skirt of the mobile homes. In addition, the advisory expressed concern regarding the physical stability of the disposal area beneath the site, and the potential for contamination of the public water supply.

(See "Public Health Advisory for the Forest Glen Mobile Home Park, Niagra Falls, New York," issued by the ATSDR on July 31, 1989. This document is included in the Superfund docket for this proposed rule.)

EPA's assessment is that the site poses a significant threat to human health and the environment, and EPA anticipates that it will be more cost-effective to use remedial authority than to use removal authority to respond to the site. This finding is set out in a memorandum dated August 3, 1989, from Stephen Luftig, Director of the Region II Emergency and Remedial Response Division to Larry Reed, Acting Director of the Hazardous Site Evaluation Division. This memorandum is available in the Superfund docket for this proposed rule.

Based on this information, and the references in support of the proposal, EPA believes that the Forest Glen Mobile Home Subdivision Site is appropriate for listing on the NPL pursuant to 40 CFR 300.66(b)(4).

Table 1 following this preamble lists the two sites proposed for the NPL in this update. The entry contains the names and locations of the sites.

Each proposed site is placed by HRS score in a group corresponding to groups of 50 sites presented within the final NPL. For example, a site in Group 8 of the proposed update has a score that falls within the range of scores covered by the eighth group of 50 sites on the final NPL. The NPL is arranged by HRS scores and is presented in groups of 50 to emphasize that minor differences in scores do not necessarily represent significantly different levels of risk. Since these two sites have proposed HRS scores of less than 28.50, they are included in the group of sites with the lowest HRS scores.

V. Regulatory Impact Analysis

The costs of cleanup actions that may be taken at sites are not directly attributable to listing on the NPL, as explained below. Therefore, the Agency has determined that this rulemaking is not a "major" regulation under Executive Order 12291. EPA has conducted a preliminary analysis of the economic implications of today's proposal to add two new sites, and finds that the kinds of economic effects associated with this proposed revision are generally similar to those identified in the regulatory impact analysis (RIA) prepared in 1982 for revisions to the NCP pursuant to section 105 of CERCLA (47 FR 31180, July 16, 1982) and the economic analysis prepared when amendments to the NCP were proposed (50 FR 5882, February 12, 1985). This rule was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Costs

EPA has determined that this proposed rulemaking is not a "major" regulation under Executive Order 12291 because inclusion of a site on the NPL does not itself impose any costs. It does not establish that EPA necessarily will undertake remedial action, nor does it require any action by a private party or determine its liability for site response costs. Costs that arise out of site responses result from site-by-site decisions about what actions to take, not directly from the act of listing itself. Nonetheless, it is useful to consider the costs associated with responding to the sites included in this proposed rulemaking.

The major events that follow the proposed listing of a site on the NPL are a search for potentially responsible parties and a remedial investigation/feasibility study (RI/FS) to determine if remedial actions will be undertaken at a site. Design and construction of the selected remedial alternative follow completion of the RI/FS, and operation and maintenance (O&M) activities may continue after construction has been completed.

EPA initially bears costs associated with responsible party searches. Responsible parties may bear some or all the costs of the RI/FS, remedial design and construction, and O&M, or EPA and the States may share costs.

The State cost share for site cleanup activities has been amended by section 104 of SARA. For privately-owned sites, as well as at publicly-owned but not publicly-operated sites, EPA will pay for 100% of the costs of the RI/FS and remedial planning, and 90% of the costs associated with remedial action. The State will be responsible for 10% of the remedial action. For publicly-operated sites, the State cost share is at least 50% of all response costs at the site, including the RI/FS and remedial design and construction of the remedial action selected. After the remedy is built, costs fall into two categories:

1. For restoration of ground water and surface water, EPA will share in startup costs according to the criteria in the previous paragraph for 10 years or until a sufficient level of protectiveness is achieved before the end of 10 years.

2. For other cleanups, EPA will share for up to 1 year the cost of that portion of response needed to assure that a remedy is operational and functional. After that, the State assumes full responsibilities for O&M.

In previous NPL rulemakings, the Agency estimated the costs associated with these activities (RI/FS, remedial design, remedial action, and O&M) on an average per site and total cost basis. EPA will continue with this approach, using the most recent (1988) cost estimates available; these estimates are presented below. However, there is wide variation in costs for individual sites, depending on the amount, type, and extent of contamination. Additionally, EPA is unable to predict what portions of the total costs responsible parties will bear, since the distribution of costs depends on the extent of voluntary and negotiated response and the success of any cost-recovery actions.

Cost category	Average total cost per site ¹
RI/FS	1,100,000
Remedial Design	750,000
Remedial Action	² 13,500,000
Net present value of O&M ³	² 3,770,000

Source: Office of Program Management, Office of Superfund Remediation Technology Innovation, U.S. EPA. ¹ 1988 U.S. Dollars.

² Includes State cost-share.

³ Assumes cost of O&M over 30 years, \$400,000 for the first year and 10% discount rate.

Costs to States associated with today's proposed rule arise from the required State cost-share of:

1. 10% of remedial actions and 10% of first-year O&M costs at privately-owned sites and sites that are publicly-owned but not publicly-operated; and
2. at least 50% of the remedial planning (RI/FS and remedial design), remedial action, and first-year O&M costs at publicly-operated sites.

The State will assume the cost for O&M after EPA's period of participation. The Radium Chemical Company Site and the Forest Glen Mobile Home Subdivision Site are both privately-owned. Therefore, using the budget projections presented above, the cost to the State of undertaking Federal remedial planning and actions, but excluding O&M costs, would be approximately \$2.5 million. State O&M costs cannot be accurately determined because EPA, as noted above, will share O&M costs for up to 10 years for restoration of ground water and surface water, and it is not known if these sites will require this treatment and for how long. However, based on past experience, EPA believes a reasonable estimate is that it will share startup costs for up to 10 years at 25% of sites.

Proposing a hazardous waste site for the NPL does not itself cause firms responsible for the site to bear costs. Nonetheless, a listing may induce firms to clean up the sites voluntarily, or it may act as a potential trigger for subsequent enforcement or cost-recovery actions. Such actions may impose costs on firms, but the decisions to take such actions are discretionary and made on a case-by-case basis. Consequently, precise estimates of these effects cannot be made. EPA does not believe that every site will be cleaned up by a responsible party. EPA cannot project at this time which firms or industry sectors will bear specific portions of the response costs, but the Agency considers: the volume and nature of the waste at the sites; the strength of the evidence linking the wastes at the site to the parties; the parties' ability to pay; and other factors when deciding whether and how to proceed against the parties.

Economy-wide effects of this proposed amendment to the NCP are aggregations of effects on firms and State and local governments. Although effects could be felt by some individual firms and States, the total impact of this proposal on output, prices, and employment is expected to be negligible at the national level, as was the case in the 1982 RIA.

Benefits

The benefits associated with today's proposal to place the Radium Chemical Company Site and the Forest Glen Mobile Home Site on the NPL are increased health and environmental protection as a result of increased public awareness of potential hazards. In addition to the potential for more Federally-financed remedial actions, expansion of the NPL can accelerate privately-financed, voluntary cleanup efforts. Proposing sites as national priority targets also may give States increased support for funding responses at particular sites.

As a result of additional CERCLA remedies, there will be lower human exposure to high-risk chemicals, and higher-quality surface water, ground water, soil, and air. These benefits are expected to be significant, although difficult to estimate in advance of completing the RI/FS at this site.

VI. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act of 1980 requires EPA to review the impacts of this action on small entities, or certify that the action will not have a significant impact on a substantial number of small entities. By small entities, the Act refers to small businesses, small government jurisdictions, and nonprofit organizations.

While this rule proposes revisions to the NCP, they are not typical regulatory changes since the revisions do not automatically impose costs. Proposing sites on the NPL does not in itself require any action by any private party, nor does it determine the liability of any party for the cost of cleanup at the site. Further, no identifiable groups are effected as a whole. As a consequence, it is hard to predict impacts on any group. A site's proposed inclusion on the NPL could increase the likelihood that adverse impacts to responsible parties (in the form of cleanup costs) will occur, but EPA cannot identify the potentially affected business at this time nor estimate the number of small businesses that might be affected.

The Agency does expect that certain industries and firms within industries that have caused a proportionately high percentage of waste site problems could be significantly affected by CERCLA actions. However, EPA does not expect the impacts from the listing of these sites to have a significant economic impact on a substantial number of small businesses.

In any case, economic impacts would only occur through enforcement and cost-recovery actions, which are taken at EPA's discretion on a site-by-site basis. EPA considers many factors when determining what enforcement actions to take, including not only the firm's contribution to the problem, but also the firm's ability to pay.

The impacts (from cost recovery) on small governments and nonprofit organizations would be determined on a similar case-by-case basis.

List of Subjects In 40 CFR Part 300

Air pollution control, Chemicals, Hazardous materials, Intergovernmental relations, Natural resources, Oil pollution, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

Dated: August 10, 1989.

Robert L Duprey,
Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

PART 300-[AMENDED]

It is proposed to amend 40 CFR Part 300 as follows:

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

Authority: 42 U.S.C. 9605; 42 U.S.C. 9820; 33 U.S.C. 1321(c)(2); E.O. 11735 (38 FR 21243); E.O. 12580 (52 FR 2923).

Appendix B [Amended]

2. It is proposed to add the following two sites by group to the first table in Appendix B of Part 300:

**National Priorities List Proposed Update
August 1989**

NPL Gr ¹	EPA Reg	State	Site name	City/county
17	02	NY	Radium Chemical Co.	Woodside
17	02	NY	Forest Glen Mobile Home Subdivision	Niagra Falls

Number of Sites Proposed for listing: 2. ¹ Sites are placed in groups (Gr) corresponding to groups of 50 on the final NPL.

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