

Federal Register Notice

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300
[FRL-3533-8]

National Priorities List for Uncontrolled Hazardous Waste Sites; Final Federal Facility Site Update

AGENCY: Environmental Protection Agency.
ACTION: Final rule.

SUMMARY:

The Environmental Protection Agency ("EPA") is amending the National Oil and Hazardous Substances Contingency Plan ("NCP"), 40 CFR Part 300, which was promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA") (amended by the Superfund Amendments and Reauthorization Act of 1986 ("SARA")) and Executive Order 12580 (52 FR 2923, January 29, 1987). CERCLA requires that the NCP include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States, and that the list be revised at least annually. The National Priorities List ("NPL"), initially promulgated as Appendix B of the NCP on September 8, 1983 (48 FR 40658), constitutes this list and is being revised today by the addition of eight Federal facility sites to the Federal section of the NPL, the expansion of two Federal facility sites already on the NPL, and the reclassification of one site already on the NPL to a Federal facility site. EPA has reviewed public comments on the listing of these sites and has decided that they meet the eligibility requirements and listing policies of the NPL. Information supporting these actions is contained in the Superfund Public Dockets. Elsewhere in today's **Federal Register** is a notice describing the policy under which some of these Federal facility sites are being added to the NPL. This rule results in a final NPL of 799 sites, 41 of them in the Federal section; 370 sites are proposed to the NPL, 22 of them in the Federal section. Final and proposed sites now total 1,169.

EFFECTIVE DATE:

The effective date for this amendment to the NCP shall be April 12, 1989. CERCLA section 305 provides for a legislative veto of regulations promulgated under CERCLA. Although *INS v. Chadha*, 462 U.S. 919, 103 S. Ct. 2764 (1983), cast the validity of the legislative veto into question, EPA has transmitted a copy of this regulation to the Secretary of the Senate and the Clerk of the House of Representatives. If any action by Congress calls the effective date of this regulation into question, the Agency will publish a notice of clarification in the **Federal Register**.

ADDRESSES:

Addresses for the Headquarters and Regional dockets follows. For further details on what these dockets contain, see section I of the "**SUPPLEMENTARY INFORMATION**" portion of this preamble.

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

Evo Cunha
Region 1, U.S. EPA Waste Management Records Center, HES-CAN 6
J.F. Kennedy Federal Building
Boston, MA 02203
617/565-3300

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

Diane McCreary
Region 3, U.S. EPA Library, 5th Floor
841 Chestnut Building
9th & Chestnut Streets
Philadelphia, PA 19107
215/597-0580

Gayle Alston
Region 4, U.S. EPA Library, Room G-6
345 Courtland Street, NE.
Atlanta, GA 30365
404/347-4216

Cathy Freeman
Region 5, U.S. EPA, 5 HS-12
230 South Dearborn Street
Chicago, IL 60604
312/886-6214

Deborah Vaughn-Wright
Region 6, U.S. EPA
1445 Ross Avenue, Mail Code 6H-MA
Dallas, TX 75202-2733
214/ 655-6740

Connie McKenzie
Region 7, U.S. EPA Library
726 Minnesota Avenue
Kansas City, KS 66101
913/236-2828

Dolores Eddy
Region 8, U.S. EPA Library
999 18th Street, Suite 500
Denver, CO 80202-2405
303/293-1444

Linda Sunnen
Region 9, U.S. EPA Library, 6th Floor
215 Fremont Street
San Francisco, CA 94105
415/974-8082

David Bennett
Region 10, U.S. EPA, 9th Floor
1200 6th Avenue
Mail Stop HW-093
Seattle, WA 98101
206/442-2103

FOR FURTHER INFORMATION CONTACT:

Joseph Kruger
Hazardous Site Evaluation Division
Office of Superfund Remediation Technology Innovation (OS-230)
U.S. Environmental Protection Agency
401 M Street SW.
Washington, DC 20460
or the Superfund Hotline, Phone (800) 424-9346 (382-3000 in the Washington, DC, metropolitan area).

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I. Introduction

Background

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. sections 9601-9657 ("CERCLA" or the "Act"), in response to the dangers of uncontrolled or abandoned hazardous waste sites. CERCLA was amended in 1986 by the Superfund Amendments and Reauthorization Act ("SARA"), Pub. L. No. 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 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 guidelines and procedures needed to respond under CERCLA to releases or 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. In response to that mandate, EPA developed a model for assessing the relative risk posed by sites (the "Hazard Ranking System" or "HRS").

Section 105(a)(8)(B) of CERCLA, as amended by SARA, requires that the statutory criteria provided by the HRS be used to prepare 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"). Section 105(a)(8)(B) also requires that the NPL be revised at least annually.

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 July 22, 1987 (52 FR 27620). The Agency has also published a number of proposed rulemakings to add sites to the NPL, most recently Update #7 on June 24, 1988 (53 FR 23988). EPA announced on June 10, 1986 (51 FR 21056), that it would list Federal facility sites in a separate section of the NPL, using the same technical criteria that qualify non-Federal sites.

EPA may delete sites from the NPL when no further response is appropriate, as provided in the NCP at 40 CFR 300.66(c)(7). To date, the Agency has deleted 24 sites from the NPL, 8 of them since the June 1988 proposed rule. They are:

- September 1, 1988 (53 FR 33811)
 - Tri-City Oil Conservationist, Inc., Tampa, Florida
 - Varsol Spill (once listed as part of Biscayne aquifer), Miami, Florida
- December 23, 1988 (53 FR 51780)
 - Toftdahl Drums, Brush Prairie, Washington
- January 19, 1989 (54 PR 2124)
 - Matthews Electroplating, Roanoke County, Virginia
- February 13, 1989 (54 FR 6521)
 - Presque Isle, Erie, Pennsylvania
- February 21, 1989 (54 FR 7424)
 - Parramore Surplus, Mount Pleasant, Florida
- February 22, 1989 (54 FR 7548)
 - Cooper Road, Voorhees Township, New Jersey
- February 22, 1989 (54 FR 7549)
 - Krysowaty Farm, Hillsborough, New Jersey.

EPA has also published several notices of intent to delete sites.

This rule adds eight Federal facility sites to the NPL, expands two Federal facility sites, and reclassifies one private site to a Federal facility site. EPA has carefully considered public comments submitted for the sites in today's final rule. This rule results in a final NPL of 799 sites, 41 of them in the Federal section; 370 sites are in proposed status, 22 of them in the Federal section. With these changes, final and proposed sites now total 1,169.

EPA includes 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".

Information Available to the Public

The Headquarters and Regional public dockets for the NPL (see Addresses portion of this notice) contain documents relating to the scoring of sites in this final rule. The dockets are available for viewing "by appointment only" after the appearance of this notice. The hours of operation for the Headquarters dockets are from 9:00 a.m. to 4:00 p.m., Monday through Friday excluding Federal holidays. Please contact individual Regional dockets for hours.

The Headquarters docket contains HRS score sheets for each final site, a Documentation Record for each site describing the information used to compute the score, pertinent information for any site affected by special study waste, information for sites affected by the policy for listing sites subject to the Surface Mining Control and Reclamation Act of 1977 (SMCRA), a list of documents referenced in the Documentation Record, comments received, and the Agency's response to those comments. The Agency's responses are contained in the "Support Document for the Revised National Priorities List - Final Federal Facility Site Update, March 1989."

Each Regional docket includes all information available in the Headquarters docket for sites in that Region, as well as the actual reference documents, which contain the data EPA relied upon in calculating or evaluating the HRS scores for sites in the Region. These reference documents are available only in the Regional dockets. They may be viewed "by appointment only" in the appropriate Regional Docket or Superfund Branch office. Requests for copies may be directed to the appropriate Regional docket or Superfund Branch.

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

EPA has published a statement describing what background information (resulting from the initial investigation of potential CERCLA sites) the Agency discloses in response to Freedom of Information Act requests (52 FR 5578, February 25, 1987).

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 judgement 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 actions 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 initial 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 EPA believes warrant further investigation.

Federal facility sites are eligible for the NPL pursuant to the NCP at 40 CFR 300.66(c)(2). However, section 111(e)(3) of CERCLA as amended by SARA, limits the expenditure of CERCLA monies at Federally-owned facilities. Federal facility sites are also subject to the requirements of CERCLA section 120, added by SARA.

Placing Sites on the NPL

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 is calculated by estimating risks presented in three potential "pathways" of human or environmental exposure: Ground water, surface water, and air. Within each pathway of exposure, the HRS considers three categories of factors "that are designed to encompass most aspects of the likelihood of exposure to a hazardous substance through a release and the magnitude or degree of harm from such exposure":

1. Factors that indicate the presence or likelihood of a release to the environment;
2. factors that indicate the nature and quantity of the substances presenting the potential threat; and
3. factors that indicate the human or environmental "targets" potentially at risk from the site.

Factors within each of these three categories are assigned a numerical value according to a set scale. Once numerical values are computed for each factor, the HRS uses mathematical formulas that reflect the relative importance and interrelationships of the various factors to arrive at a final site score on a scale of 0 to 100. The resultant 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, September 16, 1985), has been used only in rare instances. It 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 of the U.S. Department of Health and Human Services has issued a health advisory which 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.

All sites in this update are being included on the NPL based on HRS scores.

Federal agencies have the primary responsibility under CERCLA section 120(c) for identifying Federal facility sites. In conjunction with EPA Regional Offices, the Federal agencies perform investigations, sampling, monitoring, and scoring of sites. Regional Offices then conduct a quality control review of the candidate sites. EPA Headquarters conducts further quality assurance audits to ensure accuracy and consistency among the various offices participating in the scoring. The Agency then proposes the sites that meet one of the three eligibility criteria for listing (and EPA's listing policies) and solicits public comment on the proposal. Based on these comments and further review by EPA, the Agency determines final HRS scores and lists those sites that still qualify for the final NPL.

In response to CERCLA section 105(c), as amended by SARA, EPA has proposed revisions to the HRS (53 FR 51962, December 23 1988). EPA intends to issue the revised HRS as soon as possible. However, until the proposed revisions have been subject to public comment and put into effect, EPA will continue to propose and promulgate sites using the current HRS, in accordance with CERCLA section 105(c)(1) and Congressional intent, *see, e.g., S. Rep. No. 11, 99th Cong., 1st Sess. 41 (1985); 131 Cong. Rec. S-11681 (daily ed., Sept. 18, 1985) (statement of Sen. Baucus).*

III. Statutory Requirements and Listing Policies

CERCLA restricts EPA's authority to respond to certain categories of releases of hazardous substances, pollutants, or contaminants by expressly excluding some substances, such as petroleum, from the response program. In addition, CERCLA section 105(a)(8)(B) directs EPA to list priority sites "among" the known releases or threatened releases of hazardous substances, pollutants, or contaminants, and section 105(a)(8)(A) directs EPA to consider certain enumerated and "other appropriate" factors in doing so. Thus, as a matter of policy, EPA has the discretion not to use CERCLA to respond to certain types of releases. For example, EPA has chosen not to list sites that result from contamination associated with facilities licensed by the Nuclear Regulatory Commission (NRC), on the grounds that NRC has the authority and expertise to clean up releases from those facilities (48 FR 40661, September 8, 1983). Where other authorities exist, placing the site on the NPL for possible remedial action under CERCLA may not be appropriate. Therefore, EPA has chosen to defer certain types of sites from the NPL even though CERCLA may provide authority to respond. If, however, the Agency later determines that sites not listed as a matter of policy are not being properly responded to, the Agency may place them on the NPL.

In the proposed revisions to the NCP (53 FR 51394, December 21, 1988), the Agency is considering extending the deferral policy, under certain circumstances, to include other Federal authorities and States that have corrective action authority. The Agency is also considering extending the policy to sites where the potentially responsible parties

enter into enforcement agreements for site cleanup under CERCLA. EPA notes that even if another authority is applicable to Federal facilities, the cleanup of such sites will not be deferred, and Federal Facilities will continue to be included in the NPL, consistent with CERCLA section 120(d)(2).

Releases from Federal Facility Sites

On June 10, 1987 (51 FR 21054), the Agency announced a decision on components of a policy for generally deferring from listing those non-Federal sites that are subject to Subtitle C of the Resource Conservation and Recovery Act (RCRA). The policy was intended to reflect RCRA's broadened corrective action authorities as a result of the Hazardous and Solid Waste Amendments of 1984 (HSWA). In announcing the RCRA policy, the Agency reserved for a later date the question of whether this or another policy would be applied to Federal facility sites that include one or more RCRA hazardous waste management units, and thus are subject to RCRA Subtitle C corrective action authorities.

On May 13, 1987 (52 FR 17991), the Agency announced its intent to adopt a policy that would allow Federal facility sites to be placed on the NPL regardless of whether RCRA Subtitle C corrective action authorities are applicable.

Elsewhere in today's **Federal Register** is a notice describing the policy for placing on the NPL those sites located on Federally-owned or -operated facilities that meet the eligibility criteria (e.g., HRS score of 28.50 or greater) set out in the NCP for listing on the NPL, even if the Federal facility is also subject to the corrective action authorities of RCRA Subtitle C. Thus the June 10, 1986 RCRA deferral policy (51 Fr 21057), applicable to private sites, will not be applied to Federal facility sites.

The Agency believes that placing Federal facility sites with or without RCRA-regulated hazardous waste management units on the NPL is consistent with the intent of section 120 of SARA and will serve the purposes originally intended by the NCP at 40 CFR 300.66(e)(2) - to advise the public of the status of Federal Government cleanup efforts (50 FR 47931, November 20, 1985). In addition, listing will help other Federal agencies set priorities and focus cleanup efforts on those sites presenting the most serious problems.

Releases from Special Study Wastes and Mining Sites

Section 105(g) of CERCLA, as amended by SARA, requires additional information before sites involving RCRA "special study wastes" can be added to the NPL (53 FR 23992, June 24, 1988). One of the sites being expended in this rule (Weldon Spring Quarry/Plant/Pits) involves such wastes. The same site also involves mining wastes, which are addressed under a SMCRA applicability policy also explained on June 24, 1988 (53 FR 23993). A memorandum has been placed in the docket addressing the application of the special study waste and SMCRA policies to this site.

IV. Disposition of Sites in Today's Final Rule

This final rule adds eight Federal facility sites to the Federal facility section of the NPL (Table I), finalizes the expansion of two Federal facility sites already on the NPL, and reclassifies one site already on the NPL to a Federal facility site.

Table 1
National Priorities List, Federal Facility Sites, New Final (By Group) March 1989

NPL Gr¹	St	Site Name	City/County	Response category²	Cleanup status³
1	NM	Cal West Metals (USSBA)	Lemitar	D	
4	AL	Anniston Army Depot (SE Ind Area)	Anniston	R	I
7	IL	Savanna Army Depot Activity	Savanna	R	

NPL Gr ¹	St	Site Name	City/County	Response category ²	Cleanup status ³
9	PA	Letterkenny Army Depot (PDO Area)	Franklin County	R	
10	DE	Dover Air Force Base	Dover	R	I
11	IL	Joliet Army Ammu Plant (LAP Area)	Joliet	R	
13	WA	Fairchild Air Force Base (4 Areas)	Spokane County	R	
15	LA	Louisiana Army Ammunition Plant	Doyline	R	

Number of New Final Federal Facility Sites: 8

¹ Sites are placed in groups (Gr) corresponding to groups of 50 on the final NPL.

² V=Voluntary or negotiated response; R=Federal and State response; F=Federal enforcement; S=State enforcement; D=Category to be determined.

³ I=Implementation activity underway, one or more operable units; O=One or more operable units completed; others may be underway; C=Implementation activity completed for all operable units.

New Final Sites

The eight new Federal facility sites in today's final rule are subject to the corrective action authorities of RCRA Subtitle C. EPA is placing these sites on the NPL consistent with the listing policy for Federal facilities, described elsewhere in today's **Federal Register**. They include six sites repropoed for the NPL on July 22, 1987 (52 FR 27643), and two sites proposed on June 24, 1988 (53 FR 23988). The Agency received comments on two of the sites on July 22, 1987; no comments were received on the remaining six sites.

The Agency received technical comments on the proposal to list the Letterkenny Army Depot (Property Disposal Office Area), Franklin County, Pennsylvania, and the Anniston Army Depot (Southeast Industrial Area), Anniston, Alabama. EPA's response to these comments is discussed in the "Support Document for the Revised National Priorities List - Final Federal Facility Site Update, March 1989" which is available in the appropriate Superfund Dockets.

Site Expansions

The Agency is finalizing two site expansions in this rule, the expansion of the Rocky Mountain Arsenal (RMA) site in Denver, Colorado, to include Basin F, a 93-acre lagoon on the site, and the expansion of the Weldon Spring Quarry (USDOE/Army) site in St. Charles County, Missouri, to include the Weldon Spring Feed Materials plant and Raffinate Pits.

The approach of expanding a site to include a contiguous area that is contributing to a contamination problem, rather than proposing a second separate site, is within the Agency's authority and is consistent with past practice. For instance, in the first NPL proposal on December 30, 1982, (47 FR 58476), EPA proposed to list a 28-mile stream bed (the "Silver Bow Creek site"), and finalized that site on September 8, 1983 (48 FR 40658). The Agency then proposed on June 10, 1986 (51 FR 21101) to expand the site to include an additional area which EPA determined to be significantly contributing to the contamination; the Silver Bow Creek expansion was finalized on July 22, 1987 (52 FR 27627). EPA has broad authority to address contamination, as reflected in CERCLA section 104(d)(4), which allows the Agency to treat related, noncontiguous facilities as one for the purpose of remedial action, and in CERCLA section 101(9), which defines a "facility" under CERCLA to include any site or area where a hazardous substance has been placed or "come to be located."

The Agency received comments from one party opposing the proposal to expand the RMA site; EPA had proposed this expansion on July 22, 1987 (52 FR 27643) when the RMA site was added to the final NPL. EPA believes that it is appropriate to include Basin F in the RMA listing.

Basin F is located on section 36 of the approximately 40 designated land sections at the RMA property. The RMA/NPL site, as originally listed, includes the bulk of the Arsenal property, and indeed physically surrounds the Basin F area. EPA has identified Basin F as a major source of ground water contamination which mixes with ground water contamination from other sources at the Arsenal, making coordinated response necessary. Basin F also represents a major source of surface contamination, although that situation is being addressed by a CERCLA interim response action at Basin F. The Agency believes that the site definition for RMA should be expanded to include Basin F so that EPA will have the option of seeking a comprehensive remedy under CERCLA for contamination at the contiguous areas of Basin F and the original RMA/NPL site.¹

Basin F was excluded from the RMA site (as initially proposed and promulgated) because EPA believed that Basin F might be subject to RCRA Subtitle C corrective action authorities, and thus might be appropriate for deferral under the Agency's September 8, 1983 NPL/RCRA policy (48 FR 40662 and further discussed at 49 FR 40323-40324, 40336 (October 15, 1984)). EPA subsequently learned that Basin F should not, in fact, have been deferred to RCRA based on the policy in effect when RMA was proposed for listing.² Rather, it should have been included in the original RMA site under the 1983 policy.

Basin F also qualifies for listing under the current policy. Passage of HSWA in 1984 gave the Agency additional authorities under RCRA to order corrective action at all units at a RCRA facility, including those that were known as "non-regulated" units; thus, on June 10, 1986 (51 FR 21057), the Agency announced a revised NPL/RCRA policy which provided for the deferral from listing of certain RCRA sites where corrective action authorities are available (again, including sites with non-regulated units). However, that revised policy applied only to *non-Federal* facility sites, and thus not to Basin F. Thus, the June 1986 revised policy did not supersede the September 1983 RCRA listing policy *with respect to* Federal facilities. On May 13, 1987 (52 FR 17991-17993), the Agency asked for comment on a policy for listing Federal sites regardless of RCRA applicability, and on July 22, 1987 (52 FR 27645-27646), the Agency discussed that policy with specific application to Basin F. Elsewhere in today's **Federal Register**, the Agency formally announced its policy of listing Federal facility sites on the NPL, even if they are also subject to RCRA authorities, as generally discussed in the May and July 1987 notices. Thus, Basin F is appropriate for inclusion in the NPL site under current Agency policy.

Further specific comments concerning the expansion of the RMA site are discussed in the Support Document for this rule, which is available in the Superfund docket.

The second Federal facility site being expanded in this rule is the Weldon Spring Quarry (USDOE/Army), St. Charles County, Missouri. It was placed on the final NPL on July 22, 1987 (52 FR 27620). On June 24, 1988, EPA proposed to expand the site to include the Weldon Spring Feed Materials Plant and Raffinate Pits, which are located less than 3 miles from the Quarry and are linked to the contamination at the original site. The site contains mining wastes from uranium ore processing; an addendum discussing special study wastes at the site is included in the Superfund dockets. In addition, the site was abandoned prior to the August 3, 1977 enactment of the Surface Mining Control and Reclamation Act of 1977 ("SMCRA"). Consistent with the policy for listing SMCRA sites on the NPL, a statement covering SMCRA applicability at the site is included in the dockets. No comments were received on the proposed expansion of this site, or on the special study waste and SMCRA addenda. The expanded site is now being placed on the final NPL under the name "Weldon Spring Quarry/Plant/Pits (USDOE/Army)".

Site Reclassification

Finally, this rule reclassifies one site - W. R. Grace Co., Inc. (Wayne Plant), Wayne, New Jersey - as a Federal facility site; that site had been proposed for the NPL on September 8, 1983 (48 FR 40674). W.R. Grace Co., Inc., bought the facility in 1957 and owned it until September 18, 1984, when the facility was acquired by the U.S. Department of Energy (USDOE). USDOE changed the name of the site to the Wayne Interim Storage Site (WISS). On September 21, 1984 (49 FR 37070), the site was placed on the final NPL under its original name. The site will now be included in the Federal facility section of the NPL. The site name is being changed to "W. R. Grace & Co., Inc./ Wayne Interim Storage Site (USDOE)" to more accurately reflect the ownership and status of the site.

¹ In the case of the Basin F expansion, a non-contiguous site expansion analysis is not technically required. Information developed during the course of the remedial investigation/feasibility study confirms that contamination extends from the original RMA/NPL site to the Basin F area. This provides an additional basis for including Basin F within the original NPL site at RMA, because the statute provides that a CERCLA "facility" includes the site or area where hazardous substances have "come to be located" (CERCLA section 101(9)). The definition of a "site," reflected by the original HRS listing package, is continually refined as the CERCLA process progresses and more information on the extent of contamination is developed.

² Basin F stopped receiving RCRA hazardous wastes prior to July 26, 1982 (the effective date of the land disposal regulations) and did not certify closure prior to January 26, 1983; thus, it was not subject to RCRA corrective action requirements available at that time, and qualified as a "non-regulated unit". It was not appropriate for deferral to RCRA under the September 1983 policy.

V. Contents of the NPL

The eight new sites added to the NPL in today's rule (Table 1) and the one reclassified site have been incorporated into the Federal section of the NPL by their group number. Sites on the NPL are arranged according to their HRS scores and presented in groups of 50 sites to emphasize that minor differences in HRS scores do not necessarily represent significantly different levels of risk. EPA considers the sites within a group to have approximately the same priority for response actions. The Federal facility section appears at the end of this final rule, and will be codified as part of Appendix B to the NCP.

Each entry on the NPL contains the name of the facility and the State and city or county in which it is located. For informational purposes, each entry is accompanied by one or more notations reflecting the status of response and cleanup activities at these sites at the time this list was prepared. Because this information may change periodically, these notations may become outdated.

VI. Regulatory Impact Analysis

The costs of cleanup actions that may be taken at sites are not directly attributable to placement 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 economic implications of today's amendment to the NCP. EPA believes that the kinds of economic effects associated with this revision are generally similar to those effects identified in the regulatory impact analysis (RIA) prepared in 1982 for the revisions to the NCP pursuant to section 105 of CERCLA and the economic analysis prepared when amendments to the NCP were proposed (50 FR 5882, February 12, 1985). The Agency believes the anticipated economic effects related to adding eight sites to the NPL can be characterized in terms of the conclusions of the earlier RIA and the most recent economic analysis. 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 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 will necessarily 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. In addition, all sites in this final rule are Federally-owned or -operated, and CERCLA section 111(e)(3) prohibits use of the Trust Fund for remedial actions at Federal facilities.

Benefits

The real benefits associated with today's amendment placing additional sites on the NPL are increased health and environmental protection as a result of increased public awareness of potential hazards.

As a result of the 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 the remedial investigation/feasibility study of each site. Associated with the costs are

significant potential benefits and cost offsets. The distributional costs of carrying out remedies at sites on the NPL have corresponding "benefits" in that funds expended for a response generate employment, directly or indirectly (through purchased materials).

VII. 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 modifications to the NPL are considered revisions to the NCP, they are not typical regulatory changes since the revisions do not automatically impose costs. The placing of sites on the NPL does not in itself require any action of any party, (e.g., contractors operating government-owned facilities), nor does it determine the liability of any party for the cost of cleanup at the site. Further, because this final rule involves Federally-owned or -operated facilities, the number of small entities that could be affected will be small.

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.

Date: March 6, 1989.

Jonathan Z. Cannon,
Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

40 CFR Part 300 is amended as follows:

PART 300 - [AMENDED]

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

Authority: 42 U.S.C. 9605; 42 U.S.C. 9620; 33 U.S.C. 1321 (c)(2); E.O. 11735 (38 FR 21243); E.O. 12580, (52 FR 2923).

2. In Appendix B of Part 300, the Federal Section (by group) table is revised to read as set forth below.

Appendix B

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