

# Federal Register Notice

48184 - 48189 Federal Register / Vol. 54, No. 223 / Tuesday, November 21, 1989 / Rules and Regulations

## ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300  
[FRL 3681-4]

### National Priorities List for Uncontrolled Hazardous Waste Sites

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

#### SUMMARY:

The Environmental Protection Agency ("EPA") is amending the National Priorities List ("NPL"). The NPL is appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 CFR Part 300. The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (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 NPL, initially promulgated on September 8, 1983 (48 FR 40658), constitutes this list and is being revised today in the following way:

1. The addition of Radium Chemical Co. Inc., in Woodside, New York, New York, and Forest Glen Mobile Home Subdivision, in Niagara Falls, New York;
2. the addition of 27 Federal facility sites; and
3. the expansion of the definition of a previously listed Federal facility site.

After carefully reviewing public comments on these sites, EPA has determined that they meet the eligibility requirements of the NPL and are consistent with the Agency's listing policies. Information supporting these actions is contained in the Superfund Public Dockets.

#### EFFECTIVE DATE:

The effective date for this amendment to the NCP shall be December 21, 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 follow. 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, OS-245  
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

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

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

Lisa Nelson  
Region 9, U.S. EPA Library, 6th Floor  
215 Fremont Street  
San Francisco, CA 94105  
415/768-1377

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:**

Martha Otto  
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 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. Response to Comments
- VI. Regulatory Impact Analysis
- VII. 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 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 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, taking into account the potential urgency of such action, for the purpose of taking removal action." The discussion below may refer to "releases or threatened releases" simply as "releases," "facilities," or "sites." Removal action involves cleanup or other measures that are taken in response to emergency conditions or on a 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 System ("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 application of the HRS, there are two other mechanisms for listing sites on the NPL. Under CERCLA section 105(a)(8)(B), each State may designate a single site as its top priority, regardless of the HRS score. According to 40 CFR 300.66(b)(4) of the NCP, the Agency also may list sites if the Agency for Toxic Substances and Disease Registry (ATSDR) recommends dissociation of individuals from the release; if EPA determines that the release poses a significant public health threat; and if 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 section III of this preamble.

Based in large part on the HRS listing mechanism 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 final 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 October 4, 1989 (54 FR 41000/41015). The Agency also has published a number of proposed rulemakings to add sites to the NPL, most recently October 26, 1989 (54 FR 43778).

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 28 sites from the final NPL, most recently on September 22, 1989 (54 FR 38994) when Cecil Lindsey, Newport, Arkansas, was deleted.

This rule adds two sites and 27 Federal facility sites to the NPL, and expands the definition of 1 previously listed Federal facility site. The two non-Federal sites were proposed to the NPL pursuant to § 300.66(b)(4) of the NCP (August 16, 1989, 54 FR 33846). The comment period for that rule ended on September 15, 1989. The 27 Federal facilities were proposed to the NPL, on the basis of their HRS scores, on July 14, 1989 (54 FR 29820), as was the expansion of the definition of 1 listed Federal facility site. The comment period for that rule ended on September 12, 1989. The other Federal facility sites in the July 1989 proposed rule will be addressed in future final rules.

EPA read all comments received on the sites in today's final rule, including late comments. In past rules, EPA responded even to late comments. However, because of the need to make final decisions on all currently proposed sites prior to the date that the revised HRS takes effect, EPA was not able to respond to all late comments received for sites in this rule. (EPA had previously indicated that it may no longer be able to consider late comments (53 FR 23990, June 24, 1988 and 54 FR 19527, May 5, 1989).) In section V of this preamble, EPA addresses those comments received no later than October 11, 1989 for all sites included in this final rule. Although EPA has not responded to all late comments, it has read all late comments. The Agency has determined that none of the late comments received to date on the sites in today's final rule have brought to EPA's attention a fundamental error in the scoring of a site.

This rule results in a final NPL of 1,010 sites, 79 of them in the Federal section. In addition, 209 sites are currently in proposed status, 38 of them in the Federal section. With these changes, final and proposed sites now total 1,219.

EPA may include on the NPL sites at which there are or have been releases or threatened releases of hazardous substances, pollutants, or contaminants.

### ***Information Available to the Public***

The Headquarters and Regional public dockets for the NPL contain documents relating to the listing of these sites (see Addresses portion of this notice). Appointments should be made to view these dockets. The hours of operation for the Headquarters docket are from 9 a.m. to 4 p.m., Monday through Friday excluding Federal holidays. The hours of operation for the Regional dockets are generally from 8 a.m. to 5 p.m., Monday through Friday excluding Federal holidays.

The Headquarters docket for the Federal facility sites added by this rule include the following documents: HRS score sheets; a Documentation Record describing the information used to compute the score; a list of documents referenced in the Documentation Record; and public comments received. The Headquarters docket for the two non-Federal sites contains the same documents in addition to, for each site, a Public Health Advisory issued by ATSDR, and an EPA memorandum addressing for each site, whether the release poses a significant threat to public health and whether 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 reference documents, which contain the data EPA relied upon in calculating or evaluating the HRS scores for these sites.

Copies of documents contained in the Headquarters or Regional dockets may be obtained by informal written request addressed to the appropriate docket contact as specified in the Addresses section of this preamble.

## **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 actions 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 identification of a site for the NPL assists 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***

As outlined in the NCP at 40 CFR 300.66(c)(2) and 300.68(a), Trust Fund monies can be spent for remedial actions only at sites that have been placed on the final NPL. 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 300.65-300.67.

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-financed 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)). Specifically, it evaluates 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 also is possible that EPA will conclude, after further analysis, that the site does not warrant remedial action. 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 also are subject to the requirements of CERCLA section 120, added by SARA.

## **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 an objective 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). 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 issues 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.

The third mechanism was added to the NCP by rulemaking, during which the Agency explained that the HRS may not fully reflect the risk at certain types of sites. For example, direct contact is not included in calculating the total HRS score. 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.

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.

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 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 policies) 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 Final Rule

This rule adds to the final NPL Radium Chemical Co. Inc., in Woodside, Queens Borough, New York City, New York, and the Forest Glen Mobile Home Subdivision in Niagara Falls, New York. Both were proposed to the NPL on August 16, 1989 (54 FR 33846) based upon § 300.66(b)(4) of the NCP (54 FR 33846). The comment period for these sites ended on September 15, 1989. EPA addresses two comments received regarding one of these sites in Section V of this preamble. A description of these two sites was included in the proposed rule (54 FR 33846, August 16, 1989).

This rule also adds 27 Federal facility sites to the NPL, and finalizes the expansion of the definition of another previously listed Federal facility site. The comment period for these sites ended on September 12, 1989. EPA addresses comments received by October 11, 1989, on these Federal facility sites in section V of this preamble. A brief discussion of the Federal facility expansion is provided below. Table 1 lists sites added to the NPL by this rule. Other Federal facility sites proposed in July 1989 will be addressed in future final rules.

### ***Mather Air Force Base***

The Mather Air Force Base (AC&W Disposal Area) located in Sacramento, California, was proposed to the NPL on October 15, 1984 (49 FR 40320) and was listed on July 22, 1987 (52 FR 27620). On July 14, 1989 (54 FR 29822), the Agency proposed to expand the site definition at this facility because it believed that additional areas of the facility

were contributing to contamination of the aquifer, and possibly to off-site contamination. At this time, the site is being expanded and renamed "Mather Air Force Base."

**Table 1  
National Priorities List, Federal Facility Sites, New Final (by Group), November 1989**

<b>NPL Gr <sup>1</sup></b>	<b>ST</b>	<b>Site Name</b>	<b>City/county</b>
2	OH	Feed Materials Prod Cent (USDOE)	Fernald
3	WA	Bonneville Power Adm Ross (USDOE)	Vancouver
4	ID	Idaho National Engin Lab (USDOE)	Idaho Falls
4	TN	Oak Ridge Reservation (USDOE)	Oak Ridge
5	CA	Treasure Island Nav Sta-Hun Pt An.	San Francisco
5	AK	Eielson Air Force Base	Fairbanks N Star Bor
5	SC	Savannah River Site (USDOE)	Aiken
6	MA	Otis Air Nat Guard/Camp Edwards	Falmouth
7	GA	Marine Corps Logistics Base	Albany
7	CO	Air Force Plant PJKS	Waterton
8	FL	Pensacola Naval Air Station	Pensacola
8	MA	Fort Devens	Fort Devens
10	NY	Brookhaven National Lab (USDOE)	Upton
11	AZ	Williams Air Force Base	Chandler
11	CA	Barstow Marine Corps Logist Base	Barstow
12	UT	Monticello Mill Tailings (USDOE)	Monticello
13	WA	Ft. Lewis Logistics Center	Tillicum
13	OH	Mound Plant (USDOE)	Miamisburg
14	RI	Davisville Naval Constr Batt Center	North Kingstown
14	CA	Camp Pendleton Marine Corps Base	San Diego County
16	RI	Newport Naval Educat/Training Center	Newport
16	FL	Jacksonville Naval Air Station	Jacksonville
16	FL	Cecil Field Naval Air Station	Jacksonville
16	CA	March Air Force Base	Riverside
17	MN	Naval Industrial Reserve Ordnance	Fridley
18	NY	Plattsburgh Air Force Base	Plattsburgh
18	CA	Travis Air Force Base	Solano County

Number of New Final Federal Facility Sites: 27. <sup>1</sup> Sites are placed in groups (Gr) corresponding to groups of 50 on the final NPL.

**Table 2  
National Priorities List, New Final Sites (by Rank), November 1989**

<b>NPL Gr <sup>1</sup></b>	<b>NPL Rank</b>	<b>State</b>	<b>Site Name</b>	<b>City/County</b>
19	930	NY	Forest Glen Mobile Home Subdivision	Niagra Falls
19	931	NY	Radium Chemical Co., Inc	New York City

Number of New Final Sites: 2. <sup>1</sup> Sites are placed in groups (Gr) corresponding to groups of 50 on the final NPL.

The NPL, which is Appendix B of the NCP, and which appears after this preamble, 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. The two sites listed pursuant to § 300.66(b)(4) of the NCP have HRS scores below 28.50 and are included in the last group on the NPL.

## V. Response to Comments

EPA received two comments in favor of listing Radium Chemical Co., Inc. These comments resulted in no change in the HRS score for the site or the Agency's determination that the criteria given at § 300.66(b)(4) of the NCP have been met. No comments were received for the Forest Glen Mobile Home Subdivision.

With respect to the 28 Federal facility sites addressed by this rule, EPA received several comments in support of the listing of Otis Air National Guard Base/Camp Edwards in Falmouth, Massachusetts, Barstow Marine Corps Logistic Base in Barstow, California, and Idaho National Engineering Laboratory in Idaho Falls, Idaho. Some of these comments also included suggestions for cleanup or enforcement strategies. While the Agency appreciates these comments, they are not germane to listing these sites, and so will not be addressed at this time. No timely comments were received regarding the other Federal facility sites in today's final rule.

## VI. Regulatory Impact Analysis

The costs of cleanup 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 final rule to add two new non-Federal sites and 27 Federal facility sites to the NPL, and finds that the kinds of economic effects associated with this 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 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 rulemaking.

The major events that follow the listing of a site on the NPL include 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 alternatives follow completion of the RI/FS, and operation and maintenance (O&M) activities may continue after construction has been completed.

EPA initially bears the costs associated with responsible party searches. Responsible parties may bear some or all of 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 for 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 will pay for 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 implemented, costs fall into two categories:

- 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.
- 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 total cost per site basis. EPA will continue with this approach, using the most recent cost estimates available (1988). 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.

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

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

<sup>2</sup> Includes State cost-share.

<sup>3</sup> 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 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 costs generated by O&M, following 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, State costs arising from Federal remedial planning and action, excluding O&M costs, can be expected to reach 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.

Placing a hazardous waste site on the NPL does not itself cause firms responsible for the site to bear cleanup 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 decision to take such actions are discretionary and made solely 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 site; 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 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 final rule 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 adding two sites and 27 Federal facility sites to 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. Identifying 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 these sites.

## 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 these modifications to the NPL are considered revisions to the NCP, they are not typical regulatory changes since the revisions do not automatically impose costs. Placing 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 affected as a whole. As a consequence, it is hard to predict impacts on any group. A site's 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 will be determined on 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: November 14, 1989.

**M. A. Gade,**

*Acting Assistant Administrator, Office of Solid Waste and Emergency Response.*

### PART 300 - [AMENDED]

40 CFR part 300 is amended as follows:

1. The authority citation for part 300 continues 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).

[FR Doc. 89-27209 Filed 11-20-89; 8:45 am]

**BILLING CODE 6560-50-M**