

Federal Register Notice

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300
[SW-FRL-2814-2]

Amendment to National Oil and Hazardous Substances Contingency Plan; the National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY:

The Environmental Protection Agency ("EPA") is proposing the third update to the National Priorities List ("NPL"). This update contains 26 new sites. The NPL is Appendix B to the National Oil and Hazardous Substances Contingency Plan ("NCP"), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA") and Executive Order 12316. CERCLA requires that the NPL be revised at least annually, and today's notice proposes the third such revision.

DATES:

Comments may be submitted on or before June 10, 1985, May 10, 1985 for the Lansdowne, Pennsylvania site.

ADDRESSES:

Comments may be mailed to:

Russel H. Wyer
Director, Hazardous Site Control Division (Attn: NPL Staff)
Office of Superfund Remediation Technology Innovation (WH-548E)
Environmental Protection Agency
401 M Street, SW.
Washington, D.C. 20460

The Headquarters public docket for the third update to the NPL will contain: Hazard Ranking System (HRS) score sheets for each proposed site and each Federal facility site listed in Section IV of this notice; a Documentation Record for each site describing the information used to compute the scores; and a list of document references. The Headquarters public docket is located in EPA Headquarters, Room S325 of Waterside Mall, 401 M Street, SW., Washington, D.C. 20460, and is available for viewing by appointment only from 9:00 a.m., to 4:00 p.m., Monday through Friday excluding holidays. Requests for copies of the documents from the Headquarters public docket should be directed to the EPA Headquarters docket office. The HRS score sheets and the Documentation Record for each site in a particular EPA Region will be available for viewing in the appropriate Regional Offices upon publication of this notice. These Regional dockets will also contain documents containing the background data relied upon by the Agency in calculating or evaluating the HRS scores. Copies of these background documents may be viewed in the appropriate Regional Offices and copies may be obtained upon request. A third category of documents with some relevance to the scoring of each site also may be viewed and copied by arrangement with the appropriate EPA Regional Office. An informal written request, rather than a formal request, should be the ordinary procedure for requesting copies of any of these documents. Requests for HRS score sheets and Documentation Record should be directed to the appropriate Regional Office docket (see addresses below). Requests for background documents should be directed to the appropriate Regional Superfund Branch office.

Copies of comments mailed to Headquarters during the 60-day public comment period (30-day public comment period for Lansdowne, Pennsylvania) may be viewed only in the Headquarters docket during the comment period. A complete set of comments pertaining to sites in a particular EPA Region will be available for viewing in the Regional Office docket approximately one week following the close of the comment period. Comments received after the close of comment period will be available at Headquarters and in the appropriate Regional Office docket on an "as received" basis. An informal written request, rather than a formal, request should be the ordinary procedure for requesting copies of these comments. Addresses for the Headquarters and Regional Office dockets are:

Denise Sines
Headquarters, U.S. EPA CERCLA Docket Office
Room S325
401 M Street, SW.
Washington, D.C. 20460
202/382-3046

Peg Nelson
Region I
U.S. EPA Library, Room E121
John F. Kennedy Federal Bldg.
Boston, MA 02203
617/223-5791

Audrey Thomas
Region II
U.S. EPA Library
26 Federal Plaza, 7th Floor, Room 734
New York, NY 10278
212/264-2881

Diane McCreary
Region III
U.S. EPA Library, 5th Floor
841 Chestnut Bldg.
9th & Chestnut Streets
Philadelphia, PA 19106
215/597-0580

Gayle Alston
Region IV
U.S. EPA Library, Room G-6
345 Courtland Street, NE.
Atlanta, GA 30365
404/881-4216

Lou Tilley
Region V
U.S. EPA Library, Room 1420
230 South Dearborn Street
Chicago, IL 60604
312/353-2022

Nita House
Region VI
U.S. EPA Library, Room 2876
InterFirst II Building
1201 Elm Street
Dallas, TX 75270
214/767-7341

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

Dolores Eddy
Region VIII
U.S. EPA Library
1860 Lincoln Street
Denver, CO 80295
303/844-2560

Jean Circiello
Region IX
U.S. EPA Library, 6th Floor
215 Fremont Street
San Francisco, CA 94105
415/974-8076

Joan McNamee
Region X
U.S. EPA, 11th Floor
1200 6th Avenue
Seattle, WA 98101
206/442-4903

FOR FURTHER INFORMATION CONTACT:

C. Scott Parrish
Hazardous Site Control Division
Office of Superfund Remediation Technology Innovation (WH-548E)
Environmental Protection Agency
401 M Street, SW.
Washington, D.C. 20460
Phone (800) 424-9346 (or 382-3000 in the Washington, D.C., metropolitan area).

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Introduction
- II. Purpose of the NPL
- III. NPL Update Process and Schedule
- IV. Eligibility
- V. Contents of the Proposed Third NPL Update
- VI. Regulatory Impact Analysis
- VII. Regulatory Flexibility Act Analysis

I. Introduction

Pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601-9657 ("CERCLA" or "the Act"), and Executive Order 12316 (46 FR 42237, August 20, 1981), the Environmental Protection Agency ("EPA" or "the Agency") promulgated the revised National Contingency Plan ("NCP"), 40 CFR Part 300, on July 16, 1982 (47 FR 31180). Those amendments to the NCP implement the responsibilities and

authorities created by CERCLA to respond to releases and threatened releases of hazardous substances, pollutants, or contaminants.

Section 105(8)(A) of CERCLA 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. Removal action involves cleanup or other actions 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 which are consistent with a permanent remedy for a release (CERCLA section 101(24)). Criteria for determining priorities are included in the Hazard Ranking System ("HRS"), which EPA promulgated as Appendix A of the NCP (47 FR 31219, July 16, 1982).

Section 105(8)(B) of CERCLA requires that these criteria be used to prepare a list of national priorities among the known releases or threatened releases throughout the United States, and that to the extent practicable, at least 400 sites be designated individually. CERCLA requires that this National Priorities List ("NPL") be included as part of the NCP. Today, the Agency is proposing the addition of 26 sites to the NPL. This brings the number of proposed sites to 272 in addition to the 540 currently promulgated.

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

II. Purpose of the NPL

The primary purpose of the NPL is stated in the legislative history of CERCLA (Report of the Committee on Environmental 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 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 tool for use by EPA in identifying sites that appear to present a significant risk to public health or the environment. The initial identification for a site on 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. Inclusion of a site on the NPL does not establish that EPA necessarily will undertake remedial actions. Moreover, listing does not require any action of a private party, nor does it determine the liability of any party for the cost of cleanup at the site. In addition, a site need not be on the NPL to be the subject of CERCLA-financed removal actions or of actions brought pursuant to sections 106 and 107 of CERCLA.

In addition, although the HRS scores used to place sites on the NPL may be helpful to the Agency in determining priorities for cleanup and other response activities among sites on the NPL, EPA does not rely on the scores as the sole means of determining such priorities, as discussed below. The information collected to develop HRS scores is not sufficient in itself to determine the appropriate remedy for a particular site. EPA relies on further, more detailed studies to determine what response, if any, is appropriate. These studies will take into account the extent and magnitude 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 potential 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 conduct response action at some sites on the NPL because of more pressing needs at other sites. Given the limited resources available in the Hazardous Substance Response Trust Fund established under CERCLA, the Agency must carefully balance the relative needs for response at the numerous sites it has studied. Also, it is possible that EPA will conclude after further analysis that no action is needed at a site because the site does not present a significant threat to public health, welfare, or the environment.

III. NPL Update Process and Schedule

Pursuant to section 105(8)(B) of CERCLA, 42 U.S.C. 9605(8)(B), EPA is required to establish, as part of the NCP for responding to releases of hazardous substances, a NPL of sites of such releases. The principal purpose of this notice is to propose the addition to the NPL of 26 new sites. All of these sites except one have HRS scores of 28.50 or above. The Lansdowne Radiation site, Lansdowne, Pennsylvania, as described in section V, is being proposed on the basis of § 300.66(b)(4) of the recently proposed amendments to the NCP (50 FR 5882, February 12, 1985).

CERCLA requires that the NPL be revised at least once per year. Accordingly, EPA published the first NPL (48 FR 40658) in September 1983, containing 406 sites. In May 1984, EPA recognized that a serious problem required immediate remedial action and therefore added 4 sites to the NPL (49 FR 19480). In September 1984, EPA added 128 sites to the NPL (49 FR 37030). An additional 244 new sites were proposed for inclusion as the second update to the NPL on October 15, 1984 (49 FR 40320). On February 14, 1985, EPA added two sites in New Jersey to the NPL (50 FR 6320). For each proposed NPL update, EPA informs the States of the closing dates for submission of candidate sites to EPA. This proposed update is the second within one year and initiates EPA's plan to increase the frequency of updating of the NPL. In addition to these periodic updates, EPA believes it may be desirable in rare instances to propose or promulgate separately individual sites on the NPL because of the apparent need for expedited remedial action. This occurred in the case of the proposed listing of Times Beach, Missouri (48 FR (9311, March 4, 1983), the promulgation of four San Gabriel Valley, California, sites (49 FR 19480, May 8, 1984) and the promulgation of two New Jersey radium sites (February 14, 1985, 50 FR 6320).

As with the establishment of the initial NPL and subsequent revisions, States have the primary responsibility for selecting and scoring sites that are candidates and submitting the candidate sites to the EPA Regional Offices. States may also designate a site as the State priority site. The EPA Regional Offices then conduct a quality control review of the States' candidate sites. After conducting this review, the EPA Regional Offices submit candidate sites to EPA Headquarters. The Regions may include candidate sites in addition to those submitted by States. In reviewing these submissions, EPA Headquarters conducts further quality assurance audits to ensure accuracy and consistency among the various EPA and State offices participating in the scoring.

In this **Federal Register** notice, the sites listed consist of sites not currently on the NPL that the Agency is proposing to add to the NPL. These additions are contained in the list immediately following this preamble.

Public Comment Period

EPA requests public comment on these 26 proposed sites. Comments on the Lansdowne, Pennsylvania, Health Advisory site only will be accepted for 30 days following the date of publication of this notice in the **Federal Register**. Comments on the remaining proposed sites will be accepted for 60 days following publication of this notice in the **Federal Register**. EPA is also soliciting comments on 6 Federal facilities that have HRS scores of 28.50 or higher and that may be added to the NPL in the future. The following section of this preamble identifies these sites and discusses EPA's Federal facility approach. See the Addresses portion of this notice for information on where to obtain documents relating to the scoring of the 26 non-Federal and 6 Federal sites. After considering the relevant comments received during the comment period and determining the final score for each site, the Agency will add to the current NPL all proposed sites that meet EPA's criteria for listing. EPA may add the 6 Federal facility sites contingent upon the outcome of proposed changes to the NCP (50 FR 5862, February 12, 1985). This is discussed in greater detail in the following section.

IV. Eligibility

CERCLA restricts EPA's authority to respond to certain categories of releases and expressly excludes some substances from the definition of release. In addition, as a matter of policy, EPA may choose not to use CERCLA to respond to certain types of releases because other authorities can be used to achieve cleanup of these releases. Preambles to previous NPL rulemakings have discussed examples of these policies. See, e.g., 48 FR 40658 (September 8, 1983); 49 FR 37074 (September 21, 1984); and 49 FR 40320 (October 15, 1984). Generally, this proposed update continues these past eligibility policies; however, changes in the RCRA sites policy are proposed, and the Agency's policy of listing Federal Facilities is discussed. In addition, the Agency has evaluated one mining site for this update that is not being proposed for listing at this time. The Agency intends to initiate discussions with the Department of Interior (DOI) to determine whether DOI will take appropriate action under the Surface Mining Control and Reclamation Act to

protect public health and the environment at this site if it appears to the Agency that remedial action will be necessary.

RCRA Sites

In 1976, Subtitle C of the Resource Conservation and Recovery Act (RCRA) mandated a Federal program to provide a "cradle-to-grave" management system for hazardous wastes that exhibit certain characteristics or are listed under section 3001 of the Act. Persons who generate, transport or treat, store or dispose of listed wastes or wastes of certain characteristics must comply with management standards promulgated by EPA. CERCLA also has authorities that can be used to address problems associated with wastes covered by the RCRA regulatory program, as well as other hazardous wastes and materials.

The Agency has considered eligible for listing on the NPL those RCRA facilities where a significant portion of the release appeared to come from a "non-regulated land disposal unit" of the facility. Non-regulated land disposal units are defined as portions of the facility that ceased receiving hazardous waste prior to January 26, 1983, the effective date of EPA's permitting standards for Land Disposal facilities (47 FR 32349, July 26, 1982). Regulated land disposal units of RCRA facilities generally have not been included on the NPL, except where the facility is abandoned or lacks sufficient resources and RCRA corrective action could not be enforced (49 FR 37074, September 21, 1984).

The Hazardous and Solid Waste Amendments of 1984 have expanded the Agency's authority to require corrective measures under RCRA. Owners or operators of RCRA treatment and storage facilities are now required to clean up releases of hazardous wastes and hazardous constituents (constituents listed in Appendix VIII of 40 CFR Part 261) from all solid waste management units at the facility. New corrective action authorities include the following:

- EPA can issue an administrative order to or initiate a civil referral against the site owner or operator to compel corrective action or any other response necessary to protect human health or the environment at interim status facilities where there is or has been a release of hazardous waste [section 3008(h)].
- A facility to which a RCRA permit is issued after November 8, 1984, must address all releases of hazardous waste or hazardous constituents from any hazardous or solid waste management unit, regardless of the time at which waste was placed in the unit [section 3004(u)].
- EPA can require the owners or operators of some facilities subject to RCRA requirements to take corrective action beyond the facility boundary unless the adjoining property owner refuses permission [section 3004(v)].

The Agency intends to use the expanded provisions of RCRA to the extent practicable to effect cleanup of releases from units that can be reached under those authorities.

In light of the new RCRA authorities, and the Agency's intention to use them, where practical, to effect cleanup, the Agency is reconsidering the current policy (49 FR 40324, October 15, 1984) of listing RCRA-related sites that have HRS scores of 28.50 or above on the NPL. Specifically, the Agency is considering deferring listing RCRA-related sites that score 28.50 or higher on the NPL until the Agency determines that RCRA corrective measures are not likely to succeed due to factors such as:

1. The inability or unwillingness of the owner/operator to pay for such actions;
2. the inadequacies of the financial responsibility guarantees to pay for such costs; or
3. the Agency or State priorities for addressing the sites under RCRA.

This proposed deferred listing policy would be applicable only to sites with releases subject to RCRA Subtitle C regulatory or enforcement authorities.

The following are examples of RCA-related sites for which the Agency is reconsidering its present listing policy:

- Sites at which a RCRA permit addresses releases of hazardous waste or hazardous constituents from hazardous waste or solid waste management units. Permit conditions will specify corrective measures and those conditions can be enforced through a compliance order or court action. Action may also be taken under RCRA section 7003 or CERCLA section 106 if there is an imminent and substantial endangerment.
- Operating hazardous waste units that have RCRA interim status. There are no regulatory requirements for corrective action applicable to interim status units. EPA can compel corrective action at its discretion under the enforcement authority of section 3008(h) if the Agency has information that there is or has been a release of hazardous waste, under RCRA section 7003 or CERCLA section 106 if there is an imminent and substantial endangerment.
- Solid waste management units (active or inactive) or closed RCRA hazardous waste management units at an operating interim status facility. EPA can use the interim status corrective action authority of section 3006(b) to address releases from those units or a RCRA permit compelling corrective measures can be issued. Action may also be taken under RCRA section 7003 or CERCLA section 106 if there is an imminent and substantial endangerment. Hazardous waste units that ceased receiving hazardous waste before January 26, 1983, and solid waste management units are eligible for the NPL under the current policy.
- Closed hazardous waste management units or active or inactive solid waste management units at a facility that has ceased treating, storing, or disposing of RCRA hazardous waste. The interim status corrective action authority may be applicable to these units. Hazardous waste land disposal units that closed after January 26, 1983, are required to have a post-closure permit. In addition, RCRA section 7003 or CERCLA section 106 may be used if there is an imminent and substantial endangerment. Hazardous waste land disposal units that are closed before January 26, 1983 and solid waste management units are eligible for the NPL under the current policy.

The Agency solicits comments on the appropriateness of revising its present RCRA listing policy by deferring listing of RCRA-related sites until the Agency determines that RCRA corrective measures are not likely to succeed due to factors such as:

1. The inability or unwillingness of the owner/operator to pay for such activities;
2. the inadequacies of the financial responsibility guarantees to pay for such costs; and
3. EPA or State priorities for addressing the sites under RCRA.

Commenters should address this suggested revision to the listing policy with respect to the examples of RCRA-related sites mentioned above and are asked to suggest other examples of RCRA-related sites that may be appropriate for deferred listing. The Agency also solicits comments on appropriate criteria to determine when RCRA corrective measures are not likely to succeed and listing is appropriate (e.g., inability or unwillingness of owner/operator to pay for such actions and EPA and State priorities). Listing would only be considered for those sites which score 28.50 or above.

In addition, the Agency intends to apply any revised RCRA-related site listing policy to RCRA-related sites that are currently proposed or promulgated on the NPL, and, in appropriate cases, delete sites from the NPL. For example, such sites could be removed from the proposed or final NPL if the Agency determines that:

1. All necessary corrective measures are likely to be completed under RCRA authorities; and
2. CERCLA Fund-financed activities, such as remedial investigation/feasibility studies, remedial design, or remedial action, or CERCLA enforcement action have not been initiated.

If such a policy were applied to currently proposed and promulgated sites on the NPL and it is determined that such sites should be removed from the proposed or final NPL, these sites could be relisted if Agency later determines that RCRA corrective measures at these sites are not likely to succeed.

Four RCRA-related sites with HRS scores of 28.50 or above were submitted for consideration for Update #3. The Agency applied the current RCRA listing policy to these sites and has include them in today's proposed listing. The sites are: Love's Container Services Landfill, Buckingham County, Virginia; Conservation Chemical Compay, Kansas City, Missouri; Frit Industries, Humboldt, Iowa; and Union Chemical Company, Inc., South Hope, Maine. The Agency may elect to defer a final rulemaking decision on these four sites until the Agency determines the appropriateness of a revised RCRA listing policy.

Release From Federal Facilities Sites

CERCLA section 111(e)(3) prohibits use of the Fund for remedial actions at Federally owned facilities, and § 300.66(e)(2) of the NCP prevents including Federal facilities on the NPL. Prior to proposal of NPL Update #2 (49 FR 40320, October 15, 1984), EPA did not list any sites on the NPL where the release resulted solely from a Federal facility regardless of whether contamination remained on site or had migrated off-site. However, based on public comments received from previous NPL announcements, EPA proposed 36 Federal facilities for NPL Update #2. As discussed in the preamble to Update #2, EPA did not intend to promulgate any of these sites until after amendments to § 300.66(e)(2) of the NCP and been promulgated.

On February 12, 1985, EPA proposed amendments to § 300.66(e)(2) of the NCP (50 FR 5862), and requested public comment on whether to list Federal facilities on the NPL. For this update, EPA has decided to not propose the listing of any additional Federal facilities until public comments have been received and considered by the Agency. The Agency has, however, applied the HRS to Federal facility sites and has determined that the following Federal facilities would have qualified for listing:

NPL group	State	Site name	City or county	Response category ¹	Cleanup status ²
3	MD	Aberdeen Proving Ground-Edgewood	Edgewood	R	
6	OK	Tinker AFB (Soldier Creek/Bldg 3001)	Oklahoma City	R	
8	PA	Letterkenny Army Depot (PDO Area)	Franklin County		
9	IL	Joliet Army Ammunition Plant (LAP Area)	Joliet	R	
10	CA	Moffett Naval Air Station	Sunnyvale	R	
	MD	Aberdeen Proving Ground-Michaelsville Landfill	Aberdeen	R	

¹ V=Voluntary or negotiated response; F=Federal enforcement; D=Actions to be determined; R=Federal and State Response; S=State enforcement. ² 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.

The Agency is soliciting comments on the scoring of these sites and may promulgate the sites without soliciting further comments if the Agency decides to amend the NCP and include Federal facilities in future NPL listings.

V. Contents of the Proposed Third NPL Update

All of the sites, except one, included in today's proposed revision to the NPL meet the Agency's criteria for listing of an HRS score of 28.50 or above. The Lansdowne Radiation site, Lansdowne, Pennsylvania is being proposed on the basis of § 300.66(b)(4) of the recently proposed amendments to the NCP (50 FR 5882, February 12, 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 inclusion on 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 the Department of Health and Human Services has issued a health advisory as a consequence of the release."

The Lansdowne Radiation site consists of a residential duplex in Lansdowne, Pennsylvania. For approximately 20 years, beginning in the 1930's, the basement of the duplex was used by a radio-chemist to manufacture radium sources for radiotherapy. In 1964, the property was decontaminated by the Pennsylvania Department of Health and the U.S. Public Health Service and the property was certified safe for residential use.

In 1984, measurements of radon and radon daughters in the indoor atmosphere of the property indicated elevated levels of radiation. The study, conducted by the Argonne National Laboratory concluded that many measurements of radon daughters exceed EPA recommended action levels and many measurements of external gamma radiation exceed the EPA remedial action guideline of 20 microrentgens per hour.

In light of this information, the Department of Health and Human Services (HHS) issued a health advisory on March 5, 1985, citing that the entire duplex structure should be considered to pose a significant health risk to long-term occupants. With the issuance of the health advisory and the apparent need for remedial action, the Agency is proposing the addition of the Lansdowne Radiation site to the NPL. Upon promulgation of § 300.66(b)(4) of the NCP, the Agency may add the Lansdowne site to the final NPL.

Each entry on the proposed third NPL update contains the name of the facility, the State and city or county in which it is located, and the corresponding EPA Region. A site EPA is proposing to add is placed by score in a group corresponding to the groups of 50 sites presented within the final NPL. For example, sites in group 3 of the proposed update have scores that fall within the range of scores covered by the third group of 50 sites on the final NPL. Each entry on this proposed update and at sites already on the NPL is accompanied by one or more notations referencing the status of response and cleanup activities at the site at the time this list was prepared. This site status and cleanup information is described briefly below.

EPA categorizes the NPL sites based on the type of response at each site (Fund-financed, State enforcement, Federal enforcement, and/or voluntary action). In addition, codes indicating the general status of site cleanup activities are provided. EPA is including the cleanup status codes to identify sites where significant response activities are underway or completed. The cleanup status codes on this NPL update are included in response to public requests for information regarding actual site cleanup activities and to acknowledge situations where EPA, States, or responsible parties have undertaken response actions. The status codes for these proposed sites and all final NPL sites will be updated each time EPA promulgates additional sites to the NPL.

Response Categories

The following response categories are used to designate the type of response underway. One or more categories may apply to each site.

Voluntary or Negotiated Response (V). Sites are included in this category if private parties have started or completed response actions pursuant to settlement agreements or consent decrees to which EPA or the State is a party. This category includes privately-financed remedial planning, removal actions, initial remedial measures and/or remedial actions.

Federal and/or State Response (R). The Federal and/or State Response category includes sites at which EPA or State agencies have started or completed response actions. These include removal actions, nonenforcement remedial planning, initial remedial measures, and/or remedial actions under CERCLA [NCP, § 300.66(f)-(i) 47 FR 31217, July 16, 1982]. For purposes of assigning a category, the response action commences when EPA obligates funds.

Federal Enforcement (F). This category includes sites where the United States has filed a civil complaint (including cost recovery actions) or issued an administrative order. It also includes sites at which a Federal court has mandated some form of response action following a judicial proceeding. All sites at which enforcement-lead remedial investigations and feasibility studies are underway are also included in this category.

A number of sites on the NPL are the subject of investigations or have been referred to the Department of Justice for possible enforcement action. EPA's policy is not to release information concerning a possible enforcement action until a lawsuit has been filed. Accordingly, these sites are not included in this category, but are included under "Category To Be Determined."

State Enforcement (S). This category includes sites where a State has filed a civil complaint or issued an administrative order. It also includes sites at which a State court has mandated some form of response action following a judicial proceeding. Sites where State enforcement-lead remedial investigations and feasibility studies are underway are also included in this category.

It is assumed that State policy precludes the release of information concerning possible enforcement action until such action has been formally taken. Accordingly, sites subject to possible State legal action are not included in this category, but are included under "Category To Be Determined."

Category To Be Determined (D). This category includes all sites not listed in any other category. A wide range of activities may be in progress at sites in this category. EPA or a State may be evaluating the type of response action to undertake, or an enforcement case may be under consideration. Responsible parties may be undertaking cleanup actions that are not covered by a consent decree or an administrative order.

Cleanup Status Codes

EPA has decided to indicate the status of Fund-financed or private party cleanup activities underway or completed at proposed and final NPL sites. Fund-financed response activities which are coded include: significant removal actions, initial remedial measures, source control remedial actions, and off-site remedial actions. The status of cleanup activities conducted by responsible parties under a consent decree, court order, or an administrative order also is coded. Remedial planning activities or engineering studies do not receive a cleanup status code.

Many sites listed on the NPL are cleaned up in stages or "operable units." For purposes of cleanup status coding, an operable unit is a discrete action taken as part of the entire site cleanup that significantly decreases or eliminates a release, threat of release, or pathway of exposure. One or more operable units may be necessary to complete the cleanup of a hazardous waste site. Operable units may include removal actions taken to stabilize deteriorating site conditions, initial remedial measures, and remedial actions. A simple removal action (constructing fences or berms or lowering free-board) that does not eliminate a significant release, threat of release, or pathway of exposure is not considered an operable unit for purposes of cleanup status coding.

The following cleanup status codes (and definitions) are used to designate the status of cleanup activities at proposed and final sites on the NPL. Only one code is used to denote the status of actual cleanup activity at each site since the code are mutually exclusive.

Implementation Activities Are Underway for One or More Operable Units (I). Field work is in progress at the site for implementation of one or more removal or remedial operable units, but no operable units are completed.

Implementation Activities Are Completed for One or More (But Not All) Operable Units. Implementation Activities May be Underway For Additional Operable Units (O). Field work has been completed for one or more operable units, but additional site cleanup actions are necessary.

Implementation Activities Are Completed for All Operable Units (C). All actions agreed upon for remedial action at the site have been completed, and performance monitoring has commenced. The site will be considered for deletion from the NPL subsequent to completion of the performance monitoring and preparation of a deletion recommendation. Further site activities could occur if EPA considers such activities necessary.

VI. 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. The EPA has conducted a preliminary analysis of the economic implications of today's proposal to add new

sites. The 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 revision to the NCP pursuant to section 105 of CERCLA (40 FR 31180) and the economic analysis prepared for the recently proposed amendments to the NCP (50 FR 5882, February 12, 1985). The Agency believes the anticipated economic effects related to proposing the addition of 26 sites to the NPL can be characterized in terms of the conclusions of the earlier RIA and the most recent economic analysis.

Costs

The 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 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. Nonetheless, it is useful to consider the costs associated with responding to all sites included in a proposed rulemaking. This action was submitted to the Office of Management and Budget (OMB) for review.

The major events that follow the proposed listing of a site on the NPL are a responsible party search and a remedial investigation/feasibility study (RI/FS) which determines whether 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.

Costs associated with responsible party searches are initially borne by EPA. Responsible parties may bear some or all the costs of the RI/FS, design and construction, and O&M, or the costs may be shared by EPA and the States on a 90%:10% basis (50%:50% in the case of State-owned sites). Additionally, States assume all costs for O&M activities after the first year at sites involving Fund-financed remedial actions.

Rough estimates of the average per-site and total costs associated with each of the above activities are presented below. At this time EPA is unable to predict what portions of the total costs will be borne by responsible parties, since the distribution of costs depends on the extent of voluntary and negotiated response and the success of cost recovery actions where such actions are brought.

Cost category	Average total cost per site¹
RI/FS	\$800,000
Remedial design	440,000
Remedial action	7,200,000
Initial remedial measures (IRM) at 10% of sites	80,000
Net present value of O&M ²	3,770,000

Source: "Extent of the Hazardous Release Problem and Future Funding Needs-CERCLA section 301(a)(1)(c) Study", December 1984, Office of Solid Waste and Emergency Response, U.S. EPA. ¹ 1984 U.S. dollars.

² Assume 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 amendments arise from the required State cost-share of:

1. 10 percent of remedial implementation (remedial action and IRM) and first year O&M costs at privately-owned sites; and
2. 50 percent of the remedial planning (RI/FS and remedial design), remedial implementation and first year O&M costs at State or locally-owned sites.

States will assume all the cost for O&M after the first year. Using the assumptions developed in the 1982 RIA for the NCP, we can assume that 90 percent of the 26 non-Federal sites proposed to be added to the NPL in this amendment will be privately-owned and 10 percent will be State or locally-owned. Therefore, using the budget projections presented above, the cost to States of undertaking Federal remedial actions at all 26 sites would be \$118 million, of which \$89 million is attributable to the State O&M cost.

The act of listing a hazardous waste site on the final NPL does not necessarily 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 response costs, but the Agency considers such factors as: the volume and nature of the wastes at the site to the parties; ability to pay; and other factors when deciding whether and how to proceed against potentially responsible parties.

Economy-wide effects of this proposed amendment 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 revision 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 proposed amendment to list additional sites 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, this proposed expansion of the NPL could accelerate privately-financed, voluntary cleanup efforts to avoid potential adverse publicity, private lawsuits, and/or Federal or State enforcement actions.

As a result of the additional NPL remedies, there will be lower human exposure to high risk chemicals, and higher quality surface water, ground water, soil, and air. The magnitude of these benefits is expected to be significant, although difficult to estimate in advance of completing the RI/FS at these particular sites.

Associated with the costs of remedial actions are significant potential benefits and cost offsets. The distributional costs to firms of financing NPL remedies have corresponding "benefits" in that funds expended for a response generates 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 governmental jurisdictions, and nonprofit organizations.

While proposed 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 proposed listing of sites on the NPL does not in itself require any action of 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 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 businesses at this time nor estimate a 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 proposed listing of these 26 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.

PART 300 - [AMENDED]

It is proposed to amend Appendix B of 40 CFR Part 300 by proposing to add the following sites to the National Priorities List.

Authority: 42 U.S.C. 9601-9657

Dated: March 28, 1985.

Lee M. Thomas,
Administrator.

National Priorities List - Proposed Update 3 Sites

Group 3

EPA RG, State, site, and name	City or county	Response category¹	Cleanup status²
05 MI Rockwell International (Allegan)	Allegan	D	
03 DE Cokers Sanitation Service Lfs	Kent County	D	
07 IA Frit Industries (Humboldt Plant)	Humboldt	S	

Group 4

EPA RG, State, site, and name	City or county	Response category¹	Cleanup status²
05 IN Waste, Inc., Landfill	Michigan City	S	
03 PA Rohm and Haas Co. Landfill	Bristol Township	D	
02 NJ Dayco Corp./L.E. Carpenter Co.	Wharton Borough	V	O

Group 6

EPA RG, State, site, and name	City or county	Response category¹	Cleanup status²
02 NJ Monitor Devices/Intercircuits Inc.	Wall Township	S	
01 NH Tibbets Road	Barrington	R	O

Group 7

EPA RG, State, site, and name	City or county	Response category¹	Cleanup status²
03 PA York County Solid Waste/Reuse Lf	Hopewell Township	V	I
03 VA Love's Container Services Lf	Buckingham County	D	
01 NH Mottolo Pig Farm	Raymond	R, F, S	O

EPA RG, State, site, and name	City or county	Response category¹	Cleanup status²
06 TX Texarkana Wood Preserving Co.	Texarkana	D	
04 FL Petroleum Products Corp	Pembroke Park	S	
05 MI H. Brown Co., Inc.	Grand Rapids	D	
01 RI Davis (GSR) Landfill	Glocester	S	
03 DE NCR Corp. (Millsboro)	Millsboro	D	

Group 8

EPA RG, State, site, and name	City or county	Response category¹	Cleanup status²
03 VA First Piedmont Corp. Rock Quarry	Pittsylvania County	D	
04 FL Marris Corp./General Develop Util.	Palm Bay	S	I
07 MO Valley Park TCE	Valley park	D	

Group 10

EPA RG, State, site, and name	City or county	Response category¹	Cleanup status²
03 PA Keystone Sanitation Landfill	Union Township	D	I
04 NC National Starch & Chemical Corp.	Salisbury	D	
01 ME Union Chemical Co., Inc.	South Hope	R, S	O

Group 11

EPA RG, State, site, and name	City or county	Response category¹	Cleanup status²
03 PA Reeser's Landfill	Upper Macungie Twp	D	
07 MO Conservation Chemical Co.	Kansas City	R, F	
05 WI Wausau Ground Water Contamination	Wausau	R	O
03 PA Lansdowne Radiation Site	Lansdowne	R	

¹ V= Voluntary or negotiated response; F=Federal enforcement; D=Actions to be determined; R=Federal and State Response; S=State enforcement. ² 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.

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