

# Federal Register Notice

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## ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300  
[FRL-4521-2]

### National Priorities List for Uncontrolled Hazardous Waste Sites, Proposed Rule No. 13

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

#### SUMMARY:

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA" or "the Act"), as amended, requires that the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP") include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The National Priorities List ("NPL") constitutes this list.

The Environmental Protection Agency ("EPA") proposes to add new sites to the NPL. This 13th proposed revision to the NPL includes eight sites in the General Superfund Section and one in the Federal Facilities Section. In addition, one final site is proposed for expansion. The identification of a site for the NPL is intended primarily to guide EPA in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. This action and a final rule published elsewhere in this **Federal Register** result in an NPL of 1,208 sites, 1,085 of them in the General Superfund Section and 123 in the Federal Facilities Section. An additional 28 sites are proposed, 25 in the General Superfund Section and 3 in the Federal Facilities Section. Final and proposed sites now total 1,236.

#### DATES:

Comments on the expansion of the Austin Avenue Radiation Site in Delaware County, PA, must be submitted on or before November 13, 1992. Comments on all other sites must be submitted on or before December 14, 1992.

#### ADDRESSES:

Mail original and three copies of comments (no facsimiles) to:

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For additional Docket addresses and further details on their contents, see Section I of the "**SUPPLEMENTARY INFORMATION**" portion of this preamble.

## FOR FURTHER INFORMATION CONTACT:

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## SUPPLEMENTARY INFORMATION:

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# I. Introduction

## *Background*

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601-9675 ("CERCLA" or "the Act") in response to the dangers of uncontrolled 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 sets forth the guidelines and procedures needed to respond under CERCLA to releases and threatened releases of hazardous substances, pollutants, or contaminants. EPA has revised the NCP on several occasions, most recently on March 8, 1990 (55 FR 8666).

Section 105(a)(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." As defined in CERCLA section 101(24), remedial action tends to be long-term in nature and involves response actions that are consistent with a permanent remedy for a release.

Mechanisms for determining priorities for possible remedial actions financed by the Trust Fund established under CERCLA (commonly referred to as the "Superfund") are included in the NCP at 40 CFR 300.425(c) (55 FR 8845, March 8, 1990). Under 40 CFR 300.425(c)(1), a site may be included on the NPL if it scores sufficiently high on the Hazard Ranking System ("HRS"), which is Appendix A of 40 CFR Part 300. On December 14, 1990 (55 FR 51532), EPA promulgated revisions to the HRS partly in response to CERCLA section 105(c), added by SARA. The revised HRS evaluates four pathways: ground water, surface water, soil exposure, and air. The HRS serves as a screening device to evaluate the relative potential of uncontrolled hazardous substances to pose a threat to human health or the environment. Those sites that score 28.50 or greater on the HRS are eligible for the NPL.

Under a 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, provided by the NCP at 40 CFR 300.425(c)(2), 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 300.425(c)(3), allows certain sites to be listed whether or not they score above 28.50, if all of the following conditions are met:

- The Agency for Toxic Substances and Disease Registry (ATSDR) of the U.S. Public Health Service has issued a health advisory that recommends dissociation of individuals from the release.

- EPA determines that the release poses a significant threat to public health.
- EPA anticipates that it will be more cost-effective to use its remedial authority (available only at NPL sites) than to use its removal authority to respond to the release.

Based on these criteria, and pursuant to section 105(a)(8)(B) of CERCLA, as amended by SARA, EPA promulgates a list of national priorities among the known or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. That list, which is Appendix B of 40 CFR part 300, is the National Priorities List ("NPL"). CERCLA section 105(a)(8)(B) defines the NPL as a list of "releases" and as a list of the highest priority "facilities." The discussion below may refer to the "releases or threatened releases" that are included on the NPL interchangeably as "releases," "facilities," or "sites." CERCLA section 105(a)(8)(B) also requires that the NPL be revised at least annually. A site may undergo CERCLA-financed remedial action only after it is placed on the NPL, as provided in the NCP at 40 CFR 300.425(b)(1).

EPA promulgated an original NPL of 406 sites on September 8, 1983 (48 FR 40658). The NPL has been expanded since then, most recently on September 25, 1991 (56 FR 48438).

The NPL includes two sections, one of sites evaluated and cleaned up by EPA (the "General Superfund Section"), and one of sites being addressed by other Federal agencies (the "Federal Facilities Section"). Under Executive Order 12580 and CERCLA section 120, each Federal agency is responsible for carrying out most response actions at facilities under its own jurisdiction, custody, or control, although EPA is responsible for preparing an HRS score and determining if the facility is placed on the NPL. EPA is not the lead agency at these sites, and its role at such sites is accordingly less extensive than at other sites. The Federal Facilities Section includes those facilities at which EPA is not the lead agency.

### ***Deletions/Cleanups***

EPA may delete sites from the NPL where no further response is appropriate, as explained in the NCP at 40 CFR 300.425(e) (55 FR 8845, March 8, 1990). To date, the Agency has deleted 44 sites from the General Superfund Section of the NPL, most recently 4 sites published elsewhere in this **Federal Register**.

EPA is developing the NPL completions list to better show the successful completion of Superfund response action at present or former NPL sites and enhance public understanding of the status of cleanup progress at sites. Sites are organized into three categories: construction completion, site completion, and NPL deletion. A site will move over time from completion of physical construction (construction completion) to achievement of remedial action objectives specified in the ROD (site completion) to deletion (being formally removed from the NPL). Thus, the NPL completions list provides a "snapshot" of site cleanup status that will need to be periodically updated to reflect newly categorized sites, and sites moving from one category to the next. More details on the completions list will be published shortly in the **Federal Register**.

In addition to the 44 RM 10/9/92 sites that have been deleted from the NPL, 105 sites are in the construction or site completion categories, all but one from the General Superfund Section. Thus, as of September 30, 1992, a total of 149 NPL sites have been cleaned up.

Cleanups at sites on the NPL do not reflect the total picture of Superfund accomplishments. As of August 31, 1992, EPA had conducted 2,349 removal actions, 557 of them at NPL sites. Information on removals is available from the Superfund hotline.

Pursuant to the NCP at 40 CFR 300.425(c), this document proposes to add 9 sites to the NPL. In addition, EPA is proposing to expand one site to include additional contaminated areas. The General Superfund Section includes 1,085 sites, and the Federal Facilities Section includes 123 sites, for a total of 1,208 sites on the NPL. Final and proposed sites now total 1,236.

### ***Public Comment Period***

The documents that form the basis for EPA's evaluation and scoring of sites in this rule are contained in dockets located both at EPA Headquarters and in the appropriate Regional offices. The dockets are available for viewing, by

appointment only, after the appearance of this rule. The hours of operation for the Headquarters docket are from 9:00 a.m. to 4:00 p.m., Monday through Friday excluding Federal holidays. Please contact individual Regional dockets for hours.

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The Headquarters docket for this rule contains HRS score sheets for each proposed site; a Documentation Record for each site describing the information used to compute the score; pertinent information for any site affected by statutory requirements or EPA listing policies; and a list of documents referenced in the Documentation Record. Each Regional docket for this rule contains all of the information in the Headquarters docket for sites in that Region, plus the actual reference documents containing the data principally relied upon and cited by EPA in calculating or evaluating the HRS scores for sites in that Region. These reference documents are available only in the Regional dockets. Interested parties may view documents, by appointment only, in the Headquarters or the appropriate Regional docket or copies may be requested from the Headquarters or appropriate Regional docket. An informal written request, rather than a formal request under the Freedom of Information Act, should be the ordinary procedure for obtaining copies of any of these documents.

EPA considers all comments received during the comment period. During the comment period, comments are placed in the Headquarters docket and are available to the public on an "as received" basis. A complete set of comments will be available for viewing in the Regional docket approximately one week after the formal comment period closes. Comments received after the comment period closes will be available in the Headquarters docket and in the Regional docket on an "as received" basis.

Comments that include complex or voluminous reports, or materials prepared for purposes other than HRS scoring, should point out the specific information that EPA should consider and how it affects individual HRS factor values. See *Northside Sanitary Landfill v. Thomas*, 849 F. 2d 1516 (D.C. Cir. 1988). After considering the relevant comments received during the comment period, EPA will add sites to the NPL if they meet requirements set out in CERCLA, the NCP, and any applicable listing policies.

In past rules, EPA has attempted to respond to late comments, or when that was not practicable, to read all late comments and address those that brought to the Agency's attention a fundamental error in the scoring of a site. (See, most recently 57 FR 4824 (February 7, 1992)). Although EPA intends to pursue the same policy with sites in this rule, EPA can guarantee that it will consider only those comments postmarked by the close of the formal comment period. EPA cannot delay a final listing decision solely to accommodate consideration of late comments.

## II. Purpose and Implementation of the NPL

### *Purpose*

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)) states the primary purpose of the NPL:

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 and management tool. The identification of a site for the NPL is intended primarily to guide EPA in determining which sites warrant further investigation to assess the nature and extent of the public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. The NPL also serves to notify the public of sites that EPA believes warrant further investigation. Finally, listing a site may, to the extent potentially responsible parties are identifiable at the time of listing, serve as notice to such parties that the Agency may initiate CERCLA-financed remedial action.

### *Implementation*

After initial discovery of a site at which a release or threatened release may exist, EPA begins a series of increasingly complex evaluations. The first step, the Preliminary Assessment (PA), is a low-cost review of existing information to determine if the site poses a threat to public health or the environment. If the site presents a serious imminent threat, EPA may take immediate removal action. If the PA shows that the site presents a threat but not an imminent threat, EPA will generally perform a more extensive study called the Site Inspection (SI). The SI involves collecting additional information to better understand the extent of the problem at the site, screen out sites that will not qualify for the NPL, and obtain data necessary to calculate an HRS score for sites which warrant placement on the NPL and further study. EPA may reform removal actions at any time during the process. To date EPA has completed approximately 33,000 PAs and approximately 16,000 SIs.

The NCP at 40 CFR 300.425(b)(1) (55 FR 8845, March 8, 1990) limits expenditure of the Trust Fund for remedial actions to sites on the 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 300.415(b)(2) (55 FR 8842, March 8, 1990). EPA's policy is to pursue cleanup of NPL sites using all the appropriate response and/or enforcement actions available to the Agency, including authorities other than CERCLA. The Agency will decide on a site-by-site basis whether to take enforcement or other action under CERCLA or other authorities prior to undertaking response action, proceed directly with Trust Fund-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 CERCLA-financed response action and/or enforcement action through both State and Federal initiatives. EPA will take into account which approach is more likely to accomplish cleanup of the site most expeditiously while using CERCLA's limited resources as efficiently as possible.

Although the ranking of sites by HRS scores is considered, it does not, by itself, determine the sequence in which EPA funds remedial response actions, since the information collected to develop HRS scores is not sufficient to determine either the extent of contamination or the appropriate response for a particular site (40 CFR 300.425(a)(2), 55 FR 8845, March 8, 1990). Additionally, resource constraints may preclude EPA from evaluating all HRS pathways; only those presenting significant risk or sufficient to make a site eligible for the NPL may be evaluated. Moreover, the sites with the highest scores do not necessarily come to the Agency's attention first, so that addressing sites strictly on the basis of ranking would in some cases require stopping work at sites where it was already underway.

More detailed studies of a site are undertaken in the Remedial Investigation/Feasibility Study (RI/FS) that typically follows listing. The purpose of the RI/FS is to assess site conditions and evaluate alternatives to the extent necessary

to select a remedy (40 CFR 300.430(a)(2) (55 FR 8846, March 8, 1990)). It takes into account the amount of contaminants released into the environment, the risk to affected populations and environment, the cost to remediate contamination at the site, and the response actions that have been taken by potentially responsible parties or others. Decisions on the type and extent of response action to be taken at these sites are made in accordance with 40 CFR 300.415 (55 FR 8842, March 8, 1990) and 40 CFR 300.430 (55 FR 8846, March 8, 1990). After conducting these additional studies, EPA may conclude that initiating a CERCLA remedial action using the Trust Fund at some sites on the NPL is not appropriate because of more pressing needs at other sites, or because a private party cleanup is already underway pursuant to an enforcement action. Given the limited resources available in the Trust Fund, the Agency must carefully balance the relative needs for response at the numerous sites it has studied. It is also possible that EPA will conclude after further analysis that the site does not warrant remedial action.

### ***RI/FS at Proposed Sites***

An RI/FS may be performed at sites proposed in the **Federal Register** for placement on the NPL (or even sites that have not been proposed for placement on the NPL) pursuant to the Agency's removal authority under CERCLA, as outlined in the NCP at 40 CFR 300.415. Although an RI/FS generally is conducted at a site after it has been placed on the NPL, in a number of circumstances the Agency elects to conduct an RI/FS at a site proposed for placement on the NPL in preparation for a possible Trust Fund-financed remedial action, such as when the Agency believes that a delay may create unnecessary risks to public health or the environment. In addition, the Agency may conduct an RI/FS to assist in determining whether to conduct a removal or enforcement action at a site.

### ***Facility (Site) Boundaries***

The purpose of the NPL is merely to identify releases or threatened releases of hazardous substances that are priorities for further evaluation. The Agency believes that it would be neither feasible nor consistent with this limited purpose for the NPL to attempt to describe releases in precise geographical terms. The term "facility" is broadly defined in CERCLA to include any area where a hazardous substance has "come to be located" (CERCLA section 101(9)), and the listing process is not intended to define or reflect boundaries of such facilities or releases. Site names are provided for general identification purposes only. Knowledge of the geographic extent of sites will be refined as more information is developed during the RI/FS and even during implementation of the remedy.

Because the NPL does not assign liability or define the geographic extent of a release, a listing need not be amended if further research into the contamination at a site reveals new information as to its extent. This is further explained in preambles to past NPL rules, most recently February 11, 1991 (56 FR 5598).

## **III. Contents of This Proposed Rule**

Table 1 identifies the 8 NPL sites in the General Superfund Section and Table 2 identifies the 1 NPL site in the Federal Facilities Section being proposed in this rule. Both tables follow this preamble. All these sites are proposed based on HRS scores of 28.50 or above. The sites in Table 1 are listed alphabetically by State, for ease of identification, with group number identified to provide an indication of relative ranking. To determine group number, sites on the NPL are placed in groups of 50; for example, a site in Group 4 of this proposal has a score that falls within the range of scores covered by the fourth group of 50 sites on the General Superfund Section of the NPL. Sites in the Federal Facilities Section are also presented by group number based on groups of 50 sites in the General Superfund Section. For further information, see the discussion on format of the NPL in the final rule published elsewhere in this **Federal Register**.

### ***Statutory Requirements***

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. Where other authorities exist, placing sites on the NPL for possible remedial action under CERCLA may not be appropriate. Therefore, EPA has chosen not to place certain types of sites on the NPL even though CERCLA does not exclude such action. 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.

The listing policies and statutory requirements of relevance to this proposed rule cover sites subject to the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6901-6991i) and Federal facility sites. These policies and requirements are explained below and have been explained in greater detail in previous rulemakings (56 FR 5598, February 11, 1991).

### ***Releases From Resource Conservation and Recovery Act (RCRA) Sites***

EPA's policy is that sites in the General Superfund Section subject to RCRA Subtitle C corrective action authorities will not, in general, be placed on the NPL. However, EPA will list certain categories of RCRA sites subject to Subtitle C corrective action authorities, as well as other sites subject to those authorities, if the Agency concludes that doing so best furthers the aims of the NPL/RCRA policy and the CERCLA program. EPA has explained these policies in detail in the past (51 FR 21054, June 10, 1986; 53 FR 23978, June 24, 1988; 54 FR 41000, October 4, 1989; 56 FR 5602, February 11, 1991).

Consistent with EPA's NPL/RCRA policy, EPA is proposing to add two sites to the General Superfund Section of the NPL that may be subject to RCRA Subtitle C corrective action authorities. One is the Spectron, Inc. site in Elkton, MD. Material has been placed in the public docket for the site confirming that the owner is bankrupt.

The second is the Rinchem, Co., Inc. site in Albuquerque, NM. Material has been placed in the document indicating it will be difficult to address this facility under RCRA corrective action authorities.

### ***Releases from Federal Facility Sites***

On March 13, 1989 (54 FR 10520), the Agency announced a policy for placing Federal facility sites on the NPL if they meet the eligibility criteria (e.g., an HRS score of 28.50 or greater), even if the Federal facility also is subject to the corrective action authorities of RCRA Subtitle C. In that way, those sites could be cleaned up under CERCLA, if appropriate.

This rule proposes to add one site to the Federal Facilities Section of the NPL.

### ***Expansion of the Austin Avenue Radiation Site***

The Austin Avenue Radiation site, Delaware County Pennsylvania, was proposed to the NPL on February 7, 1992 (57 FR 4824). At that time, specific areas were identified and enumerated as part of the site. EPA has identified additional contaminated areas not included in the original proposal. EPA is proposing at this time to include these additional contaminated areas and is listing these areas in the public docket for this rule. EPA will consider comments only on these additional areas, not on the areas previously identified, for which the comment period has ended.

## **IV. 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 the economic implications of today's proposal to add new sites to the NPL. EPA believes that the kinds of economic effects associated with this proposed revision to the NPL 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***

This proposed rulemaking is not a "major" regulation because it does not establish that EPA necessarily will undertake remedial action, nor does it require any action by a private party or determine any party's liability for site response costs. Costs that arise out of responses at sites in the General Superfund Section 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 that may be associated with responding to all sites in this rule. The proposed listing of a site on the NPL may be followed



by 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. Selection of a remedial alternative, and design and construction of that alternative, follow completion of the RI/FS, and operation and maintenance (O&M) activities may continue after construction has been completed.

EPA initially bears costs associated with responsible party searches. Responsible parties may enter into consent orders or agreements to conduct or pay the costs of the RI/FS, remedial design and remedial action, and O&M, or EPA and the States may share costs up front and subsequently bring an action for cost recovery.

The State's share of site cleanup costs for Trust Fund-financed actions is governed by CERCLA section 104(c). For privately-owned sites, as well as publicly-owned but not publicly-operated sites, EPA will pay from the Trust Fund for 100% of the costs of the RI/FS and remedial planning, and 90% of the costs of the remedial action, leaving 10% to the State. For sites operated by a State or political subdivision, the State's share is at least 50% of all response costs at the site, including the cost associated with the RI/FS, remedial design, and construction and implementation of the remedial action selected. After construction of the remedy is complete, costs fall into two categories.

- For restoration of ground water and surface water, EPA will pay from the Trust Fund a share of the start-up costs according to the cost-allocation criteria in the previous paragraph for 10 years or until a sufficient level of protectiveness is achieved before the end of 10 years. 40 CFR 300.435(f)(3). After that, the State assumes all O&M costs. 40 CFR 300.435(f)(1).
- For other cleanups, EPA will pay from the Trust Fund a share of the costs of a remedy according to the cost-allocation criteria in the previous paragraph until it is operational and functional, which generally occurs after one year. 40 CFR 300.435(f)(2), 300.510(c)(2). After that, the State assumes all O&M costs. 40 CFR 300.510(c)(1).

In previous NPL rulemakings, the Agency estimated the costs associated with these activities (RI/FS, remedial design, remedial action, and O&M) on an average-per-site and total cost basis. EPA will continue with this approach, using the most recent (1988) cost estimates available; these estimates are presented below. However, costs for individual sites vary widely, 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	1,300,000
Remedial Design	1,500,000
Remedial Action	25,000,000 <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, Washington, DC. <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.

Possible costs to States associated with today's proposed rule for Trust Fund-financed response action arise from the required State cost-share of: (1) for privately owned sites at which remedial action involving treatment to restore ground and surface water quality are undertaken, 10% of the cost of constructing the remedy, and 10% of the cost of operating the remedy for a period up to 10 years after the remedy becomes operational and functional; (2) for privately-owned sites at which other remedial actions are undertaken, 10% of the cost of all remedial action, and 10% of costs incurred within one year after remedial action is complete to ensure that the remedy is operational and functional; and (3) for sites publicly-operated by a State or political subdivision at which response actions are undertaken, at least 50% of the cost of all response actions. States must assume the cost for O&M after EPA's participation ends. Using the assumptions developed in the 1982 RIA for the NCP, EPA has assumed that 90% of the non-Federal sites proposed for the NPL in this rule will be privately-owned and 10% will be State- or locally-operated.

Therefore, using the budget projections presented above, the cost to States of undertaking Federal remedial planning and actions at all non-Federal sites in today's proposed rule, but excluding O&M costs, would be approximately \$28 million. State O&M costs cannot be accurately determined because EPA, as noted above, will share costs for up to 10 years for restoration of ground water and surface water, and it is not known how many sites will require this treatment and for how long. However, based on past experience, EPA believes a reasonable estimate is that it will share start-up costs for up to 10 years at 25% of sites. Using this estimate, State O&M costs would be approximately \$25 million. As with the EPA share of costs, portions of the State share will be borne by responsible parties.

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

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

### ***Benefits***

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

As a result of 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 before the RI/FS is completed at these sites.

## **V. Regulatory Flexibility Act Analysis**

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

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

The Agency does expect that placing the sites in this proposed rule on the NPL could significantly affect certain industries, or firms within industries, that have caused a proportionately high percentage of waste site problems. However, EPA does not expect the listing of these sites to have a significant economic impact on a substantial number of small businesses.

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

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

For the foregoing reasons, I hereby certify that this proposed rule would not have a significant economic impact on a substantial number of small entities. Therefore, this proposed regulation does not require a regulatory flexibility analysis.

**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.

**Table 1  
National Priorities List - Proposed Rule #13 - General Superfund Section**

State	Site name	City/county	NPL Gr <sup>1</sup>
IA	Waterloo Coal Gasification Plant	Waterloo	5
MD	Spectron, Inc	Elkton	4
MN	Lake Elmo Airport/Ground Water Contamination	Baytown Township	13
NE	American Shizuki Corp./Ogallala Electronics and Manufacturing, Inc	Ogallala	5
NE	Bruno Co-op Association/Associated Properties	Bruno	5
NM	AT&SF (Albuquerque)	Albuquerque	5
NM	Rinchem Co. Inc	Albuquerque	10
WA	Spokane Junkyard/Associated Properties	Spokane	5

Number of sites proposed for listing: 8. <sup>1</sup> Sites are placed in groups (Gr) corresponding to groups of 50 on the final NPL.

**Table 2  
National Priorities List - Proposed Rule #13 - Federal Facilities Section**

State	Site name	City/county	NPL Gr <sup>1</sup>
AK	Naval Air Station Adak	Adak Island	4

Number of sites proposed for listing: 1. <sup>1</sup> Sites are placed in groups (Gr) corresponding to groups of 50 on the final NPL.

**Authority:** 42 U.S.C. 9605; 42 U.S.C. 9620; 33 U.S.C. 1321(c)(2); E.O. 11735, 3 CFR, 1971-1975 Comp., p. 793; E.O. 12580, 3 CFR, 1987 Comp., p. 193.

Dated: October 5, 1992.

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