

Federal Register Notice

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300
[FRL 3655-6]

National Priorities List for Uncontrolled Hazardous Waste Sites - Final Rule 10/04/89

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY:

The Environmental Protection Agency ("EPA") is amending the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 CFR Part 300, which was promulgated on July 16, 1982, pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"). CERCLA has since been amended by the Superfund Amendments and Reauthorization Act of 1986 ("SARA") and is implemented by Executive Order 12580 (52 FR 2923, January 29, 1987). CERCLA requires that the NCP include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States, and that the list be revised at least annually. The National Priorities List ("NPL"), initially promulgated as Appendix B of the NCP on September 8, 1983(48 FR 40658), constitutes this list and is being revised today by the addition of 70 sites, including 11 Federal facility sites. Based on a review of public comments on these sites, EPA has decided that they meet the eligibility requirements of the NPL and are consistent with the Agency's listing policies. In addition, today's action removes four sites from the proposed NPL. Information supporting these actions is contained in the Superfund Public Dockets.

Elsewhere in this **Federal Register** is another final rule that adds 23 sites to the NPL that meet EPA's eligibility requirements and listing policies and removes 27 sites from the proposed NPL that do not, at this time, appear to come within the categories of Resource Conservation and Recovery Act ("RCRA") facilities that EPA considers appropriate for the NPL.

These two rules result in a final NPL of 981 sites, 52 of them in the Federal section; 213 sites are proposed to the NPL, 63 of them in the Federal section. Final and proposed sites now total 1,194.

EFFECTIVE DATE:

The effective date for this amendment to the NCP shall be November 3, 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

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

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

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

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

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

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

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

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

FOR FURTHER INFORMATION CONTACT:

Robert Myers
Hazardous Site Evaluation Division
Office of Emergency and Remedial Response (OS-230)
U.S. Environmental Protection Agency
401 M Street, SW.
Washington, DC 20460
or the Superfund Hotline, Phone (800)424-9346 (382-3000 in the Washington, DC, metropolitan area).

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I. Introduction

Background

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. sections 9601-9657 ("CERCLA" or the "Act"), in response to the dangers of uncontrolled or abandoned hazardous waste sites. CERCLA was amended in 1986 by the Superfund Amendments and Reauthorization Act ("SARA"), 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 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." Removal action involves cleanup or other actions that are taken in response to releases or threats of releases 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. EPA intends to issue the revised HRS as soon as possible. However, until EPA has reviewed public comment and the proposed revisions have been put into effect, EPA will continue to propose and promulgate sites using the current HRS, in accordance with CERCLA section 105(c)(1) and Congressional intent, as explained in 54 FR 13299 (March 31, 1989).

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

An original NPL of 406 sites was promulgated on September 8, 1983 (48 FR 40658). The NPL has since been expanded, most recently on March 31, 1989 (54 FR 13296). The Agency has also published a number of proposed rulemakings to add sites to the NPL, most recently a special update of two sites on August 16, 1989 (54 FR 33846).

EPA may delete sites from the NPL when no further response is appropriate, as provided in the NCP at 40 CFR 300.66(c)(7). To date, the Agency has deleted 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 70 sites, including 11 Federal facility sites, to the NPL. EPA has carefully considered public comments submitted for the sites in today's final rule and has made some modifications in response to those comments. This rule and the additional final rule published elsewhere in today's Federal Register result in a final NPL of 981 sites, 52 of them in the Federal section; 213 sites are in proposed status, 63 of them in the Federal section. In addition, 31 sites are being dropped from the proposed NPL in the two rules. With these changes, final and proposed sites now total 1,194.

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

Information Available to the Public

The Headquarters and Regional public dockets for the NPL (see Addresses portion of this notice) contain documents relating to the evaluation and scoring of sites in this final rule. The dockets are available for viewing "by appointment only" after the appearance of this notice. The hours of operation for the Headquarters 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.

The Headquarters docket contains HRS score sheets for each final site; a Documentation Record for each site describing the information used to compute the score; pertinent information for any site affected by special study waste or other requirements, or Resource Conservation and Recovery Act or other listing policies; a list of documents referenced in the Documentation Record; comments received; and the Agency's response to those comments. The Agency's responses are contained in the "Support Document for the Revised National Priorities List-Final Rule 10/04/89."

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

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

II. Purpose and Implementation of the NPL

Purpose

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

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

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

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

Implementation

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

EPA's policy is to pursue cleanup of NPL sites using the appropriate response and/or enforcement actions available to the Agency, including authorities other than CERCLA. Listing a site will serve as notice to any potentially responsible party that the Agency may initiate CERCLA-financed remedial action. The Agency will decide on a site-by-site basis whether to take enforcement or other action under CERCLA or other authorities, proceed directly with CERCLA-financed response actions and seek to recover response costs after cleanup, or do both. To the extent feasible, once sites are on the NPL, EPA will determine high-priority candidates for Superfund-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—that is its HRS score. 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 posed by the release or threatened release. It also takes into account the amount of contaminants in the environment, the risk to affected populations and environment, the cost to correct problems at the site, and the response actions that have been taken by potentially responsible parties or others. Decisions on the type and extent of action to be taken at these sites are made in accordance with the criteria contained in Subpart F of the NCP. After conducting these additional studies, EPA may conclude that it is not desirable to initiate a CERCLA remedial action at some sites on the NPL because of more pressing needs at other sites,

or because a private party cleanup is already underway pursuant to an enforcement action. Given the limited resources available in the Trust Fund, the Agency must carefully balance the relative needs for response at the numerous sites it has studied. It is also possible that EPA will conclude after further analysis that the site does not warrant remedial action.

Revisions to the NPL such as today's rulemaking may move some previously listed sites to a lower position on the NPL. However, if EPA has initiated action such as an RI/FS at a site, it does not intend to cease such actions to determine if a subsequently listed site should have a higher priority for funding. Rather, the Agency will continue funding site studies and remedial actions once they have been initiated, even if higher-scoring sites are later added to the NPL.

RI/FS at Proposed Sites

An RI/FS can be performed at proposed sites (or even non-NPL sites) pursuant to the Agency removal authority under CERCLA, as outlined in the NCP at 40 CFR 300.68(a)(1). Section 101(23) of CERCLA defines "remove" or "removal" to include "such actions as may be necessary to monitor, assess and evaluate the release or threat of release * * *" The definition of "removal" also includes "action taken under Section 104(b) of this Act * * *," which authorizes the Agency to perform studies, investigations, and other information-gathering activities.

Although an RI/FS is generally conducted at a site after the site has been placed on the NPL, in a number of circumstances the Agency elects to conduct RI/FS at a proposed NPL site in preparation for a possible CERCLA-financed remedial action, such as when the Agency believes that a delay may create unnecessary risks to human 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 Agency has received a number of inquiries concerning whether EPA could (or would) revise NPL site boundaries. The issue frequently arises where a landowner seeks to sell an allegedly uncontaminated portion of an NPL site. The Agency's position is that it is neither feasible nor consistent with the limited purpose of the NPL (as the mere identification of releases), for the Agency to describe precise boundaries of releases.

CERCLA section 105(a)(8)(B) directs EPA to list national priorities among the known "releases or threatened releases" of hazardous substances. Thus, the purpose of the NPL is merely to identify releases of hazardous substances that are priorities for further evaluation. Although a CERCLA "facility" is broadly defined to include any area where a hazardous substance release has "come to be located" CERCLA section 101(9)), the listing process itself is not intended to define or reflect the boundaries of such facilities or releases.¹ Of course, HRS data upon which the NPL placement was based will, to some extent, describe which release is at issue; that is, the NPL release would include all releases evaluated as part of the HRS analysis (including noncontiguous releases evaluated under the NPL aggregation policy, see FR40663 (September 8, 1983)).

Because the Agency does not formally define the geographic extent of releases (or sites) at the time of listing, there is no administrative process to "delist" allegedly uncontaminated areas of an NPL site (or to expand sites to follow the contamination where it has come to be located).² Such a process would be time consuming, subject to constant reverification, and wasteful of resources. Further, the NPL is only of limited significance, as it does not assign liability to any party. See Report of the Senate Committee on Environment and public Works, Senate Rep. No. 96-848, 96th Cong., 2d Sess. 60 (1980), quoted at 48 FR 40659 (September 8, 1983). If a party contests liability for releases on discrete parcels of property, it may do so if and when the Agency brings an action against that party to recover costs or to compel a response action at that property.

EPA regulations do provide that the "nature and extent of the threat presented by a release" will be determined by an RI/FS as more information is developed on site contamination (40 CFR 380.68(d)). However, this inquiry focuses on an evaluation of the *threat* posed; it is not a requirement to define the boundaries of the release, and in any event is independent of the NPL listing. Moreover, it is generally impossible to discover the full extent of where the contamination "has come to be located" prior to completion of all necessary studies and remedial work at a site; indeed the boundaries of the contamination can be expected to change over time. Thus, in most cases, it will be impossible to describe the boundaries of a release with certainty.

At the same time, however, the Agency notes that the RI/FS or Record of Decision (ROD) may offer a useful indication to the public of the areas of contamination at which the Agency is considering taking a response action, *based on information known at the time*. For example, EPA may evaluate (and list) a release over a 400-acre area, but the ROD may select a remedy over 100 acres only. This information may be useful to a landowner seeking to sell the other 300 acres, but it would result in no formal change in the fact that a release is included on the NPL. The landowner (and the public) should also note in such a case that if further study (or the remedial construction itself) reveals that the contamination is located on or has spread to other areas, the Agency may address those areas as well.

This view of the NPL as an initial identification of a release that is not subject to constant reevaluation is consistent with the Agency's policy of not rescored NPL sites:

EPA recognizes that the NPL process cannot be perfect, and it is possible that errors or that new data will alter previous assumptions. Once the initial scoring effort is complete, however, the focus of EPA activity must be on investigating sites in detail and determining the appropriate response. New data or errors can be considered in that process * * * [T]he NPL serves as a guide to EPA and does not determine liability or the need for response.

49 FR 37081 (September 21, 1984).³

¹ Although CERCLA section 101(9) sets out the definition of "facility" and not "release," those terms are often used interchangeably. (See CERCLA section 105(a)(8)(B), which defined the NPL as a list of "releases" as well as the highest priority "facilities.") (For ease of reference, EPA also uses the term "Site" interchangeably with "release" and "facility.").

² The Agency has already discussed its authority to follow contamination as far as it goes, and then to consider the release or facility for response purposes to be the entire area where the hazardous substances have come to be located. 54 FR 13298 (March 31, 1989).

³ See also *City of Stoughton, Wisc. v. U.S. EPA*, 858 F.2d 747, 751 (D.C. Cir. 1988): Certainly EPA could have permitted further comment or conducted further testing [on proposed NPL sites]. Either course would have consumed further assets of the Agency and would have delayed a determination of the risk priority associated with the site. Yet * * * "the NPL is simply a rough list of priorities, assembled quickly and inexpensively to comply with Congress' mandate for the Agency to take action straightaway." *Eagle-Picher [Industries v. EPA] II*, 759 F. 2d [921] at 932 [(D.C. Cir. 1985)].

III. NPL Update Process

There are three mechanisms for placing sites on the NPL. The principal mechanism is the application of the HRS. The HRS serves as a screening device to evaluate the relative potential of uncontrolled hazardous substances to cause human health or safety problems, or ecological or environmental damage. The HRS score is calculated by estimating risks presented in three potential "pathways" of human or environmental exposure: ground water, surface water, and air. Within each pathway of exposure, the HRS considers three categories of factors "that are designed to encompass most aspects of the likelihood of exposure to a hazardous substance through a release and the magnitude or degree of harm from such exposure":

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

Factors within each of these three categories are assigned a numerical value according to a set scale. Once numerical values are computed for each factor, the HRS uses mathematical formulas that reflect the relative importance and interrelationships of the various factors to arrive at a final site score on a scale of 0 to 100. The resultant HRS score represents an estimate of the relative "probability and magnitude of harm to the human population or sensitive

environment from exposure to hazardous substances as a result of the contamination of ground water, surface water, or air" (47 FR 31180, July 16, 1982). Those sites that score 28.50 or greater on the HRS are eligible for the NPL.

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

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

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

All of the sites in today's final rule have been placed on the NPL based on their HRS scores.

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 may also consider candidate sites in addition to those submitted by States. EPA Headquarters conducts further quality assurance audits to ensure accuracy and consistency among the various EPA and State offices participating in the scoring. The Agency then proposes the sites that meet one of the three criteria for listing (and EPA's listing 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. Statutory Requirements and Listing Policies

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

The Agency has solicited comment on a policy to expand deferral to other Federal and State authorities (53 FR 51415, December 21, 1988); however, that policy is not currently in effect and has not been applied to sites in this rule. The Agency has committed not to implement any part of an expanded deferral policy until public and Congressional concerns have been fully reviewed and analyzed, and a decision reached on whether or not to implement such a policy.

The listing policies and statutory requirements of relevance to this final rule cover Resource Conservation and Recovery Act (RCRA) (U.S.C. 6901-6991i) sites, Federal facility sites, sites with "special study wastes," and mining

waste sites, and are discussed below. These and other listing policies and statutory requirements have been explained in previous rulemakings, the latest being March 31, 1989 (54 FR 13296).

Releases From Resource Conservation and Recovery Act (RCRA) Sites

On June 10, 1986 (51 FR 21054), EPA announced a decision on components of a policy for the listing or the deferral from listing on the NPL of several categories of non-Federal sites subject to RCRA Subtitle C corrective action authorities. Under the policy, sites not subject to RCRA Subtitle C corrective action authorities will continue to be placed on the NPL. Examples of such sites include:

- Facilities that ceased treating, storing, or disposing of hazardous waste prior to November 19, 1980 (the effective date of Phase I of the Subtitle C regulations) and to which the RCRA corrective action or other authorities of Subtitle C cannot be applied.
- Sites at which only materials exempted from the statutory or regulatory definition of solid waste or hazardous waste are managed.
- Contamination areas resulting from the activities of RCRA hazardous waste handlers to which RCRA Subtitle C corrective action authorities do not apply, such as hazardous waste generators of transporters, which are not required to have Interim Status or a final RCRA permit.

Further, the policy stated that certain RCRA sites at which Subtitle C corrective action authorities are available may also be listed if they meet the criterion for listing (i.e., an HRS score of 28.50 or greater) and they fall within one of the following categories:

- Facilities owned by persons who have demonstrated an inability to finance corrective action as evidenced by their invocation of the bankruptcy laws.
- Facilities that have lost authorization to operate, and for which there are additional indications that the owner or operator will be unwilling to undertake corrective action.
- Sites, analyzed on a case-by-case basis, whose owners or operators have a clear history of unwillingness to undertake corrective action.

On August 9, 1988 (53 FR 30005), EPA announced a policy for determining whether RCRA facilities are unwilling to perform corrective actions, and therefore should be proposed to the NPL. Additionally, on August 9, 1988 (53 FR 30002), EPA requested comment on a draft policy for determining when an owner/operator should be considered unable to pay for addressing the contamination at a RCRA-regulated site; that draft policy is still under review.

On June 24, 1988 (53 FR 23978), EPA announced its intent to list RCRA sites in several other categories which the Agency considers appropriate for the NPL. These categories are non- or late filers, converters, protective filers, and sites holding RCRA permits issued before enactment of the Hazardous and Solid Waste Amendments (HSWA) of 1984. Consistent with this policy, 23 sites in these categories are being placed on the final NPL in a rule appearing elsewhere in today's **Federal Register**.

In this final rule, EPA is adding to the NPL four sites that are subject to RCRA Subtitle C corrective action authorities. These sites are not appropriate for deferral under the NPL/RCRA deferral policy because either the site owners are unable to finance corrective action, as evidenced by their invocation of the bankruptcy laws, or the sites are converters (i.e., their Part A permits have been withdrawn).

Releases from Federal Facility Sites

On June 10, 1986 (51 FR 21054), the Agency announced a decision on components of a policy for the listing or the deferral from listing on the NPL of several categories of non-Federal sites subject to the RCRA Subtitle C corrective action authorities. The policy was intended to reflect RCRA's broadened corrective action authorities as a result of HSWA. In announcing the RCRA policy, the Agency reserved for a later date the question of whether this or another

policy would be applied to Federal facility sites that include one or more RCRA hazardous waste management units, and thus are subject to RCRA Subtitle C corrective action authorities.

The Agency interprets SARA and its legislative history to indicate that Congress clearly intended that Federal facilities be placed on the NPL if they meet the prescribed eligibility criteria (e.g., an HRS score of 28.50 or greater) even if the Federal facility is also subject to the corrective action authorities of RCRA Subtitle C. In that way, cleanup, if appropriate, could be effected at those sites under CERCLA. The Agency's statement of this policy, and the reasons behind it, are fully discussed at 54 FR 10520 (March 13, 1989). Thus, the June 10, 1986 RCRA deferral policy (51 FR 21057) applicable to private sites is not applicable to Federal facility sites.

Federal facility sites are placed in a separate section of the NPL. This rule adds 11 Federal facility sites to the final NPL, bringing the total number of final Federal facility sites to 52. Currently, 63 Federal facility sites are proposed to the NPL.

Releases of Special Study Wastes

Section 105(g) of CERCLA, as amended by SARA, requires EPA to consider certain factors before adding sites involving RCRA "special study wastes" to the NPL. Section 105(g) applies to sites that (1) were not on or proposed for the NPL as of October 17, 1986 and (2) contain sufficient quantities of special study wastes as defined under RCRA sections 3001(b)(2) (drilling fluids), 3001(b)(3)(A)(ii) (mining wastes), and 3001(b)(3)(A)(iii) (cement kiln dusts). Before these sites can be added to the NPL, section 105(g) requires that the following information be considered:

- The extent to which the HRS score for the facility is affected by the presence of the special study waste at or released from the facility.
- Available information as to the quantity, toxicity, and concentration of hazardous substances that are constituents of any special study waste at, or released from, the facility; the extent of or potential for release of such hazardous constituents; the exposure or potential exposure to human population and environment; and the degree of hazard to human health or the environment posed by the release of such hazardous constituents at the facility.

This final rule includes five sites containing or potentially containing special study wastes subject to the provisions of section 105(g). EPA has placed in the dockets addenda that evaluate for each site the information called for in section 105(g). The addenda indicate the special study wastes present a threat to human health and the environment, and that the sites should be added to the NPL.

CERCLA section 125, as amended by SARA, addresses special study wastes described in RCRA section 3001(b)(3)(A)(i) (fly ash and related wastes). No sites in this rule are subject to section 125.

Releases from Mining Sites

The Agency's position is that mining wastes may be hazardous substances, pollutants, or contaminants under CERCLA and, therefore, mining waste sites are eligible for the NPL. This position was affirmed in 1985 by the United States Court of Appeals for the District of Columbia Circuit (*Eagle-Picher Industries, Inc. v. EPA*, 759 F. 2d 922 (D.C. Cir 1985)).

In addition, Agency policy statements regarding including mining sites on the NPL are located at 53 FR 23988, 23993 (June 24, 1988); 54 FR 10512, 10514-16 (March 13, 1989); 54 FR 13296, 13300-01, 13302-03 (March 31, 1989). The Agency is including three mining sites in today's final rule.

V. Disposition of Sites in Today's Final Rule

This final rule promulgates 70 sites (Table 1) and drops 4 sites from several proposed rulemakings. These 74 sites are from the following proposed updates:

- Update #2 (49 FR 40320, October 15, 1984): 2 sites.
- Update #3 (50 FR 14115, April 10, 1985): 1 site.
- Update #5 (51 FR 21099, June 10, 1986): 6 sites.
- Update #6 (52 FR 2492, January 22, 1987): 14 sites.
- Update #7 (53 FR 23988, June 24, 1988): 47 sites.
- Update #8 (54 FR 19526, May 5, 1989): 4 sites.

Table 1
National Priorities List, New Final Sites (by Rank), October 1989

NPL Group¹	NPL Rank	State	Site Name	City/County
1	44	PA	Publicker Industries Inc	Philadelphia
2	70	WA	General Electric (Spokane Shop)	Spokane
3	129	PA	Raymark	Hatboro
4	164	ID	Kerr-McGee Chemical (Soda Springs)	Soda Springs
4	190	IL	Woodstock Municipal Landfill	Woodstock
4	199	CT	Precision Plating Corp	Vernon
5	214	MO	Wheeling Disposal Service Co. Lf	Amazonia
6	256	PA	Tonolli Corp	Nesquehoning
6	265	CT	Gallup's Quarry	Plainfield
6	271	PA	Berks Landfill	Spring Township
6	274	CA	Pacific Coast Pipe Lines	Fillmore
6	277	PA	Occidental Chem/Firestone Tire	Lower Pottsgrove Township
6	297	FL	Agrico Chemical Co	Pensacola
7	318	VT	Darling Hill Dump	Lyndon
7	334	PA	River Road Lf/Waste Mngmnt, Inc	Hermitage
7	343	FL	Standard Auto Bumper Corp	Hialeah
8	363	PA	A.I.W. Frank/Mid-County Mustang	Exton
8	366	PA	Commodore Semiconductor Group	Lower Providence Township
8	368	IL	Lenz Oil Service, Inc	Lemont
8	371	PA	Novak Sanitary Landfill	South Whitehall Township
8	375	NJ	South Jersey Clothing Co	Minotola
8	381	MI	Barrels, Inc	Lansing
8	400	VT	BFI Sanitary Landfill (Rockingham)	Rockingham
9	434	PA	Jacks Creek/Sitkin Smelting & Ref	Maitland

NPL Group¹	NPL Rank	State	Site Name	City/County
10	469	PA	AMP, Inc. (Glen Rock Facility)	Glen Rock
10	470	NC	JFD Electronics/Channel Master	Oxford
10	473	FL	Sydney Mine Sludge Ponds	Brandon
10	474	NM	Cimarron Mining Corp	Carrizozo
10	489	MO	St Louis Airport/HIS/Fut Coatings	St. Louis County
10	487	RI	Rose Hill Regional Landfill	South Kingstown
11	504	CT	Barkhamsted-New Hartford Landfill	Barkhamsted
11	513	FL	Chemform, Inc	Pompano Beach
11	516	SC	Lexington County Landfill Area	Cayce
11	519	UT	Utah Power &Light/American Barrel	Salt Lake City
11	546	VA	Saunders Supply Co	Chuckatuck
12	553	SC	Rochester Property	Travelers Rest
12	574	VT	Tansitor Electronics, Inc	Bennington
12	585	DE	Dover Gas Light Co	Dover
12	590	PA	North Penn-Area 2	Hatfield
12	596	NM	Pagano Salvage	Los Lunas
13	601	CA	Fresno Municipal Sanitary Landfill	Fresno
13	615	CA	Jasco Chemical Corp	Mountain View
13	619	VA	Dixie Caverns County Landfill	Salem
13	635	PA	Bell Landfill	Terry Township
14	662	WI	Sauk County Landfill	Excelsior
14	677	CT	Durham Meadows	Durham
14	687	MO	Kem-Pest Laboratories	Cape Girardeau
14	696	MI	Albion-Sheridan Township Landfill	Albion
15	736	NC	Geigy Chemical Corp (Aberdeen Pit)	Aberdeen
16	752	LA	D.L. Mud, Inc	Abbeville
16	762	CA	Montrose Chemical Corp	Torrance
16	785	CA	Synertek, Inc. (Building 1)	Santa Clara
16	793	FL	Wingate Road Munic Incinerat Dump	Fort Lauderdale
17	822	PA	Eastern Diversified Metals	Hometown
17	840	NJ	Witco Chemical Corp. (Oakland Pit)	Oakland
18	870	GA	Firestone Tire (Albany Plant)	Albany
18	889	TN	Mallory Capacitor Co	Waynesboro

NPL Group ¹	NPL Rank	State	Site Name	City/County
19	910	DE	Sussex County Landfill No. 5	Laurel
19	927	PA	CryoChem, Inc	Worman

Number of New Final Sites: 59. * State top priority site.

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

National Priorities List, Federal Facility Sites, New Final (by Group), October 1989

NPL Group ¹	State	Site Name	City/County
1	WA	Hanford 200-Area (USDOE)	Benton County
1	WA	Hanford 300-Area (USDOE)	Benton County
1	CO	Rocky Flats Plant (USDOE)	Golden
2	PA	Naval Air Develop Center (8 Areas)	Warminster Township
2	OH	Wright-Patterson Air Force Base	Dayton
6	WA	Hanford 100-Area (USDOE)	Benton County
12	WA	Hanford 1100-Area (USDOE)	Benton County
14	PR	Naval Security Group Activity	Sabana Seca
15	WA	Naval Undersea Warf Sta (4 Areas)	Keyport
15	NC	Camp Lejeune Military Reservation	Onslow County
17	MD	Aber Prov Ground-Michaelsville Lf	Aberdeen

Number of New Final Federal Facility Sites: 11. * State top priority site.

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

EPA read all comments received on these sites, including late comments. In past rules, EPA responded even to late comments. However, given the volume and number of late comments received and 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 has responded (in the Support Document) to those comments received no later than October 31, 1988 for all sites included in this final rule which were proposed in Updates #2, 3, 5, 6, and 7, and to those comments received no later than September 18, 1989 for sites in this final rule which were proposed in Update #8. (EPA had previously indicated at the time of proposal of Update #7 and Update #8 that it may no longer be able to consider late comments (53 FR 23990, June 24, 1988 and 54 FR 19527, May 5, 1989)). Although EPA has not responded to all late comments, it has read all late comments, and has endeavored to respond in the Support Document to those late comments which bring to the Agency's attention a fundamental error in the scoring of a site. In addition, the Agency has routinely responded to late comments that result from EPA correspondence which provided commenters with more recent data or requested that the commenters be more specific in their comments.

Based on the comments received on the proposed sites, as well as investigation by EPA and the States (generally in response to comment), EPA recalculated the HRS scores for individual sites where appropriate. Where the public comments or additional information dropped a score below 28.50, the site has been removed from the NPL. EPA did not spend the additional resources to determine a new score for dropped sites; once the data indicated that a score would fall below 28.50, and no new information or comments suggested a higher score, EPA ceased the time-consuming process of evaluating the comments in detail and of rescoring the site. Rather, EPA has simply provided the rationale for its decision to drop each applicable site. EPA's response to site-specific public comments and explanations of any score changes made as a result of such comments are addressed in the "Support Document for the Revised National Priorities List - Final Rule 10/04/89."

Resource Conservation and Recovery Act (RCRA) Sites

Four sites are subject to Subtitle C corrective action authorities, but either the site owner has invoked the protection of the bankruptcy laws, or the part A permit has been withdrawn (converter status). The sites are being added to the final NPL consistent with the NPL/RCRA listing policy:

- Firestone Tire and Rubber Co. (Albany Plant), Albany, GA (converter)
- Lenz Oil Service, Inc., Lemont, IL (bankruptcy)
- AMP, Inc., (Glen Rock Facility), Glen Rock, PA (converter)
- Tonolli Corp., Nesquehoning, PA (bankruptcy)

Federal Facility Sites

There are 11 Federal facility sites being added to the NPL (Table 1).

Special Study Waste Sites

Five sites containing or possibly containing special study wastes are being added to the NPL in this rule. The sites and the special study wastes are:

- Dover Gas Light Co., Dover, DE (coal tar)
- Kerr-McGee Chemical Corp. (Soda Springs Plant), Soda Springs, ID (mining wastes)
- D.L. Mud Inc., Abbeville, LA (oil drilling mud and produced waters)
- Cimarron Mining Corp., Carrizozo, NM (mining wastes)
- Jacks Creek/Sitkin Smelting and Refining, Inc., Maitland, PA (mining wastes)

Mining Sites

Three noncoal mining sites are being added to the NPL in this final rule:

- Kerr-McGee Chemical Corp. (Soda Springs Plant), Soda Springs, ID
- Cimarron Mining Corp., Carrizozo, NM
- Jacks Creek/Sitkin Smelting and Refining, Inc., Maitland, PA

EPA has examined whether these mining sites might be satisfactorily addressed using State-share monies from the Abandoned Mine Land Reclamation (ALMR) Fund under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Cimarron Mining Corp. operated after the August 7, 1977 SMCRA enactment date, and therefore is not eligible for SMCRA AMLR funds. The Kerr-McGee (Soda Springs Plant) site is located in Idaho, which does not have an AMLR program. The other site, Jacks Creek/Sitkin Smelting and Refining, Inc., was abandoned prior to the enactment date of SMCRA. Since Pennsylvania has an approved AMLR program, the site is potentially eligible for SMCRA funds. However, available information suggests the site will not be addressed under SMCRA in the foreseeable future. Information outlining the State's position on use of AMLR funds at the site is available in the docket.

Score Revisions

EPA has revised the HRS scores for 19 sites based on its review of comments and additional information developed by EPA and the States (Table 2). Some of the changes have placed the sites in different groups of 50 sites. For four of these sites, the public comments and/or additional information have resulted in scores below the cut-off of 28.50. Accordingly, these four sites are being dropped from the proposed NPL at this time.

- GBF Inc. Dump, Antioch, CA
- Pigeon Point Landfill, New Castle, DE
- Stauffer Chemical Co. (Chicago Heights Plant), Chicago Heights, IL
- McCarty's Bald Knob Landfill, Mt. Vernon, IN

Table 2
Sites With HRS Score Changes

State/Site Name	Location	HRS Score ¹ Proposed	HRS Score ¹ Final
CA: GBF, Inc., Dump	Antioch	32.04	*
CA: Montrose Chemical Corp	Torrance	33.85	32.10
CT: Barkhamsted-New Hartford Landfill	Barkhamsted	52.00	38.05
DE: Dover Gas Light Co	Dover	42.24	35.57
DE: Pigeon Point Landfill	New Castle	37.93	*
GA: Firestone Tire & Rubber Co. (Albany Plant)	Albany	35.39	30.08
IL: Stauffer Chemical Co. (Chicago Heights Plant)	Chicago Heights	31.14	*
IN: McCarty's Bald Knob Landfill	Mt. Vernon	35.39	*
MD: Aberdeen Proving Ground (Michaelsville Landfill)	Aberdeen	31.45	31.09
MO: St. Louis Airport/Hazelwood Interim Storage/Futura Coatings Co	St. Louis County	37.79	38.31
MO: Wheeling Disposal Service Co. Landfill	Amazonia	29.85	48.58
NC: Camp Lejeune Military Reservation	Onslow County	36.84	33.02
NC: JFD Electronics/Channel Master	Oxford	39.11	39.03
PA: Novak Sanitary Landfill	South Whitehall Twp	42.34	42.31
PA: Publicker Industries, Inc	Philadelphia	59.99	59.06
SC: Rochester Property	Travelers Rest	41.34	36.72
VA: Dixie Caverns Sanitary Landfill	Salem	34.12	35.27
VA: Saunders Supply Co	Chuckatuck	55.57	36.88
VT: Darling Hill Dump	Lyndon	45.91	43.92

¹ * = Score Below 28.50.

Name Revisions

The names of two sites addressed in this final rule have been changed in response to information received during the comment period. The changes are intended to reflect more accurately the location, nature, or potential sources of contamination at the site:

- Camp Lejeune Marine Corps Base, Onslow County, NC changed to Camp Lejeune Military Reservation
- Ametek, Inc. (Hunter Spring Division), Hatfield, PA changed to North Penn - Area 2

VI. Disposition of all Proposed Sites/Federal Facility Sites

To date, EPA has proposed nine major updates to the NPL as well as special update of two ATSDR sites. Taking into account this rule and the additional NPL final rule published elsewhere in today's Federal Register, 150 sites and 63 Federal facility sites continue to be proposed pending completion of response to comment, resolution of technical issues and resolution of various policy issues (Table 3). All sites that remain proposed will be considered for future final rules. Although these sites remain proposed, the comment periods have not been extended or reopened.

Table 3
NPL Proposals

Update No.	Date/Federal Register citation	Number of sites/Federal facility sites Proposed	Number of sites/Federal facility sites Remaining Proposed
1	9/8/83; 48 FR 40674	132/1	1/0
2	10/15/84; 49 FR 40320	208/36	17/3
3	4/10/85; 50 FR 14115	26/6	0/1
4	9/18/85; 50 FR 37950	38/3	1/2
5	6/10/86; 51 FR 21099	43/2	8/0
6	1/22/87; 52 FR 2492	63/1	13/0
7	6/24/88; 53 FR 23988	215/14	103/5
8	5/5/89; 54 FR 19526	10/0	5/0
9	7/14/89; 54 FR 29820	0/52	0/52
ATSDR	8/16/89; 54 FR 33846	2/0	2/0
Total		735/115	150/63

VII. Contents of the NPL

The 70 new sites added to the NPL in today's rule (Table 1) have been incorporated into the NPL in order of their HRS scores except where EPA modified the order to reflect top priorities designated by the States, as discussed in greater detail in previous rulemakings, the most recent on March 31, 1989 (54 FR 13296).

The NPL appears at the end of this final rule and will be codified as part of Appendix B to the NCP. Sites on the NPL are arranged according to their scores on the HRS. The NPL is presented in groups of 50 sites to emphasize the minor differences in HRS scores do not necessarily represent significantly different levels of risk. Except for the first group, the score range within the groups, as indicated in the list, is less than 4 points. EPA considers the sites within a group to have approximately the same priority for response actions. For convenience, the sites are numbered.

One site - the Lansdowne Radiation Site in Lansdowne, PA - was placed on the NPL on September 16, 1985 (50 FR 37630) because it met the requirements of the NCP at section 300.66(b)(4), as explained in section III of this rule; it has an HRS score less than 28.50, and appears at the end of the list.

This rule adds 11 new sites to the Federal facility section of the NPL by group number.

Each entry on the NPL contains the name of the facility and the State and city or county in which it is located. In the past, each entry was accompanied by one or more notations reflecting the status of response and cleanup activities at the site at the time this list was prepared. EPA is developing a report summarizing response activities at NPL sites. In the interim, information on activities at the new final sites is available upon request to the appropriate Regional Office.

VIII. Regulatory Impact Analysis

The costs of cleanup actions that may be taken at sites are not directly attributable to placement on the NPL, as explained below. Therefore, the Agency has determined that this rulemaking is not a "major" regulation under Executive Order 12291. EPA has conducted a preliminary analysis of economic implications of today's amendment to the NCP. EPA believes that the kinds of economic effects associated with this revision are generally similar to those effects identified in the regulatory impact analysis (RIA) prepared in 1982 for the revisions to the NCP pursuant to section 105 of CERCLA and the economic analysis prepared when amendments to the NCP were proposed (50 FR 5882, February 12, 1985). The Agency believes the anticipated economic effects related to adding these 70 sites to the NPL can be characterized in terms of the conclusions of the earlier RIA and the most recent economic analysis. This rule was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Costs

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

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

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

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

- 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 per site and total cost basis. EPA will continue with this approach, using the

most recent (1988) cost estimates available; these estimates are presented below. However, there is wide variation in costs for individual sites, depending on the amount, type, and extent of contamination. Additionally, EPA is unable to predict what portions of the total costs responsible parties will bear, since the distribution of costs depends on the extent of voluntary and negotiated response and the success of any cost recovery actions.

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

Source: Office of Program Management, Office of Emergency and Remedial Response, U.S. EPA. ¹ 1988 U.S. Dollars.

² Includes State cost-share.

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

Costs to States associated with today's final 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 which 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.

States will assume the cost for O&M after EPA's period of participation. Using the assumptions developed in the 1982 RIA for the NCP, EPA has assumed that 90% of the 59 non-Federal sites added to 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, but excluding O&M costs, would be approximately \$100 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 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 startup costs for up to 10 years at 25% of sites. Using this estimate, State O&M costs would be approximately \$189 million.

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

Economy-wide effects of this 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 amendment 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 amendment placing 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. Listing sites as national priority targets may also 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 in advance of completing the RI/FS at these sites.

IX. Regulatory Flexibility Act Analysis

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

While modifications to the NPL are considered revisions to the NCP, they are not typical regulatory changes since the revisions do not automatically impose costs. The placing of sites on the NPL does not in itself require any action of any 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. Placing a site 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 59 non-Federal sites to have a significant economic impact on a substantial number of small businesses.

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

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

List of Subjects in 40 CFR Part 300

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

Dated: September 21, 1989.

Robert H. Wayland III,
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).