

# Federal Register Notice

37950 - 37956 Federal Register / Vol. 50, No. 181 / Wednesday, September 18, 1985 / Proposed Rules

## ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300  
[SWH-FRL 2874-1]

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

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

#### SUMMARY:

The Environmental Protection Agency ("EPA") is proposing the fourth update to the National Priorities List ("NPL"). This update contains 38 sites, including one re-proposed site. The NPL is Appendix B to the National Oil and Hazardous Substances Contingency Plan ("NCP"), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA") and Executive Order 12316. CERCLA requires that the NPL be revised at least annually, and today's notice proposes the fourth such revision.

These sites are being proposed because they meet the eligibility requirements of the NPL. EPA has included on the NPL releases and threatened releases of designated hazardous substances, as well as "pollutants or contaminants" which may present an imminent and substantial danger to the public health or welfare. This notice provides the public with an opportunity to comment on the listing of these 38 sites on the NPL.

#### DATES:

Comments may be submitted on or before November 18, 1985.

#### ADDRESSES:

Comments may be mailed to:

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

The Headquarters public docket for the fourth update to the NPL will contain: Hazard Ranking System (HRS) score sheets for each proposed site and each Federal facility site listed in Section IV of this notice; a Documentation Record for each site describing the information used to compute the scores; and a list of document references. The Headquarters public docket is located in EPA Headquarters, Waterside Mall Subbasement, 401 M Street, SW., Washington, DC 20460, and is available for viewing by appointment only from 9:00 a.m. to 4:00 p.m., Monday through Friday excluding holidays. Requests for copies of the documents from the Headquarters public docket should be directed to EPA Headquarters docket office.

The HRS score sheets and the Documentation Record for each site in a particular EPA Region will be available for viewing in that Regional Office when this notice is published. These Regional dockets will also contain documents with the background data EPA relied upon in calculating or evaluating the HRS scores. Copies of these background

documents may be viewed in the appropriate Regional Office and copies may be obtained from the Region. A third category of documents with some relevance to the scoring of each site also may be viewed and copied by arrangement with the appropriate EPA Regional Office. An informal written request, rather than a formal request, should be the ordinary procedure for obtaining copies of any of these documents. Requests for HRS score sheets and Documentation Records should be directed to the appropriate Regional Office docket (see addresses below). Requests for background documents should be directed to the appropriate Regional Superfund Branch office.

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

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Waterside Mall, Subbasement  
401 M Street, SW.  
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U.S. EPA, 11th Floor  
1200 6th Avenue  
Seattle, WA 98101  
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**FOR FURTHER INFORMATION CONTACT:**

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Office of Superfund Remediation Technology Innovation (WH-548E)  
Environmental Protection Agency  
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**SUPPLEMENTARY INFORMATION:**

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# I. Introduction

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

Section 105(8)(A) of CERCLA requires that the NCP include criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action and, to the extent practicable, taking into account the potential urgency of such action, for the purpose of taking removal action. Removal action involves cleanup or other actions that are taken in response to emergency conditions or on a short-term or temporary basis (CERCLA section 101(23)). Remedial action tends to be long-term in nature and involves response actions which are consistent with a permanent remedy for a release (CERCLA section 101(24)). Criteria for determining priorities are included in the Hazard Ranking System ("HRS"), which EPA promulgated as Appendix A of the NCP (47 FR 31219, July 16, 1982).

Section 105(8)(B) of CERCLA requires that the statutory criteria be used to prepare a list of national priorities among the known releases or threatened releases throughout the United States, and that to the extent practicable, at least 400 sites be designated individually. CERCLA requires that this National Priorities List ("NPL") be included as part of the NCP. Today, the Agency is proposing the addition of 38 sites to the NPL. This brings the number of proposed sites to 309 in addition to the 541 that have been promulgated.

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

## II. Purpose of the NPL

The primary purpose of the NPL is stated in the legislative history of CERCLA (Report of the Committee on 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 tool for use by EPA in identifying sites that appear to present a significant risk to public health or the environment. 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. Inclusion of a site on the NPL does not establish that EPA necessarily will undertake remedial actions. Moreover, listing does not require any action of any private party, nor does it determine the liability of any party for the cost of cleanup at the site. In addition, a site need not be on the NPL to be the subject of CERCLA financed removal actions or of actions brought pursuant to sections 106 or 107(a)(4)(B) of CERCLA.

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

### III. NPL Update Process and Schedule

Pursuant to section 105(8)(B) of CERCLA, 42 U.S.C. 9605(8)(B), EPA is required to establish, as part of the NCP, a priority list of sites. The NPL fulfills that obligation. The purpose of this notice is to propose the addition to the NPL of 38 new sites.

CERCLA requires that the NPL be revised at least once per year. Accordingly, EPA published the first NPL on September 8, 1983 (48 FR 40658), containing 406 sites. EPA has proposed three updates to the NPL since then. One hundred and thirty-three sites were proposed on September 8, 1983 as NPL Update #1. Four of these sites were promulgated on May 8, 1984 (48 FR 19480) and 128 sites, including five sites deferred from the September 8, 1983 rulemaking, were promulgated on September 21, 1981 (49 FR 37030). On October 15, 1984 (49 FR 40320), 244 sites were proposed as NPL Update #2. Two of these 244 sites were placed on the final NPL on February 14, 1985 (50 FR 6320) and 242 remain proposed. In Update #3, twenty-six sites were proposed on April 10, 1985 for inclusion on the NPL. One of these sites was recently added to the NPL, bringing the number of final NPL sites to 541.

In addition to these periodic updates, EPA believes it may be desirable in rare instances to propose or promulgate separately individual sites on the NPL because of the apparent need for expedited remedial action. This occurred in the case of the proposing listing of Times Beach, Missouri (48 FR 9311, March 4, 1983), the promulgation of four San Gabriel Valley, California, sites (49 FR 19480, May 8, 1984), the promulgation of two New Jersey radium sites (50 FR 6320, February 14, 1985), and the promulgation of the Lansdowne Radiation site in Lansdowne, Pennsylvania.

As with the establishment of the initial NPL and subsequent revisions, States have the primary responsibility for selecting and scoring sites that are candidates and submitting the candidate sites to the EPA Regional Offices. States may also designate a single site as the State priority site. For each proposed NPL update, EPA informs the States of the closing dates for submission of candidate sites to EPA. This proposed update is the third within one year and continues EPA's plan to increase the frequency of updating of the NPL. The EPA Regional Offices then conduct a quality control review of the State's candidate sites. After conducting this review, the EPA Regional Offices submit candidate sites to EPA Headquarters. The Regions may include candidate sites in addition to those submitted by States. In reviewing these submissions, EPA Headquarters conducts further quality assurance audits to ensure accuracy and consistency among the various EPA and State offices participating in the scoring.

EPA recently promulgated an amendment to section 300.66(b)(4) of the NCP allowing certain sites with HRS scores below 28.50 to be eligible for the NPL. These sites may qualify for the NPL if all of the following occur:

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

This **Federal Register** notice lists sites not currently on the NPL that the Agency is proposing to add to the NPL. These proposed additions are listed immediately following this preamble.

## ***Public Comment Period***

EPA requests public comment on these 38 proposed sites. Comments on the proposed sites will be accepted for 60 days following publication of this notice in the **Federal Register**. EPA is also soliciting comments on three Federal facilities that have HRS scores of 28.50 or higher and that may be added to the NPL in the future. The following section of this preamble identifies these sites and discusses EPA's Federal facility approach.

See the Addresses portion of this notice for information on where to obtain documents relating to the scoring of the 38 non-Federal and three Federal sites. After considering the relevant comments received during the comment period and determining the final score for each site, the Agency will add to the NPL all proposed sites that meet EPA's criteria for listing. In past NPL rulemakings, EPA has considered comments received after the official close of the comment period. Because the Agency has now increased the schedule of rulemaking to three NPL updates per year, EPA may no longer have the opportunity to consider late comments. EPA may add the three Federal facility sites without a further comment period, contingent upon the outcome of proposed changes to the NCP (50 FR 5862, February 12, 1985). This is discussed in greater detail in the following section.

## **IV. Eligibility**

CERCLA restricts EPA's authority to respond to certain categories of releases and expressly excludes some substances from the definition of release. In addition, as a matter of policy, EPA may choose not to use CERCLA to respond to certain types of releases because other authorities can be used to achieve cleanup of these releases, preambles to previous NPL rulemakings have discussed examples of these policies. See, e.g, 48 FR 40658 (September, 1983); 49 FR 37074 (September 21, 1984); and 49 FR 40320 (October 15, 1984). Generally, this proposed update continues these past eligibility policies.

NPL eligibility policies of particular relevance to this proposed update are discussed below, and include the RCRA, Federal facilities and the mining waste site policies.

### ***RCRA-Related Sites***

The Hazardous and Solid Waste Amendments of 1984 expanded the Agency's authority to require corrective measures under the Resource Conservation and Recovery Act (RCRA). The Agency intends to use the new RCRA authorities, where practical, to effect cleanup. In the preamble to Update #3 (50 FR 14115, April 10, 1985), the Agency discussed a concept for a revised policy for listing RCRA-related sites. Specifically, EPA suggested deferring the listing of certain categories of RCRA-related sites that scored 28.50 or above until the Agency determines that RCRA measures are not likely to succeed due to factors such as: (1) The inability or unwillingness of the owner/operator to pay for such action; (2) the inadequacies of the financial responsibility guarantees to pay for such costs; or (3) Agency or State priorities for addressing the sites under RCRA. This suggested deferred listing policy would be applicable only to sites with releases subject to RCRA regulatory or enforcement authorities.

As stated in the preamble to proposed NPL Update #3, the Agency intends to apply any revised RCRA-related site listing policy to RCRA-related sites that are currently proposed or promulgated on the NPL, and, in appropriate cases, delete sites from the NPL. For example, such sites could be removed from the proposed or final NPL if the Agency determines that: (1) All necessary corrective measures are likely to be completed under RCRA authorities and (2) CERCLA Fund-financed activities, such as remedial investigation/feasibility studies, remedial design or remedial action, or CERCLA enforcement action have not been initiated. If such a policy were applied to currently proposed and promulgated sites on the NPL and it is determined that such sites should be removed from the proposed or final NPL, these sites could be relisted if the Agency later determines that RCRA corrective measures at these sites are not likely to succeed.

EPA presented this information in more detail in the preamble to Update #3 and requested comment on the suggested RCRA listing policy. Because the Agency is still receiving and evaluating comments on this suggested RCRA listing policy and has not yet adopted a final policy, RCRA-related sites will be considered for listing on the basis of the current RCRA listing policy (See 49 PR 37070, September 21, 1984). EPA will use the expanded RCRA permitting authorities and RCRA enforcement authorities, and, if necessary, appropriate CERCLA authorities, for cleaning up sites.

Under the current RCRA listing policy, EPA has considered eligible for listing those RCRA facilities where a significant portion of the release appeared to come from a "non-regulated land disposal unit" of the facility. Non-regulated land disposal units are defined as portions of the facility that ceased receiving hazardous waste prior to January 26, 1983, the effective date of EPA's permitting standards for land disposal (47 FR 32339, July 26, 1982). Under the current policy, regulated land disposal units of RCRA facilities generally would not be included on the NPL, except where the facility had been abandoned or lacked sufficient resources and RCRA corrective action could not be enforced.

The Agency proposed four RCRA-related sites for Update #3 on the basis of the current RCRA listing policy. Nine RCRA-related sites with HRS scores of 28.50 or above were submitted for Update #4. We have applied our current RCRA listing policy to these sites and have included them on the proposed list. These sites are:

- Interstate Lead Co. (ILCO), Leeds, Alabama
- Martin Marietta (Denver Aerospace), Waterton, Colorado
- Firestone Industrial products Co., Noblesville, Indiana
- Prestolite Battery Division, Vincennes, Indiana
- John Deere (Dubuque Works), Dubuque, Iowa
- Hooker (Montague Plant), Montague, Michigan
- Kysor Industrial Corp., Cadillac, Michigan
- Monroe Auto Equipment Co., Cozad, Nebraska
- Matlack, Inc., Woolwich Township, New Jersey

Of the nine RCRA-related sites listed above, eight are nonregulated units. One site, Interstate Lead Company in Leeds, Alabama, is a regulated unit which is currently under Chapter 11 bankruptcy and therefore may lack sufficient resources for cleanup. The listing of this site is consistent with our existing RCRA listing policy as outlined in the preamble to the **Federal Register** notice announcing the promulgation of NPL Update #1 (49 FR 37070, September 21, 1984).

### ***Federal Facility Releases***

CERCLA section 111(e)(3) prohibits use of the Trust Fund for remedial actions at Federally-owned facilities and § 300.66(e)(2) of the NCP prevents including Federal facilities on the NPL. The Agency has approached this issue in a number of different ways. Prior to proposed NPL Update #2 (49 FR 40320, October 15, 1984), EPA did not list any sites on the NPL where the release resulted solely from a Federal facility, regardless of whether contamination remained on-site or migrated off-site. However, based on public comments received from previous NPL announcements, EPA proposed 36 Federal facilities for NPL Update #2. As discussed in the preamble to Update #2, EPA will promulgate the 36 Federal facilities only if the NCP is revised to permit the listing of Federal facilities on the NPL.

On February 12, 1985, EPA proposed amendments to § 300.66(e)(2) of the NCP and requested public comments on whether to list Federal facilities on the NPL. In Update #3 (50 FR 14115, April 10, 1985), the Agency identified six new sites in the preamble to the **Federal Register** notice that met the criteria for proposal. EPA requested comments on the scoring these sites pending resolution of the NCP amendments.

Because the amendments to § 300.66(e)(2) of the NCP have not yet been promulgated, EPA is continuing the procedure of naming those Federal facilities that meet the criteria for proposal in the preamble to the **Federal Register** notice.

For Update #4, the Agency has applied the HRS to Federal facilities and has determined that the following Federal facilities would qualify for proposed listing:

NPL Gr	State	Site name	City or county	Response category <sup>1</sup>	Cleanup status <sup>2</sup>
04	NJ	Naval Air Engineering Center	Lakehurst	R	
04	WA	Naval Air Station (Ault Field)	Whidbey	R	
07	WA	Naval Air Station (Seaplane Base)	Island Whidbey Island	R	

<sup>1</sup> R=Federal or State response; F=Federal enforcement; S=State enforcement; V=Voluntary or negotiated response; D=Actions to be determined. <sup>2</sup> I=Implementation activity underway, one or more operable units; O=One or more operable units completed, others may be underway; C=Implementation activity completed for all operable units.

The Agency is requesting comments on the scoring of these sites and may promulgate them without another comment period if the Agency determines that listing Federal facilities is appropriate.

### ***Mining Waste Sites***

It is the Agency's position, as discussed in the preambles to previous rulemakings (47 FR 58476, December 30, 1982; 48 FR 40658, September 8, 1983), that mining wastes may be hazardous substances, pollutants or contaminants under CERCLA. This position was affirmed recently 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 the past, EPA has included mining waste sites on the NPL. However, in proposed Update #3 (50 FR 14115, April 10, 1985), EPA deferred the listing of one mining waste site-Silver Creek Tailings in Park City, Utah-until the Agency could determine whether the Department of Interior (DOI) would take appropriate action under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) to protect public health and the environment at this site. The Agency has had preliminary discussion with DOI and the State of Utah on their programs for addressing mining sites, and plans to continue these and other discussions until a more comprehensive Federal policy can be developed. While this policy is under development, we are moving forward with proposing the Silver Creek Tailings site on the NPL. In addition, the Agency is currently developing an appropriate NPL listing policy for any sites which may be adequately addressed under the response authorities of SMCRA.

### ***Pratt & Whitney Aircraft, United Technologies Corp., West Palm Beach, Florida***

The Pratt & Whitney Aircraft Site was proposed on October 15, 1984 (49 FR 40320) as an NPL Update #2 site. In response to comments on the proposal, the Agency completely re-evaluated the site and has made a significant change in the HRS scoring for the Pratt & Whitney Aircraft site. Consequently, the Agency has determined that it would be most appropriate to repropose the site in NPL Update #4 and solicit comment on the revised HRS score. Comments on the reproposal will be accepted for the same period as for other sites in this proposal.

## **V. Contents of the Proposed Fourth NPL Update**

All sites in today's proposed revision to the NPL received HRS scores of 28.50 or above.

Following this preamble is a list of the 38 proposed Update #4 sites. Each entry on the list contains the name of the facility, the State and city or county in which it is located, and the corresponding EPA Region. Each proposed site is placed by score in a group corresponding to the groups of 50 sites presented within the final NPL. For example, sites in group 3 of the proposed update have scores that fall within the range of scores covered by the third group of 50 sites on the final NPL. Each entry is accompanied by one or more notations referencing the status of response and cleanup activities at the site at the time this list was prepared. This site status and cleanup information is described briefly below.

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

### ***Response Categories***

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

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

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

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

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

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

*Voluntary or Negotiated Response (V)*. This category includes sites where private parties have started or completed response actions pursuant to settlement agreements, consent decrees, or consent orders to which EPA or the State is a party. Usually, the response actions result from a Federal or State enforcement action. This category includes privately-financed remedial planning, removal actions, initial remedial measures, and/or remedial actions.

*Category To Be Determined (D)*. This category includes all sites not listed in any other category. A wide range of activities may be in progress at sites in this category. EPA or State may be evaluating the type of response action to undertake, or a response action may be determined but funds not yet obligated. Sites where a Federal or State enforcement case may be under authorities other than CERCLA or RCRA are also included in this category. Additionally included in this category are sites where responsible parties may be undertaking cleanup actions that are not covered by a consent decree, consent order, or administrative order.

### ***Cleanup Status Codes***

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

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

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

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

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

*Implementation Activities Are Completed for All Operable Units (C).* All actions agreed upon for remedial action at the site have been completed, and performance monitoring has commenced. Further site activities could occur if EPA considers such activities necessary.

## VI. Regulatory Impact Analysis

The cost of cleanup actions that may be taken at sites are not directly attributable to listing on the NPL, as explained below. Therefore, the Agency has determined that this rulemaking is not a "major" regulation under Executive Order 12291. The EPA has conducted a preliminary analysis of the economic implications of today's proposal to add new sites. The EPA believes that the kinds of economic effects associated with this revision are generally similar to those effects identified in the regulatory impact analysis (RIA) prepared in 1982 for the revisions to the NCP pursuant to section 105 of CERCLA (47 FR 31180, July 16, 1982) and the economic analysis prepared for the recently proposed amendments to the NCP (50 FR 5882, February 12, 1985). The Agency believes the anticipated economic effects related to proposing the addition of 38 sites to the NPL can be characterized in terms of the conclusions of the earlier RIA and the most recent economic analysis.

### **Costs**

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

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

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

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

<b>Cost category</b>	<b>Average total cost per site <sup>1</sup></b>
RI/FS	\$800,000
Remedial design	440,000
Remedial action	7,200,000
Initial remedial measures (IRM) at 10% of sites	80,000
Net present value of O&M <sup>2</sup>	3,770,000

Source: "Extent of the Hazardous Release Problem and Future Funding Needs-CERCLA Section 301(a)(1)(C) Study", December 1984, Office of Solid Waste and Emergency Response, U.S. EPA. <sup>1</sup> 1985 U.S. dollars.

<sup>2</sup> Assumes cost of O&M over 30 years, \$400,000 for the first year and 10% discount rate.

Costs to States associated with today's proposed amendment arise from the required State cost-share of: (1) 10 percent of remedial implementation (remedial action and IRM) and first year O&M costs at privately-owned sites; and (2) 50 percent of the remedial planning (RI/FS and remedial design), remedial implementation and first year O&M cost at State or locally-owned sites. States will assume all the cost for O&M after the first year. Using the assumptions developed in the 1982 RIA for the NCP, EPA has assumed that 90 percent of the 38 non-Federal sites proposed to be added to the NPL in this amendment will be privately-owned and 10 percent will be State or locally-owned. Therefore, using the budget projections presented above, the cost to States of undertaking Federal remedial action at all 38 sites would be \$172 million, of which \$130 million is attributable to the State O&M cost.

The act of listing 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 actions are discretionary and made on a case-by-case basis. Consequently, precise estimates of these effects cannot be made. EPA does not believe that every site will be cleaned up by a responsible party. EPA cannot project at this time which firms or industry sectors will bear specific portions of response costs, but the Agency considers such factors as: the volume and nature of the wastes at the site; the parties' ability to pay; and other factors when deciding whether and how to proceed against potentially responsible parties.

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

### **Benefits**

The benefits associated with today's proposed amendment to list additional sites are increased health and environmental protection as a result of increased public awareness of potential hazards. In addition to the potential for more Federally-financed remedial actions, this proposed expansion of the NPL could accelerate privately-financed, voluntary cleanup efforts to avoid potential adverse publicity, private lawsuits, and/or Federal or State enforcement actions.

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

Associated with the costs of remedial actions are significant potential benefits and cost offsets. The distributional costs to firms of financing NPL remedies have corresponding "benefits" in that funds expended for a response generate employment, directly or indirectly (through purchased materials).

## VII. Regulatory Flexibility Act Analysis

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

While proposed modifications to the NPL are considered revisions to the NCP, they are not typical regulatory changes since the revisions do not automatically impose costs. The proposed listing of sites on the NPL does not in itself require any action of any private party, nor does it determine the liability of any party for the cost of cleanup at the site. Further, no identifiable groups are effected as a whole. As a consequence, it is hard to predict impacts on any group. A site's proposed inclusion on the NPL could increase the likelihood that adverse impacts to responsible parties (in the form of cleanup costs) will occur, but EPA cannot identify the potentially affected businesses at this time nor estimate 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 proposed listing of these 38 sites to have significant economic impact on a substantial number of small businesses.

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

### List of Subjects in 40 CFR Part 300

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

For the reasons set forth in the preamble, Part 300, Subpart J, Chapter I of Title 40, of the Code of Federal Regulations is proposed to be amended as set forth below.

Dated: September 5, 1985.

**J. Winston Porter,**

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

### PART 300--[AMENDED]

It is proposed to amend Appendix B of 40 CFR Part 300 by adding 38 sites to the National Priorities List. In addition, it is proposed to amend the format of Appendix B of 40 CFR Part 300 by adding the columns "NPL Rank" and "Cleanup Status". The sites would appear in the list of proposed non-Federal sites as follows:

**National Priorities List - Proposed Update 4 Sites**

NPL Rank	EPA RG	State	Site name	City/county	Response category #	Cleanup status @
<b>Group 2</b>						
	07	NE	Monroe Auto Equipment Co	Cozad	D	
<b>Group 3</b>						
	05	OH	Ormet Corp.	Hannibal	D	

NPL Rank	EPA RG	State	Site name	City/county	Response category #	Cleanup status @
	07	IA	Lawrence Todtz Farm	Camanche	D	
	05	IL	H.O.D. Landfill	Antioch	S	
<b>Group 5</b>						
	08	CO	Martin Marietta, Denver, Aerospace.	Wateron	F S	
	05	MN	Freeway Sanitary Landfill	Burnsville	D	
	05	IN	Columbus Old Municipal Landfill #1.	Columbus	D	
	07	IA	A.Y. McDonald Ind., Inc.	Dubuque	F	
	03	PA	Route 940 Drum Dump	Pocono Summit	D	I
	03	PA	C&D Recycling	Foster Township	D	I
<b>Group 6</b>						
	04	AL	Interstate Lead Co. (ILCO)	Leeds	D	
<b>Group 7</b>						
	08	UT	Silver Creek Tailings	Park City	D	
	05	WI	Hagen Farm	Stoughton	S	
<b>Group 8</b>						
	05	IN	Prestolite Battery, Division	Vicennes	D	
<b>Group 9</b>						
	03	DE	Standard Chlorine of Delaware, Inc.	Delaware City	D	
	07	IA	John Deere (Dubuque Works)	Dubuque	D	
	06	AR	Arkwood, Inc.	Omaha	D	O
	05	MI	Hooker (Montague Plant)	Montague	V S	I
	02	NJ	Matlack, Inc.	Woolwich Township	D	
	05	WI	Lemberger Fly Ash Landfill.	Whitelaw	S	
	05	MI	Kysor Industrial Corp.	Cadillac	D	
	05	MN	St. Augusta SLF/St. Cloud Dump.	St. Augusta Township	S	
	05	WI	Sheboygan Harbor & River.	Sheboygan	D	
<b>Group 10</b>						
	03	PA	Bendex Flight Systems Division	Bridgewater Township	D	O
	05	MI	Kent City Mobile Home Park	Kent City	D	

NPL Rank	EPA RG	State	Site name	City/county	Response category #	Cleanup status @
	10	WA	Wyckoff Co.-Eagle Harbor	Bainbridge Island	D	
	04	FL	Pratt & Whitney Air/United Tech.	West Palm Beach	V S	O
	07	IA	Midwest Manufacturing/North Farm	Kellogg	D	
	05	MN	Waite Park Wells	Waite Park	R	
	03	PA	Croydon TCE	Croydon	D	
	03	PA	Revere Chemical Co.	Nockamixon Township	R	O
	03	DE	Halby Chemical Co.	New Castle	D	
<b>Group 11</b>						
	05	IN	Firestone Industrial Products Co.	Noblesville	D	
	04	FL	Yellow Water Road Dump	Baldwin	R	O
	07	IA	Shaw Avenue Dump	Charles City	D	
	02	NY	Warwick Landfill	Warwick	D	
	05	IN	Tri-State Plating	Columbus	D	
	05	MN	East Bethel Demolition Landfill	East Bethel Township	D	

#: V=Voluntary or negotiated response; R=Federal and State response; F=Federal enforcement; S=State enforcement; D=Actions to be determined. @: I=Implementation activity underway, one or more operable units; O=One or more operable units completed, others may be underway; C=Implementation activity completed for all operable units.

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