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Part V

Environmental Protection Agency

**40 CFR Part 300
National Priorities List for Uncontrolled
Hazardous Waste Sites, Proposed Rule
No. 12**

**ENVIRONMENTAL PROTECTION
AGENCY**
40 CFR Part 300
(FRL-4102-1)
**National Priorities List for
Uncontrolled Hazardous Waste Sites,
Proposed Rule No. 12**
AGENCY: Environmental Protection
Agency.

ACTION: Proposed rule.

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

The Environmental Protection Agency ("EPA") is proposing to add new sites to the NPL. This 12th major proposed rule includes 30 sites, of which 6 are Federal facility sites. The identification of a site for the NPL is intended primarily to guide EPA in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. This proposed rule brings the number of proposed NPL sites to 52, of which 9 are Federal facility sites; 1,183 sites are on the NPL at this time, of which 116 are Federal facility sites. Proposed and final NPL sites total 1,235.

DATES: Comments on the Austin Avenue Radiation site, being proposed in this rule based on the health advisory criteria, must be submitted on or before March 9, 1992. Comments on all other sites must be submitted on or before April 7, 1992.

ADDRESSES: Mail original and three copies of comments (no facsimiles) to Larry Reed, Director, Hazardous Site Evaluation Division (Attn: NPL Staff), Office of Emergency and Remedial Response (OS-230), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. For Docket addresses and further details on their contents, see section I of the "SUPPLEMENTARY INFORMATION" portion of this preamble.

FOR FURTHER INFORMATION CONTACT: Martha Otto, 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 (300) 424-9346 or (703) 920-9810 in the Washington, DC metropolitan area).

SUPPLEMENTARY INFORMATION:

- I. Introduction.
- II. Purpose and Implementation of the NPL.
- III. Contents of This Proposed Rule.
- IV. Regulatory Impact Analysis.
- V. Regulatory Flexibility Act Analysis.

I. Introduction
Background

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601-9675 ("CERCLA" or "the Act") in response to the dangers of uncontrolled hazardous waste sites. CERCLA was amended on October 17, 1986, by the Superfund Amendments and Reauthorization Act ("SARA"), Public Law No. 99-499, stat. 1613 *et seq.* To implement CERCLA, the Environmental Protection Agency ("EPA" or "the Agency") promulgated the revised National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 CFR part 300, on July 16, 1982 (47 FR 31180), pursuant to CERCLA section 105 and Executive Order 12316 (46 FR 42237, August 20, 1981). The NCP sets forth the guidelines and procedures needed to respond under CERCLA to releases and threatened releases of hazardous substances, pollutants, or contaminants. EPA has revised the NCP on several occasions, most recently on March 8, 1990 (55 FR 8666).

Section 105(a)(8)(A) of CERCLA requires that the NCP include "criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action." As defined in CERCLA section 101(24), remedial action tends to be long-term in nature and involves response actions that are consistent with a permanent remedy for a release.

Mechanisms for determining priorities for possible remedial actions financed by the Trust Fund established under CERCLA (commonly referred to as the "Superfund") are included in the NCP at 40 CFR 300.425(c) (55 FR 8845, March 8, 1990). Under 40 CFR 300.425(c)(1), a site may be included on the NPL if it scores sufficiently high on the Hazard Ranking System ("HRS"), which EPA promulgated as appendix A of 40 CFR part 300. On December 14, 1990 (55 FR 51532), EPA promulgated revisions to the HRS partly in response to CERCLA section 105(c), added by SARA. The revised HRS evaluates four pathways:

Ground water, surface water, soil exposure, and air. The HRS serves as a screening device to evaluate the relative potential of uncontrolled hazardous substances to pose a threat to human health or the environment. Those sites that score 28.50 or greater on the HRS are eligible for the NPL.

Under a second mechanism for adding sites to the NPL, each State may designate a single site as its top priority, regardless of the HRS score. This mechanism, provided by the NCP at 40 CFR 300.425(c)(2), requires that, to the extent practicable, the NPL include within the 100 highest priorities, one facility designated by each State representing the greatest danger to public health, welfare, or the environment among known facilities in the State.

The third mechanism for listing, included in the NCP at 40 CFR 300.425(c)(3), allows certain sites to be listed whether or not they score above 28.50, if all of the following conditions are met:

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

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

EPA promulgated an original NPL of 406 sites on September 8, 1983 (48 FR

¹ CERCLA section 105(a)(8)(B) defines the NPL as a list of "releases" and as a list of the highest priority "facilities." For ease of reference, EPA uses the term "site" to refer to all "releases" and "facilities" on the NPL.

40658). The NPL has been expanded since then, most recently on September 25, 1991 (56 FR 48438).

The NPL includes two sections, one of sites evaluated and cleaned up by EPA (the "General Superfund section"), and one of sites being addressed by other Federal agencies (the "Federal facilities section"). Under Executive Order 12580 and CERCLA section 120, each Federal agency is responsible for carrying out most response actions at facilities under its own jurisdiction, custody, or control, although EPA is responsible for preparing an HRS score; EPA is not the lead agency at these sites, and its role at such sites is accordingly less extensive than at other sites. The Federal facilities section includes those facilities at which EPA is not the lead agency. The general superfund section includes 1,067 sites and the Federal facilities section includes 116 sites, for a total of 1,183 sites on the NPL.

EPA may delete sites from the NPL where no further response is appropriate, as explained in the NCP at 40 CFR 300.425(e) (55 FR 8845, March 8, 1990). To date, the Agency has deleted 40 sites from the general superfund section of the NPL, most recently 2 sites on January 6, 1992 (57 FR 355):

- John's Sludge Pond, Wichita, Kansas
 - Beachwood/Berkley Wells, Berkley Township, New Jersey
- All 40 deleted sites are listed below.

FINAL SITES DELETED FROM NPL BECAUSE NO FURTHER RESPONSE NEEDED

(January 1992)

St	Site name	Location
AR	Cecil Lindsey	Newport.
AS	Taputimu Farm *	Island of Tutila.
AZ	Mountain View Mobile Home Estates (once listed as Globe) *	Globe.
CA	Jibboom Junkyard	Sacramento.
CM	PCB Warehouse *	Saipan.
DE	New Castle Steel	New Castle County.
FL	Parramore Surplus	Mount Pleasant.
FL	Tri-City Oil Conservationist, Inc.	Tampa.
FL	Varsol Spill (once listed as part of Biscayne Aquifer).	Miami.
GA	Luminous Processes, Inc.	Athens.
IL	Petersen Sand & Gravel	Libertyville.
IN	International Minerals & Chemical Corp. (Terre Haute East Plant).	Terre Haute.
IN	Poer Farm	Hancock County.
IN	Wedzeb Enterprises	Lebanon.
KS	Johns' Sludge Pond	Wichita.
MD	Chemical Metals Industries, Inc.	Baltimore.
MD	Middletown Road Dump	Annapolis.
MI	Gratiot County Golf Course.	St. Louis.

FINAL SITES DELETED FROM NPL BECAUSE NO FURTHER RESPONSE NEEDED—Continued

(January 1992)

St	Site name	Location
MI	Whitehall Municipal Wells	Whitehall.
MN	Morris Arsenic Dump	Morris.
MN	Union Scrap Iron & Metal Co.	Minneapolis.
MS	Walcotte Chemical Co. Warehouses.	Greenville.
NC	PCB Spills *	243 Miles of Roads.
NJ	Beachwood/Berkeley Wells.	Ocean County.
NJ	Cooper Road	Voorhees Township.
NJ	Friedman Property (once listed as Upper Freehold Site).	Upper Freehold.
NJ	Krysowaty Farm	Hillsborough.
NJ	M&T Delisa Landfill	Asbury Park.
OH	Chemical & Minerals Reclamation.	Cleveland.
PA	Enterprise Avenue	Philadelphia.
PA	Lansdowne Radiation	Lansdowne.
PA	Lehigh Electric & Engineering Co.	Old Forge Borough.
PA	Presque Isle	Erie.
PA	Reeser's Landfill	Upper Macungie.
PA	Voortman Farm	Upper Saucon.
PA	Wade (ABM) (once listed as ABM-Wade).	Chester.
TT	PCB Wastes *	Pacific Trust Terr.
TX	Harris (Farley Street)	Houston.
VA	Matthews Electroplating*	Roanoke County.
WA	Toftdahl Drums	Brush Prairie.

Number of Sites Deleted: 40.
* State top-priority.

In addition, 25 sites in the general superfund section are in the "Construction Completion" category, including 13 sites added to the category on January 16, 1992 (57 FR 1872). When EPA activated the category on February 11, 1991 (56 FR 5634), it stated that the category would consist of sites awaiting deletion, sites awaiting the first 5-year review after the remedial action was completed, and sites undergoing long-term remedial action. EPA has decided to eliminate the 5-year review subcategory. On the basis of subsequent experience and analysis, EPA has determined that tying these two independent processes (5-year review and deletion) is unnecessary and potentially confusing. (December 24, 1991 (56 FR 66601)).

Thus, a total of 65 sites, all in the general superfund section, have been deleted or placed in the construction completion category.

Pursuant to the NCP at 40 CFR 300.425(c), this document proposes to add 30 sites to the NPL. Final and proposed sites now total 1,235.

Public Comment Period

The documents that form the basis for EPA's evaluation and scoring of sites in this rule are contained in dockets located both at EPA Headquarters and in the Regional offices. The dockets are available for viewing, by appointment only, after the appearance of this document. The hours of operation for the Headquarters docket are from 9 a.m. to 4 p.m., Monday through Friday excluding Federal holidays. Please contact individual Regional Dockets for hours.

Docket Coordinator, Headquarters, U.S. EPA CERCLA Docket Office, OS-245, Waterside Mall, 401 M Street, SW., Washington, DC 20460, 202/260-3046.

Evo Cunha, Region 1, U.S. EPA Waste Management Records Center, HES-CAN 6, J.F. Kennedy Federal Building, Boston, MA 02203-2211, 617/573-5729.

Ben Conetta, Region 2, 28 Federal Plaza, 7th Floor, room 740, New York, NY 10278, 212/284-6696.

Diane McCreary, Region 3, U.S. EPA Library, 3rd Floor, 841 Chestnut Building, 9th & Chestnut Streets, Philadelphia, PA 19107, 215/597-7904.

Beverly Fulwood, 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, Records Center, Waste Management Division 7-J, Metcalfe Federal Building, 77 West Jackson Blvd., Chicago, IL 60604, 312/686-6214.

Bart Canellas, Region 6, U.S. EPA, 1445 Ross Avenue, Mail Code 6H-MA, Dallas, TX 75202-2733, 214/665-6740.

Steven Wyman, Region 7, U.S. EPA Library, 726 Minnesota Avenue, Kansas City, KS 66101, 913/551-7241.

Greg Oberley, Region 8, U.S. EPA, 999 18th Street, suite 500, Denver, CO 80202-2466, 303/294-7598.

Lisa Nelson, Region 9, U.S. EPA, 75 Hawthorne Street, San Francisco, CA 94105, 415/744-2347.

David Bennett, Region 10, U.S. EPA, 11th Floor, 1200 6th Avenue, Mail Stop HW-113, Seattle, WA 98101, 206/442-2103.

The Headquarters docket for this rule contains HRS score sheets for each proposed site; a Documentation Record for each site describing the information used to compute the score; pertinent information for any site affected by statutory requirements or EPA listing policies; and a list of documents referenced in the Documentation Record. Each Regional docket for this rule contains all of the above information for those sites that are in that Region, and, in addition, the

technical reference documents relied upon and cited by EPA in calculating or evaluating the HRS scores for sites in that Region. Documents may be viewed, by appointment only, in the Headquarters or appropriate Regional Docket. Requests for copies may be directed to the Headquarters or appropriate Regional Docket. An informal written request, rather than a formal request under the Freedom of Information Act, should be the ordinary procedure for obtaining copies of any of these documents.

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

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

In past rules, EPA has attempted to respond to late comments, or when that was not practicable, to read all late comments and address those that brought to the Agency's attention a fundamental error in the scoring of a site. (See, most recently, 56 FR 35840, July 29, 1991). Although EPA intends to pursue the same policy with sites in this rule, EPA can guarantee that it will consider only those comments postmarked by the close of the formal comment period. EPA cannot delay a final listing decision solely to accommodate consideration of late comments.

Note that the comment period for the Austin Avenue Radiation site, which is being proposed based on the health advisory criteria and not the HRS score, is 30 days. This is based on the acute threat posed and the fact that documentation using the health advisory criteria is not nearly as complex to review as that using the HRS (all health advisory sites have 30-day comment periods). All other sites in this rule have a 60-day comment period.

II. Purpose and Implementation of the NPL

Purpose

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

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

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

Implementation

The NCP at 40 CFR 300.425(b)(1) (55 FR 8845, March 8, 1990) limits expenditure of the Trust Fund for remedial actions to sites on the final NPL. However, EPA may take enforcement actions under CERCLA or other applicable statutes against responsible parties regardless of whether the site is on the NPL, although, as a practical matter, the focus of EPA's CERCLA enforcement actions has been and will continue to be on NPL sites. Similarly, in the case of CERCLA removal actions, EPA has the authority to act at any site, whether listed or not, that meets the criteria of the NCP at 40 CFR 300.425(b)(1) (55 FR 8845, March 8, 1990). As of the end of December 1991, EPA had conducted 2,133 removal actions, 523 of them at NPL sites. Information on removals is available from the Superfund Hotline.

EPA's policy is to pursue cleanup of NPL sites using all the appropriate response and/or enforcement actions available to the Agency, including authorities other than CERCLA. The Agency will decide on a site-by-site basis whether to take enforcement or other action under CERCLA or other authorities, 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 CERCLA-financed response action and/or enforcement action through both State and Federal initiatives. EPA will take into account which approach is more likely to accomplish cleanup of the site most expeditiously while using CERCLA's limited resources as efficiently as possible.

The ranking of sites by HRS scores does not determine the sequence in which EPA funds remedial response actions, since 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. Moreover, the sites with the highest scores do not necessarily come to the Agency's attention first, so that addressing sites strictly on the basis of ranking would in some cases require stopping work at sites where it was already underway. Thus, EPA relies on further, more detailed studies in the remedial investigation/feasibility study (RI/FS) that typically follows listing.

The RI/FS determines the nature and extent of the threat presented by the contamination (40 CFR 300.430(a)(2) (55 FR 8846, March 8, 1990)). 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 subpart E of the NCP (55 FR 8839, March 8, 1990). 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.

RI/FS at Proposed Sites

An RI/FS may be performed at proposed sites (or even non-NPL sites) pursuant to the Agency's removal authority under CERCLA, as outlined in the NCP at 40 CFR 300.425(b)(1). Although an RI/FS generally is conducted at a site after it has been placed on the NPL, in a number of circumstances the Agency elects to conduct an RI/FS at a 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 public health or the environment. In addition, the Agency may conduct an RI/FS to assist in determining whether to conduct a removal or enforcement action at a site.

Facility (Site) Boundaries

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

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

III. Contents of This Proposed Rule

Table 1 identifies the 24 NPL sites in the general superfund section and table 2 identifies the 6 NPL sites in the Federal facilities section being proposed in this rule. Both tables follow this preamble. All but one site are proposed based on HRS scores of 28.50 or above. One site, Austin Avenue Radiation Site, is being proposed based on the ATSDR health advisory criteria. Each proposed site is placed by score in a group corresponding to groups of 50 sites

presented within the NPL. For example, a site in group 4 of this proposal has a score that falls within the range of scores covered by the fourth group of 50 sites on the NPL.

Since promulgation of the original NPL (48 FR 40660, September 8, 1983), EPA has arranged the NPL by rank based on HRS scores and presented sites on the NPL in groups of 50 to emphasize that minor differences in scores do not necessarily represent significantly different levels of risk.

EPA has proposed an alternative, and what it believes to be more useful, format for presenting NPL sites in both proposed and final rules (56 FR 35843, July 29, 1991). Under this approach, proposed and final rules would present sites in alphabetical order by State and by site name within the State, as well as identify sites in each rule by rank. Once a year the entire NPL, appendix B, would be published alphabetically by State. EPA has requested comment on that approach. Until all comments are received and considered, no final decision on the format will be made. The following table presents the 24 general superfund section sites and 6 Federal facility section sites in this rule in the proposed format.

NATIONAL PRIORITIES LIST, GENERAL SUPERFUND SECTION PROPOSED RULE #12

[By state]

State	Site name	City/county
AR	Popple, Inc.....	El Dorado.
AR	West Memphis Landfill.....	West Memphis.
CA	Cooper Drum Co.....	South Gate.
CA	GBF, Inc. Dump.....	Antioch.
CA	McCormick & Baxter Creosoting Co..	Stockton.
CO	Smeltertown Site.....	Salida.
FL	Helena Chemical Co. (Tampa Plant).	Tampa.
FL	Stauffer Chemical Co. (Tampa Plant).	Tampa.
FL	Stauffer Chemical Co. (Tarpon Springs Plant).	Tarpon Springs.
IN	U.S. Smelter and Lead Refinery, Inc.	East Chicago.
KS	57th and North Broadway Streets Site.	Wichita Heights.
LA	American Creosote Works, Inc. (Winnfield Plant).	Winnfield.
MA	Blackburn & Union Privileges.	Walpole.
MO	Big River Mine Tailings/ St. Joe Minerals Corp.	Desloge.
NC	General Electric Co./ Shepherd Farm.	East Flat Rock.
OR	Northwest Pipe & Casing Co.	Clackamas.
PA	Austin Avenue Radiation Site.	Lansdowne.
PA	Crater Resources, Inc./ Keystone Coke Co./ Alan Wood Steel Co.	Upper Merion Township.

NATIONAL PRIORITIES LIST, GENERAL SUPERFUND SECTION PROPOSED RULE #12—Continued

[By state]

State	Site name	City/county
PA	Footle Mineral Co.....	East Whiteland Township.
PA	Metropolitan Mirror and Glass Co., Inc.	Frackville.
SC	Koppers Co., Inc. (Charleston Plant).	Charleston.
UT	Richardson Flats Tailings..	Summit County.
VI	Tutu Wellfield.....	Tutu.
WI	Refuse Hideaway Landfill..	Middleton.

Number of Sites Proposed for Listing: 24.

NATIONAL PRIORITIES LIST, FEDERAL FACILITIES SECTION PROPOSED RULE #12

[By state]

State	Site name	City/county
CA	Concord Naval Weapons Station.	Concord.
CA	Jet Propulsion Laboratory (NASA).	Pasadena.
GU	Andersen Air Force Base.....	Yigo.
TN	Memphis Defense Depot.....	Memphis.
VA	Naval Surface Warfare Center—Dahlgren.	Dahlgren.
VA	Naval Weapons Station— Yorktown.	Yorktown.

Number of Sites Proposed for Listing: 6.

Statutory Requirements

CERCLA section 105(a)(8)(B) directs EPA to list priority sites "among" the known releases or threatened releases of hazardous substances, pollutants, or contaminants, and section 105(a)(8)(A) directs EPA to consider certain enumerated and "other appropriate" factors in doing so. Thus, as a matter of policy, EPA has the discretion not to use CERCLA to respond to certain types of releases. Where other authorities exist, placing sites on the NPL for possible remedial action under CERCLA may not be appropriate. Therefore, EPA has chosen not to place certain types of sites on the NPL even though CERCLA does not exclude such action. If, however, the Agency later determines that sites not listed as a matter of policy are not being properly responded to, the Agency may place them on the NPL.

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

Releases From Resource Conservation and Recovery Act (RCRA) Sites

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

Consistent with EPA's NPL/RCRA policy, EPA is proposing to add three sites to the general superfund section of the NPL that are subject to RCRA subtitle C corrective action authorities. These are McCormick and Baxter Creosoting Co. in Stockton, California, U.S. Smelter and Lead Refinery, Inc. in East Chicago, Indiana, and General Electric Co./Shepherd Farm in East Flat Rock, North Carolina. Material has been placed in the public docket for the U.S. Smelter and Lead Refinery, Inc. site and the McCormick and Baxter Creosoting Co. site confirming that the owners are in bankruptcy and unable to pay for cleanup, and for the General Electric Co./Shepherd Farm site confirming its converter status.

Releases From Federal Facility Sites

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

In this rule, the Agency is proposing to add six sites to the Federal facilities section of the NPL.

Austin Avenue Radiation Site

The Austin Avenue Radiation site, Lansdowne, Pennsylvania, consists of a duplex apartment, a warehouse attached to the apartment, other residences where radioactive wastes have been deposited, and an adjacent railroad right-of-way. The warehouse is the former location of the W.L. Cummings Radium Processing Company, which operated a radium refining process from 1915 to 1925. The apartment and nearby areas are believed to have been contaminated

with radium tailings and subsequent radioactive decay from the operation.

The ATSDR Public Health Advisory issued on September 6, 1991 recommends the immediate dissociation of residents from the site. Although there are no longer any residents in either the apartment or warehouse, the site has no security and ATSDR is concerned about the potential for fires, intrusion, or unauthorized events at the site. In case of a fire, the contaminants would be indiscriminately distributed throughout the neighborhood, which would result in widespread contamination. In addition, nearby homes are contaminated with these wastes.

The health advisory and other supporting documentation have been placed in the public docket.

IV. Regulatory Impact Analysis

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

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

potentially responsible parties and a Remedial Investigation/Feasibility Study (RI/FS) to determine if remedial actions will be undertaken at a site. The selection of a remedial alternative, and design and construction of that alternative, follow completion of the RI/FS, and operation and maintenance (O&M) activities may continue after construction has been completed.

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

The State's share of site cleanup costs for Fund-financed actions is governed by CERCLA section 104. For privately-owned sites, as well as at 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 of the remedial action, leaving 10% to the State. For publicly-operated sites, the State's 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 start-up costs according to the ownership criteria in the previous paragraph for 10 years or until a sufficient level of protectiveness is achieved before the end of 10 years. 40 CFR 300.435(f)(3).

- For other cleanups, EPA will share the cost of a remedy until it is operational and functional, which generally occurs after one year. 40 CFR 300.435(f)(2), 300.510(c)(2). After that, the State assumes all O&M costs. 40 CFR 300.510(c)(1).

In previous NPL rulemakings, the Agency estimated the costs associated with these activities (RI/FS, remedial design, remedial action, and O&M) on an average-per-site and total cost basis. EPA will continue with this approach, using the most recent (1989) cost estimates available; these estimates are presented below. However, costs for individual sites vary widely, depending on the amount, type, and extent of contamination. Additionally, EPA is unable to predict what portions of the total costs responsible parties will bear, since the distribution of costs depends on the extent of voluntary and negotiated response and the success of any cost-recovery actions.

Cost category	Average total cost per site ¹
RI/FS.....	\$1,300,000
Remedial Design.....	1,500,000
Remedial Action.....	* 25,000,000
Net present value of O&M.....	* 3,770,000

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.

Source: Office of Program Management, Office of Emergency and Remedial Response, U.S. EPA, Washington, DC.

Costs to States associated with today's proposed rule arise from the required State cost-share of: (1) 10% of remedial actions and 10% of first-year O&M costs at privately-owned sites and sites that are publicly-owned but not publicly-operated; and (2) at least 50% of the remedial planning (RI/FS and remedial design), remedial action, and first-year O&M costs at publicly-operated sites. States will assume the cost for O&M after EPA's participation ends. Using the assumptions developed in the 1982 RIA for the NCP, EPA has assumed that 90% of the non-Federal sites proposed for the NPL in this rule will be privately-owned and 10% will be State- or locally-operated. Therefore, using the budget projections presented above, the cost to States of undertaking Federal remedial planning and actions at all non-Federal sites in today's proposed rule, but excluding O&M costs, would be approximately \$97 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 start-up costs for up to 10 years at 25% of sites. Using this estimate, State O&M costs would be approximately \$80 million. As with the EPA share of costs, portions of the State share will be borne by responsible parties.

Placing a hazardous waste site on the NPL does not itself cause firms responsible for the site to bear costs. Nonetheless, a listing may induce firms to clean up the sites voluntarily, or it may act as a potential trigger for subsequent enforcement or cost-recovery actions. Such actions may impose costs on firms, but the decisions to take such actions are discretionary and made on a case-by-case basis. Consequently, these effects cannot be precisely estimated. EPA does not believe that every site will be cleaned up by a responsible party. EPA cannot project at this time which firms or

industry sectors will bear specific portions of the response costs, but the Agency considers: the volume and nature of the waste at the sites; the strength of the evidence linking the wastes at the site to the parties; the parties' ability to pay; and other factors when deciding whether and how to proceed against the parties.

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

Benefits

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

As a result of the additional CERCLA remedies, there will be lower human exposure to high-risk chemicals, and higher-quality surface water, ground water, soil, and air. These benefits are expected to be significant, although difficult to estimate before the RI/FS is completed at these sites.

VII. Regulatory Flexibility Act Analysis

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

While this rule proposes revisions to the NCP, they are not typical regulatory changes since the revisions do not automatically impose costs. As stated above, adding sites to the NPL does not in itself require any action by any private party, nor does it determine the liability of any party for the cost of cleanup at the site. Further, no identifiable groups are affected as a whole. As a consequence, impacts on any group are hard to predict. A site's proposed inclusion on the NPL could increase the likelihood of adverse impacts on responsible parties (in the

form of cleanup costs), but at this time EPA cannot identify the potentially affected businesses nor estimate the number of small businesses that might also be affected.

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

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

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

List of Subjects in 40 CFR Part 300

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

TABLE 1.—NATIONAL PRIORITIES LIST, GENERAL SUPERFUND SECTION PROPOSED RULE #12

[By group]

NPL Gr ¹	State	Site name	City/county
1	CA	McCormick & Baxter Creosoting Co.	Stockton.
1	CO	Smelertown Site	Salida.
1	FL	Stauffer Chemical Co. (Tampa Plant).	Tampa
1	FL	Stauffer Chemical Co. (Tarpon Springs Plant).	Tarpon Springs
1	IN	U.S. Smelter and Lead Refinery, Inc.	East Chicago
1	MO	Big River Mine Tailings/St. Joe Minerals Corp.	Desloge
1	NC	General Electric Co./Shepherd Farm.	East Flat Rock
4	AR	West Memphis Landfill.	West Memphis
4	CA	GBF, Inc. Dump	Antioch.
4	OR	Northwest Pipe & Casing Co.	Clackamas
4	UT	Richardson Flats Tailings.	Summit County
5	AR	Popple, Inc.	El Dorado
5	CA	Cooper Drum Co.	South Gate
5	KS	57th and North Broadway Streets Site.	Wichita Heights

TABLE 1.—NATIONAL PRIORITIES LIST,
GENERAL SUPERFUND SECTION PRO-
POSED RULE #12—Continued

[By group]

NPL Gr ¹	State	Site name	City/county
5	LA	American Creosote Works, Inc. (Winnfield Plant).	Winnfield.
5	MA	Blackburn and Union Privileges.	Walpole.
5	PA	Crater Resources, Inc./Keystone Coke Co./Alan Wood Steel Co.	Upper Merion Twp.
5	PA	Footo Mineral Co.	East Whiteland Twp. Charleston.
5	SC	Koppers Co., Inc. (Charleston Plant).	Charleston.
5	VI	Tutu Wellfield.	Tutu.
15	PA	Metropolitan Mirror and Glass Co., Inc.	Frackville.
15	WI	Refuse Hideaway Landfill.	Middleton.
20	FL	Helena Chemical Co. (Tampa Plant).	Tampa.

TABLE 1.—NATIONAL PRIORITIES LIST,
GENERAL SUPERFUND SECTION PRO-
POSED RULE #12—Continued

[By group]

NPL Gr ¹	State	Site name	City/county
22	PA	Austin Avenue Radiation Site.	Lansdowne.

Number of Sites Proposed for Listing 24.
¹ Sites are placed in groups (Gr) corresponding to groups of 50 on the final NPL.

TABLE 2.—NATIONAL PRIORITIES LIST,
FEDERAL FACILITIES SECTION PRO-
POSED RULE #12

[By group]

NPL Gr ¹	State	Site name	City/county
2	TN	Memphis Defense Depot.	Memphis.
5	CA	Concord Naval Weapons Station.	Concord.
5	CA	Jet Propulsion Laboratory (NASA).	Pasadena.

TABLE 2.—NATIONAL PRIORITIES LIST,
FEDERAL FACILITIES SECTION PRO-
POSED RULE #12—Continued

[By group]

NPL Gr ¹	State	Site name	City/county
5	GU	Anderson Air Force Base.	Yigo.
5	VA	Naval Surface Warfare Center—Dahlgren.	Dahlgren.
5	VA	Naval Weapons Station—Yorktown.	Yorktown.

Number of Sites Proposed for Listing: 6.
¹ Sites are placed in groups (Gr) corresponding to groups of 50 on the final NPL.

Authority: 42 U.S.C. 9601-9657; 33 U.S.C. 1321(c)(2); E.O. 11735, 38 FR 21243, E.O. 12580, 52 FR 2923.

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