

(2) Determination—EPA has determined that, as of July 10, 1995, the Reading ozone nonattainment area has attained the ozone standard and that the reasonable further progress and attainment demonstration requirements of section 182(b)(1) and related requirements of section 172(c)(9) of the Clean Air Act do not apply to this area for so long as the area does not monitor any violations of the ozone standard. If a violation of the ozone NAAQS is monitored in the Reading ozone nonattainment area, these determinations shall no longer apply.

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40 CFR Part 300

[FRL-5211-3]

National Priorities List for Uncontrolled Hazardous Waste Sites

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

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

This rule adds 1 new site to the NPL. The NPL is intended primarily to guide the Environmental Protection Agency ("EPA" or "the Agency") 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.

EFFECTIVE DATE: June 26, 1995.

ADDRESSES: For addresses for the Headquarters and Regional dockets, as well as further details on what these dockets contain, see "Information Available to the Public" in Section I of the "Supplementary Information" portion of this preamble.

FOR FURTHER INFORMATION CONTACT: Terry Keidan, Hazardous Site Evaluation Division, Office of Emergency and Remedial Response (mail code 5204G), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC, 20460, or the

Superfund Hotline, phone (800) 424-9346 or (703) 412-9810 in the Washington, DC, metropolitan area.

SUPPLEMENTARY INFORMATION:

- I. Introduction.
- II. Contents of This Final Rule.
- III. Executive Order 12866.
- IV. Unfunded Mandates.

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, EPA 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. The most recent comprehensive revision was 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* * * and, to the extent practicable taking into account the potential urgency of such action, for the purpose of taking removal action." "Removal" actions are defined broadly and include a wide range of actions taken to study, clean up, prevent or otherwise address releases and threatened releases. 42 USC 9601(23). "Remedial" actions" are those "consistent with permanent remedy, taken instead of or in addition to removal actions. * * *" 42 USC 9601(24).

Pursuant to section 105(a)(8)(B) of CERCLA, as amended by SARA, EPA has promulgated a list of national priorities among the known or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. That list, which is Appendix B of 40 CFR Part 300, is the National Priorities List ("NPL").

CERCLA section 105(a)(8)(B) defines the NPL as a list of "releases" and as a

list of the highest priority "facilities." The discussion below may refer to the "releases or threatened releases" that are included on the NPL interchangeably as "releases," "facilities," or "sites."

CERCLA section 105(a)(8)(B) also requires that the NPL be revised at least annually. A site may undergo remedial action financed by the Trust Fund established under CERCLA (commonly referred to as the "Superfund") only after it is placed on the NPL, as provided in the NCP at 40 CFR 300.425(b)(1). However, under 40 CFR 300.425(b)(2) placing a site on the NPL "does not imply that monies will be expended." EPA may pursue other appropriate authorities to remedy the releases, including enforcement action under CERCLA and other laws.

The purpose of the NPL is merely to identify releases 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.

It is the Agency's policy that, in the exercise of its enforcement discretion, EPA will not take enforcement actions against an owner of residential property to require such owner to undertake response actions or pay response costs, unless the residential homeowner's activities lead to a release or threat of release of hazardous substances, resulting in the taking of a response action at the site (OSWER Directive #9834.6, July 3, 1991). This policy includes residential property owners whose property is located above a ground water plume that is proposed to or on the NPL, where the residential property owner did not contribute to the contamination of the site. EPA may, however, require access to that property during the course of implementing a clean up.

Three mechanisms for placing sites on the NPL for possible remedial action 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. As a matter of Agency policy, 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 regardless of their HRS score, 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.

EPA promulgated an original NPL of 406 sites on September 8, 1983 (48 FR 40658). The NPL has been expanded since then, most recently on April 25, 1995 (60 FR 20335).

The NPL includes two sections, one of sites that are 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 (52 FR 2923, January 29, 1987) and CERCLA section 120, each Federal agency is responsible for carrying out most response actions at facilities under its own jurisdiction, custody, or control, although EPA is responsible for preparing an HRS score and determining whether the facility is placed on the NPL. EPA is not the lead agency at these sites, and its role at such sites is accordingly less extensive than at other sites. The Federal Facilities Section includes those facilities at which EPA is not the lead agency.

Deletions/Cleanups

EPA may delete sites from the NPL where no further response is appropriate under Superfund, as explained in the NCP at 40 CFR

300.425(e) (55 FR 8845, March 8, 1990). To date, the Agency has deleted 77 sites from the General Superfund Section of the NPL. EPA also has developed an NPL construction completion list ("CCL") to simplify its system of categorizing sites and to better communicate the successful completion of cleanup activities (58 FR 12142, March 2, 1993). Sites qualify for the CCL when:

(1) any necessary physical construction is complete, whether or not final cleanup levels or other requirements have been achieved;

(2) EPA has determined that the response action should be limited to measures that do not involve construction (e.g., institutional controls); or

(3) the site qualifies for deletion from the NPL.

Inclusion of a site on the CCL has no legal significance.

In addition to the 76 sites that have been deleted from the NPL because they have been cleaned up (the Waste Research and Reclamation site was deleted based on deferral to another program and is not considered cleaned up), an additional 216 sites are also in the NPL CCL, all but four from the General Superfund Section. Thus, as of May 1995, the CCL consists of 292 sites.

Cleanups at sites on the NPL do not reflect the total picture of Superfund accomplishments. As of March 31, 1995, EPA had conducted 661 removal actions at NPL sites, and 2,413 removal actions at non-NPL sites. Information on removals is available from the Superfund hotline.

Action In This Notice

This final rule adds 1 site, Southern Shipbuilding in Slidell, Louisiana, to the General Superfund Section of the NPL. This site is added to the NPL based on an HRS score of 28.5 or greater. This actions result in an NPL of 1,237 sites, 1,082 of them in the General Superfund Section and 155 of them in the Federal Facilities Section. On April 25, 1995 (59 FR 65206) EPA published the most recent complete list of NPL sites to which the Southern Shipbuilding site is being added. An additional 49 sites remain proposed, 42 in the General Superfund Section and 7 in the Federal Facilities Section, and are awaiting final Agency action. Final and proposed sites now total 1,286.

Clarification

The full name of the Fremont National Forest/White King and Lucky Lass Uranium Mines (USDA) site, which was added to the NPL on April 25, 1995 (60 FR 20330), was inadvertently

shortened in EPA's **Federal Register** notice. For the record, the full name of this site is Fremont National Forest/White King and Lucky Lass Uranium Mines (USDA). However, this name will continue to appear in its shortened version in Appendix B to part 300—The National Priorities List and other automated public information lists due to space limitations within the NPL database.

Information Available to the Public

The Headquarters and Regional public dockets for the NPL contain documents relating to the evaluation and scoring of the site in this final rule. The dockets are available for viewing, by appointment only, after the appearance of this action. 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 the Regional Docket for hours.

Addresses and phone numbers for the Headquarters and Regional dockets follow:

Docket Coordinator, Headquarters, U.S. EPA CERCLA Docket Office, Crystal Gateway #1, 12th Floor, 1235 Jefferson Davis Highway, Arlington, VA 703/603-8917

(Please note this is viewing address only. Do not mail documents to this address.)

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

The Headquarters docket for this rule contains HRS score sheets for the final site; the Documentation Record for the site describing the information used to compute the score; pertinent information regarding statutory requirements or EPA listing policies that affect the site; and a list of documents referenced in the Documentation Record. The Headquarters docket also contains comments received; and the Agency's responses to those comments. The Agency's responses are contained in the "Support Document for the Revised National Priorities List Final Rule—May 1995."

A general discussion of the statutory requirements affecting NPL listing, the purpose and implementation of the NPL, the economic impacts of NPL listing, and the analysis required under the Regulatory Flexibility Act is included as part of the Headquarters rulemaking docket in the "Additional Information" document.

The Regional docket contains all the information in the Headquarters docket, plus the actual reference documents containing the data principally relied

upon by EPA in calculating or evaluating the HRS score for the site. These reference documents are available only in the Regional docket.

Interested parties may view documents, by appointment only, in the Headquarters or Regional Dockets, or copies may be requested from the Headquarters or Regional Dockets. 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. If you wish to obtain documents by mail from EPA Headquarters Docket, the mailing address is as follows: Docket Coordinator, Headquarters, U.S. EPA CERCLA Docket Office (Mail Code 5201G), 1401 M Street, SW., Washington, DC 20460, 703/603-8917. (Please note this is the mailing address only. If you wish to visit the HQ Docket to view documents, see viewing address above.)

II. Contents of This Action

This action promulgates a final rule to add 1 site to the General Superfund Section of the NPL. This site is Southern Shipbuilding in Slidell, Louisiana which was proposed on February 13, 1995 in NPL Proposal #18 (60 FR 8212) based on an HRS score of 28.5 or greater. The group number identified for this site is 5/6. Group numbers are determined by arranging the NPL by rank and dividing it into groups of 50 sites. For example, a site in Group 4 has a score that falls within the range of scores covered by the fourth group of 50 sites on the NPL.

Public Comments

EPA reviewed all comments received on the site included in this notice. The formal comment period ended on April 14, 1995.

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—May 1995."

III. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

IV. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a written statement to accompany any rules that have "Federal

mandates" that may result in the expenditure by the private sector of \$100 million or more in any one year. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objective of such a rule and that is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly and uniquely affected by the rule.

The Unfunded Mandates Act defines a "Federal private sector mandate" for regulatory purposes as one that, among other things, "would impose an enforceable duty upon the private sector." EPA finds that today's listing decision does not impose any enforceable duties upon the private sector since inclusion of a site on the NPL does not itself impose any costs. 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 site responses result from site-by-site decisions about what actions to take, not directly from the act of listing itself. Therefore, today's rulemaking is not a "Federal private sector mandate" and is not subject to the requirements of sections 202 or 205 of the Unfunded Mandates Act. As to Section 203 of this Act, EPA finds that small governments will not be significantly and uniquely affected by this rulemaking.

List of Subjects in 40 CFR Part 300

Environmental protection, 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: May 22, 1995.

Elliott P. Laws,

Assistant Administrator, Office of Solid Waste and Emergency Response.

40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for Part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601-9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

2. Appendix B to Part 300 is amended by adding the Southern Shipbuilding site in Slidell, Louisiana, to Table 1,

General Superfund Section, in alphabetical order.

[FR Doc. 95-12995 Filed 5-25-95; 8:45 am]
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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

45 CFR Part 60

RIN 0905-AE53

National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Practitioners; Payment of Fees

AGENCY: Health Resources and Services Administration, PHS, HHS.

ACTION: Final rule.

SUMMARY: This final rule amends the existing regulations governing the National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Practitioners (the Data Bank) authorizing the reporting and release of information concerning: Payments made for the benefit of physicians, dentists, and other health care practitioners as a result of medical malpractice actions or claims; and certain adverse actions taken regarding the licenses and clinical privileges of physicians and dentists. This final rule removes restrictions on allowed methods of payment for Data Bank fees. **EFFECTIVE DATE:** This regulation is effective May 26, 1995.

FOR FURTHER INFORMATION CONTACT: Thomas C. Croft, Director, Division of Quality Assurance, Bureau of Health Professions, Health Resources and Services Administration, Room 8A-55, 5600 Fishers Lane, Rockville, Maryland 20857; telephone number (301) 443-2300.

SUPPLEMENTARY INFORMATION: This final rule amends the existing regulations for the National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Practitioners under 45 CFR part 60. Section 60.12(c)(1) and (2) currently state that requests to the Data Bank constitute an agreement to pay the established user fee and that the billing of such use will be made during established intervals. Section 60.12(c)(3) currently states that Data Bank fees must be paid by check or money order made payable to the U.S. Department of Health and Human Services. The Department has removed these regulatory restrictions on allowable methods of payment to permit the Secretary to announce alternate