PROPOSED ACCEPTABLE SUBJECT TO NARROWED USE LIMITS: STREAMING AGENTS

Application	Substitute	Decision	Comments
Halon 1211—Streaming Agents.	CF_3I	Proposed Acceptable in non-residential uses only.	The manufacturer intends to conduct personal monitoring tests to verify exposure levels.

AEROSOLS—PROPOSED ACCEPTABLE SUBJET TO USE CONDITIONS SUBSTITUTES

Application	Substitute	Decision	Conditions	Comments
CFC–113, MCF and HCFC–141b as solvent.	Monochlorotoluenes and benzotrifluorides.	Acceptable	Subject to a 50 ppm workplace standard for monochlorotoluenes and a 25 ppm standard for benzotrifluorides.	The workplace standard for monochlorotoluenes is based on an OSHA PEL of 50 ppm for orthochlorotoluene. The workplace standard for benzotrifluorides is based on a recent toxicology study.

ADHESIVES, COATINGS AND INKS—PROPOSED ACCEPTABLE SUBJECT TO USE CONDITIONS SUBSTITUTES

Application	Substitute	Decision	Conditions	Comments
CFC–113, MCF and HCFC–141b.	Monochlorotoluenes and benzotrifluorides.	Acceptable	Subject to a 50 ppm workplace standard for monochlorotoluenes and a 25 ppm standard for benzotrifluorides.	The workplace standard for monochlorotoluenes is based on an OSHA PEL of 50 ppm for orthochlorotoluene. The workplace standard for benzotrifluorides is based on a recent toxicology study.

[FR Doc. 95–24271 Filed 9–29–95; 8:45 am]
BILLING CODE 6560–50–P

40 CFR Part 300

[FRL–5308–3]

National Priorities List for Uncontrolled Hazardous Waste Sites, Proposed Rule No. 19

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (''CERCLA'' or ''the Act''), as amended, requires that the National Oil and Hazardous Substances Pollution Contingency Plan (''NCP'') include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The National Priorities List (''NPL'') which is Appendix B of 40 CFR part 300, constitutes this list.

This rule proposes 12 new sites to the General Superfund Section of 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.

This document also proposes to withdraw an earlier proposal to list the Broward County, 21st Manor Dump Site, on the NPL. This proposed withdrawal is based on the results of a baseline risk assessment prepared for the site.

DATES: Comments must be submitted on or before December 1, 1995.

ADDRESSES: Mail original and three copies of comments (no facsimiles or tapes) to Docket Coordinator, Headquarters; U.S. EPA; CERCLA Docket Office; (Mail Code 5201G); 401 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, and for additional Docket addresses and further details on their contents, see Section I of the ''Supplementary Information'' portion of this preamble.

FOR FURTHER INFORMATION CONTACT: 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 Proposed Rule
III. Executive Order 12866
IV. Unfunded Mandates
V. Governors' Concurrence

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.'' 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. Further, the NPL is only of limited significance, as it does not assign liability to any party or to the owner of any specific property. See Report of the Senate Committee on Environment and Public Works, Senate Rep. No. 96–848, 96th Cong., 2d Sess. 60 (1980), quoted above and at 48 FR 40659 (September 8, 1983).

Three mechanisms for placing sites on the NPL for possible remedial action are included in the NCP at 40 CFR 300.425(c). 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 May 26, 1995 (60 FR 27896).

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 generally 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 facilities at which EPA is not the lead agency.

Facility (Site) Boundaries

The NPL does not describe releases in precise geographical terms; it would be neither feasible nor consistent with the limited purpose of the NPL (as the mere identification of releases), for it to do so.

CERCLA section 105(a)(8)(B) directs EPA to list national priorities among the known ''releases or threatened releases.'' Thus, 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. Of course, HRS data upon which the NPL placement was based will, to some extent, describe which release is at issue. That is, the NPL site would include all releases evaluated as part of that HRS analysis (including noncontiguous releases evaluated under the NPL aggregation policy, described at 48 FR 40663 (September 8, 1983)).

When a site is listed, it is necessary to define the release (or releases) encompassed within the listing. The approach generally used is to delineate a geographical area (usually the area within the installation or plant boundaries) and define the site by reference to that area. As a legal matter, the site is not coextensive with that area, and the boundaries of the installation or plant are not the ''boundaries'' of the site. Rather, the site consists of all contaminated areas within the area used to define the site, and any other location to which contamination from that area has come to be located.

While geographic terms are often used to designate the site (e.g., the ''Jones Co. plant site'') in terms of the property owned by the particular party, the site properly understood is not limited to that property (e.g., it may extend beyond the property due to contaminant migration), and conversely may not occupy the full extent of the property (e.g., where there are uncontaminated parts of the identified property, they may not be, strictly speaking, part of the ''site''). The ''site'' is thus neither equal to nor confined by the boundaries of any specific property that may give the site its name, and the name itself should not be read to imply that this site is coextensive with the entire area within the property boundary of the facility or plant. The precise nature and extent of the site are typically not known at the time of listing. Also, the site name is merely used to help identify the geographic location of the contamination. For example, the ''Jones Co. plant site,'' does not imply that the Jones company is responsible for the contamination located on the plant site.

EPA regulations provide that the ''nature and extent of the threat presented by a release'' will be determined by a Remedial Investigation/Feasibility Study (RI/FS) as more information is developed on site

contamination (40 CFR 300.430(d)). During the RI/FS process, the release may be found to be larger or smaller than was originally thought, as more is learned about the source and the migration of the contamination. However, this inquiry focuses on an evaluation of the threat posed; the boundaries of the release need not be exactly defined. Moreover, it generally is impossible to discover the full extent of where the contamination ''has come to be located'' before all necessary studies and remedial work are completed at a site. Indeed, the boundaries of the contamination can be expected to change over time. Thus, in most cases, it may be impossible to describe the boundaries of a release with absolute certainty.

Further, as noted above, NPL listing does not assign liability to any party or to the owner of any specific property. Thus, if a party does not believe it is liable for releases on discrete parcels of property, supporting information can be submitted to the Agency at any time after a party receives notice it is a potentially responsible party.

For these reasons, the NPL need not be amended if further research into the extent of the contamination expands the apparent boundaries of the release.

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). This section also provides that EPA shall consult with states on proposed deletions and shall consider whether the following criteria have been met:

(i) Responsible parties or other persons have implemented all appropriate response actions required;

(ii) All appropriate Superfund-financed response has been implemented and no further response action is required;

(iii) The remedial investigation has shown the release poses no significant threat to public health or the environment, and taking of remedial measures is not appropriate.

To date, the Agency has deleted 84 sites from the final 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 83 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 221 sites are also in the NPL CCL. Thus, as of September 1995, the CCL consists of 304 sites.

Cleanups at sites on the NPL do not reflect the total picture of Superfund accomplishments. As of August 31, 1995, EPA had commenced 679 removal actions at NPL sites, and 2,108 removal actions at non-NPL sites. Information on removals is available from the Superfund hotline.

Public Comment Period

The documents that form the basis for EPA's evaluation and scoring of sites in this rule are contained in dockets located both at EPA Headquarters and in the appropriate Regional offices. The dockets are available for viewing, by appointment only, after the appearance of this rule. The hours of operation for the Headquarters docket are from 9:00 a.m. to 4:00 p.m., Monday through Friday excluding Federal holidays. Please contact individual Regional dockets for hours.

Docket Coordinator, Headquarters, U.S. EPA CERCLA Docket Office, (Mail Code 5201G), Crystal Gateway #1, 12th Floor, 1235 Jefferson Davis Highway, Arlington, VA 22202, 703/603–8917 (Please note this is visiting address only. Mail comments to address listed in **ADDRESSES** section above.)

Jim Kyed, Region 1, U.S. EPA Waste Management Records Center, HRC–CAN–7, J.F. Kennedy Federal Building, Boston, MA 02203–2211, 617/573–9656

Ben Conetta, Region 2, U.S. EPA, 290 Broadway, New York, NY 10007–1866, 212/637–4435

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

Kathy Piselli, Region 4, U.S. EPA, 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 Boulevard, Chicago, IL 60604, 312/886–6214

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

Carole Long, Region 7, U.S. EPA, 726 Minnesota Avenue, Kansas City, KS 66101, 913/551–7224

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

Rachel Loftin, 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–114, Seattle, WA 98101, 206/553–2103

With the exception of LCP Chemicals (Brunswick, Georgia), which is being proposed based on its designation as the State's top priority, and Aircraft Components (D & L Sales, Benton Harbor, Michigan), H & K Sales (Belding, Michigan), and Little Valley (Little Valley, New York) which are being proposed based on ATSDR health advisory criteria, 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; information for any site affected by particular statutory requirements or EPA listing policies; and a list of documents referenced in the Documentation Record. The docket also contains the documentation supporting the State's designation of LCP Chemicals as a top priority and the ATSDR Health Advisories and nomination packages for the Aircraft Components, H & K Sales and Little Valley sites.

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.

Each Regional docket for this rule contains all of the information in the Headquarters docket for sites in that Region, plus the actual reference documents containing the data principally relied upon and cited by EPA in calculating or evaluating the HRS scores for sites in that Region. These reference documents are available only in the Regional dockets. Interested parties may view documents, by appointment only, in the Headquarters or the appropriate Regional docket or copies may be requested from the

Headquarters or appropriate Regional docket. An informal written request, rather than a formal request under the Freedom of Information Act, should be the ordinary procedure for obtaining copies of any of these documents.

EPA considers all comments received during the comment period. During the comment period, comments are placed in the Headquarters docket and are available to the public on an ''as received'' basis. A complete set of comments will be available for viewing in the Regional docket approximately one week after the formal comment period closes. Comments received after the comment period closes will be available in the Headquarters docket and in the Regional docket on an ''as received'' basis. Comments that include complex or voluminous reports, or materials prepared for purposes other than HRS scoring, should point out the specific information that EPA should consider and how it affects individual HRS factor values. See *Northside Sanitary Landfill* v. *Thomas*, 849 F.2d 1516 (D.C. Cir. 1988). EPA will make final listing decisions after considering the relevant comments received during the comment period.

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

In certain instances, interested parties have written to EPA concerning sites which were not at that time proposed to the NPL. If those sites are later proposed to the NPL, parties should review their earlier concerns and, if still appropriate, resubmit those concerns for consideration during the formal comment period. Site-specific correspondence received prior to the period of formal proposal and comment will not generally be included in the docket.

II. Contents of This Proposed Rule

Table 1 identifies the 12 sites in the General Superfund Section being proposed to the NPL in this rule. This table follows this preamble. All sites are proposed based on HRS scores of 28.50 or above with the exception of LCP Chemicals (Brunswick, Georgia), which is being proposed based on its designation as the State's top priority, and Aircraft Components (D & L Sales, Benton Harbor, Michigan), H & K Sales (Belding, Michigan), and Little Valley (Little Valley, New York) which are being proposed based on ATSDR health advisory criteria. The sites in Table 1 and Table 2 are listed alphabetically by State, for ease of identification, with group number identified to provide an indication of relative ranking. To determine group number, sites on the NPL are placed in groups of 50; for example, a site in Group 4 of this proposal has a score that falls within the range of scores covered by the fourth group of 50 sites on the NPL.

This action along with a final rule published in the Federal Register issued of September 29, 1995, results in an NPL of 1,238 sites, 1,083 in the General Superfund Section and 155 in the Federal Facilities Section. An additional 52 sites are now proposed and are awaiting final agency action, 47 in the General Superfund Section and 5 in the Federal Facilities Section. Final and proposed sites now total 1,290.

Proposal, Based on Risk Assessment, To Withdraw an Earlier Proposal To List the Broward County, 21st Manor Dump Site on the NPL

Also in this rule, EPA is proposing to withdraw its earlier proposal to list the Broward County—21st Manor Dump site on the NPL. The site was proposed for listing on July 29, 1991 (56 F.R. 35840). The reason for the withdrawal of the Broward County site is the determination that the site as currently defined does not pose a significant threat to public health or the environment and, therefore, taking of remedial measures under CERCLA is not appropriate.

This decision is supported by the baseline risk assessment conducted in conjunction with the RI/FS for the site and represents the beginnings of an effort to develop a new policy for sites which have been proposed for NPL listing. Under this policy, EPA would use for sites proposed for NPL listing one of the criteria similar to those for deleting sites from the NPL. These criteria, described above, are found at 40 CFR 300.425(e). One criterion is found at 40 CFR 300.425(e)(1)(iii), which states that a site may be deleted from the NPL if ''the remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.'' The proposed action to withdraw the Broward site uses this approach for the proposed site.

The proposed withdrawal is site-specific, and represents the beginning of an evolving effort to apply criteria similar to the deletion criteria to sites not yet finalized to the NPL where appropriate. With the advent of the Superfund Accelerated Cleanup Model (SACM) more sites have been undergoing earlier response actions. Early action means that while in proposed status, a site might be characterized to the extent that EPA has sufficient data to issue a No Action Record of Decision. A risk assessment would generally be valid for this purpose if it is performed by the Agency, or by a contractor under the oversight and approval of EPA.

In December 1993, EPA issued the ''Baseline Risk Assessment for the 21st Manor Dump Site Broward County, Florida.'' The risk assessment was conducted in accordance with Subpart E, Section 300.430(d) of the National Contingency Plan (NCP) and characterized the current and potential threat to public health and the environment posed by chemicals at, or migrating from, the 21st Manor Dump Site in the absence of remedial (corrective) action. The risk assessment is available for viewing through the Superfund Docket, (703) 603–8917. For more detailed information on EPA's evaluation of the risk assessment, please refer to the *Superfund NPL Withdrawal Notification Report* for the Broward County site contained in the Superfund Docket.

The risk assessment considered toxicity and exposure information for each chemical of concern and potential exposure pathway. The assessment identified three areas of potential concern: soils (surface and subsurface), groundwater in the vicinity of the Broward site analyzed in temporary wells sunk by the investigator and used for sampling, and drinking water in the nearby Peele-Dixie Wellfield. This drinking water area of concern was analyzed by examining permanent (long-term monitoring, residential or municipal) wells and surface water/sediment from aeration ponds near a municipal well.

The risk assessment dismissed concerns for groundwater in the vicinity of the site based on the fact that this shallow groundwater is not likely to be tapped for potable use and any excavation at the site would use pumps to prevent exposure to workers at the site. Moreover, organic chemicals of concern were only found in one or two of nine samples analyzed. Also, it was not clear that any of the inorganic chemicals were detected above naturally occurring background levels.

While not dismissing concerns for chemicals in the drinking water caused by sources not listed as part of the site, EPA has determined that any risks from the drinking water would not be associated with the releases from the site. This is because none of the volatile inorganic compounds found in the drinking water wellfield, with the exception of carbon disulfide, were detected at the 21st Manor site, either in the temporary wells or in subsurface soils (which could affect groundwater). Carbon disulfide was detected at low levels or levels below background. Also, no inorganic chemicals detected in dump site subsurface soils were detected above naturally occurring levels.

Consequently, only soil exposure at the 21st Manor dump site was quantitatively evaluated in the risk assessment. This risk assessment considered the maximally exposed individual for each exposure pathway addressed, by using the maximum concentrations measured in environmental media at the site as the exposure point concentrations, along with reasonable maximum exposure (RME) case exposure assumptions. Thus, the greatest single chemical risk in the cancer risk assessment—that for benzo(a)pyrene—was based on a single surface soil measurement of 130 parts per billion (ppb) out of sixteen samples and a single subsurface soil measurement of 720 ppb out of 31 samples. (All other samples found no detectable levels of the chemical.) Each of these levels are within, or lower than, natural background measurements of the chemical reported in various literature sources. Contributions of all other chemicals to the cancer risk assessment were considerably lower, even for the most exposed individual, and risk calculations are in most cases based on one or two samples that detected any levels when all others resulted in no detectable levels.

Even with these extremely conservative assumptions as to the levels of toxic chemicals at the site, the risk assessment concluded that there were no significant current risks from site releases. Only potential exposure pathways assuming future residential land use had excess lifetime cancer risks greater than 10^{-6}, that is 1 in 1,000,000. The cumulative upper bound excess lifetime cancer risk to a young child resident was estimated to be 2×10^{-6}. The risk was based on incidental ingestion and dermal contact with soil contaminated with benzo(a)pyrene, the main chemical of concern at the level measured in one sample, when all others were not even detected. The site posed a similar risk to adults exposed via the same pathways.

The total hazard index values for both a young child resident and an adult resident were less than one, indicating that adverse noncarcinogenic effects are unlikely to occur. EPA also performed an ecological risk assessment. The Agency concluded that the urban setting of the site, combined with the distribution and concentration of the chemicals of concern were not likely to result in adverse environmental impacts.

The cancer risk numbers are at the lower end of the range of generally acceptable exposure levels for carcinogens in the NCP. The Agency's decision is further supported by the fact that the data supporting these cancer risk levels are obtained from the maximum exposure levels in circumstances where almost all other analyzed samples found no detectable levels of the carcinogenic chemicals. Indeed, the cancer risk for this site from exposure to soil could just as likely be zero.

The Agency intentionally performed the risk assessment for the 21st Manor Dump Site employing unusually conservative values (e.g., EPA used maximum measured soil concentrations). Moreover, the only exposure pathway that presented a risk greater than 10^{-6} assumed that a residence would be built directly on the dump area, which is unrealistic.

III. Executive Order 12866

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

IV. Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), P.L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When a written statement is needed for an EPA rule, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements.

Today's rule contains no Federal mandates (within the meaning of Title II of the UMRA) for State, local, or tribal governments or the private sector. Nor does it contain any regulatory requirements that might significantly or uniquely affect small governments. This is because today's listing decision does not impose any enforceable duties upon any of these governmental entities or the private sector. 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 subject to the requirements of sections 202, 203 or 205 of the Unfunded Mandates Act.

V. Governor's Concurrence

On July 27, 1995, Congress enacted Public Law (P.L.) 104–19, which made emergency supplemental appropriations and rescissions for the fiscal year ending September 30, 1995. Section 1006 of P.L. 104–19 provides that EPA may not use funds made available for fiscal year 1995

> for listing or to list any additional facilities on the National Priorities List . . . unless the Administrator receives a written request to propose for listing or to list a facility from the Governor of the State in which the facility is located. . . .

EPA has received letters from the appropriate governors requesting that the Agency propose for listing on the NPL all the facilities in this final rule. These letters are available in the docket

for this rulemaking. The letter from the Governor of Michigan states that he ''does not object'' to the listing of the sites located in Michigan. EPA believes this constitutes agreement with the Agency's decision to propose the listing and, thus, is a sufficient indication of the governor's concurrence in accordance with the provisions of P.L. 104–19.

NATIONAL PRIORITIES LIST PROPOSED RULE #19 GENERAL SUPERFUND SECTION

State	Site name	City/county	NPL Gr[1]
GA	LCP Chemicals Georgia	Brunswick	N/A
IL	Jennison-Wright Corporation	Granite City	13
KS	Wright Ground Water Contamination	Wright	5/6
ME	Eastern Surplus	Meddybemps	5/6
MI	Aircraft Components (D & L Sales)	Benton Harbor	N/A
MI	H & K Sales	Belding	N/A
NJ	Franklin Burn	Franklin Township	13
NJ	Welsback & General Gas Mantle (Camden Radiation)	Camden and Gloucester City	12
NY	Little Valley	Little Valley	N/A
PA	Breslube-Penn, Inc	Coraopolis	5/6
WV	Hanlin-Allied-Olin	Moundsville	5/6
WI	Penta Wood Products	Daniels	5/6

Number of Sites Proposed to General Superfund: 12

[1] Sites are placed in groups (Gr) corresponding to groups of 50 on the final NPL.

List of Subjects in 40 CFR Part 300

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

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.

Dated: September 25, 1995.

Elliott P. Laws,

Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 95–24414 Filed 9–29–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 300

[FRL–5309–1]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete the Arsenic Trioxide Site from the National Priorities List: Request for comments.

SUMMARY: The Environmental Protection Agency (EPA), Region VIII announces its intent to delete the Arsenic Trioxide Site (Site) from the National Priorities List (NPL) and requests public comment on this action. EPA and the State of North Dakota (State) have determined that all appropriate response actions have been implemented at the Site and that no further cleanup by responsible parties is appropriate. Moreover, EPA and the State have determined that remedial activities conducted at the Site are protective of public health, welfare, and the environment.

DATES: Comments concerning the propose deletion of the Arsenic Trioxide Site may be submitted to EPA by November 1, 1995.

ADDRESSES: Comments may be mailed to: Mr. Barry Levene (8HWM–SR), U.S. Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2466.

Comprehensive information on this Site is available through the EPA, Region VIII public docker, which is located at EPA's Region VIII Administrative Records Center and is available for viewing from 8 a.m. to 4:30 p.m., Monday through Friday, excluding holidays. Requests for documents should be directed to the EPA, Region VIII Records Center.

The address for the Regional Records Center is: Administrative Records Center, U.S. Environmental Protection Agency, Region VIII, 999 18th Street, 5th Floor, Denver, Colorado 80202–2466, (303) 293–1807.

Background information from the Regional public docket is also available for viewing at the Arsenic Trioxide site information repositories located at the: North Dakota Department of Health, Missouri Office Building (Room 203), 1200 Missouri Avenue, Bismarck, North Dakota 58504.

Hours: 8 a.m. to 5 p.m., Monday through Friday.

SUPPLEMENTARY INFORMATION:

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I. Introduction

The Environmental Protection Agency (EPA), Region VIII announces its intent to delete the Arsenic Trioxide Site (Site) located in Southeastern, North Dakota, from the National Priorities List (NPL) and requests comments on this deletion. The NPL constitutes Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), Title 40 of the Code of Federal Regulations (40 CFR), as amended. EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment maintains the NPL as a list of those sites. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund Response Trust Fund (Fund). Pursuant to § 300.425(e)(3) of the NCP, any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that future conditions at the site warrant such action.

It is EPA's intent to delete the Arsenic Trioxide Site the NPL. EPA will accept comments on this proposed deletion for thirty days following publication of this notice in the Federal Register.

Section II of this notice explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses how the Arsenic Trioxide site meets the deletion criteria.

Deletion of sites from the NPL does not itself create, alter, or revoke any individual's rights or obligations with regard to an individual site. The NPL is designed primarily for informational