The Proposal

The FAA proposes an amendment to § 71.181 of part 71 of the Federal Aviation Regulations (14 CFR part 71) to provide controlled airspace for The Dalles VHF Omnidirectional Range/Distance Measuring Equipment (VOR/DME–A) approach segment from The Dalles VOR Tactical Air Navigation (VORTAC) to MUGGZ intersection (DLS 165R) which is presently outside of controlled airspace. The intent of this action would be to segregate aircraft operating in visual flight rules conditions from aircraft operating in instrument flight rules conditions. The area would be depicted on aeronautical charts for pilot reference. Section 71.181 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6G dated September 4, 1990.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, if promulgated, will not have a significant economic impact positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

The Dalles, Oregon [Revised]

That airspace extending upward from 700 feet above the surface within a 5-mile radius of The Dalles Municipal Airport (lat. 45°37'07" N., long. 121°09" W) and that airspace within 5-miles each side of The Dalles VORTAC (lat. 45°42'40" N., long. 121°05'59" W.) 184° radial extending from The Dalles VORTAC to 17.5-miles south of the VORTAC, and that airspace between The Dalles Vortac 206° radial clockwise to the 222° radial extending from the 5-mile radius of the Airport to the 11.5-mile radius of the Airport, and that airspace 5-miles either side of the 17.3-mile radius of the VORTAC between the 121° radial clockwise to the 206° radial: that airspace extending upward from 1,200 feet above the surface within 8-miles north and 6-miles south of The Dalles VORTAC 281° radial and 101° radial extending from 7-miles west to 14 miles east of the VORTAC, and within 5-miles north of the VORTAC 101° radial extending from 14-miles east to 23-miles east of the VORTAC, and that airspace within a 23-mile radius of the VORTAC extending clockwise from the 101° radial to the 272° radial, excluding the airspace within the Portland, OR, Transition Area.

Issued in Seattle, Washington, on July 12, 1991.

Helen M. Parke,

Assistant Manager, Air Traffic Division.

[FR Doc. 91–17880 Filed 7–26–91; 8:45 am]

BILLING CODE 4910–13–M

Coast Guard

33 CFR Part 117

[CCGD5–91–29]

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, Elizabeth River, South Branch, Chesapeake, VA

AGENCY: Coast Guard, DOT.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The Coast Guard is issuing a supplemental proposed rule for the operation of the Dominion Boulevard drawbridge across the Atlantic Intracoastal Waterway, Southern Branch of the Elizabeth River, mile 8.8, in Chesapeake, Virginia, by reducing the morning and evening rush hour restriction on drawbridge openings. This proposed change to the extent practical and feasible, is intended to provide for regularly scheduled drawbridge openings during those rush hour periods.

DATES: Comments must be received on or before September 12, 1991.

ADDRESSES: Comments should be mailed to Commander (ob), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004. The comments and other materials referenced in this notice will be available for inspection and copying at the above address, room 507, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Comments may be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Administrator, Fifth Coast Guard District, at (804) 393–6222.

SUPPLEMENTARY INFORMATION: On August 6, 1990, the Coast Guard published a proposed rule (55 FR 31846) to evaluate bridge opening restrictions during the morning and evening rush hours for the Dominion Boulevard Bridge. The Commander, Fifth Coast Guard District also published the proposed rule as a public notice on August 7, 1990. Interested persons were given until September 20, 1990, to comment on the proposed rule that was published in the **Federal Register**. The comment period for the public notice ended September 20, 1990. A supplemental Public Notice was issued on September 17, 1990, with the comment period ending October 22, 1990.

This supplemental proposed rule reduces morning and evening rush hour restrictions proposed in August 1990, by one hour in the morning and one hour in the afternoon. It was determined that the proposed three hour restriction in the morning and evening was too harsh a closure for waterway traffic transiting on the Southern Branch of the Elizabeth River.

Public comments are requested on the reduced morning and evening rush hour restrictions to ensure that this proposal is reasonable. Persons wishing to comment may do so by submitting written comments to the office listed under "ADDRESSES" in this preamble. Persons submitting comments should include their names and addresses, identify the bridge and give reasons for their comments. The Commander, Fifth Coast Guard District, will evaluate all communications received and determine a final course of action on this supplemental proposal. This rule may be changed based on comments received.

Drafting Information

The drafters of this notice are Linda L. Gilliam, project officer, and LT M.L. Lombardi, project attorney.

Discussion of Proposed Regulations

Concerned motorists requested that the regulations for the drawbridge across the Southern Branch of the Elizabeth River at mile 8.8 in Chesapeake, Virginia, be amended to restrict openings during the peak highway traffic hours to help reduce traffic congestion, but remain open on signal during the rest of the time. The proposed change would close the Dominion Boulevard Bridge to commercial, recreational, and public vessels Monday through Friday, except Federal holidays, from 6 a.m. to 9 a.m. and from 3 p.m. to 6 p.m. A provision that allows the draw to open on signal at all times for vessels in distress was made a part of the proposal. As a result of the proposed rule that was published and the public notice issued on August 7, 1990, written comments were received from the maritime community and the motoring public. The comments from the motorists were all in favor of the proposed restrictions during peak traffic hours since elimination of draw openings during these hours would help reduce traffic disruption, delays, congestion and minor accidents. The comments from the commercial maritime industry were opposed to restricting the drawbridge based on such generalized factors as economic impact concerns and safety. This supplemental proposal includes that provision, but reduces the hours of morning and evening rush hour restrictions on the bridge. The hours of restriction on the drawbridge were greatly reduced after the comments from the commercial marine industry were reviewed. It was determined that restricting the drawbridge openings three hours in the morning and three hours in the evening was too harsh; therefore, the hours of restriction the Coast Guard is proposing are 6:30 a.m. to 7:30 a.m. and 3:30 p.m. to 5 p.m., Monday through Friday, except Federal holidays. These new proposed hours will reduce the risk of safety hazards on the water while still providing waterway users short delays along this waterway as opposed to the schedule originally proposed.

In deciding the issues in case, consideration was given to all views. However, it is felt that the needs of motorists who use the bridge warrant special consideration. The Coast Guard feels that imposition of this proposed rule, will not create an undue hardship on commercial interests since these companies can plan most of their vessel transits around the restricted hours of operation.

Federalism Assessment

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rule will not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Evaluation

These proposed regulations are considered to be non-major under Executive Order 12291 and non-significant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of the proposed regulation on commercial navigation or on any industries that depend on waterborne transportation should be minimal. Because the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

Environmental Impact

This rulemaking has been thoroughly reviewed by the Coast Guard and it has been determined to be categorically excluded from further environmental documentation in accordance with section 2.B.2.g.5 of Commandant Instruction M16475.1B. A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, the Coast Guard proposes to amend part 117 of title 33, Code of Federal Regulations to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

2. Section 117.997(d) is redesignated as § 117.997(e) and new paragraph § 117.997(d) is added to read as follows:

§ 117.997 Atlantic Intracoastal Waterway, South Branch of the Elizabeth River to the Albemarle and Chesapeake Canal.

* * * * *

(d) The draw of the Dominion Boulevard Bridge, mile 8.8, in Chesapeake shall open on signal, except:

(1) From 6:30 a.m. to 7:30 a.m. and from 3:30 p.m. to 5 p.m., Monday through Friday, except Federal Holidays, the draw will remain closed to all vessel traffic.

(2) The draw shall open on signal at all times for vessels in distress.

* * * * *

Dated: July 12, 1991.

H.B. Gehring,

Captain, U.S. Coast Guard, Commander, Fifth Coast Guard District Acting.

[FR Doc. 91–17900 Filed 7–26–91; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–3978–5]

National Priorities List for Uncontrolled Hazardous Waste Sites

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 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 22 new sites to the NPL. 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 23; 1,188 sites are on the NPL at this time, for a total of 1,211.

DATES: Comments must be submitted on or before September 27, 1991.

ADDRESSES: Mail comments in triplicate, to Larry Reed, Acting 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 FURTBER INFORMATION CONTACT: Agnes Ortiz, Hazardous Site Evaluation Division, Office of Emergency and Remedial Response (0S–230), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC, 20460, or the Superfund Hotline, Phone (800) 424–9346 or (703) 920–9810 in the Washington, DC, metropolitan area).

SUPPPLEMENTARY 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 migration 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]

[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.

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 40658). The NPL has been expanded since then, most recently on February 11, 1991 (56 FR 5598). The NPL contains 1,188 final sites at this time.

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 34 sites from the NPL, most recently the M&T Delisa landfill on March 21, 1991 (56 FR 11938). The 34 sites are listed below.

FINAL SITES DELETED FROM NPL BECAUSE NO FURTHER RESPONSE NEEDED JULY 1991

State	Site name	Location
AR	Cecil Lindsey	Newport.
AS	Taputimu Farm [1]	Island of Tutila.
AZ	Mountain View Mobile Home Estates (once listed as Globe) [1].	Globe.
CM	PCB Warehouse [1]	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.
MD	Chemical Metals Industries, Inc.	Baltimore.
MN	Middletown Road Dump.	Annapolis.
MI	Gratiot County Golf Course.	St. Louis.
MI	Whitehall Municipal Wells.	Whitehall.
MN	Morris Arsenic Dump	Morris.
MS	Walcotte Chemical Co. Warehouses.	Greenville.
NC	PCB Spills [1]	243 Miles of Roads.
NJ	Cooper Road	Voorhees Township.
NJ	Friedman Property (once listed as Upper Freehold Site).	Upper Freehold Township.
NJ	Krysowaty Farm	Hillsborough.
NJ	M&T Delisa Landfill	Asbury Park.
OH	Chemical & Minerals Reclamation.	Cleveland.
PA	Enterprise Avenue	Philadelphia.
PA	Lehigh Electric & Engineering Co.	Old Forge Borough.

FINAL SITES DELETED FROM NPL BECAUSE NO FURTHER RESPONSE NEEDED JULY 1991—Continued

State	Site name	Location
PA	Presque Isle	Erie.
PA	Reeser's Landfill	Upper Macungie Township.
PA	Voortman Farm	Upper Saucon Township.
PA	Wade (ABM) (once listed as ABM-Wade).	Chester.
TT	PCB Wastes [1]	Pacific Trust Terrace.
TX	Harris (Farley Street)	Houston.
VA	Matthews Electroplating [1].	Roanoke County.
WA	Toftdahl Drums	Brush Prairie.

Number of sites deleted: 34.

[1] State top-priority.

In addition, 14 sites on the NPL are in the construction completion category (56 FR 5634, February 11, 1991), and fifteen others are awaiting final documentation before they can be formally placed in the construction completion category. The construction completion category includes sites awaiting deletion, sites awaiting first five-year review after completion of the remedial action, and sites undergoing long-term remedial actions at which the construction phase of the action is complete.

Thus, a total of 63 sites have been deleted, placed in the construction completion category, or are awaiting final documentation before being placed in the construction completion category.

Pursuant to the NCP at 40 CFR 300.425(c), this document proposes to add 22 sites to the NPL. On May 9, 1991 (56 FR 21460), EPA proposed White Chemical Corp., Newark, New Jersey, on the basis of an ATSDR advisory. Final and proposed sites now total 1,211.

Public Comment Period

The Headquarters and Regional public dockets for the NPL contain documents relating to the evaluation and scoring of sites in this proposed rule. 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, 202/382-3046.

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, 26 Federal Plaza, 7th Floor, Room 740, New York, NY 10278, 212/264-6696.

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, 5 HSM-TUB 7, 230 South Dearborn Street, Chicago, IL 60604, 312/886-6214.

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

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

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

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

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

The Headquarters docket 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 includes all information available in the Headquarters docket for sites in that Region, as well as the actual reference documents containing the data principally relied upon by EPA in calculating or evaluating the HRS scores for sites in that Region. These reference documents are available only in the Regional dockets. They may be viewed, by appointment only, in the appropriate Regional Docket or Superfund Branch Office. Requests for copies may be directed to the appropriate Regional Docket or Superfund Branch. An informal written request, rather than a formal request 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 formal 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 5603, February 11, 1991.) Although EPA intends to pursue the same policy with sites in this rule, EPA can guarantee that it will consider only those comments received during the formal comment period. EPA cannot delay a final listing decision solely to accommodate consideration of late comments.

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, serves 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 April 1991, EPA has conducted 1,940 removal actions, 489 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 most expeditiously accomplish cleanup of the site while using CERCLA's limited resources as efficiently as possible.

EPA will not necessarily fund remedial response actions in the same order as a sites' HRS scores, 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. 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 nor 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 19 non-Federal sites and Table 2 identifies 3 Federal facility sites proposed for the NPL in this rule. Both tables follow this preamble. All are proposed based on HRS scores of 28. 50 or above. 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 is proposing an alternative, and what it believes to be more useful, format for presenting NPL sites in both proposed and final rules. Proposed and final rules would present sites in alphabetical order by State and by site name within the State. Once a year the entire NPL, appendix B, would be published. The following table presents the 22 sites in this rule in the proposed format.

NATIONAL PRIORITIES LIST, PROPOSED SITES BY STATE (PROPOSED ALTERNATIVE)

Site name	City/county	Notes [1]
California:		
Del Amo Facility	Los Angeles	
Stoker Co	Imperial	
Westminster Tract #2633.	Westminster	
Florida:		
Broward County—21st Manor Dump.	Fort Lauderdale	
Illinois:		
Ottawa Radiation Areas.	Ottawa	
Kentucky:		
National Electric Coil Co./ Cooper Industries.	Dayhoit	
National Southwire Aluminum Co.	Hawesville	
Nebraska:		
Cleburn Street Well.	Grand Island	
Sherwood Medical Co.	Norfolk	

NATIONAL PRIORITIES LIST, PROPOSED SITES BY STATE (PROPOSED ALTERNATIVE)—Continued

Site name	City/county	Notes [1]
New Hampshire:		
New Hampshire Plating Co.	Merrimack	
New York:		
Li Tungsten Corp.	Glen Cove	
Pennsylvania:		
Crossley Farm	Hereford Twp.	
Rodale Manufacturing Co., Inc.	Emmaus Borough	
Rhode Island:		
West Kingston Town Dump/URI Disposal Area.	South Kingstown	
South Dakota:		
Annie Creek Mine Tailings.	Lead	
Utah:		
Petrochem Recycling Corp./Ekotek, Inc.	Salt Lake City	
Washington:		
Moses Lake Wellfield Contamination.	Moses Lake	
Tulalip Landfill	Marysville	
Vancouver Water Station #4 Contamination.	Vancouver	

[1] Column reserved for State top-priority or ATSDR Health Advisory Sites.

NATIONAL PRIORITIES LIST, PROPOSED FEDERAL FACILITY SITES BY STATE (PROPOSED ALTERNATIVE)

Site name	City/county
Hawaii:	
Pearl Harbor Naval Complex.	Pearl Harbor.
Texas:	
Pantex Plant (USDOE)	Pantex Village.
Washington:	
Hamilton Island Landfill	North Bonneville.

EPA is proposing this change because as the NPL has grown over the years, listing sites by rank has made it increasingly difficult for users of appendix B to find individual sites. Almost all public requests for the NPL ask for a list organized by State, rather than by site, rank and score. Information on rank or actual HRS score still will be provided upon request. (Informal requests are encouraged since they generally take less time than requests under the Freedom of Information Act.)

Further, EPA is considering whether to retain in the preamble (but not appendix B) some form of identification by rank of each site included in the rule. Presentation of the NPL in groups of 50 often has been confusing to the public, and has not conveyed the significance of rankings, as EPA had intended. For example, sites having the same scores have different ranks, and sometimes are even in different groups. In addition, State top priority sites are placed in the top 100 sites, as required by CERCLA, even though some of their scores are lower than many sites ranked below them. However, some information on relative ranking of sites may be useful to the public. To eliminate some of the concerns with the present method of ranking, EPA is considering rankings in larger groups, possibly even as top, middle, or low thirds of the NPL.

The public is invited to comment on these proposed changes in NPL format, and on whether rankings are useful and should be continued, and in what form, as well as to provide any further suggestions on ways to improve the clarity and usability of Appendix B.

Statutory Requirements

CERCLA restricts EPA's authority to respond to certain categories of releases of hazardous substances, pollutants, or contaminants by expressly excluding some substances, such as petroleum, from the response program. In addition, CERCLA section 105(a)(8)(B) directs EPA to list priority sites "among" the known releases or threatened releases of hazardous substances, pollutants, or contaminants, and section 105(a)(8)(A) directs EPA to consider certain enumerated and "other appropriate" factors in doing so. Thus, as a matter of policy, EPA has the discretion not to use CERCLA to respond to certain types of releases. 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, the latest being February 11, 1991 (56 FR 5598).

Releases From Resource Conservation and Recovery Act (RCRA) Sites

EPA's policy is that sites 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 two sites to the NPL, New Hampshire Plating Co. in Merrimack, New Hampshire, and Petrochem Recycling Corp./Ekotech, Inc., in Salt Lake City, Utah, that are subject to RCRA Subtitle C corrective action authorities. Material has been placed in the public docket for the Petrochem Recycling Corp./Ekotech, Inc. site confirming that the owner is bankrupt. Regarding the New Hampshire Plating Co. site, even though the owner has not formally invoked the bankruptcy laws, available documentation indicates that the company assets cannot cover a current State lien on the property for response action, much less address any new expenses which would be incurred in remediating the site. A moredetailed discussion of this issue as well as supporting documentation is available in the public docket for this site. Since New Hampshire Plating Co. is unable to finance corrective action, the site meets the NPL/RCRA policy for placement on the NPL.

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 three Federal facility sites to the NPL.

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 site responses result from site-by-site decisions about what actions to take, not directly from the act of listing itself. Nonetheless, it is useful to consider the costs associated with responding to all sites 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. Design and construction of the selected remedial alternative follow completion of the RI/FS, and operation and maintenance (O&M) activities may continue after construction has been completed.

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

The State's share of site cleanup costs has been amended by CERCLA section 104. For privately-owned sites, as well as at publicly-owned but not publicly-operated sites, EPA will pay for 100 percent of the costs of the RI/FS and remedial planning, and 90 percent of the costs of the remedial action, leaving 10 percent to the State. For publicly-operated sites, the State's share is at least 50 percent 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.
- For other cleanups, EPA will share for up to 1 year the cost of that portion of response needed to assure that a remedy is operational and functional. After that, the State assumes all O&M costs.

In previous NPL rulemakings, the Agency estimated the costs associated with these activities (RI/FS, remedial design, remedial action, and O&M) on an average-per-site and total cost basis. EPA will continue with this approach, using the most recent (1988) cost estimates available; these estimates are presented below. However, 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	1,100,000
Remedial design	750,000
Remedial action	[2] 13,500,000
Net present value of O&M [3]	[2] 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 percent 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 percent of remedial actions and 10 percent 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 percent 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 percent of the non-Federal sites proposed for the NPL in this rule will be privately-owned and 10 percent 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 $60 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 percent of sites. Using this estimate, State O&M costs would be approximately $54 million.

Proposing a hazardous waste site for 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.

Associated with the costs are significant potential benefits and cost

offsets. The distributional costs to firms of financing NPL remedies have corresponding "benefits" in that funds expended for a response generate employment, directly or indirectly (through purchased materials).

VII. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act of 1980 requires EPA to review the impacts of this action on small entities, or certify that the action will not have a significant impact on a substantial number of small entities. By small entities, the Act refers to small businesses, small 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, proposing sites for 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, Proposed Update #11 Sites (By Group)

NPL Gr [1]	State	Site name	City/county
1	CA	Stoker Co	Imperial.
1	UT	Petrochem Recycling Corp./Ekotek, Inc.	Salt Lake City.
4	FL	Broward County—21st Manor Dump.	Fort Lauderdale.
4	WA	Tulalip Landfill	Marysville.
5	IL	Ottawa Radiation Areas.	Ottawa.
5	KY	National Electric Coil Co./ Cooper Industries.	Dayhoit.
5	KY	National Southwire Aluminum Co.	Hawesville.
5	NE	Cleburn Street Well.	Grand Island.
5	NE	Sherwood Medical Co.	Norfolk.
5	NH	New Hampshire Plating Co.	Merrimack.
5	NY	Li Tungsten Corp.	Glen Cove.
5	PA	Rodale Manufacturing Co., Inc.	Emmaus Borough.
5	RI	West Kingston Town Dump/ URI Disposal Area.	South Kingstown.
5	SD	Annie Creek Mine Tailings.	Lead.
5	WA	Moses Lake Wellfield Contamination.	Moses Lake.
5	WA	Vancouver Water Station #4 Contamination.	Vancouver.
6	CA	Del Amo Facility	Los Angeles.
15	CA	Westminster Tract #2633.	Westminster.
21	PA	Crossley Farm	Hereford Township.

Number of sites proposed for listing: 19.
[1] Sites are placed in groups (Gr) corresponding to groups of 50 on the final NPL.

Table 2.—National Priorities List, Federal Facility Sites, Proposed Update #11 (by Group)

NPL Gr [1]	State	Site name	City/county
1	HI	Pearl Harbor Naval Complex.	Pearl Harbor.
4	TX	Pantex Plant (USDOE).	Pantex Village.
4	WA	Hamilton Island Landfill (USA/ COE).	North Bonneville.

Number of Federal facility sites proposed for listing: 3.
[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.

Dated: July 19, 1991.

Don R. Clay,

Assistant Administrator, Office of Solid Waste and Emergency Response.

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FEDERAL MARITIME COMMISSION

46 CFR Parts 515, 560 and 572

[Docket No. 91–20]

Exemption of Certain Marine Terminal Services Arrangements

AGENCY: Federal Maritime Commission.

ACTION: Notice of proposed rulemaking; Extension of reply date.

SUMMARY: On May 15, 1991, the Federal Maritime Commission published a notice of proposed rulemaking (56 FR 22384) which proposes to amend 46 CFR parts 515, 560 and 572 to conditionally exempt, pursuant to section 35 of the Shipping Act, 1916, and section 16 of the Shipping Act of 1984, certain marine terminal services arrangements from certain agreement filing requirements of the Shipping Act, 1916, the Shipping Act of 1984 and the Commission's implementing regulations thereunder, and to conditionally discontinue the Commission's tariff filing requirements for such matters. The notice of proposed rulemaking required the filing of comments by July 15, 1991, and replies to comments by August 13, 1991. The American Association of Port Authorities ("AAPA") has requested that time for filing replies be extended to August 31, 1991, to provide ample time to review and respond to comments. The Commission has determined to grant AAPA's request.

DATES: Replies to comments due on or before August 31, 1991.

ADDRESSES: Send an original and fifteen copies of replies to: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573–0001, (202) 523–5725.

FOR FURTHER INFORMATION CONTACT: Bryant L. VanBrakle, Deputy Director, Bureau of Domestic Regulation, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573–0001, (202) 523–5796.