CALL FOR INFORMATION AND NOMINATIONS
COOK INLET-SALE 149

LEGEND

Planning Area and Area of Hydrocarbon Potential

Area of Proposed 5-Year Comprehensive Program

Additional Area Considered for Inclusion In Proposed Final 5-Year Comprehensive Program

Area of Call

[Map with areas marked as per Legend]
Part IV

Department of Labor

Employment and Training Administration

Job Training Partnership Act: Title III
National Reserve Grants for Clean Air
Employment Transition Assistance; Notice of Availability of Funds and Application Procedures.
Availability of Funds and Application Procedures for Program Years 1991 and 1992

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of availability of funds and solicitation for grant applications.

SUMMARY: The Employment and Training Administration of the Department of Labor is announcing that funds are available for a new Clean Air Employment Transition Assistance (CAETA) grant program. All applications prepared and submitted pursuant to these guidelines and received at the address below will be considered. Grant awards will be made only to the extent that funds are now available. Funds are now available for obligation for this new program from October 1, 1991 through June 30, 1993.

DATES: Applications will be accepted on an ongoing basis throughout the balance of Program Year 1991 and Program Year 1992 (July 1, 1991 through June 30, 1993) as the need for funds arises at the State and local level. Grant awards will be made during the Program Years in response to the applications received. There is no closing date for applications under this announcement.

ADDRESSES: It is preferred that applications be mailed. Mail or hand deliver applications to: Office of Grants and Contracts Management, Division of Acquisition and Assistance, Employment and Training Administration, U.S. Department of Labor, room C-4305, 200 Constitution Avenue, NW., Washington, DC 20210, Attention: Dislocated Worker Grants, Barbara J. Carroll, Grant Officer.

FOR FURTHER INFORMATION CONTACT: Mr. Robert N. Colombo, Director, Office of Worker Retaining and Adjustment Programs. Telephone: (202) 535-0577. (This is not a toll free number).

SUPPLEMENTARY INFORMATION: The Employment and Training Administration (ETA) announces the availability of funds reserved by the Secretary of Labor for the delivery of dislocated worker services to workers whose dislocation occurred as a consequence of an employer's compliance with the Clean Air Act, and the procedures to make application for these funds. Funding is authorized by the Job Training Partnership Act (JTPA or Act). The application procedures, selection criteria, and approval process contained in this notice are issued in accordance with the JTPA regulations 20 CFR 631.61.

This program announcement consists of four parts. Part I provides the background and purpose of the discretionary funds for activities under section 326 of the Act. Part II establishes basic U.S. Department of Labor (Department or DOL) policies and emphasizes for these discretionary grants. Part II describes the basic grant application process. Part IV provides detailed guidelines for the preparation of applications. The primary selection criteria used in reviewing applications are also included.

The JTPA Title III program is listed in the Catalogue of Federal Domestic Assistance under 20 CFR 631.61 “Employment and Training Assistance—Dislocated Workers” (JTPA Title III Programs).

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Part I. Background
A. Fund Availability

Funds available for Clean Air Employment Transition Assistance (CAETA) programs total $50 million and shall be awarded pursuant to the requirements contained in the JTPA and these guidelines. These funds are in addition to funds appropriated for the basic Title III program.

B. Circumstances Under Which Services May Be Provided With CAETA National Reserve Funds

Services described in JTPA section 314 may be provided with CAETA national reserve funds where there is a disqualification resulting from requirements of the Clean Air Act. (42 U.S.C. 7401 et seq.)

Part II. Department of Labor Policy and Program Emphasis
A. Basic Policies

1. Available funds shall be awarded by the Secretary in a manner that efficiently targets resources to areas most in need, and in a manner which promotes effective use of funds.

2. All projects and activities funded shall be subject to the applicable provisions of JTPA, the appropriate regulations, and to the requirements contained in these instructions and the Grant Officer’s award document(s) and any subsequent grant amendment authorized. All applications shall also be subject to Clean Air Employment Transition Assistance Program regulations once such regulations are published in final.

3. CAETA funds shall not be considered as an ongoing source of funds for existing centers or other projects or activities. For this reason, it is a general policy of the Department that it will not refund CAETA national reserve projects. Projects involving extraordinary circumstances, such as massive continuing layoffs, may be considered for refunding.

4. CAETA national reserve funds are not to be used to subsidize a grantee’s ongoing operations. A grantee may only be reimbursed for costs over and above those costs associated with the grantee’s ongoing costs. It is the Department’s position that where CAETA national reserve funded projects are operated by existing State or substate grantees, administrative savings will be realized.

Note: “Substate grantee” is defined at JTPA section 301.

5. CAETA national reserve funds shall only be provided to meet needs which cannot be met by JTPA formula funds or other State and local resources. Grants will be primarily awarded, therefore, where substantial numbers of workers, relatively speaking, in a substate area, labor market, region or industry are dislocated as a consequence of a firm’s compliance with the Clean Air Act and the State and/or substate area do not have sufficient JTPA funds available to assist such workers.
6. Eligible dislocated workers to be served with CAETA national reserve funds shall meet the requirements of part IV, section 1(b) of these guidelines.

7. The Department shall make every effort to review and respond to each application within 45 days of the Department's receipt of the application.

8. No grant funds awarded shall be used to reimburse costs incurred prior to the date authorized by the Grant Officer.

B. Secretary's Rights Reserved

The Secretary reserves the right to distribute some CAETA national reserve funds in a manner other than that provided by this notice, consistent with the JTPA, and taking into consideration special circumstances and unique needs which may arise throughout the course of the program year.

The Secretary also reserves the right to fund individual projects on an incremental basis where the Department determines that such an action would result in the most effective use of available resources.

If insufficient applications are received by the Department which are of acceptable quality and which meet the guidelines and selection criteria contained in this notice to exhaust the CAETA national reserve account, the Department shall take whatever action it deems necessary and appropriate, consistent with the Act and the regulations, to exhaust the funds.

C. Basic Planning Rules

1. Operating Definition of "State"

For purposes of these grant application procedures, State shall mean one of the 50 States of the United States and the following nine grant eligible territories and legal jurisdictions: The District of Columbia, The Commonwealth of Puerto Rico, The Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Marianas. The freely associated states of the Republic of the Marshall Islands, the Federated States of Micronesia, and the Trust Territory of the Pacific Islands/Republic of Palau, while not "States" under the Clean Air Act (See 42 U.S.C. 7602 (d)(1)), are eligible to receive grants under this program, since Clean Air impacted individuals may reside in those areas.

2. Allocation of Costs

a. State administration. States may include no more than 1.5 percent of $15,000, whichever is lower, for State administration of "pass-through" grants. State administrative cost requests that are above this established set-aside must be accompanied by a justification showing the projected person-hours and functions to be performed, and any other relevant cost information. This cost is to be included in the administrative cost category. It is expected that these funds will be used for subgrant administration, the provision of technical assistance, online and desk monitoring, and data collection.

States must provide specific information regarding why State 40 percent funds are not available to support a project.

b. Administrative requirements for grant projects. (1) In addition to applicable administrative requirements contained in JTPA and these guidelines, some grantee organizations may be subject to other requirements as listed below:

(a) State and local Governments (except for JTPA grant recipients under the Federal, State, Governor-Secretary Agreement block grant)—OMB Circular A-87 (cost principles) and 29 CFR part 87 (Uniform Administrative Requirements for Grants with State and Local Governments) apply. The audit requirements at 29 CFR part 86 also apply.

(b) Non-Profit Organizations—OMB Circulars A-122 and A-133 (Audits) apply.

(c) Educational institutions—OMB Circulars A-21 and A-133 (Audits) apply.

(d) Profit Making Commercial Firms—Federal Acquisition Regulation (FAR)—48 CFR part 31 apply.

(2) Any planned equipment purchases with a unit cost of $500 or more must be justified and specifically listed along with its purchase price in the grant application. If equipment purchased is to be prorated, the total cost and the CAETA grant's share of the total cost must be indicated. Equipment planned to be leased and the cost of such equipment must be listed in the grant application.

c. Establishment of a Labor Management Committee. Costs associated with the establishment of a Labor Management Committee are appropriately charged as Rapid Response costs against the State's 40 percent Title III formula funds. Therefore, they are not to be charged to the CAETA grant. Ongoing operational costs of the Labor/Management Committee during the period of performance of the grant are chargeable to the Administration Cost category.

d. When a participant is eligible for either partial or full reimbursement of training costs (e.g., Pell grants, employer tuition reimbursement, etc.) the application must describe the procedures established for the reimbursement and/or crediting of such costs if such costs are initially charged to the CAETA national reserve grant.

Note: Where CAETA national reserve funds are expended for training prior to certification of TAA eligibility, CAETA national reserve funds shall not be reimbursed to the JTPA program when TAA funds become available to cover the balance of the training.

e. Necessary and reasonable costs/cost effectiveness. In accordance with 20 CFR 629.37(a), costs are required to be "reasonable" and "necessary" to be charged to the grant. In reviewing a grant application, the Grant Officer shall consider these criteria. Areas of concern include but are not limited to: Staff to participant ratios; the proportion of staff costs to the total grant; the "cost of purchased or leased equipment; the cost of proposed training as it relates to the complexity of the skills to be learned; the length of training; and the provider's access to other supplemental funding sources. The extent to which the proposed project budget reflects costs that appear to be "reasonable" and "necessary" will be a significant factor in determining the project's cost effectiveness.

f. All indirect administration costs shall be charged to the Administration Cost category. Any indirect costs that are not administrative shall be itemized separately in the appropriate cost category. If an indirect rate is applied, the basis for the rate and the approving authority must be cited.

g. It is not intended that CAETA national reserve projects automatically be charged 15 percent of the award amount toward the overall administrative costs of the SDA/substate grantee. The amount planned to be used for administration and the specific purposes for which it will be used must be determined in order for an administrative cost budget line item to be established. Once determined and approved, the amount budgeted for administration may be included in any existing administrative cost pool of the SDA/substate grantee which is administering the CAETA national reserve grant. A portion of costs charged to the administrative cost pool may be allocated to the grant, up to the total amount included in the cost pool from the grant and consistent with overall expenditures for the grant and with the existing rules for the charging of costs against an administrative cost pool.
3. Additional Funding

The amount of a grant award cannot be increased after the grant is awarded. If circumstances change so substantially that additional funds are required to serve dislocated workers from the targeted layoff or closing, another grant application must be submitted. The review and approval procedures will apply to a second grant application as apply to other dislocated worker project proposals. A second application shall include an up-to-date status report of performance under the first award including: Overall enrollments, enrollments by activity and expenditures (obligations and expenditures by cost category).

4. Activities

a. The application budget shall not include costs for activities or services begun with JTPA formula funds used for program purposes prior to the grant award. If initial training costs for a participant are incurred with such funds, the balance of the training commitment for that participant must be funded by State or substate formula funds. This policy does not apply to State funded rapid response activities.

b. Applications shall not provide for using CAETA reserve funds for work experience.

c. A minimum of 50 percent of all participants to be served with CAETA national reserve funds shall receive educational and/or occupational retraining, unless otherwise specifically authorized by the Grant Officer.

The 50 percent minimum may include participants whose training is funded by TAA, employer or union-funded tuition or training assistance, as well as Pell grants and other educational financial assistance.

d. CAETA national reserve funds shall not be used for rapid response activities. Rapid response activities are paid for out of State 40 percent funds.

e. CAETA national reserve funds shall not be awarded to fund an individual training project or an individual activity.

5. Identification of Participants To Be Served

The applicant must explain how affected workers most in need of services to return to the labor force will be identified and assured access to necessary services. The applicant must also explain how the planned number of participants to be served was determined.

6. Project Locations

If an applicant plans to operate more than one project or subproject, each location shall be listed and separate budgets, implementation schedules and, where appropriate, lists of local demand occupations for retraining provided. In all cases, the applicant must also include a summary budget and implementation schedule for the entire project.

7. Place of Work Expectations

Since funds and resources are specifically focused on the needs of a targeted group of workers and their employment and training needs, the Department expects that:

a. Project placement rate: The planned entered employment rate for any program will be at least 70 percent.

b. Occupational classroom training: A placement rate of 75 percent will be expected from occupational classroom training. This rate may be calculated by including the provisions of job search assistance and other services to participants who receive occupational classroom training.

c. On-the-Job Training (OJT)—A placement rate of at least 60 percent will be expected for OJT. This rate may be calculated by including the provisions of job search assistance and other services to participants who receive OJT. If the applicant does not believe such a rate can be achieved in its proposal, it must provide reasons for planning a lower rate.

8. On-the-Job Training (OJT)

No OJT under six weeks duration shall be funded with CAETA reserve grant funds. Any OJT training for between six and 10 weeks in duration shall be consistent with an approved rationale to determine the length of training for a given occupation. The rationale shall be stated in the application. An OJT contract must contain a "hire first" provision.

III. The Basic Application Process

A. Funding Considerations

1. Identification of Dislocated Workers

a. Dislocated workers eligible to be provided services with CAETA national reserve funds are defined as individuals who meet the definitions set forth in section 301(a) of the Act and 20 CFR 631.3, 29 U.S.C. 1651(a) and must be dislocated as a consequence of a firm's compliance with the Clean Air Act. The dislocated workers to be served must be specifically identified in the application.

b. Applications should indicate that the provision of services to eligible participants will take into account those "most in need", those least likely to be recalled, those with the least transferable or most obsolete occupational skills, those with the most barriers to other employment opportunities such as poor reading or math skills. Those "most in need", for purposes of CAETA reserve funding, will be determined on a project-by-project basis. Applications shall provide that those participants requiring labor exchange services and other minimal employment services are directed to other appropriate resources such as the State Employment Service.

2. CAETA dislocated worker project applications selected for funding will generally be those which:

a. Effectively identify and target the project to specific groups of dislocated workers, industries or plants, occupations and geographic areas;

b. Specify occupational and educational training related to local demand occupations;

c. Demonstrate a timely response to the target group's employment and training needs for such services; and

d. Are cost effective in terms of services to be provided and results to be achieved.

3. Priority consideration will be given to applications focusing on services to workers who "are unlikely to return to their previous occupation or industry" with particular emphasis requiring and wanting retraining for occupations determined to be in demand in the local economy.

B. Screening and Review of Applications

1. Screening Requirements

All applications will be screened to determine completeness and conformity to the Act, regulations, application guidelines and other requirements contained in this announcement. In order for an application to be in conformance, it must be paginated and include the following:

a. Transmittal letter. A transmittal letter from the Governor or the applicant's authorized signatory containing the required assurances.


c. Budget. A detailed line item budget according to the applicable cost categories found at 20 CFR 631.13 of the JTPA Title III regulations and as outlined in these guidelines.

d. Project narrative. The narrative portion of the application including attachments shall not exceed twenty-five (25) double-spaced pages.
The narrative must address all of the elements specified in the application guidelines.

e. Certifications. (1) An original signature certification regarding "Drug-Free Workplace" must be submitted with the application except in the case where the applicant is a State. States may opt to submit a copy of the Statewide or agency annual certification renewable every Fiscal Year per Training and Employment Information Notice (TEIN) No. 15-90. This certification requirement applies only to the Federal grantee. The "Certification Regarding Drug-Free Workplace Requirements" form is found in appendix A.

(2) A "Certification Regarding Debarment, Suspension and other Responsibility Matters, Primary Covered Transactions" must be submitted with all applications as required by the DOL regulations implementing Executive Order 12549, "Debarment and Suspension," 5 CFR 98.510. This certification form is found in appendix B.

(3) A "Certification Regarding Lobbying" shall be submitted with each application as required by 29 CFR part 93, "New Restrictions on Lobbying." 54 FR 6736, 6751 (February 26, 1990). A suggested form incorporating the required text is found in appendix C.

(4) When the applicant is not the State JTPA entity (i.e., subject to the JTPA Governor/Secretary Agreement), SF 424B, Assurances—Non-Construction Programs, with an original signature, must be submitted with the application. This assurance form is found in appendix D.

2. Review and Evaluation

Complete conforming applications will be reviewed and evaluated based on the selection criteria specified in part IV and the availability of funds.

C. Information and Reporting Requirements

1. Records. By accepting a grant, the grantee agrees that it shall maintain and make available to the U.S. Department of Labor upon request, information on the operation of the project and on project expenditures. Such information may include the implementation status of the project, such as completion of subagreements, hiring of staff, date enrollments began, current and cumulative number of participants, and cumulative expenditures.

2. Reports. The grantee shall submit to the Employment and Training Administration, an original and two copies of:

   a. The Worker Adjustment Program Quarterly Report, ETA Form No. 9020 (OMB No. 1205-0274), and
   b. The Worker Adjustment Program Annual Program Report, ETA Form No. 9019 (OMB No. 1205-0274).

D. Grant Funding Procedures

1. Proposals funded pursuant to the Secretary/Governor agreement shall be subject to the following procedures.

   a. Once a decision is made by the Secretary to approve a proposal, the Secretary shall send a letter to the applicant announcing the award.
   b. The applicant shall also be contacted by telephone by the Employment and Training Administration's (ETA) Grant Officer to resolve any problems identified in the proposal and to develop a grant to be executed by the applicant and the Department of Labor. A letter announcing this process shall also be forwarded to the applicant from the ETA Grant Officer.
   c. All of the details of the grant shall be resolved by telephone and the grant document shall then be completed in duplicate by the Department’s grants office and forwarded to the applicant for signature. The applicant shall sign both copies of the grant document and return the copies to the ETA Grant Officer for final execution.
   d. The ETA Grant Officer shall sign both copies of the grant, and forward one signed copy to the applicant. The grant document and the transmittal letter shall instruct the grantee as to the date that the grantee may commence to incur costs against the executed grant.

2. Proposals not funded pursuant to the Secretary/Governor Agreement shall be subject to the following grant award procedures:

   a. When an emergency award is approved, the Grant Officer shall send an award letter to the applicant.

   b. For emergency proposals which are approved but not funded pursuant to the Secretary/Governor Agreement, the ETA Grant Officer shall both fax and mail an original initial grant once the Grant Officer has approved the award. The grantee shall sign both the faxed grant and the original grant, in duplicate. The signed fax copies should be faxed immediately to the Grant Officer. The two copies of the signed original grant shall be returned by mail as soon as executed. The Grant Officer will sign the returned fax copies and forward one to the grantee with a cover letter which will authorize the grantee to commence to incur costs and which will also instruct the grantee regarding the development and submission of a fully documented proposal to be submitted. The Grant Officer shall, upon receipt of the two signed originally copies, sign and return one original with a cover letter. This original initial grant will contain the same date for incurring costs as the faxed grant, and the same instructions for developing and submitting a fully documented proposal. The final level and any additional requirements shall be determined once the Department receives, reviews and approves the fully documented proposal.

   c. If the ETA Grant Officer receives, reviews and approves a fully documented proposal, the initial proposal shall be immediately re-submitted and the requirement will apply.
discretionary awards since such amendments can, and in many cases do, represent poor planning and/or management of the projects. Following are guidelines for when an amendment is necessary:

1. All grant amendment requests must be submitted to the Grant Officer by the authorized signatory citing the number of the Notice of Obligation transmitting the grant funds to the State or, in the case of a grantees who is not subject to the JTPA Governor/Secretary Agreement, the grant number. The States and grantees are responsible for monitoring the implementation and progress of their national reserve projects and identifying circumstances that would require a grant amendment request. All requests for grant amendments must be accompanied by an explanation of the reason for proposing such a change to the originally approved project plan.

(a) Extension of the period of performance. When an extension of the period of performance beyond the approved project period of operation is necessary, such extension requests must be submitted 60 days before the scheduled expiration date of the project as designated in the grant award letter or subsequent correspondence. The reason for the request explaining the change in circumstances that requires the extension must be provided.

(b) A revised quarterly implementation plan reflecting the revised period of performance which reflects the activity through the most recent quarter and the appropriate adjustments must accompany the grant amendment request.

(c) A revised budget (if appropriate).

(d) Grant amendment requests due to changes in project participant activity levels such as any increase or decrease of more than 15 percent in the total number of participants to be served or in the number of participants to receive Retraining services including classroom training, occupational skill training, on-the-job training, entrepreneurial training, remedial education, or other training serving more than 10 participants. In such circumstances, the following information must accompany the grant amendment request.

(a) The reason for the request explaining the change in circumstances that requires the extension.

(b) A revised quarterly implementation plan which reflects the activity through the most recent quarter, and the appropriate adjustments to reflect the requested new activity level.

(c) A revised budget (if appropriate).

(e) Grant amendment requests due to a change in the target area or a reduction in the target area that requires binding assistance to a worker dislocation. When the underexpenditure is not identified until after the end of the Program Year in which the funds were awarded, the State must provide the following information.

(a) Evidence that the original target group has substantially been served, or may be served at a reduced funding level. The circumstances resulting in this assessment by the State must be explained.

(b) Documentation of the services provided to the original target group. This may follow the format of the implementation schedule in identifying activities and numbers of participants served.
Part IV. Specific Application Requirements

A. Clean Air Employment Transition Assistance Programs Applications

An application for funds shall comply with the following requirements:

1. Application Rules
   a. Definitions. In addition to the definitions contained and cited in §381.2 of the JTPA Title III regulations, the following definitions shall apply to programs funded under this part:
      (1) Contractor means any entity which enters into a contract, grant or agreement with a grantee.
      (2) Grantee means any entity which receives a discretionary Clean Air Employment Transition Assistance grant directly from the DOL.
      (3) Industrywide project means services and activities provided by a single grantee to serve workers dislocated from at least three different plants or facilities as a result of compliance with the Clean Air Act in at least two different areas of a single State or two different States.
      (4) Multistate project means services and activities provided in more than one State by a single grantee to serve workers dislocated from one or more plants or facilities as a result of compliance with the Clean Air Act.
      (5) Subcontractor means any entity which enters into a contract, grant or agreement with a contractor.
   b. Participant eligibility. (1) An eligible dislocated worker, as defined by section 301(a) of the Act and §381.3 of the regulations, shall be eligible for participation in activities under a Clean Air Employment Transition Assistance program only if such dislocated worker has been terminated or laid off or has received a notice of termination or layoff as a consequence of compliance with the Clean Air Act as amended.
      (2) An eligible dislocated worker whose termination or layoff, or notice thereof, is not directly the consequence of compliance with the Clean Air Act, as amended, is not eligible for services under a CAETA national reserve program, but may be eligible under the basic Title III dislocated worker program.
   c. Priority areas of service. (1) Priority areas of service for CAETA national reserve programs shall be those geographic areas that have, or are projected by the DOL to have, the greatest number of dislocated individuals who meet the eligibility criteria for services as defined in b. above.
      (2) In determining priority areas of service, applicants shall submit documentation that supports the assertion that the workers to be served by the application will be or were in fact, dislocated as a consequence of compliance with the Clean Air Act, as amended.
   (a) Allowable activities.
      (i) Allowable activities for CAETA national reserve programs shall be those activities authorized by Sections 311 and 326 (e) and (f) of the JTPA.
      (ii) Job search shall be an allowable activity only to assist a totally separated dislocated worker who meets the eligibility criteria under IV.1.b above in securing a job within the United States, and where it has been determined that the dislocated worker cannot reasonably be expected to secure suitable employment within the commuting area in which the worker resides. Procedures for determining whether a dislocated worker cannot reasonably be expected to secure suitable employment within the commuting area in which the dislocated worker resides shall be described in the grant application and shall be subject to approval by the Grant Officer.
      (b) The cost of job search for a dislocated worker who meets the eligibility criteria under IV.1.b above shall be an allowable readjustment cost, but shall not provide for more than 90 percent of the cost of necessary and reasonable job search expenses, and may not exceed a total of $800, unless the need for a greater amount is justified in the grant application and approved by the Grant Officer.
      (c) These requirements shall not apply to regular job development activities and services provided to an eligible participant within the commuting area in which the eligible participant resides.
   (iii) Relocation shall be an allowable activity only where a dislocated worker who meets the eligibility criteria under IV.1.b above cannot reasonably be expected to secure suitable employment in the commuting area in which the dislocated worker resides and has obtained suitable employment affording a reasonable expectation of long-term employment in the area in which the worker wishes to relocate, or has obtained a bona fide offer of such employment, provided that the worker is totally separated from employment at the time relocation commences.
      (b) The cost of relocation for a dislocated worker who meets the eligibility criteria under IV.1.b above shall not exceed an amount which is equal to the sum of 90 percent of the reasonable and necessary expenses incurred in transporting the dislocated worker and the dislocated worker's family, if any, and household effects, and a lump sum equivalent to three
times such worker's average weekly wage up to a maximum of $600 per participant, unless a greater amount is justified to the satisfaction of the Grant Officer in the grant application and is approved by the Grant Officer. Necessary expenses shall be travel expenses for the dislocated worker and the dislocated worker's family and for the transfer of household effects. Reasonable costs for such travel and transfer expenses shall be by the least expensive, most reasonable form of transportation.

(iv)(d) Needs-related payments shall be an allowable cost for the Clean Air Employment Transition Assistance national reserve program, and shall be provided where an eligible participant meets the requirements of this section. An application for funds to assist workers dislocated as a result of a firm's compliance with requirements of the Clean Air Act shall contain assurances that such funds shall be used to provide needs-related payments to eligible participants to enable such participants to participate in and complete training or education programs provided under the grant. In developing a budget, applicants must be aware that the funds available for payment of needs-related payments are limited and that in projecting the use of budget resources, applicants must take into account those persons who will and will not be eligible for needs-related payments. For those determined or expected to be eligible, sufficient funds must be set aside to cover any anticipated needs-related payments.

(d) To qualify for needs-related payments, the dislocated worker who meets the eligibility criteria shall receive, or be the member of a family that receives (at the time of eligibility determination), a total family income that, in relation to family size, does not exceed the lower living standard income level as published annually in the Federal Register by DOL. The latest lower living standard income level was published in the Federal Register on May 25, 1991.

(c) To receive needs-related payments, the eligible participant shall not qualify for or must have ceased to qualify for unemployment compensation. An eligible individual who has ceased to qualify for unemployment compensation shall have been enrolled in a training or education program by the end of the thirteenth week of the worker's initial unemployment compensation benefit period, or, if later, by the end of the eighth week after being informed that a short-term layoff will, in fact, exceed 6 months.

(d) For purposes of paragraph (c), the term enrolled in a training or education program means that the worker's application for training has been approved and the training institution has furnished written notice that the worker has been accepted in the approved training program beginning within 30 calendar days.

(e) An eligible worker who does not qualify for unemployment compensation shall not be participating in a training or education program (section 314(e)(1)).

(f) Needs-related payments shall not be provided to any participant where the program operator determines that the participant is not making satisfactory progress in the training program, not to any participant receiving trade readjustment allowances, on-the-job training, out-of-area job search allowances, or relocation allowances under chapter 2 of Title III of the Trade Act of 1974 (19 U.S.C. 2271 et seq.) or 20 CFR part 617.

(g) The level of needs-related payments to an eligible dislocated worker in CAETA national reserve programs shall be equal to the higher of:

(A) The applicable level of unemployment compensation (i.e., the average of the weekly compensation payments made to the dislocated worker during the worker's initial unemployment compensation period); or

(B) The poverty level determined in accordance with criteria published by the Department of Health and Human Services.

(h)(A) The weekly payment level shall be determined at the time of the eligible participant's enrollment into training, and shall be provided to all eligible participants whose family income meets the requirements of paragraph IV.l.(b).

(B) Every three months from the date of the original determination of eligibility for needs-related payments, the family income for any participant participating in a training or education program shall be redetermined. Such a redetermination shall be based on the family income for the three month period using the same criteria that were used in the initial determination process, except that any income from needs-related payments shall not be included. The total revised family income so determined shall be annualized to determine the participant's current eligibility for needs-related payments.

(C) Where the revised family income exceeds the lower living level, the eligible participant shall not be eligible for needs-related payments. Where the revised family income does not exceed the lower living standard income level, the eligible participant shall continue to receive or become eligible for needs-related payments.

(D) An eligible participant may qualify or requalify for needs-related payments during the period of the training or education program.

(i) For purposes of determining an individual's eligibility for needs-related payments and the amount of such payment, if any, the following definitions shall be used by eligible grantees not funded pursuant to the Secretary/Governor agreement. For grantees funded pursuant to the Secretary/Governor's agreement, these definitions may be used, but where a State definition is used, family income shall not include unemployment compensation, child support payments and welfare payments.

(A) Family means spouses and dependent children residing in the same domicile. An adult handicapped individual shall be considered a family of one for eligibility purposes.

(B) Family income means all income actually received from all sources by all members of the family for the twelve-month period (or six-month, annualized, if twelve-month data are not available) prior to application. When computing family income, income of a spouse and other family members is counted for the portion of the twelve-month (or six-month, annualized, if twelve-month data are not available) period prior to application that the person was actually a member of the family.

(j) For the purposes of determining an individual's eligibility for participation, family income includes:

(A) Gross wages, including wages from community service employment (CSE), work experience, and on-the-job training (OJT) paid from Job Training Partnership Act funds, and salaries (before deductions);

(B) Net self-employment income (gross receipts minus operating expenses); and

(C) Other cash income received from sources such as interests, net rents, OASI (Old Age and Survivors Insurance) social security benefits, pensions, alimony, and periodic income from insurance policy annuities, and other sources of income.

(k) Family income does not include:

(A) Non-cash income such as food stamps or compensation received in the form of food or housing;

(B) Imputed value of owner-occupied property, i.e., rental value;

(C) Public assistance payments;

(D) Cash payments received pursuant to a State plan approved under title I.
IV. X, or XVI of the Social Security Act, or disability insurance payments received under Title II of the Social Security Act; (E) Federal, State, or local unemployment insurance benefits; (F) Capital gains and losses; (G) One-time unearned income, such as, but not limited to: (1) Payments received for a limited fixed term under income maintenance programs and supplemental (private) unemployment benefits plans; (2) One-time or fixed-term scholarship or fellowship grants; (3) Accident, health, and casualty insurance proceeds; (4) Disability and death payments, including fixed-term (but not lifetime) life insurance annuities and death benefits; (5) One-time awards and gifts; (6) Inheritance, including fixed-term annuities; (7) Fixed-term workers' compensation awards; (8) Soil bank payments; and (9) Agricultural crop stabilization payments; (H) Pay or allowances that were previously received by any veteran while serving on active duty in the Armed Forces; (I) Educational assistance and compensation payments to veterans and other eligible persons under chapters 11, 13, 31, 34, 35, and 36 of title 38, U.S. Code; (J) Payments received under the Trade Act of 1974; (K) Payments received under the Black Lung Benefits Act (30 U.S.C. 901 et seq.); (L) Any income directly or indirectly derived from, or arising out of, any property; and services, compensation or funds provided by the United States in accordance with, or generated by, the exercise of any right guaranteed or protected by treaty; and any property distributed or income derived therefrom, or any amounts paid to or for the legatees or next of kin of any member, derived from or arising out of the settlement of an Indian claim; and (M) Child support payments.

2. Eligible Grantees.

a. Funds available for a CAETA national reserve program shall be awarded to eligible grantees in accordance with the requirements of the Act and regulations, and the procedures, criteria and process contained in these guidelines. b. Funds shall be distributed to eligible grantees in accordance with procedures specified in these applications.

c. Eligible grantees for CAETA programs shall be States, Title III subordinate grantees, employers, employer associations, and representatives of employees. However, a specific eligible grantee may not be an appropriate applicant for a particular project. The nature and extent of the proposed project will be factors in considering an application and the applicants ability to perform the work.

d. Employers, employer associations, and representatives of employees may submit applications directly to the Grant Officer. Applications submitted by subordinate grantees must be submitted to the Grant Officer by the State.

3. Submission of Applications

a. Two types of applications may be submitted: regular full applications and emergency applications. Regular full applications shall follow the procedures and requirements as contained in this section and sections 4 and 5. a., b., c., and d. below. Emergency applications shall be subject to the procedures and requirements contained in section 5e. below.

b. In the case of a multisate or industrywide project, the applicant shall submit the application directly to the Department of Labor Grant Officer at the address shown in the summary list above. In the case of an intrastate project, the application is to be submitted by or through the Governor to the Grant Officer. Each application shall contain the required certifications and assurances listed in section 4 below.

4. Assurances and Certifications

a. The following assurances shall be included with each application:

   - The grantee assures that such funds shall be administered by the grantee in a manner consistent with the Act as amended, the JTPA regulations, the requirements contained in these application guidelines and in accordance with provisions specified in the proposal and amendments approved by the Grant Officer, if any, pursuant to the grant document signed by the Department of Labor Grant Officer.

   - The grantee agrees to compile and maintain information on project implementation, performance and expenditures. The information shall, at a minimum, be consistent with the activities and cost categories contained in the project proposal and shall be available to the grantor as requested.

   - The grantee assures that the information provided in the proposal is correct and the activities proposed conform to the Act, the Federal regulations for title III activities, and the requirements in these application guidelines.

b. Following receipt of the grant approval, the grantee shall advise the Grant Officer of the proposed date project operations will begin. If the date to be provided exceeds 30 days from receipt of the grant award, the grantee shall provide additional information explaining the projected implementation date.

c. The grantee agrees to compile and maintain information on project implementation on a monthly, and performance and expenditures data on a quarterly, basis. The information shall, at a minimum, be consistent with the activities and cost categories contained in the project proposal and shall be available to the Department as requested, and:

   - The grantee agrees to review expenditures and enrollment data against the planned levels for the project and notify the Department expeditiously of any potential under-expeditures of funds.

Project proposals not accompanied by the above assurances shall not be accepted for review.

b. Each application shall also contain the following certifications:

   - An original signature certification regarding “Drug-Free Workplace” must be submitted with the application except in the case where the applicant is a State. States may opt to submit a copy of the Statewide or agency certification required every fiscal year per Training and Employment Information Notice (TEIN) No. 15-90. This certification requirement applies only to the Federal grant applicant. The “Certification Regarding Drug-Free Workplace Requirements” form is found in appendix A.

   - A “Certification Regarding Debarment, Suspension and Other Responsibility Matters, Primary Covered Transaction”, must be submitted with all CAETA national reserve applications (except those related to national or agency-recognized emergency disasters) as required by the DOL regulations implementing Executive Order 12549, “Debarment and Suspension,” 29 CFR 8.510. This certification form is found in appendix A.

   - A “Certification Regarding Lobbying”, as required by 29 CFR part 93, “New Restrictions on Lobbying,” 54 FR 6736, 6751 (February 28, 1999). A suggested form incorporating the required text is found in appendix C.

   - When the applicant is not the State JTPA entity, (i.e., subject to the JTPA
5. Application content.

Each application shall contain the following information in the format outlined below:

A. Period of Award: Awards will be made for an 18-month period to allow for project start-up (not to exceed 90 days), operation, and administrative closeout. If the period of operation is extended, the period of the award will be extended by an equal time period.

b. Period of operation: Applications should generally provide for a period of operation of 12 months but applications proposing a longer period of operation may be submitted with information supporting the need for the additional period.

c. Synopsis of the project. A short summary of pertinent information regarding the project shall be included and shall contain the following:

(1) The name and address of the project operator, along with the name and telephone number of a contact person for the grantee and project operator;

(2) The project locations (cities, counties, and States);

(3) The planned starting and ending dates of the project;

(4) The total amount of CAETA national reserve funds requested;

(5) The name(s) of the company(ies) from which the affected workers have been dislocated;

(6) The date(s) of employment termination and the number of workers affected;

(7) The names of the States, counties, and cities in which the affected workers reside;

(8) The total number of participants planned;

(9) The total number of placements planned;

(10) The planned cost per participant;

(11) The planned cost per entered employment; and

(12) The name, address, and telephone number of the signatory official for the project operator.

d. Project Narrative. The project narrative shall be a detailed explanation containing the following information, and shall not exceed 25 pages:

(1) Basic Information. A description of the need for the project and an explanation of how this need was determined. The description shall include:

(a) Information that demonstrates that the employment losses are the consequence of compliance with the Clean Air Act as amended, and that there are no prospects for reemployment in a similar industry or occupation within the commuting area in which the workers reside. Specific information must be provided to demonstrate what consequence of compliance with the Clean Air Act requirements resulted in the dislocation of the workers to be served by the proposal including as appropriate, identification of specific contracts cancelled; mines closed; plants closed; total jobs lost; jobs lost attributable to compliance with the Clean Air Act, and any other relevant information. A statement shall be included indicating how it was determined that this impact was related to compliance with the Clean Air Act. Information should be provided, as appropriate, for workers who were performing work directly at, or for, the facility impact by, and required to lay off workers, as a result of compliance with the requirements of the Clean Air Act. Information is not required to lay off workers, as a result of compliance with the requirements of the Clean Air Act. For example: To comply with the requirements of the Clean Air Act a utility company switches from high sulphur coal to low sulphur coal and contracts with different company to provide the low sulphur coal. The high sulphur coal mine closes. The proposal to serve the workers dislocated at the closed high sulphur coal mine must provide documentation to demonstrate that the mine was providing high sulphur coal to the particular utility, that the utility did switch to another provider for low sulphur coal and that the consequence was the closing of the high sulphur coal mine. The information shall also include documentation regarding any other causes, other than compliance with the requirements of the Clean Air Act, that contributed to the dislocations.

Proposals that do not provide adequate documentation and/or are unable to provide adequate documentation to support a decision to fund under these guidelines, shall be automatically be considered for funding under the basic Title III national reserve discretionary application procedures.

(b) The schedule for layoffs and closings.

c(i) The number of affected workers likely to participate in the program, taking into consideration the total number of workers affected by specific occupations, the wage levels for each occupation, the number of workers eligible to participate, the number likely to be transferred, and the number likely to be recalled. Applicants shall certify that recall within the next 12 months is highly unlikely for those dislocated workers to be served.

(ii) The number of affected workers who possess locally transferable skills, and who can be expected to find other employment with minimal or no assistance.

(iii) Where the layoff has occurred more than 4 months prior to the submittal of the application, information indicating how the applicant determined the number of affected workers who remain unemployed and in need of services, and

(d)(i) Evidence that the workers to be served are aware of and support the proposed program operator's application.

(ii) Information on the economic conditions for the State(s) and the geographic area(s) to be served as documented by the most recent unemployment rate for each State and area, or the economic and unemployment trends in the specific industry affected, to illustrate the severity of the need for such a project.

(iii) If the proposed target group includes workers dislocated as a result of the relocation of a company plant, the city and the State to which the plant will be relocated shall be provided.

2) Existing Resources. The project narrative shall explain why these dislocated workers cannot be served with existing resources, in particular State or substate grantee JTPA Title III formula funds.

3) Trade adjustment assistance (TAA) for workers under the Trade Act. The application shall indicate whether an application has been made for TAA assistance, and if so, whether certification has been granted or denied for Trade Adjustment Assistance for workers. If certification has been issued, provide pertinent number, if available.

When a target group is certified as eligible to receive TAA including Trade Readjustment Allowances (TRA), national reserve funds may still be needed for those services not allowable under TAA such as assessment, job search assistance including job clubs, transportation assistance within the commuting area, counseling, child care and training that does not meet TAA training criteria. The coordination procedures established to track the project participants receiving TAA-funded training shall also be explained.

4) Employer/Union assistance. The project narrative shall explain in detail the nature and duration of any contractual obligation of, or any voluntary arrangement by, the employer(s) or union(s) to provide training-related services to terminated workers.
employees. When applicable, severance pay arrangements shall be addressed.

(5) Labor market information. The project narrative shall contain a detailed discussion on available labor market data as it relates to the specific area in which dislocation services will be provided. Specific listings of demand occupations in the areas where the dislocated workers will be trained shall be included, as well as an explanation of how such occupations were identified. The narrative shall also contain a certification that the number of unemployed workers available for employment in the identified demand occupations for which retraining is planned is insufficient to meet the need.

(6) Coordination and linkage.
(a) Governors and substate grantees.
(i) The application shall include evidence that the Governor of each State and the appropriate Title III grantee of each substate area in which a project site is proposed have been informed of such application and given an opportunity to comment on how the proposed project would affect workers in the State or substate area.
(ii) Letters from the appropriate Governors and substate grantees shall be included to document that the opportunity was provided for review and comment of the application. Each Governor's letter shall indicate why the State has not funded the proposed project/subproject for that State as well as a description of the funding and assistance, if any, it will provide to the project/subproject. The substate area grantee letter shall indicate why the substate grantee is unable to provide sufficient services to the proposed project/subproject in the substate area, as well as a description of the funding and assistance, if any, it will provide to the project/subproject.
(b) Private industry council (PIC)/local elected official (LEO). All grant applications shall provide evidence that the appropriate PICs and LEOS have been given the opportunity for review and comment.

(c) Labor organizations. All applications for dislocated workers projects where a substantial number (at least 20 percent) of affected workers are represented by a labor organization(a) shall provide documentation of full consultation with the appropriate local labor organization in the development of the project design. Thus, documentation is required for each union representing at least 20 percent of the affected workers. The application must describe the involvement (if any) of organized labor in the development and operation of the proposed project activities. (d) Others.

(i) Each application shall show that the proposed project for dislocated workers will coordinate with other State and local agencies and related programs including, but not limited to:
(a) The Unemployment Compensation System:
(b) The State Employment Service;
(c) The Pell Grant program;
(d) Other Federal programs;
(e) The Trade Adjustment Assistance (TAA) program, if applicable; and
(f) Other appropriate State and local program resources.

(g) In those instances where State and other funds, such as vocational education, economic development, TAA, or special appropriations, are available to the project, the application shall include a brief discussion of the activities for which those funds will be used and their relationship to the CAETA national reserve funds requested, taking into consideration section 141(b) of JTPA.

(7) Description of services. All applications shall include the description of services to be provided:
(a) Intake and eligibility determination. Applications shall describe the procedures to be used to recruit and ensure the eligibility of each participant and shall indicate what entity shall be accountable for eligibility determination.
(b) Basic readjustment services. Each application shall describe how assessment, job search assistance, counseling, job development and placement services and any other activities will be coordinated with retraining activities (assessment procedures shall include the capability to determine if a participant's reading skills are below the 9th grade level). See JTPA section 314(c), 29 U.S.C. 1661c(c).
(c) Retraining services. Applications shall describe the retraining to be provided, including the types and lengths of retraining for various occupations or occupational areas. For classroom skill training, list the likely providers, course titles (indicate whether customized or off-the-shelf), cost of each course and the specific demand occupation in which a participant who completes training will be placed. For on-the-job training, list job title or occupation, likely provider, length of training and entry level wage. CAETA national reserve funds shall not be provided to substitute for such activities as the employer's traditional training responsibility associated with product model changes, the introduction of new products, general employee upgrading, and other such changes.) (See JTPA section 314(d), 29 U.S.C. 1661c(d)).

(d) Participants and services. All applications shall discuss which services will be provided and how they will be coordinated with training activities, including needs-related payments. See JTPA section 314(e), 29 U.S.C. 1661c(e).

(8) Implementation plan. The following information regarding implementation plans shall be included:
(a) A schedule for the implementation of program activities upon receipt of funds and a discussion of initial actions taken to support implementation.
(b) A schedule for the implementation of program activities upon receipt of funds and a discussion of initial actions taken to support implementation.
(c) The Pell Grant program;
(d) Other Federal programs;
(e) The Trade Adjustment Assistance (TAA) program, if applicable; and
(f) Other appropriate State and local program resources.

(9) Project quarterly implementation data reporting including, but not limited to:
(a) Cost per participant;
(b) Cost per entered employment; and
(c) Entered employment rate; and
(d) Average wage rate at entered employment.

(10) Financial and management capability. Except where the actual project operator will be the State or the substate grantee, the application shall include a two-page or less description of the fiscal and management capabilities of the prospective project operator, including how the prospective project operator (or the division which will have responsibility for this project) is or will be organized. The description shall include information demonstrating:
(a) Current or previous relevant experience in providing services to dislocated workers or in administering training and employment programs; and
(b) The capability of the project operator to maintain and report as necessary required fiscal and management information. The Department may use records of past performance to evaluate management capability.
(11) Detailed line item budget. (a) Costs for each item shall be allocated under the following cost categories:

- Administration, Basic Readjustment Services, Retraining, and Supportive Services, including needs-related payments, as classified in 20 CFR 631.13. Cost limitations under section 315 of JTPA and 20 CFR 631.13 apply to applicants who receive funds pursuant to the Secretary/Governor agreement.

- The budget shall provide information by both cost categories as discussed below and by line-item. The suggested format in place 1 is recommended for utilization and explanation of the budget and budget narrative.

(b) Where CAETA national reserve funds will be combined with funds from other sources, e.g., other JTPA funds, employer or union training funds, State formula-allotted funds, State vocational education or economic development funds, the budget shall indicate for each line item the total costs and the amount to be funded from the CAETA national reserve account and the other funding source(s).

(c) No direct costs shall be charged for any activity that is included in the indirect cost line item.

(iii) Any costs that are subcontracted shall be so noted by the name of the contractor, and activity or function to be performed. Staffing costs shall be specifically identified. Training costs for off-the-shelf training packages purchased at catalogue prices or which meet the requirements for acceptable fixed-unit price, performance based contracts as published in the Federal Register at 54 FR 10159 (March 13, 1989) shall be identified. Administrative costs, prorated as required by 20 CFR 629.38(e)(2), shall be identified.

(iii) For a pass-through project, where the State is not the project operator, the State may reserve 1.5 percent (0.15) of the total grant award or $15,000, whichever is less, for costs associated with the administration of the grant such as contract negotiation, reporting activities and project oversight. This cost is to be charged to the Administration cost category. A State requesting administrative costs that exceed the maximum set aside permitted to be reserved by this paragraph must provide a justification including the projected person-hours and functions to be performed.

(iv) Each equipment purchase or lease with a unit cost of $500 or more must be specifically listed and justified.

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<tr>
<th>(1) Staff Salaries</th>
<th>Administration</th>
<th>Basic Readjustment</th>
<th>Retraining</th>
<th>Supportive services</th>
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Instructions: All spaces marked with an "X" must be completed. If no, show an "O". Observe parenthetical notes cited above and attach a budget supplement/narrative to explain basis for each line item. Information should make clear how line item costs were calculated, classified and allocated, especially how staff positions are assigned and justified.

(b) Applications for emergency funding consideration shall be submitted only to address situations where:

(i) The dislocations occur under circumstances which do not provide a reasonable period of time to develop a full proposal, that is, a sudden and unexpected event.

(ii) The number of dislocated workers who meet the eligibility criteria is such that both the JTPA Title III substate grantees and the State are unable to respond to the dislocation event with existing resources and

(iii) The workers did not receive a 60-day notice under the Worker Adjustment and Retraining Notification Act in advance of the layoff.

(2)(a) Emergency proposals shall be considered under a two-step process. The first step shall be an initial proposal request which shall contain limited key information. The second step, which will be necessary only where there is a decision made by the Grant Officer to approve the initial request, shall be the fully documented proposal. An applicant may also, if so wishes, submit a fully documented proposal where the Grant

e. Emergency application. [1][a]
regulations, the requirements and operations allowable under the Act, and the Grant Officer approval letter, and:

(b) Once the fully documented proposal has been reviewed, the Department shall determine how much, if any, additional funds to provide. The final amount provided, when combined with the initial amount awarded, shall not exceed the total initial request.

6. Selection Criteria

The following selection criteria shall be used to determine the acceptability of the fully documented proposal and the final award amount for any already approved emergency award.

a. Overall criteria. Grant applicants for funds under this subpart shall be evaluated and selected for funding where the Grant Officer concurs that the dislocated workers to be served by the program described in the application, as documented by the information required in section 5.5(1)(a), will be or were dislocated as a consequence of compliance with the Clean Air Act of 1990, as amended, based on the extent to which the applicant demonstrates that the proposal:

(1) Meets the requirements contained in these guidelines;
(2) Meets the purposes of the Act and the regulations;
(3) Will encourage an effective response to the dislocations;
(4) Promotes an effective use of funds; and
(5) Provides all information required for a proposal.

b. Specific criteria. The following specific criteria shall apply to the evaluation of applications and selection of grantees for CAETA national reserve dislocated worker projects:

(1) Priority area. The Grant Officer shall determine whether the application will serve eligible dislocated workers in areas which have the greatest number of eligible workers.
(2) Severity of need. The Grant Officer shall consider the severity of the circumstances and need, as described in the grant application (e.g., the immediacy of the schedule for layoff(s) and plant closing(s), the number of individuals affected, and the local and State unemployment rates compared to the national rates).
(3) Target group. The Grant Officer shall consider the concentration of the eligible individuals in a specific occupation(s), plant(s), or geographic area(s). The Grant Officer shall consider the extent to which the project is focused on the affected subpopulation actually requiring retraining services in order to remain in the labor force, as shown by an analysis of the characteristics of the affected workers.

The requirements of this paragraph shall be a major factor in determining the responsiveness of a proposal.

(4) Coordination and linkages: utilization of resources. The Grant Officer shall consider the extent to which the applicant has demonstrated that the project will be integrated with other existing program and community resources, including State/substate JTPA Title III formula-funded activities and other JTPA programs, welfare programs, and the Trade Adjustment Assistance program, where appropriate.

(5) Services. The Grant Officer shall consider the services to be provided and the service mix, including the degree to which the services appear to meet the needs of the target population; and the extent to which specific occupations are identified for retraining and placement. The applicant shall demonstrate that demand exists for workers to be served by the project, as well as the degree to which a proposal provides for retraining in specific occupations, either in an on-the-job or in a classroom setting or both. This demonstration shall be a major factor in determining whether to fund the application.

(6) Management capability. The Grant Officer shall consider the project operator’s fiscal and program management capabilities to administer the proposed project and the project operator’s demonstrated ability to begin program operations expeditiously in making a funding decision.

(7) Cost effectiveness. The Grant Officer shall consider the cost effectiveness of the project, e.g., cost per participant, cost per placement, and cost per activity in relation to services provided and the outcomes projected, including expected wage levels; the level of funding desired by client services as opposed to staff support and administration; the proportion of staff costs to those costs directly attributable to client services such as tuition, and tools, and whether sufficient provision has been made for needs related payments. The Grant Officer shall also consider whether costs are necessary and reasonable. The costs effectiveness of the project shall be a major factor in determining whether to fund the application.

(8) Other considerations. The Grant Officer shall consider the overall cost effectiveness and efficiency of the application submitted by the Governor or other interested parties.
7. Application Review

a. An application shall be reviewed and approved or rejected based upon overall responsiveness of the application's content and the application of the selection criteria, taking into consideration the extent to which funds are available.

b. An application shall be rejected when:

(1) The application proposes to assist workers who were not dislocated as a consequence of compliance with the Clean Air Act, as amended. Projects not considered for funding for this reason shall be automatically considered for funding with regular Title III discretionary funds;

(2) The application does not meet the standards established by these guidelines;

(3) Other available applications appear to be more effective in achieving the goals of this category;

(4) The information required is not provided in sufficient detail to permit adequate assessment of the proposal;

(5) The information regarding why the State and substate grantee were unable to fund the proposed project is not provided or is unsatisfactory; or

(6) The application is not consistent with statutory and/or regulatory requirements.

c. Approval

a. In the case of an award to a State or to an existing State JTPA substate area grantee, the Grant Officer shall issue an award letter and Notice of Obligation (NOQ) pursuant to the Secretary/Governor Agreement. For others, an appropriate grant document shall be executed by the Grant Officer and the grant applicant's official signatory.

b. The Act, JTPA regulations, these requirements, the grant award letter/agreement, assurances, grant application and any approved amendments thereto, and the approval by the Grant Officer in writing shall govern the operation of the project.

c. The effective date for the use of the funds shall be the date of the grant award letter or grant agreement, authorizing costs to be incurred against the funds awarded. No costs may be incurred against awarded funds prior to such date. The authority to incur costs immediately is given, in most cases, to permit the most timely response to the needs of the newly dislocated worker. Where authority to immediately incur costs is not provided, specific instructions will be included in the Grant Officer's award letter regarding the actions needed in order to obtain authority to incur costs.

d. Instructions regarding grant amendments required due to changes in circumstances after the grant award will be transmitted in a separate document.


Roberts T. Jones,
Assistant Secretary for Employment and Training.

Appendix A

Certification Regarding Drug-Free Workplace Requirements

A. The grantee certifies that it will or will continue to provide a drug-free workplace by:

1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

2. Establishing an ongoing drug-free awareness program to inform employees about—

(a) The dangers of drug abuse in the workplace;

(b) The grantee's policy of maintaining a drug-free workplace;

(c) Any available drug counseling, rehabilitation, and employee assistance programs; and

(d) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

3. Making a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement.

The statement for employees given a copy of the statement will—

1. Abide by the terms of the statement; and

2. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

3. Notifying the employee in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees may provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working. unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant.

(f) Taking one of the following actions, within 30 calendar days of receiving notice under paragraph (a)(2), with respect to any employee who is so convicted—

1. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health care provider, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code):

________________________

Check [ ] if there are work places on file that are not identified here.

Name of Applicant Organization

Name and Title of Authorized Signatory

Signature and Date

Appendix B

Certification Regarding Debarment, Suspension, and Other Responsibility Matters

Primary Covered Transactions

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 39 CFR part 6, § 6.510, Participants' responsibilities.
(Before Signing Certification, Read Attached Instructions Which Are an Integral Part of the Certification)

1. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of price fixing; violation of any of the offenses of: falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enforced by Federal law.
(1) Federal aid funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any Federal contract or grant; or for influencing or attempting to influence an officer or employee of a Member of Congress in connection with this Federal contract or grant. Submission of this certification is a material explanation to this proposed transaction. Further, certain Federal agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

4. Will initiate and complete the work within the applicable timeframe after approval of the awarding agency.

5. Will comply with the Governmentwide Personal Property Acquisition Policy of 1970 (42 U.S.C. Sections 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM’s Standards for a Merit System of Personnel Administration (5 CFR 900, subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352) which prohibits discrimination on the basis of race, color, or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. Sections 1681-1683 and 1685-1680), which prohibits discrimination on the basis of sex; (c) section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), which prohibits discrimination on the basis of handicap; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101-6107), which prohibits discrimination based on age; (e) the Drug Abuse Office and Treatment Act of 1972 (Pub. L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (Pub. L. 91-676), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) sections 522 and 527 of the Public Health Service Act of 1912 (32 U.S.C. 200d-3 and 200e-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; [h] title VIII of the Civil Rights Act of 1968 (42 U.S.C. 36-41 et seq.), as amended, not to engage in discrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Title II and III of the Uniform Relocation Assistance and Real Property Acquisition for Housing Act of 1970 (Pub. L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in the purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. 1501-1506 and 7324-7329) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.


10. Will comply, if applicable, with flood insurance purchase requirements of section 102(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the national Environmental Policy Act of 1969 (Pub. L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.); (f) conformity of Federal actions to the State Coastal Area Implementation Plans under section 176(c) of the Coastal Act of 1955, as amended (42 U.S.C. 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (Pub. L. 93-
523); and (b) protection of endangered species under the Endangered Species Act of 1973, as amended, (Pub. L. 93–205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.


14. Will comply with Pub. L. 93–348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (Pub. L. 89–544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984. [FR Doc. 92–2951 Filed 2–6–92; 8:45 am]
ENVIRONMENTAL PROTECTION AGENCY
40 CFR Part 300
[FRL-4102-5]

National Priorities List for Uncontrolled Hazardous Waste Sites, Proposed Rule No. 12

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

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

The Environmental Protection Agency ("EPA") is proposing to add new sites to the NPL. This 12th major proposed rule includes 30 sites, of which 8 are Federal facility sites. The identification of a site for the NPL is intended primarily to guide EPA in determining which sites warrant further investigation to access the nature and extent of public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. This proposed rule brings the number of proposed NPL sites to 52, of which 9 are Federal facility sites. 1,183 sites are on the NPL at this time, of which 116 are Federal facility sites. Proposed and final NPL sites total 1,239.

DATES: Comments on the Austin Avenue Radiation site, being proposed in this time, of which 116 are Federal facility sites. 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 31160), pursuant to CERCLA section 105 and Executive Order 12316 (46 FR 42337, 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 on the NPL interchangeably as "releases," "facilities," or "sites." 1 CERCLA section 105(a)(8)(B) also requires that the NPL include "the 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 the evacuation or sheltering of individuals from the release.

- EPA determines that the release poses a significant threat to public health.

- EPA anticipates that it will be more cost-effective to use its remedial authority (available only at NPL sites) than to use its removal authority to respond to the release.

Based on these criteria, and pursuant to section 105(a)(8)(B) of CERCLA, as amended by SARA, EPA prepares a list of national priorities among the known or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. That list, which is appendix B of 40 CFR part 300, is the National Priorities List ("NPL"). The discussion below may refer to the releases or threatened releases that are included on the NPL interchangeably as "releases," "facilities," or "sites." 1 CERCLA section 105(a)(8)(B) also requires that the NPL include 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
The NPL has been expanded since then, most recently on September 25, 1991 (56 FR 48439).

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

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

In addition, 25 sites in the general superfund section are in the “Construction Completion” category, including 13 site additions to the category on January 16, 1992 (57 FR 1972). When EPA activated the category on February 11, 1991 (56 FR 5364), it stated that the category would consist of sites awaiting deletion, sites awaiting the first 5-year review after the remedial action was completed, and sites undergoing long-term remedial action. EPA has decided to eliminate the 5-year review subcategory. On the basis of subsequent experience and analysis, EPA has determined that tying these two independent processes (5-year review and deletion) is unnecessary and potentially confusing. (December 24, 1991 (56 FR 66601)).

Thus, a total of 68 sites, all in the general superfund section, have been deleted or placed in the construction completion category.

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

Public Comment Period

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


Ben Conetta, Region 2, 26 Federal Plaza, 7th floor, room 740, New York, NY 10278, 212/264-6696.


Beverly Fulwood, Region 4, U.S. EPA Library, room G-6, 345 Courtland Street, NE., Atlanta, GA 30365, 404/347-4216.

Cathy Freeman, Region 5, U.S. EPA Records Center, Waste Management Division 7-1, Metcalfe Federal Building, 77 West Jackson Blvd., Chicago, IL 60604, 312/866-6214.

Bart Canellas, Region 6, U.S. EPA Library, 720 Minnesota Avenue, Kansas City, KS 66101, 913/351-7241.

Greg Oberley, Region 6, U.S. EPA 18th Street, suite 500, Denver, CO 80202-2496, 303/294-7599.


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

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

Final Sites Deleted From NPL Because No Further Response Needed—Continued

(St site name Location

<table>
<thead>
<tr>
<th>St</th>
<th>Site name</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>MI</td>
<td>Whitehall Municipal Wells</td>
<td>Whitehall</td>
</tr>
<tr>
<td>MN</td>
<td>Morris Arsenic Dump</td>
<td>Morris</td>
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<td>Union Scrap Iron &amp; Metal Co.</td>
<td>Minneapolis</td>
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<td>MS</td>
<td>Walcott Chemical Co. Warehouses</td>
<td>Greenville</td>
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<td>NC</td>
<td>PCB Spills</td>
<td>243 Miles of Roads</td>
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<td>NJ</td>
<td>Beachwood/Berkley Wells</td>
<td>Voorhees Township</td>
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<tr>
<td>NJ</td>
<td>Cooper Road</td>
<td>Upper Freehold</td>
</tr>
<tr>
<td>NJ</td>
<td>Friedman Property (once listed as Upper Freehold Site)</td>
<td>Hillsborough</td>
</tr>
<tr>
<td>NJ</td>
<td>M&amp;T Delisa Landfill</td>
<td>Asbury Park</td>
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<td>CH</td>
<td>Chemical &amp; Minerals Reclamation</td>
<td>Cleveland</td>
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<td>Old Forge</td>
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<td>Erie</td>
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<td>Reece's Landfill</td>
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<td>Voortman Farm</td>
<td>Upper Saucon</td>
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<td>PA</td>
<td>Wade (once listed as ABM-Wade)</td>
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<td>Pacific Trust Tar</td>
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<td>Harris (Fadley Street)</td>
<td>Houston</td>
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<td>VA</td>
<td>Matthews Electroplating</td>
<td>Roanoke</td>
</tr>
<tr>
<td>WA</td>
<td>Tofitclad Drums</td>
<td>Brush Prairie</td>
</tr>
</tbody>
</table>

Number of Sites Deleted: 40.

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

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

Comments that include complex or voluminous reports, or materials prepared for purposes other than HRS scoring, should point out the specific information that EPA should consider and how it affects individual HRS factor values. See *Northside Sanitary Landfill v. Thomas*, 929 F. 2d 1518 (D.C. Cir. 1986). 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 35640, July 29, 1991). Although EPA intends to pursue the same policy with sites in this rule, EPA can guarantee that it will consider only those comments postmarked by the close of the formal comment period. EPA cannot delay a final listing decision solely to accommodate consideration of late comments.

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

II. Purpose and Implementation of the NPL

Purpose

The legislative history of CERCLA (Report of the Committee on Environment and Public Works, Senate Report No. 99-848, 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 feasible, once sites are on the NPL, EPA will determine high-priority candidates for CERCLA-financed response action and/or enforcement action through both State and Federal initiatives. EPA will take into account which approach is more likely to accomplish cleanup of the site most expeditiously while using CERCLA's limited resources as efficiently as possible.

The ranking of sites by HRS scores does not determine the sequence in which EPA funds remedial response actions, since the information collected to develop HRS scores is not sufficient in itself to determine either the extent of contamination or the appropriate response for a particular site. Moreover, the sites with the highest scores do not necessarily come to the Agency's attention first, so that addressing sites strictly on the basis of ranking would in some cases require stopping work at sites where it was already underway. Thus, EPA relies on further, more detailed studies in the remedial investigation/feasibility study (RI/FS) that typically follows listing. The RI/FS determines the nature and extent of the threat presented by the contamination (40 CFR 300.430(a)(2) (55 FR 8846, March 8, 1990). It also takes into account the amount of contaminants in the environment, the risk to affected populations and environment, the cost to correct problems at the site, and the response actions that have been taken by potentially responsible parties or others. Decisions on the type and extent of action to be taken at these sites are made in accordance with subpart E of the NCP (55 FR 8839, March 8, 1990). After conducting these additional studies, EPA may determine 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 action 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 geographical terms. The term "facility" is therefore not intended to define or reflect boundaries of such facilities or releases. Site names are provided for general identification purposes only. Knowledge regarding the extent of sites will be refined as more information is developed during the RI/FS and even during implementation of the remedy.

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

III. Contents of This Proposed Rule

Table 1 identifies the 24 NPL sites in the general superfund section and table 2 identifies the 6 NPL sites in the Federal facilities section being proposed in this rule. Both tables follow this preamble.

[Table 1: National Priorities List, General Superfund Section Proposed Rule #12]

<table>
<thead>
<tr>
<th>State</th>
<th>Site name</th>
<th>City/county</th>
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<tr>
<td>AR</td>
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<td>McCormick &amp; Baxter Creosote</td>
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<tr>
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<td>Stuffer Chemical Co.</td>
<td>Tampa.</td>
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<tr>
<td>FL</td>
<td>Stuffer Chemical Co.</td>
<td>Tarpon Springs.</td>
</tr>
<tr>
<td>IN</td>
<td>U.S. Smelter and Lead Refinery, Inc.</td>
<td>East Chicago.</td>
</tr>
<tr>
<td>KS</td>
<td>57th and North Broadway Streets Site</td>
<td>Wichita Heights.</td>
</tr>
<tr>
<td>LA</td>
<td>American Creosote Works, Inc.</td>
<td>Winfield.</td>
</tr>
<tr>
<td>MA</td>
<td>Blackstone &amp; Union Privileges</td>
<td>Walpole.</td>
</tr>
<tr>
<td>MO</td>
<td>Big River Mine Tailings</td>
<td>Desloge.</td>
</tr>
<tr>
<td>MO</td>
<td>Shepherd Farm</td>
<td>East Flat Rock.</td>
</tr>
<tr>
<td>NC</td>
<td>General Electric Co.</td>
<td>Clackamas.</td>
</tr>
<tr>
<td>OR</td>
<td>Northwest Pipe &amp; Casing Co.</td>
<td>Lansdowne.</td>
</tr>
<tr>
<td>PA</td>
<td>Austin Avenue Radiation Site</td>
<td>Upper Merion Township</td>
</tr>
<tr>
<td>PA</td>
<td>Belt Resources, Inc.</td>
<td>Keystone Coke Co.</td>
</tr>
</tbody>
</table>

Number of Sites Proposed for Listing: 24.

NATIONAL PRIORITIES LIST, FEDERAL FACILITIES SECTION PROPOSED RULE #12 (By state)

<table>
<thead>
<tr>
<th>State</th>
<th>Site name</th>
<th>City/county</th>
</tr>
</thead>
<tbody>
<tr>
<td>CA</td>
<td>Concord Naval Weapons Station</td>
<td>Concord.</td>
</tr>
<tr>
<td>CA</td>
<td>Jet Propulsion Laboratory (NASA)</td>
<td>Pasadena.</td>
</tr>
<tr>
<td>GU</td>
<td>Andersen Air Force Base</td>
<td>Yigo.</td>
</tr>
<tr>
<td>TN</td>
<td>Memphis Defense Depot</td>
<td>Memphis.</td>
</tr>
<tr>
<td>VA</td>
<td>Naval Surface Warfare Center-Dahlgren</td>
<td>Dahlgren.</td>
</tr>
<tr>
<td>VA</td>
<td>Naval Weapons Station</td>
<td>Yorktown.</td>
</tr>
</tbody>
</table>

Number of Sites Proposed for Listing: 6.

Statutory Requirements

CERCLA section 103(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 "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. Thus, 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. 6901-6991) and Federal facility sites. These policies and requirements are explained below and have been explained in greater detail in previous rulemakings (56 FR 5598, February 11, 1991).
Releases From Resource Conservation and Recovery Act (RCRA) Sites

EPA’s policy is that sites in the general superfund section subject to RCRA Subtitle C corrective action authorities will not, in general, be placed on the NPL. However, EPA will list certain categories of RCRA sites subject to Subtitle C corrective action authorities, as well as other sites subject to those authorities, if the Agency concludes that doing so best furthers the aims of the NPL/RCRA policy and the CERCLA program. EPA has explained these policies in detail in past Federal Register discussions (51 FR 21054, June 10, 1986; 53 FR 23978, June 24, 1988; 54 FR 41000, October 4, 1989; 56 FR 50652, February 11, 1991).

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

Releases From Federal Facility Sites

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

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

Austin Avenue Radiation Site

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

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

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

IV. Regulatory Impact Analysis

The costs of cleanup actions that may be taken at sites are not directly attributable to placement on the NPL, as explained below. Therefore, the Agency has determined that this rulemaking is not a “major” regulation under Executive Order 12291. EPA has conducted a preliminary analysis of the economic implications of today’s proposal to add new sites to the NPL.

EPA believes that the kinds of economic effects associated with this proposed revision are generally similar to those identified in the regulatory impact analysis (RIA) prepared in 1982 for revisions to the NCP pursuant to section 105 of CERCLA (47 FR 31180, July 16, 1982) and the economic analysis prepared when amendments to the NCP were proposed (50 FR 5832, February 12, 1985). The Agency believes that the anticipated economic effects related to proposing to add these sites to the NPL can be characterized in terms of the conclusions of the earlier RIA and the most recent economic analysis. This rule was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Costs

This proposed rulemaking is not a “major” regulation because it does not establish that EPA necessarily will undertake remedial action, nor does it require any action by a private party or determine its liability for site response costs. Costs that arise out of responses at sites in the EPA section of the NPL result from site-by-site decisions about what actions to take, not directly from the act of listing itself. Nonetheless, it is useful to consider the costs associated with responding to all sites in this rule. The proposed listing of a site on the NPL may be followed by a search for potentially responsible parties and a Remedial Investigation/Feasibility Study (RI/FS) to determine if remedial actions will be undertaken at a site. The selection of a remedial alternative, and design and construction of that alternative, follow completion of the RI/FS, and operation and maintenance (O&M) activities may continue after construction has been completed.

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

The State’s share of site cleanup costs for Fund-financed actions is governed by CERCLA section 104. For privately-owned sites, as well as at publicly-owned but not publicly-operated sites, EPA will pay for 100% of the costs of the RI/FS and remedial planning, and 90% of the costs of the remedial action, leaving 10% to the State. For publicly-operated sites, the State’s share is at least 50% of all response costs at the site, including the RI/FS and remedial design and construction of the remedial action selected. After the remedy is built, costs fall into two categories:

- For restoration of ground water and surface water, EPA will share in start-up costs according to the ownership criteria in the previous paragraph for 10 years or until a sufficient level of protectiveness is achieved before the end of 10 years. 40 CFR 300.435(f)(3).
- For other cleanups, EPA will share the cost of a remedy until it is operational and functional, which generally occurs after one year. 40 CFR 300.435(f)(2). 300.510(c)(2). After that, the State assumes all O&M costs. 40 CFR 300.510(c)(1).

In previous NPL rulemakings, the Agency estimated the costs associated with these activities (RI/FS, remedial design, remedial action, and O&M) on an average-per-site and total cost basis. EPA will continue with this approach, using the most recent (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.
Federal remedial planning and actions

O&M costs would be approximately $80

25% of sites. Using this estimate, State

based on past experience, EPA believes

how many sites will require this

State O&M costs cannot be accurately

proposed rule, but excluding O&M costs,

will be privately-owned and 10% will be

publicly-operated; and (2) at least 50% of

the remedial planning (RI/FS and

remedial design), remedial action, and

first-year O&M costs at publicly-

operated sites. States will assume the

cost for O&M after EPA's participation

ends. Using the assumptions developed in

the 1982 RIA for the NCP, EPA has

assumed that 90% of the non-Federal

sites proposed for the NPL in this rule

will be privately-owned and 10% will be

State- or locally-operated. Therefore,

using the budget projections presented

above, the cost to States of undertaking

Federal remedial planning and actions

at all non-Federal sites in today's

proposed rule, but excluding O&M costs,

would be approximately $97 million.

State O&M costs cannot be accurately

determined because EPA, as noted

above, will share O&M costs for up to 10

years for restoration of ground water

and surface water, and it is not known

how many sites will require this

treatment and for how long. However,
based on past experience, EPA believes

a reasonable estimate is that it will

share start-up costs for up to 10 years at

25% of sites. Using this estimate, State

O&M costs would be approximately $60

million. As with the EPA share of costs,

portion of the State's share will be borne

by responsible parties.

Placing a hazardous waste site on the

NPL does not itself cause firms

responsible for the site to bear costs.

Nonetheless, a listing may induce firms

to clean up the sites voluntarily, or it

could accelerate privately-financed,

voluntary cleanup efforts. Proposing

sites as national priority targets also

may give States increased support for

funding responses at particular sites.

As a result of the additional CERCLA

remedies, there will be lower human

exposure to high-risk chemicals, and

higher-quality surface water, ground

water, soil, and air. These benefits are

expected to be significant, although

difficult to estimate before the RI/FS

is completed at these sites.

VII. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act of 1980

requires EPA to review the impacts of

this action on small entities, or certify

that the action will not have a

significant impact on a substantial

number of small entities. By small

entities, the Act refers to small

businesses, small government

jurisdictions, and nonprofit

organizations.

While this rule proposes revisions to

the NCP, they are not typical regulatory

changes since the revisions do not

automatically impose costs. As stated

above, adding sites to the NPL does not

in itself require any action by any

private party, nor does it determine the

liability of any party for the cost of

cleanup at the site. Further, no

identifiable groups are affected as a

whole. As a consequence, impacts on

any group are hard to predict. A site's

proposed inclusion on the NPL could

increase the likelihood of adverse

impacts on responsible parties (in the

form of cleanup costs), but at this time

EPA cannot identify the potentially

affected businesses nor estimate the

number of small businesses that might

also be affected.

The Agency does expect that CERCLA

actions could significantly affect certain

industries, and firms within industries,

that have caused a disproportionately

high percentage of waste site problems.

However, EPA does not expect the

listing of these sites to have a significant

economic impact on a substantial

number of small businesses.

In any case, economic impacts would

occur only through enforcement and

cost-recovery actions, which EPA takes

at its discretion on a site-by-site basis.

EPA considers many factors when

determining enforcement actions,

including not only the firm's

contribution to the problem, but also its

ability to pay.

The impacts (from cost recovery) on

small governments and nonprofit

organizations would be determined on

a similar case-by-case basis.

List of Subjects in 40 CFR Part 300

Air pollution control, Chemicals,

Hazardous materials, Intergovernmental

relations, Natural resources, Oil

pollution, Reporting and recordkeeping

requirements, Superfund, Waste
treatment and disposal, Water pollution
control, Water supply.

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

(By group)

<table>
<thead>
<tr>
<th>NPL Gr</th>
<th>State</th>
<th>Site name</th>
<th>City/county</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>CA</td>
<td>McCormick &amp; Baxter Creosoting Co.</td>
<td>Stockton</td>
</tr>
<tr>
<td>1</td>
<td>CO</td>
<td>Smeltartown Site</td>
<td>Salida</td>
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<tr>
<td>1</td>
<td>FL</td>
<td>Stauffer Chemical Co. (Tampa Plant)</td>
<td>Tampa</td>
</tr>
<tr>
<td>1</td>
<td>FL</td>
<td>Stauffer Chemical Co. (Tarpon Springs Plant)</td>
<td>Tampa</td>
</tr>
<tr>
<td>1</td>
<td>IN</td>
<td>U.S. Smelter &amp; Lead Refinery, Inc.</td>
<td>East Chicago</td>
</tr>
<tr>
<td>1</td>
<td>MO</td>
<td>Big River Mine</td>
<td>Desiole</td>
</tr>
<tr>
<td>1</td>
<td>NC</td>
<td>General Electric Co./Shepherd Farm</td>
<td>East Flat Rock</td>
</tr>
<tr>
<td>1</td>
<td>AR</td>
<td>West Memphis Landfill</td>
<td>Memphis</td>
</tr>
<tr>
<td>1</td>
<td>CA</td>
<td>GFB, Inc. Dump</td>
<td>Antioch</td>
</tr>
<tr>
<td>1</td>
<td>OR</td>
<td>Northwest Pipe &amp; Casing Co.</td>
<td>Clackamas</td>
</tr>
<tr>
<td>1</td>
<td>UT</td>
<td>Richardson Flat</td>
<td>Summit County</td>
</tr>
<tr>
<td>5</td>
<td>AR</td>
<td>Popple, Inc.</td>
<td>El Dorado</td>
</tr>
<tr>
<td>5</td>
<td>CA</td>
<td>Cooper Drum Co.</td>
<td>South Gate</td>
</tr>
<tr>
<td>5</td>
<td>KS</td>
<td>57th and North Broadway Streets</td>
<td>Wichita</td>
</tr>
<tr>
<td>5</td>
<td>KS</td>
<td>Landfill</td>
<td>Heights</td>
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Table 1.—National Priorities List, General Superfund Section Proposed Rule #12—Continued

<table>
<thead>
<tr>
<th>NPL Gr</th>
<th>State</th>
<th>Site name</th>
<th>City/county</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.....</td>
<td>LA....</td>
<td>American Creosote Works, Inc. (Winnfield Plant)</td>
<td>Winnfield.</td>
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<tr>
<td>5.....</td>
<td>MA....</td>
<td>Blackburn and Union Privileges</td>
<td>Walpole.</td>
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<tr>
<td>5.....</td>
<td>PA....</td>
<td>Crater Resources, Inc./Keystone Coke Co./Alan Wood Steel Co.</td>
<td>Upper Morion Twp.</td>
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<td>PA....</td>
<td>Foote Mineral Co.</td>
<td>East Whiteland Twp.</td>
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<td>5.....</td>
<td>SC....</td>
<td>Koppers Co., Inc. (Charleston Plant)</td>
<td>Charleston.</td>
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<td>5.....</td>
<td>VA....</td>
<td>Metropolitan Mirror and Glass Co., Inc.</td>
<td>Frackville.</td>
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<td>5.....</td>
<td>WI....</td>
<td>Refuse Hideaway Landfill</td>
<td>Middleton.</td>
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<td>20.....</td>
<td>FL....</td>
<td>Helena Chemical Co. (Tampa Plant)</td>
<td>Tampa.</td>
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</table>

Table 2.—National Priorities List, Federal Facilities Section Proposed Rule #12—Continued

<table>
<thead>
<tr>
<th>NPL Gr</th>
<th>State</th>
<th>Site name</th>
<th>City/county</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.....</td>
<td>TN....</td>
<td>Memphis Defense Depot</td>
<td>Memphis.</td>
</tr>
<tr>
<td>5.....</td>
<td>CA....</td>
<td>Concord Naval Weapons Station</td>
<td>Concord.</td>
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<tr>
<td>5.....</td>
<td>CA....</td>
<td>Jet Propulsion Laboratory (NASA)</td>
<td>Pasadena.</td>
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</tbody>
</table>

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

Table 2.—National Priorities List, Federal Facilities Section Proposed Rule #12

<table>
<thead>
<tr>
<th>NPL Gr</th>
<th>State</th>
<th>Site name</th>
<th>City/county</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.....</td>
<td>GÜ....</td>
<td>Anderson Air Force Base</td>
<td>Yigo.</td>
</tr>
<tr>
<td>5.....</td>
<td>VA....</td>
<td>Naval Surface Warfare Center—Dahlgren</td>
<td>Dahlgren.</td>
</tr>
<tr>
<td>5.....</td>
<td>VA....</td>
<td>Naval Weapons Station—Yorktown</td>
<td>Yorktown.</td>
</tr>
</tbody>
</table>

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


Don R. Clay, Assistant Administrator, Office of Solid Waste and Emergency Response.

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