

supporting this determination is available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapters 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T09–0140 to read as follows:

§ 165.T09–0140 Safety Zone; USA Triathlon, Milwaukee Harbor, Milwaukee, Wisconsin.

(a) *Location*. All waters of Milwaukee Harbor, including Lakeshore inlet and Discovery World Marina, west of a line across the entrance to the Discovery World Marina connecting 43°02′15.1″ N, 087°53′37.4″ W and 43°01′44.2″ N, 087°53′44.6″ W (NAD 83).

(b) *Effective Period*. This section is effective from August 1, 2013, until August 30, 2014. This safety zone will be enforced for periods in August 2013 and 2014. The Captain of the Port, Lake Michigan, will establish an enforcement schedule via a Notice of Enforcement when the exact dates are known. The Captain of the Port, Lake Michigan, will also establish the 2014 enforcement schedule via a Notice of Enforcement.

(c) *Regulations*.

(1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port, Lake Michigan or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port, Lake Michigan or his designated representative.

(3) The “on-scene representative” of the Captain of the Port, Lake Michigan is any Coast Guard commissioned, warrant or petty officer who has been his designated by the Captain of the Port, Lake Michigan to act on his behalf.

(4) Vessel operators desiring to enter or operate within the safety zone shall

contact the Captain of the Port, Lake Michigan or his on-scene representative to obtain permission to do so.

(5) The Captain of the Port, Lake Michigan or his on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port, Lake Michigan, or his on-scene representative.

Dated: May 3, 2013.

M.W. Sibley,

Captain, U.S. Coast Guard, Captain of the Port, Lake Michigan.

[FR Doc. 2013–12395 Filed 5–23–13; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–2012–0064, 0598, 0599, 0600, 0601, 0602, 0603, 0604, 0606, 0607 and 0647; FRL–9815–1]

National Priorities List, Final Rule No. 56

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (“CERCLA” or “the Act”), as amended, requires that the National Oil and Hazardous Substances Pollution Contingency Plan (“NCP”) include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants or contaminants throughout the United States. The National Priorities List (“NPL”) constitutes this list. The NPL is intended primarily to guide the Environmental Protection Agency (“the EPA” or “the agency”) in determining which sites warrant further investigation. These further investigations will allow the EPA to assess the nature and extent of public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. This rule: Adds eight sites to the General Superfund section of the NPL; adds one site to the Federal Facilities section of the NPL; corrects an error in a footnote; and corrects an error in the state location for Five Points PCE Plume site.

DATES: *Effective Date:* The effective date for this amendment to the NCP is June 24, 2013.

ADDRESSES: Contact information for the EPA Headquarters:

- Docket Coordinator, Headquarters; U.S. Environmental Protection Agency; CERCLA Docket Office; 1301 Constitution Avenue NW.; EPA West, Room 3334, Washington, DC 20004, 202/566–0276.

The contact information for the Regional Dockets is as follows:

- Joan Berggren, Region 1 (CT, ME, MA, NH, RI, VT), U.S. EPA, Superfund Records and Information Center, 5 Post Office Square, Suite 100, Boston, MA 02109–3912; 617/918–1417.
- Ildefonso Acosta, Region 2 (NJ, NY, PR, VI), U.S. EPA, 290 Broadway, New York, NY 10007–1866; 212/637–4344.
- Dawn Shellenberger (ASRC), Region 3 (DE, DC, MD, PA, VA, WV), U.S. EPA, Library, 1650 Arch Street, Mail Code 3PM52, Philadelphia, PA 19103; 215/814–5364.
- Debbie Jourdan, Region 4 (AL, FL, GA, KY, MS, NC, SC, TN), U.S. EPA, 61 Forsyth Street, SW., Mailcode 9T25, Atlanta, GA 30303; 404/562–8862.
- Todd Quesada, Region 5 (IL, IN, MI, MN, OH, WI), U.S. EPA Superfund Division Librarian/SFD Records Manager SRC–7J, Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, IL 60604; 312/886–4465.
- Brenda Cook, Region 6 (AR, LA, NM, OK, TX), U.S. EPA, 1445 Ross Avenue, Suite 1200, Mailcode 6SFTS, Dallas, TX 75202–2733; 214/665–7436.
- Michelle Quick, Region 7 (IA, KS, MO, NE), U.S. EPA, 901 North 5th Street, Mailcode SUPRERNB, Kansas City, KS 66101; 913/551–7335.
- Sabrina Forrest, Region 8 (CO, MT, ND, SD, UT, WY), U.S. EPA, 1595 Wynkoop Street, Mailcode 8EPR–B, Denver, CO 80202–1129; 303/312–6484.
- Karen Jurist, Region 9 (AZ, CA, HI, NV, AS, GU, MP), U.S. EPA, 75 Hawthorne Street, Mail Code SFD–9–1, San Francisco, CA 94105; 415/972–3219.
- Ken Marcy, Region 10 (AK, ID, OR, WA), U.S. EPA, 1200 6th Avenue, Mail Code ECL–112, Seattle, WA 98101; 206/463–1349.

FOR FURTHER INFORMATION CONTACT:

Terry Jeng, phone: (703) 603–8852, email: jeng.terry@epa.gov, Site Assessment and Remedy Decisions Branch, Assessment and Remediation Division, Office of Superfund Remediation and Technology Innovation (Mailcode 5204P), U.S. Environmental Protection Agency; 1200 Pennsylvania Avenue NW., Washington,

DC 20460; or the Superfund Hotline, phone (800) 424-9346 or (703) 412-9810 in the Washington, DC, metropolitan area.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Background
 - A. What are CERCLA and SARA?
 - B. What is the NCP?
 - C. What is the National Priorities List (NPL)?
 - D. How are sites listed on the NPL?
 - E. What happens to sites on the NPL?
 - F. Does the NPL define the boundaries of sites?
 - G. How are sites removed from the NPL?
 - H. May the EPA delete portions of sites from the NPL as they are cleaned up?
 - I. What is the Construction Completion List (CCL)?
 - J. What is the sitewide ready for anticipated use measure?
 - K. What is state/tribal correspondence concerning NPL listing?
- II. Availability of Information to the Public
 - A. May I review the documents relevant to this final rule?
 - B. What documents are available for review at the headquarters docket?
 - C. What documents are available for review at the regional dockets?
 - D. How do I access the documents?
 - E. How may I obtain a current list of NPL sites?
- III. Contents of This Final Rule
 - A. Additions to the NPL
 - B. What did the EPA do with the public comments it received?
 - C. Correction of Appendix B Footnote "A" Description
 - D. Correction of State Location for Five Points PCE Plume Site
- IV. Statutory and Executive Order Reviews
 - A. Executive Order 12866: Regulatory Planning and Review
 - 1. What is Executive Order 12866?
 - 2. Is this final rule subject to Executive Order 12866 review?
 - B. Paperwork Reduction Act
 - 1. What is the Paperwork Reduction Act?
 - 2. Does the Paperwork Reduction Act apply to this final rule?
 - C. Regulatory Flexibility Act
 - 1. What is the Regulatory Flexibility Act?
 - 2. How has the EPA complied with the Regulatory Flexibility Act?
 - D. Unfunded Mandates Reform Act
 - 1. What is the Unfunded Mandates Reform Act (UMRA)?
 - 2. Does UMRA apply to this final rule?
 - E. Executive Order 13132: Federalism
 - 1. What is Executive Order 13132?
 - 2. Does Executive Order 13132 apply to this final rule?
 - F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
 - 1. What is Executive Order 13175?
 - 2. Does Executive Order 13175 apply to this final rule?
 - G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks
 - 1. What is Executive Order 13045?

- 2. Does Executive Order 13045 apply to this final rule?
- H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Usage
 - 1. What is Executive Order 13211?
 - 2. Does Executive Order 13211 apply to this final rule?
- I. National Technology Transfer and Advancement Act
 - 1. What is the National Technology Transfer and Advancement Act?
 - 2. Does the National Technology Transfer and Advancement Act apply to this final rule?
- J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
 - 1. What is Executive Order 12898?
 - 2. Does Executive Order 12898 apply to this final rule?
- K. Congressional Review Act
 - 1. Has the EPA submitted this rule to Congress and the Government Accountability Office?
 - 2. Could the effective date of this final rule change?
 - 3. What could cause a change in the effective date of this rule?

I. Background

A. What are CERCLA and SARA?

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601-9675 ("CERCLA" or "the Act"), in response to the dangers of uncontrolled releases or threatened releases of hazardous substances, and releases or substantial threats of releases into the environment of any pollutant or contaminant that may present an imminent or substantial danger to the public health or welfare. CERCLA was amended on October 17, 1986, by the Superfund Amendments and Reauthorization Act ("SARA"), Public Law 99-499, 100 Stat. 1613 *et seq.*

B. What is the NCP?

To implement CERCLA, the EPA promulgated the revised National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 CFR Part 300, on July 16, 1982 (47 FR 31180), pursuant to CERCLA section 105 and Executive Order 12316 (46 FR 42237, August 20, 1981). The NCP sets guidelines and procedures for responding to releases and threatened releases of hazardous substances, or releases or substantial threats of releases into the environment of any pollutant or contaminant that may present an imminent or substantial danger to the public health or welfare. The EPA has revised the NCP on several occasions. The most recent comprehensive revision was on March 8, 1990 (55 FR 8666).

As required under section 105(a)(8)(A) of CERCLA, the NCP also

includes "criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action and, to the extent practicable, taking into account the potential urgency of such action, for the purpose of taking removal action." "Removal" actions are defined broadly and include a wide range of actions taken to study, clean up, prevent or otherwise address releases and threatened releases of hazardous substances, pollutants or contaminants (42 U.S.C. 9601(23)).

C. What is the National Priorities List (NPL)?

The NPL is a list of national priorities among the known or threatened releases of hazardous substances, pollutants or contaminants throughout the United States. The list, which is appendix B of the NCP (40 CFR part 300), was required under section 105(a)(8)(B) of CERCLA, as amended. Section 105(a)(8)(B) defines the NPL as a list of "releases" and the highest priority "facilities" and requires that the NPL be revised at least annually. The NPL is intended primarily to guide the EPA in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with a release of hazardous substances, pollutants or contaminants. The NPL is of only limited significance, however, as it does not assign liability to any party or to the owner of any specific property. Also, placing a site on the NPL does not mean that any remedial or removal action necessarily need be taken.

For purposes of listing, the NPL includes two sections, one of sites that are generally evaluated and cleaned up by the EPA (the "General Superfund Section") and one of sites that are owned or operated by other federal agencies (the "Federal Facilities Section"). With respect to sites in the Federal Facilities Section, these sites are generally being addressed by other federal agencies. Under Executive Order 12580 (52 FR 2923, January 29, 1987) and CERCLA section 120, each federal agency is responsible for carrying out most response actions at facilities under its own jurisdiction, custody or control, although the EPA is responsible for preparing a Hazard Ranking System ("HRS") score and determining whether the facility is placed on the NPL.

D. How are sites listed on the NPL?

There are three mechanisms for placing sites on the NPL for possible remedial action (see 40 CFR 300.425(c) of the NCP): (1) A site may be included on the NPL if it scores sufficiently high

on the HRS, which the EPA promulgated as appendix A of the NCP (40 CFR part 300). The HRS serves as a screening tool to evaluate the relative potential of uncontrolled hazardous substances, pollutants or contaminants to pose a threat to human health or the environment. On December 14, 1990 (55 FR 51532), the EPA promulgated revisions to the HRS partly in response to CERCLA section 105(c), added by SARA. The revised HRS evaluates four pathways: Ground water, surface water, soil exposure and air. As a matter of agency policy, those sites that score 28.50 or greater on the HRS are eligible for the NPL. (2) Pursuant to 42 U.S.C. 9605(a)(8)(B), each state may designate a single site as its top priority to be listed on the NPL, without any HRS score. This provision of CERCLA requires that, to the extent practicable, the NPL include one facility designated by each state as the greatest danger to public health, welfare or the environment among known facilities in the state. This mechanism for listing is set out in the NCP at 40 CFR 300.425(c)(2). (3) The third mechanism for listing, included in the NCP at 40 CFR 300.425(c)(3), allows certain sites to be listed without any HRS score, if all of the following conditions are met:

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

The EPA promulgated an original NPL of 406 sites on September 8, 1983 (48 FR 40658) and generally has updated it at least annually.

E. What happens to sites on the NPL?

A site may undergo remedial action financed by the Trust Fund established under CERCLA (commonly referred to as the “Superfund”) only after it is placed on the NPL, as provided in the NCP at 40 CFR 300.425(b)(1). (“Remedial actions” are those “consistent with a permanent remedy, taken instead of or in addition to removal actions. * * *” 42 U.S.C. 9601(24).) However, under 40 CFR 300.425(b)(2), placing a site on the NPL “does not imply that monies will be expended.” The EPA may pursue other appropriate authorities to respond to the releases, including enforcement action under CERCLA and other laws.

F. Does the NPL define the boundaries of sites?

The NPL does not describe releases in precise geographical terms; it would be neither feasible nor consistent with the limited purpose of the NPL (to identify releases that are priorities for further evaluation), for it to do so. Indeed, the precise nature and extent of the site are typically not known at the time of listing.

Although a CERCLA “facility” is broadly defined to include any area where a hazardous substance has “come to be located” (CERCLA section 101(9)), the listing process itself is not intended to define or reflect the boundaries of such facilities or releases. Of course, HRS data (if the HRS is used to list a site) upon which the NPL placement was based will, to some extent, describe the release(s) at issue. That is, the NPL site would include all releases evaluated as part of that HRS analysis.

When a site is listed, the approach generally used to describe the relevant release(s) is to delineate a geographical area (usually the area within an installation or plant boundaries) and identify the site by reference to that area. However, the NPL site is not necessarily coextensive with the boundaries of the installation or plant, and the boundaries of the installation or plant are not necessarily the “boundaries” of the site. Rather, the site consists of all contaminated areas within the area used to identify the site, as well as any other location where that contamination has come to be located, or from where that contamination came.

In other words, while geographic terms are often used to designate the site (e.g., the “Jones Co. plant site”) in terms of the property owned by a particular party, the site, properly understood, is not limited to that property (e.g., it may extend beyond the property due to contaminant migration), and conversely may not occupy the full extent of the property (e.g., where there are uncontaminated parts of the identified property, they may not be, strictly speaking, part of the “site”). The “site” is thus neither equal to, nor confined by, the boundaries of any specific property that may give the site its name, and the name itself should not be read to imply that this site is coextensive with the entire area within the property boundary of the installation or plant. In addition, the site name is merely used to help identify the geographic location of the contamination, and is not meant to constitute any determination of liability at a site. For example, the name “Jones Co. plant site,” does not imply that the Jones company is responsible

for the contamination located on the plant site.

EPA regulations provide that the Remedial Investigation (“RI”) “is a process undertaken * * * to determine the nature and extent of the problem presented by the release” as more information is developed on site contamination, and which is generally performed in an interactive fashion with the Feasibility Study (“FS”) (40 CFR 300.5). During the RI/FS process, the release may be found to be larger or smaller than was originally thought, as more is learned about the source(s) and the migration of the contamination. However, the HRS inquiry focuses on an evaluation of the threat posed and therefore the boundaries of the release need not be exactly defined. Moreover, it generally is impossible to discover the full extent of where the contamination “has come to be located” before all necessary studies and remedial work are completed at a site. Indeed, the known boundaries of the contamination can be expected to change over time. Thus, in most cases, it may be impossible to describe the boundaries of a release with absolute certainty.

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

For these reasons, the NPL need not be amended as further research reveals more information about the location of the contamination or release.

G. How are sites removed from the NPL?

The EPA may delete sites from the NPL where no further response is appropriate under Superfund, as explained in the NCP at 40 CFR 300.425(e). This section also provides that the EPA shall consult with states on proposed deletions and shall consider whether any of the following criteria have been met:

- (i) Responsible parties or other persons have implemented all appropriate response actions required;
- (ii) All appropriate Superfund-financed response has been implemented and no further response action is required; or
- (iii) The remedial investigation has shown the release poses no significant threat to public health or the environment, and taking of remedial measures is not appropriate.

H. May the EPA delete portions of sites from the NPL as they are cleaned up?

In November 1995, the EPA initiated a policy to delete portions of NPL sites where cleanup is complete (60 FR 55465, November 1, 1995). Total site cleanup may take many years, while portions of the site may have been cleaned up and made available for productive use.

I. What is the Construction Completion List (CCL)?

The EPA also has developed an NPL construction completion list ("CCL") to simplify its system of categorizing sites and to better communicate the successful completion of cleanup activities (58 FR 12142, March 2, 1993). Inclusion of a site on the CCL has no legal significance.

Sites qualify for the CCL when: (1) Any necessary physical construction is complete, whether or not final cleanup levels or other requirements have been achieved; (2) the EPA has determined that the response action should be limited to measures that do not involve construction (e.g., institutional controls); or (3) the site qualifies for deletion from the NPL. For the most up-to-date information on the CCL, see the EPA's Internet site at <http://www.epa.gov/superfund/cleanup/ccl.htm>

J. What is the Sitewide Ready for Anticipated Use measure?

The Sitewide Ready for Anticipated Use measure represents important Superfund accomplishments and the

measure reflects the high priority the EPA places on considering anticipated future land use as part of the remedy selection process. See Guidance for Implementing the Sitewide Ready-for-Reuse Measure, May 24, 2006, OSWER 9365.0-36. This measure applies to final and deleted sites where construction is complete, all cleanup goals have been achieved, and all institutional or other controls are in place. The EPA has been successful on many occasions in carrying out remedial actions that ensure protectiveness of human health and the environment for current and future land uses, in a manner that allows contaminated properties to be restored to environmental and economic vitality. For further information, please go to http://www.epa.gov/superfund/programs/recycle/pdf/sitewide_a.pdf

K. What is state/tribal correspondence concerning NPL listing?

In order to maintain close coordination with states and tribes in the NPL listing decision process, the EPA's policy is to determine the position of the states and tribes regarding sites that the EPA is considering for listing. This consultation process is outlined in two memoranda that can be found at the following Web site: <http://www.epa.gov/superfund/sites/npl/hrsres/policy/govlet.pdf>. The EPA is improving the transparency of the process by which state and tribal input is solicited. The EPA will be using the Web and where appropriate more structured state and

tribal correspondence that (1) explains the concerns at the site and the EPA's rationale for proceeding; (2) requests an explanation of how the state intends to address the site if placement on the NPL is not favored; and (3) emphasizes the transparent nature of the process by informing states that information on their responses will be publicly available.

A model letter and correspondence from this point forward between the EPA and states and tribes where applicable, will be added to the EPA's Web site at <http://www.epa.gov/superfund/sites/query/queryhtm/nplstcor.htm>.

II. Availability of Information to the Public

A. May I review the documents relevant to this final rule?

Yes, documents relating to the evaluation and scoring of the sites in this final rule are contained in dockets located both at the EPA Headquarters and in the Regional offices.

An electronic version of the public docket is available through www.regulations.gov (see table below for Docket Identification numbers). Although not all Docket materials may be available electronically, you may still access any of the publicly available Docket materials through the Docket facilities identified below in section II D.

DOCKET IDENTIFICATION NUMBERS BY SITE

Site name	City/county, state	Docket ID No.
Macon Naval Ordnance Plant	Macon, GA	EPA-HQ-SFUND-2012-0064
Pike and Mulberry Streets PCE Plume	Martinsville, IN	EPA-HQ-SFUND-2012-0598
Former United Zinc & Associated Smelters	Iola, KS	EPA-HQ-SFUND-2012-0599
Creese & Cook Tannery (Former)	Danvers, MA	EPA-HQ-SFUND-2012-0600
Walton & Lonsbury Inc	Attleboro, MA	EPA-HQ-SFUND-2012-0601
Matlack, Inc	Woolwich Township, NJ	EPA-HQ-SFUND-2012-0602
Riverside Industrial Park	Newark, NJ	EPA-HQ-SFUND-2012-0603
Clinch River Corporation	Harriman, TN	EPA-HQ-SFUND-2012-0604
700 South 1600 East PCE Plume	Salt Lake City, UT	EPA-HQ-SFUND-2012-0647

B. What documents are available for review at the headquarters docket?

The Headquarters Docket for this rule contains, for each site, the HRS score sheets, the Documentation Record describing the information used to compute the score, pertinent information regarding statutory requirements or the EPA listing policies that affect the site and a list of documents referenced in the Documentation Record. For sites that received comments during the comment

period, the Headquarters Docket also contains a Support Document that includes the EPA's responses to comments.

C. What documents are available for review at the regional dockets?

The Regional Dockets contain all the information in the Headquarters Docket, plus the actual reference documents containing the data principally relied upon by the EPA in calculating or evaluating the HRS score for the sites located in their Region. These reference

documents are available only in the Regional Dockets. For sites that received comments during the comment period, the Regional Docket also contains a Support Document that includes the EPA's responses to comments.

D. How do I access the documents?

You may view the documents, by appointment only, after the publication of this rule. The hours of operation for the Headquarters Docket are from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding federal holidays.

Please contact the Regional Dockets for hours. For addresses for the Headquarters and Regional Dockets, see **ADDRESSES** section in the beginning portion of this preamble.

E. How may I obtain a current list of NPL sites?

You may obtain a current list of NPL sites via the Internet at <http://www.epa.gov/superfund/sites/npl/index.htm>

www.epa.gov/superfund/sites/npl/index.htm or by contacting the Superfund Docket (see contact information in the beginning portion of this notice).

III. Contents of This Final Rule

A. Additions to the NPL

This final rule adds the following nine sites to the NPL, eight to the

General Superfund Section and one to the Federal Facilities Section. All of the sites included in this final rulemaking are being added to the NPL based on HRS scores of 28.50 or above. The sites are presented in the table below:

State	Site name	City/County
General Superfund section:		
GA	Macon Naval Ordnance Plant	Macon.
IN	Pike and Mulberry Streets PCE Plume	Martinsville.
KS	Former United Zinc & Associated Smelters	Iola.
MA	Creese & Cook Tannery (Former)	Danvers.
MA	Walton & Lonsbury Inc.	Attleboro.
NJ	Matlack, Inc.	Woolwich Township.
NJ	Riverside Industrial Park	Newark.
TN	Clinch River Corporation	Harriman.
Federal Facilities section:		
UT	700 South 1600 East PCE Plume	Salt Lake City.

B. What did the EPA do with the public comments it received?

The EPA reviewed all comments received on the sites in this rule and responded to all relevant comments. This rule adds nine sites to the NPL.

The EPA is adding nine sites to the NPL in this final rule, eight general sites and one federal facility site. Comments on the Macon Naval Ordnance Plant site (Macon, GA) are addressed in a response to comment support document available in the public docket concurrently with this rule. Two generic comments, applicable to the Macon Naval Ordnance Plant site and all other sites proposed March 15, 2012 (77 FR 15344), were previously addressed in the September 2012 NPL final rule preamble (77 FR 57499–57500, September 18, 2012).

None of the other eight sites being added to the NPL in this rule, which were proposed September 18, 2012 (77 FR 57546), received comments relating to the determination of the HRS site scores. One commenter's submission to the Matlack, Inc. docket also contained comments directed to Pike and Mulberry Streets PCE Plume, Clinch River Corporation, Creese & Cook Tannery (Former), Former United Zinc & Associated Smelters, Riverside Industrial Park, and Walton & Lonsbury Inc. These comments are addressed below. One comment was submitted to the Walton & Lonsbury Inc. docket, but was directed at the 700 South 1600 East PCE Plume site, and is also addressed below.

The Pike & Mulberry Streets PCE Plume (Martinsville, IN) received two comments. One comment that solely supported the listing was included in a commenter's submission to the Matlack, Inc. docket, as mentioned above; this comment noted the potential for vapor intrusion contamination into residential basements. The other comment, from a firm which indicated experience in remediation of vapor intrusion, asked that the EPA consider the firm when cleaning up the site. In response, NPL listing makes a site eligible for remedial action funding under CERCLA. The Pike & Mulberry Streets PCE Plume site will be further investigated during the remedial investigation/feasibility (RI/FS) phase of the Superfund process to determine what response, if any, is appropriate. Actual funding of cleanup work may not necessarily be undertaken in the precise order of HRS scores, however, and upon more detailed investigation may not be necessary at all in some cases. If a response is later deemed necessary, the EPA will follow government-wide federal procurement requirements in selecting cleanup contractors for the site.

The Creese & Cook Tannery (Former) (Danvers, MA) received two comments. One comment that solely supported the listing was included in a commenter's submission to the Matlack, Inc. docket, as mentioned above; this commenter indicated that the site contamination affected local fisheries and wetland frontage on the Crane River. The other comment urged that oil and hazardous

materials companies be held accountable for their actions in creating waste dumps, and that the EPA require the waste to be disposed of properly. In response, liability for response costs is not considered under the HRS and is not established at the time of the NPL listing. The NPL serves primarily as an informational and management tool. The identification of a site for the NPL is intended primarily to guide the EPA in determining which sites warrant further investigation to assess the nature and extent of the human health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. Identification of a site for the NPL does not reflect a judgment on the activities of the owner(s), operator(s), or generator(s) associated with a site. It does not require those persons to undertake any action, nor does it assign any liability to any person. Subsequent government actions will be necessary in order to do so, and these actions will be attended by all appropriate procedural safeguards. This position, stated in the legislative history of CERCLA, has been explained in the **Federal Register** (48 FR 40674, September 8, 1983 and 53 FR 23988, June 24, 1988). The EPA is adding the site to the NPL and, if cleanup is later deemed necessary, will require wastes at the site to be handled appropriately so that human and environmental risks are mitigated.

The EPA received seven comments on the 700 South 1600 East PCE Plume site

(Salt Lake City, UT). The site is being listed as a federal facility (Veterans Administration). As noted earlier, one of the comments was submitted to the Walton & Lonsbury Inc. docket and is addressed here. This comment and three other comments solely supported the listing; two pointed out the potential for contamination of residential basements, one noted the plume should be cleaned for human health and ecological reasons, and one expressed concern for drinking water contamination. The fifth comment supported the listing and added that listing should not negatively impact property values because any astute buyer would already be aware of the contamination issues once the site had been proposed, and final listing was needed to ensure cleanup. In response to these five comments, the EPA is listing the site to study the risks and determine what, if any, actions need to be taken to ensure protection of human health and the environment.

A sixth commenter on the 700 South 1600 East PCE Plume was concerned with the impact of listing on property values for properties located within or nearby the plume. The commenter urged that if the site is placed on the NPL, the EPA ensure the administrative record clearly identifies the source of the contamination so that innocent landowners will not be affected in the context of liability, land use and land values. The commenter also asked the EPA to confirm whether any stakeholders, including local and state governments, were contemplating pursuing a cleanup under RCRA 7002 before the Agency takes final action on the NPL proposal. In response, as discussed above for the Creese & Cook Tannery (Former) site, listing only identifies that a release needs to be evaluated to determine what, if any, cleanup is needed; it does not identify liable parties. Liability is determined later in the Superfund process and any decision is accompanied by appropriate legal safeguards. Further, under the EPA's "Policy Toward Owners of Property Containing Contaminated Aquifers" (1995), the agency generally does not take enforcement actions to require the performance of response actions or the payment of response costs against the owner of property, who meets certain conditions, where hazardous substances have come to be located on or in a property solely as a result of the subsurface migration in an aquifer from a source or sources outside the property. In addition, under the "Policy Toward Owners of Residential Property at Superfund Sites" (1991), the EPA generally does not take

enforcement actions, subject to certain conditions, against an owner of residential property unless the residential homeowner's activities lead to a release or threat of release of hazardous substances, resulting in the taking of a response action at the site. In response to the use of the citizen suit provision of RCRA 7002, as of the time of this final rule, the EPA is not aware of any notices of intent to litigate pursuant to RCRA at this time. This comment results in no change to the HRS score and no change in the Agency's decision to place the site on the NPL.

A seventh comment submitted to the 700 South 1600 East PCE Plume site docket was directed to the EPA's decision to withdraw the proposed listing of Evergreen Manor Ground Water Contamination (Winnebago County, IL) in the same proposed rule. The commenter was opposed to the withdrawal of Evergreen Manor Ground Water Contamination because the commenter opposed a cleanup remedy that involved connection to municipal water. The commenter felt there were contaminants in municipal water, providing access to municipal water is expensive, and installing additional private wells should be the cleanup selected. In response, as stated in the proposed rule, the cleanup for the Evergreen Manor site has already been completed. Contrary to the commenter's assertions, placing private wells into contaminated aquifers may well result in those residents having drinking water more contaminated than if residents are hooked up to a municipal system drawing from a clean aquifer. The commenter's arguments result in no change in the agency's decision to withdraw the 1998 proposal to add the Evergreen Manor Ground Water Contamination site to the NPL.

The EPA received five comments on the Matlack, Inc. site (Woolwich Township, NJ). One commenter said Superfund was a great program. One commenter, who submitted the comment to the Riverside Industrial Park docket, discussed the dangers of volatile organic compounds. The three other commenters all supported listing the site, and each outlined the risks associated with various chemicals found at the site and included lists of references. In response to all five comments, the EPA has placed the site on the NPL. The EPA will consider the information provided by the commenters as it evaluates the risks posed and cleanup options at the site.

One comment on the Clinch River Corporation site (Harriman, TN), in a submission to the Matlack, Inc. docket,

solely supported the listing, mentioning concern over risks to animals and the environment posed by polynuclear aromatic hydrocarbons (PAHs). One comment on the Walton & Lonsbury Inc. listing, in a submission to the Matlack, Inc. docket, solely supported the listing, noting that poor plant maintenance over decades of use has resulted in contamination of nearby wetlands. The EPA will consider the information provided by the commenter as it evaluates the risks posed and cleanup options at these sites.

The EPA received six comments on Riverside Industrial Park site (Newark, NJ), including a comment submission to the Matlack, Inc. docket, as mentioned above. This comment solely supported the listing, indicating that the underground storage tanks need to be removed. Also as noted above, one of the comments submitted to the Riverside Industrial Park docket was directed to Matlack, Inc., and was addressed in this preamble in discussing comments for that site. A third commenter supported the Riverside Industrial Park listing, presented information on the toxicity and health risks of benzene, and also wanted more testing of additional pathways of potential concern. In response to the request, the HRS does not require scoring all pathways if scoring those pathways does not change the listing decision. For some sites, data for scoring a pathway are unavailable, and obtaining these data would be time-consuming or costly. In other cases, data for scoring some pathways are available, but will have only a minimal effect on the site score. In still other cases, data on other pathways could substantially add to a site score, but would not affect the listing decision. The HRS is a screening model that uses limited resources to determine whether a site should be placed on the NPL for possible Superfund response. The EPA will consider other contaminants and pathways during the RI/FS, during which more extensive sampling and evaluation will occur. A fourth commenter supported the listing and encouraged the EPA to more thoroughly evaluate the health risks of mercury at the site. The EPA will consider those risks during the RI/FS when more extensive analyses of the site occur. (In addition, see responses above to the Pike & Mulberry Streets PCE Plume site and the Creese & Cook Tannery (Former) site for further discussion of the Superfund process.)

A fifth commenter supported the Riverside Industrial Park listing but suggested that the EPA could better address the negative stigma

accompanying listing in its **Federal Register** notices, the EPA should impose a mandatory obligation on property owners to investigate suspected releases, and the EPA should require responsible parties to purchase sand bags to prevent the Passaic River flooding from spreading contamination. Liability is not considered under the HRS and is not established at the time of the NPL listing. (See the response above to the Creese & Cook Tannery (Former) site for further discussion regarding liability). In response to the comment related to property owner obligations, Superfund provides the opportunity for potentially responsible parties (PRPs) to take the lead in investigating and remediating wastes for which they may have been responsible; if they refuse, the EPA may take the lead and recover costs from the PRPs. With respect to the purchase of sand bags, the EPA will consider the need for sand bags or other options to restrict contaminant transport by flooding when it evaluates the site. Regarding the stigma concern, some portion of the language desired by the commenter does typically appear in NPL rule preambles, including that listing serves informational purposes and that listing does not imply liability. The EPA notes that any stigma at a site listed on the NPL is a result of the contamination, not the listing. Any perceived or actual negative fluctuations in property values or development opportunities that may result from contamination may be countered by positive changes when a CERCLA investigation and any necessary cleanup are completed.

The remaining Riverside Industrial Park comment requested that a particular parcel included in the site be excluded from the listing because it has been the subject of several years of remedial investigation under the oversight of the New Jersey Department of Environmental Protection (NJDEP). The commenter indicated an engineered cap is the remedy being selected and claimed that the oversight by NJDEP was all that was needed. In response, the actions taken to date have been considered in the decision to list this site, but the risks posed to the public and the environment by the past, and potentially future releases, at the site were not addressed. These actions neither removed all the hazardous substances from the sources that were evaluated, nor did they eliminate the risk posed by the release of those remaining hazardous substances. In addition, New Jersey provided a support letter prior to proposal requesting the entire industrial park be listed,

including the parcel mentioned by the commenter. Upon receiving this comment, the EPA requested the position of NJ, and in an email the state reiterated that it wants the entire park listed. As the email said: "Regardless of DEP [Department of Environmental Protection] involvement with the specific property, Federal Refining Company, in question where a deed notice for remaining soil contamination and a classification exception area for remaining groundwater contamination has been approved, DEP requested that the entire Riverside Industrial Park be listed for evaluation as an NPL site . . . The proposed listing should not be changed." This documentation of the state's position has been added to the Riverside Industrial Park docket at promulgation. The EPA and the state will coordinate activities to ensure there is no duplication of effort with respect to this particular parcel, and will consider all actions taken to date before deciding what if any further remedial action is necessary.

C. Correction of Appendix B Footnote "A" Description

The EPA received no comments on its September 18, 2012 proposal to correct the partial deletion notation in Table 1 (77 FR 57546, Docket #EPA-HQ-SFUND-2012-0606). Therefore, this final rule corrects an error in the footnote "A" description in Appendix B to CFR part 300. In Table 1, the incorrect portion of the footnote currently reads "(if scored, HRS score need not be ≤ 28.50)". In Table 2, the incorrect portion of the footnote currently reads "(if scored, HRS score need not be > 28.50)". The EPA is correcting both footnote "A" descriptions by changing them to "A = Based on issuance of health advisory by Agency for Toxic Substances and Disease Registry (if scored, HRS score need not be greater than or equal to 28.50)".

D. Correction of State Location for Five Points PCE Plume Site

The EPA received no comments on its September 18, 2012 proposal to correct the state location in Table 1 for the Five Points PCE Plume site (77 FR 57546, Docket #EPA-HQ-SFUND-2012-0607). Therefore, this final rule corrects an error in Table 1 of Appendix B to CFR part 300 in which the location of the Five Points PCE Plume site is incorrectly listed as being in the state of Washington. The correct location of the Five Points PCE Plume is the state of Utah.

IV. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

1. What is Executive Order 12866?

Under Executive Order 12866 (58 FR 51735 (October 4, 1993)), the agency must determine whether a regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities or the principles set forth in the Executive Order.

2. Is this final rule subject to Executive Order 12866 Review?

No. The listing of sites on the NPL does not impose any obligations on any entities. The listing does not set standards or a regulatory regime and imposes no liability or costs. Any liability under CERCLA exists irrespective of whether a site is listed. It has been determined that this action is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Paperwork Reduction Act

1. What is the Paperwork Reduction Act?

According to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information that requires OMB approval under the PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations, after initial display in the preamble of the final rules, are listed in 40 CFR part 9.

2. Does the Paperwork Reduction Act apply to this final rule?

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* the EPA has determined that the PRA does not apply because this rule does not contain any information collection requirements that require approval of the OMB.

Burden means the total time, effort or financial resources expended by persons to generate, maintain, retain or disclose or provide information to or for a federal agency. This includes the time needed to review instructions; develop, acquire, install and utilize technology and systems for the purposes of collecting, validating and verifying information, processing and maintaining information and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

1. What is the Regulatory Flexibility Act?

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996) whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations and small governmental jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

2. How has the EPA complied with the Regulatory Flexibility Act?

This rule listing sites on the NPL does not impose any obligations on any group, including small entities. This rule also does not establish standards or requirements that any small entity must meet, and imposes no direct costs on any small entity. Whether an entity, small or otherwise, is liable for response costs for a release of hazardous substances depends on whether that entity is liable under CERCLA 107(a). Any such liability exists regardless of whether the site is listed on the NPL through this rulemaking. Thus, this rule does not impose any requirements on any small entities. For the foregoing reasons, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

1. What is the Unfunded Mandates Reform Act (UMRA)?

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

the development of the EPA regulatory proposals with significant federal intergovernmental mandates and informing, educating and advising small governments on compliance with the regulatory requirements.

2. Does UMRA apply to this final rule?

This final rule does not contain a federal mandate that may result in expenditures of \$100 million or more for state, local and tribal governments, in the aggregate, or the private sector in any one year. Listing a site on the NPL does not itself impose any costs. Listing does not mean that the EPA necessarily will undertake remedial action. Nor does listing require any action by a private party or determine liability for response costs. Costs that arise out of site responses result from site-specific decisions regarding what actions to take, not directly from the act of placing a site on the NPL. Thus, this rule is not subject to the requirements of section 202 and 205 of UMRA.

This rule is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. As is mentioned above, site listing does not impose any costs and would not require any action of a small government.

E. Executive Order 13132: Federalism

1. What is Executive Order 13132?

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires the EPA to develop an accountable process to ensure "meaningful and timely input by state and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" are defined in the Executive Order to include regulations that have "substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government."

2. Does Executive Order 13132 apply to this final rule?

This final rule does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it does not contain any requirements applicable to states or other levels of government.

Thus, the requirements of the Executive Order do not apply to this final rule.

The EPA believes, however, that this final rule may be of significant interest to state governments. In the spirit of Executive Order 13132, and consistent with the EPA policy to promote communications between the EPA and state and local governments, the EPA therefore consulted with state officials and/or representatives of state governments early in the process of developing the rule to permit them to have meaningful and timely input into its development. All sites included in this final rule were referred to the EPA by states for listing. For all sites in this rule, the EPA received letters of support either from the governor or a state official who was delegated the authority by the governor to speak on their behalf regarding NPL listing decisions.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

1. What is Executive Order 13175?

Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 6, 2000), requires the EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” “Policies that have tribal implications” are defined in the Executive Order to include regulations that have “substantial direct effects on one or more Indian tribes, on the relationship between the federal government and the Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes.”

2. Does Executive Order 13175 apply to this final rule?

This final rule does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). Listing a site on the NPL does not impose any costs on a tribe or require a tribe to take remedial action. Thus, Executive Order 13175 does not apply to this final rule.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

1. What is Executive Order 13045?

Executive Order 13045: “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be “economically significant” as defined under Executive Order 12866, and (2) concerns an

environmental health or safety risk that the EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the agency.

2. Does Executive Order 13045 apply to this final rule?

This rule is not subject to Executive Order 13045 because it is not an economically significant rule as defined by Executive Order 12866, and because the agency does not have reason to believe the environmental health or safety risks addressed by this section present a disproportionate risk to children.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

1. What is Executive Order 13211?

Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use” (66 FR 28355, May 22, 2001), requires federal agencies to prepare a “Statement of Energy Effects” when undertaking certain regulatory actions. A Statement of Energy Effects describes the adverse effects of a “significant energy action” on energy supply, distribution, and use, reasonable alternatives to the action and the expected effects of the alternatives on energy supply, distribution, and use.

2. Does Executive Order 13211 apply to this final rule?

This action is not a “significant energy action” as defined in Executive Order 13211, because it is not likely to have a significant adverse effect on the supply, distribution or use of energy. Further, the agency has concluded that this final rule is not likely to have any adverse energy impacts because adding a site to the NPL does not require an entity to conduct any action that would require energy use, let alone that which would significantly affect energy supply, distribution or usage. Thus, Executive Order 13211 does not apply to this action.

I. National Technology Transfer and Advancement Act

1. What is the National Technology Transfer and Advancement Act?

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–

113, section 12(d) (15 U.S.C. 272 note), directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs the EPA to provide Congress, through OMB, explanations when the agency decides not to use available and applicable voluntary consensus standards.

2. Does the National Technology Transfer and Advancement Act apply to this final rule?

No. This rulemaking does not involve technical standards. Therefore, the EPA did not consider the use of any voluntary consensus standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

1. What is Executive Order 12898?

Executive Order (E.O.) 12898 (59 FR 7629, Feb. 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies and activities on minority populations and low-income populations in the United States.

2. Does Executive Order 12898 apply to this final rule?

The EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. As this rule does not impose any enforceable duty upon state, tribal or local governments, this rule will neither increase nor decrease environmental protection.

K. Congressional Review Act

1. Has the EPA submitted this rule to Congress and the Government Accountability Office?

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement

Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA has submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A “major rule” cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a “major rule” as defined by 5 U.S.C. 804(2).

2. Could the effective date of this final rule change?

Provisions of the Congressional Review Act (CRA) or section 305 of CERCLA may alter the effective date of this regulation.

The EPA has submitted a report under the CRA for this rule. The rule will take effect, as provided by law, within 30 days of publication of this document, since it is not a major rule. NPL listing is not a major rule because, by itself, imposes no monetary costs on any person. It establishes no enforceable duties, does not establish that the EPA necessarily will undertake remedial action, nor does it require any action by any party or determine liability for site response costs. Costs that arise out of site responses result from site-by-site decisions about what actions to take, not directly from the act of listing itself. Section 801(a)(3) provides for a delay in the effective date of major rules after this report is submitted.

3. What could cause a change in the effective date of this rule?

Under 5 U.S.C. 801(b)(1), a rule shall not take effect, or continue in effect, if Congress enacts (and the President signs) a joint resolution of disapproval, described under section 802.

Another statutory provision that may affect this rule is CERCLA section 305, which provides for a legislative veto of regulations promulgated under CERCLA. Although *INS v. Chadha*, 462 U.S. 919, 103 S. Ct. 2764 (1983), and *Bd. of Regents of the University of Washington v. EPA*, 86 F.3d 1214, 1222 (D.C. Cir. 1996), cast the validity of the legislative veto into question, the EPA has transmitted a copy of this regulation to the Secretary of the Senate and the Clerk of the House of Representatives.

If action by Congress under either the CRA or CERCLA section 305 calls the effective date of this regulation into question, the EPA will publish a document of clarification in the **Federal Register**.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Natural resources, Oil pollution, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: May 17, 2013.

Barry N. Breen,

*Principal Deputy Assistant Administrator,
Office of Solid Waste and Emergency
Response.*

40 CFR part 300 is amended as follows:

PART 300—NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN

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

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

■ 2. Amend Appendix B of part 300 by:

■ a. Table 1 of Appendix B is amended as follows:

■ i. By adding entries for “Macon Naval Ordnance Plant, Pike and Mulberry Streets PCE Plume, Former United Zinc & Associated Smelters, Creese & Cook Tannery (Former), Walton & Lonsbury Inc., Matlack, Inc., Riverside Industrial Park and Clinch River Corporation” in alphabetical order by state;

■ ii. By revising footnote “A”; and

■ iii. By removing the “Five Points PCE Plume” entry under the state of Washington, adding a “Five Points PCE Plume” entry under the state of Utah; and

■ b. Table 2 of Appendix B to Part 300 is amended as follows:

■ i. By adding an entry for “700 South 1600 East PCE Plume” in alphabetical order by state; and

■ ii. By revising footnote “A”.

The revisions and additions read as follows:

Appendix B to Part 300—National Priorities List

TABLE 1—GENERAL SUPERFUND SECTION

State	Site name	City/County	Notes ^(a)
GA	Macon Naval Ordnance Plant	Macon	*
IN	Pike and Mulberry Streets PCE Plume	Martinsville	*
KS	Former United Zinc & Associated Smelters	Iola	*
MA	Creese & Cook Tannery (Former)	Danvers	*
MA	Walton & Lonsbury Inc.	Attleboro	*
NJ	Matlack, Inc.	Woolwich Township	*
NJ	Riverside Industrial Park	Newark	*

TABLE 1—GENERAL SUPERFUND SECTION—Continued

State	Site name	City/County	Notes (a)
TN	Clinch River Corporation	Harriman	
UT	Five Points PCE Plume	Woods Cross/Bountiful	

(a) A = Based on issuance of health advisory by Agency for Toxic Substances and Disease Registry (if scored, HRS score need not be greater than or equal to 28.50).

* * * * *

TABLE 2—FEDERAL FACILITIES SECTION

State	Site name	City/County	Notes (a)
UT	700 South 1600 East PCE Plume	Salt Lake City	

(a) A = Based on issuance of health advisory by Agency for Toxic Substances and Disease Registry (if scored, HRS score need not be greater than or equal to 28.50).

* * * * *

[FR Doc. 2013-12324 Filed 5-23-13; 8:45 am]

BILLING CODE 6560-50-P