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TITLE: Guidance for Updating the National Priorities List

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAY 12 1983

OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE

OSWER Directive 9320.3-1

MEMORANDUM

SUBJECT: Guidance for Updating the National Priorities List

FROM: William N. Hedeman, Director
Office of Emergency and Remedial Response *William N. Hedeman*

TO: Superfund Coordinators, Regions I-X

INTRODUCTION

The National Priorities List (NPL) was proposed in the Federal Register on December 30, 1982. The information used to support HRS scores in the proposed NPL was collected and analyzed during the spring and early summer of 1982. Since this time, Regions and States have continued to identify, investigate, and score new hazardous waste sites. In some cases, additional information has been received pertaining to the sites on the proposed NPL.

Given the number of new sites identified over the past months, it is appropriate to develop the first update of the NPL and publish it in the Federal Register in the coming months. We intend to publish the first update several weeks after the final NPL.

In general, the procedures established in the June 28, 1982, guidance memorandum (attached) concerning the establishment of the NPL apply to the update. The procedures described herein simply augment the June 28 procedures and apply to the first update and to all future updates.

Two policies contained in the June 28, 1982, guidance memorandum are noted. First, the policy of submitting releases of hazardous substances or pollutants or contaminants from mining facilities for inclusion on the list remains in effect. However, EPA will respond to releases from listed mining facilities in the same manner as it would for any other site on the list. Thus, fund-financed remedial actions will be considered at mining facilities unless responsible parties are willing and able, in a timely manner, to respond to releases from these facilities.

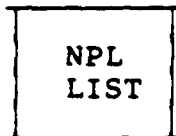
Second, we are examining the issue of whether federal facilities should be included on the NPL. If a decision is made to include federal facilities on this or subsequent updates of the list, additional guidance will be transmitted to you.

UPDATE STRATEGY

Presentation of Update

Each update in the Federal Register will present the "current" NPL and the "proposed" additions and deletions.

"Current"



"Proposed"

ADDITIONS

DELETIONS

The "current" and "proposed" lists will include EPA Regions, State, City/County, site name, and the response status. We intend to continue listing the sites according to score in groups of 50.

Additions

New sites scored using the Hazard Ranking System (HRS) may be submitted to be included in the update. The exact content of the update package is specified in a later section. At this time, we intend to continue the cutoff score of 28.5. However, Regions are encouraged to submit sites scoring 25 and above in case score changes during the quality control (QC) and quality assurance (QA) programs elevate the final score to 28.5 or higher.

It is important to remember that sites with elevated "Direct Contact" or "Fire and Explosion" scores are potential threats to the public health, welfare, or sensitive environmental areas. In such cases, it is appropriate to request the appropriate Emergency Response contacts in each Region to determine the potential for initiation of a removal action.

Deletions

States and/or Regions may request that a site be deleted from the current list. A site may be deleted from the list when one of the following conditions have been met:

- EPA in consultation with the State has determined that responsible parties have completed cleanup so that no Fund-financed response actions will be required;
- All appropriate Fund-financed cleanup action under CERCLA has been completed, and EPA has determined that no further cleanup by responsible parties is appropriate.

EPA, in considering the nature and severity of the problem, the potential costs of cleanup, and available funds has determined that no remedial actions should be undertaken at the site.

The Regional Office should determine whether any of the three conditions have been satisfied. State concurrence on a deletion decision is not required but coordination is necessary. A memorandum from the Regional Administrator to the Director of the Office of Emergency and Remedial Response (OERR) must describe the conditions that have led to the deletion decision. The memo must be accompanied by all supporting documents relevant to the conditions warranting deletion and may be accompanied by a letter from the State. This information will be included in the Regional and Headquarters docket. We may continue to refine and augment the process and you will be informed of any changes as they occur.

The Assistant Administrator for the Office of Solid Waste and Emergency Response will make the final decision on deletions based on the information contained in the Regional memorandum and the comments received during the 60 day comment period.

Comment Period

Following publication of the first update, the Agency will receive comments for 60 days on the "current" list and the "proposed" additions and deletions. This means that the public will have a second and final opportunity to comment on the 419 sites (418 plus Times Beach) currently proposed. However, for future updates, only the "proposed" additions and deletions will be open for comment. Sites on the "current" NPL list will not be eligible for comment on future updates, unless the comments satisfy the criteria for deletion from the list. We do not intend to use resources on minor score changes that only result in rearrangements within the list.

EPA will accept, at any time, any information regarding the hazard at a particular site. However, once the comment period on that site has concluded, such information will be used only to determine the appropriate action at the site and will not affect the listing, unless the information indicates that the site should be deleted.

Comments will be handled in the same manner as the proposed NPL comments. These procedures are described in the memorandum concerning the final rulemaking for the NPL (attached). OERR will sort the comments according to type and Region. All relevant comments will be delivered to the appropriate Regions. Regions will not be required to evaluate site-specific technical comments. A Headquarters QA team will evaluate such comments through a review of Regional, and where necessary, State files. The QA

team will make a score recommendation to the Regions. The Regions will have the responsibility for reporting final scores and OERR will draft the response to comments.

Previous updates will become final at the time of the next update. Only relevant comments received during the 60 day comment period will be discussed in the preamble of the next update. Consideration of relevant comments will determine whether sites "proposed" in the previous update are either added or deleted from the "current" NPL list presented in the next update.

Schedule for Updates

The CERCLA requires a periodic update of the NPL, at least annually. Previous guidance has suggested a goal of quarterly updates. The workload requirements of information submissions, docket preparation, Federal Register development, and response to technical comments during the NPL proposal has been tremendous. Based on the experience of the proposed NPL, we intend now to conduct two updates per year.

The two updates will be frequent enough to get new sites listed and work initiated. The date of the second update will remain flexible so as to accomodate future conditions as they develop. The States will receive adequate notice of the updates and the submission deadlines. This approach does not preclude special updates for special situations such as the Times Beach, Missouri site.

MANAGEMENT RESPONSIBILITIES

States

States have the primary responsibility of nominating and scoring new sites using the HRS. Candidates should be identified on the basis of the apparent seriousness of the threat or harm to public health, welfare, or sensitive environmental areas. All types of releases of hazardous substances, pollutants, or contaminants, and all types of facilities may be considered, except those specifically excluded under CERCLA.

In some cases, new information may have been obtained on sites previously scored. These changes along with the appropriate supporting documents may be submitted to the EPA Regional Office. New information may indicate that a "current" NPL site should be deleted. States must provide a written justification and supporting documentation for any site proposed for deletion.

Finally, the States will prepare and submit a complete update package to the Regional Office.

Regional Offices

The EPA Regional Offices will notify the States of the update procedures and schedule as described herein. The Regions are responsible for providing technical assistance to the States to ensure a consistent and accurate application of the HRS. All sites submitted by States must undergo a QC check. As discussed above, site selection is the responsibility of the States. However, the Regional Offices have the responsibility of adding sites to the list where appropriate. For such sites, the Regions must conduct additional investigations and HRS scoring.

Prior to the submission of the update package to Headquarters, the information contained in the HRS work sheets, documentation records, and the narrative summaries must be coordinated with the Office of Regional/Enforcement Counsel. This procedure will ensure that information that is confidential to the agency is not released. Additional guidance on the dockets is described in a later section. The EPA form 2070-13, the response status and the enforcement status sheets will not be in the docket. Therefore, these three items can contain enforcement confidential information.

Headquarters

Headquarters will receive the update package from the Regions and conduct a comprehensive QA check of the submissions. Sites that fail the QA check will be returned to the Regions for correction. If the problem can be quickly reconciled, the site may still qualify for the current update. Otherwise, the site must wait until the next update.

Headquarters will publish the NPL update in the Federal Register and manage the 60 day comment period. As mentioned, the comment process will be handled in the same manner as the comments received for the proposed NPL.

CONTENTS OF UPDATE PACKAGES

The HRS worksheets, documentation records and narrative summaries of the update packages submitted to Headquarters from the Regions are identical in format to the material contained in the existing docket for the proposed NPL. It is essential that the documentation records contain a clear explanation of the sources of information. (This was not done consistently in sufficient detail for the proposed NPL.) Please ensure that each information item is supported by a document or other identified source according to a specific title, date, person, or event as appropriate. These citations should be referenced in the body of the documentation records or included as a bibliography. The EPA form 2070-13 is a mandatory part of the update package. Sites without this form will be returned to the Regions. Also,

it is important that the narrative summaries be consistent from Region to Region. Therefore, examples of a narrative summaries and instructions are attached.

For sites that have not previously been submitted the following information is required:

- (1) HRS worksheets (7 pages)
- (2) Documentation Records (13 pages)
- (3) EPA Form 2070-13 (approximately 20 pages)
- (4) Narrative Summary (1 page)
- (5) Response Status (1 page)
- (6) Enforcement Status (1 page)

Dockets

For the first update, we will maintain the dockets that currently exist in each of the Regions and Headquarters. These dockets, used to support the proposed NPL, will be supplemented with new information contained in the update packages. Of the information submitted in the update packages, only items 1, 2 and 4 (see above) or memoranda for deletion will be placed in the public docket. These items will be placed in the docket after the updates appear in the Federal Register.

The experience gained in the preparation of the dockets for the proposed NPL has caused a change in the procedures for the updates. The update packages received from the Regions will be added to the Headquarters docket. This procedure will ensure that the Headquarters and Regional dockets contain the same information on each site. We do not intend to reproduce the Headquarters docket and send to the Region as was done for the proposed NPL. Therefore, it is imperative that the update packages received from the Regions are complete, accurate, and legally defensible. This will require Regional Counsel and Enforcement Counsel approval of the update package prior to submission to Headquarters.

Essentially there are two guidelines for updating the docket. First, the Headquarters and Regional dockets must be identical. Therefore, if a document is added in the Region, a copy must be sent to Headquarters. Secondly, documents may not be substituted or removed from the docket, even if they contain errors. Explanatory memoranda or notes to correct such errors should be inserted in the docket and a copy must be sent to Headquarters. Further instructions for maintaining the Regional docket will be forwarded to the Regions.

SCHEDULE

The schedule for the first update will require a tremendous amount of cooperation between the States, Regions and Headquarters. The schedule is compressed considerably in comparison with the proposed NPL timetable. Therefore, it is necessary to establish firm deadlines for State submissions to the Regions, and Regions' submissions to Headquarters. The schedule outline below will meet the goal.

States

- States will have approximately 2 weeks to prepare update packages of candidates identified since the proposed NPL.
- Update package is due in the Regional Office by May 23, 1983.

Regions

- Regions have 3 weeks to: conduct QC program on States submissions; add sites and supporting documents that were not included in States' submissions; prepare any deletion memoranda; and establish Regional docket with Office of Regional/Enforcement Counsel coordination.
- Regions submit complete update package to Headquarters by June 13, 1983.

Headquarters

- Headquarters has 3 weeks to conduct QA program and establish Headquarters docket.
- Headquarters will conduct briefings for Directors of OERR, OSWER, and the Administrator and coordinate press release and press conference on July 15, 1983.
- Updated list is published in Federal Register on July 25, 1983.

Your cooperation on this project is greatly appreciated. If you have any questions concerning the update procedures please contact Scott Parrish (FTS-382-2464) or Hal Snyder (FTS-382-3999).

Attachments