



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA-HQ-OPA-2006-0090; FRL-4526.2-01-OLEM]

RIN 2050-AH43

National Oil and Hazardous Substances Pollution Contingency Plan; Extension of Transition Period for New Product Schedule Listing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rule; request for comment.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is taking interim final action to revise the transition date in recent amendments to the requirements in Subpart J of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) that governs the use of dispersants, other chemicals, and other spill mitigating substances when responding to oil discharges into jurisdictional waters of the United States. Specifically, the EPA is revising the date until which products listed on the current NCP Product Schedule will remain conditionally listed and available for use from December 12, 2025, to June 10, 2026, for certain agent categories for which there are no new products listed as of December 12, 2025, in accordance with recently amended testing and listing criteria. This rule will become effective immediately while the Agency seeks comments on this targeted revision to the new NCP Product Schedule transition date. EPA will respond and update this interim final action as appropriate.

DATES: This rule is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may send comments, identified by Docket ID No. EPA-HQ-OPA-2006-0090, by any of the following methods:

- Federal eRulemaking Portal: <https://www.regulations.gov/> (our preferred method).
Follow the online instructions for submitting comments.
- Mail: U.S. Environmental Protection Agency, EPA Docket Center, Docket EPA-HQ-OPA-2006-0090, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- Hand delivery or courier: EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m. to 4:30 p.m., Monday through Friday (except Federal holidays).

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to <https://www.regulations.gov/>, including any personal information provided. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Michael Beuthe, Office of Land and Emergency Management, Mail Code 5104A, Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone number: 202-566-1499; email: beuthe.michael@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

In 2015, EPA proposed amendments to 40 CFR 300.900 through 300.970: NCP Subpart J that sought to: 1) establish new monitoring requirements for certain atypical dispersant use situations; 2) revise the data and information requirements for chemical and biological agent products to be listed on the NCP Subpart J Product Schedule; and 3) revise the authorization of use of procedures for chemical and biological agents in response to an oil discharge to Clean

Water Act (CWA) section 311 jurisdictional waters and adjoining shorelines. (80 FR 3380, January 22, 2015). In January 2020, environmental groups filed suit seeking to compel EPA to take final action on the 2015 proposed rulemaking. On July 6, 2021, EPA promulgated a final rule addressing one component of these revisions: monitoring requirements for dispersant use in atypical situations. (86 FR 40234, July 27, 2021). EPA did not issue a final rule on the other two components of the 2015 proposed rulemaking.

On August 9, 2021, the court ordered EPA to take final action on the remaining listing and authorization of use provisions by May 31, 2023. *Earth Island Inst. v. Regan*, 553 F. Supp. 3d 737, 746 (N.D. Cal. 2021). On May 31, 2023, EPA promulgated a final rule on the remaining provisions. (88 FR 38280, June 12, 2023).

The 2023 final rule amended Subpart J of the NCP by adding new listing criteria, revising the efficacy and toxicity testing protocols, and clarifying the evaluation criteria for removing products from the NCP Product Schedule, as well as amending requirements for the authorities, notifications, and data reporting when using chemical or biological agents. The final requirements specifically emphasized the development of safer and more effective spill mitigating products. The final amendments also underscored the need to better target the use of these products to reduce the potential risks presented to human health and the environment by not only the oil discharges, but also by the response technologies. Furthermore, the 2023 rule addressed recommendations from the National Commission on BP Deepwater Horizon Oil Spill and Offshore Drilling Report¹ and EPA Inspector General Report². These recommendations include that EPA review and update product testing protocols. The 2023 final rule provided a process to transition listed products on the NCP Product Schedule based on the 1994 regulatory requirements to the new NCP Product Schedule, as well as for listing sorbent products on the new Sorbent Product List. A 24-month transition period was established to provide time to

¹ <https://www.govinfo.gov/content/pkg/GPO-OILCOMMISSION/pdf/GPO-OILCOMMISSION.pdf>.

² <https://www.epa.gov/office-inspector-general/report-revisions-needed-national-contingency-plan-based-deepwater-horizon>.

prepare and submit new product packages according to amended testing and listing requirements and for EPA to review and make listing determinations. The transition period was to also allow for the continued availability of previously listed products for planning and response activities.

This action revises the transition date – the date until which certain products listed on the NCP Product Schedule as of December 11, 2023, will remain conditionally listed and available for use – from December 12, 2025, to June 10, 2026 provided that no products are listed on the new Product Schedule as of December 12, 2025, specifically for those agent categories for which no products have been added to the NCP Product Schedule under the revised regulation. At the time of this rule publication, those categories consist of Surface Washing Agents, Herding Agents, and Solidifiers. This rule will become effective immediately to ensure responders retain continued access to these response-critical agent categories while EPA concurrently seeks comments on this targeted revision to the new NCP Product Schedule transition date for the specific product categories. EPA will respond and update this interim final action as appropriate.

A. Potentially Affected Entities

A list of NAICS codes at the three-digit level that could be affected by the amended transition date established in this action is provided in Table 1.

Table 1—Sectors Potentially Affected by the Interim Final Rule

NAICS Code	Industrial Category
213	Support Activities for Mining
322	Paper Manufacturing
325	Chemical Manufacturing
326	Plastics and Rubber Products Manufacturing
423	Merchant Wholesalers, Durable Goods
424	Merchant Wholesalers, Nondurable Goods

454	Nonstore Retailers
493	Warehousing and Storage
541	Professional, Scientific, and Technical Services
561	Administrative and Support Services
562	Waste Management and Remediation Services
811	Repair and Maintenance

This table is not intended to be exhaustive but rather provides a guide for readers regarding affected entities potentially regulated by this action. This table includes the types of entities that EPA is aware could potentially be regulated by this action. Other types of entities not included in the table could also be regulated. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

B. Action the Agency is Taking

EPA is extending by 180 days the transition date until which Surface Washing Agent products, Solidifier products, and Herding Agent products listed in the current NCP Product Schedule will remain conditionally listed and available for use, from December 12, 2025, to June 10, 2026. The transition date extension is specifically targeted to only those agent categories for which no products have been added to the Product Schedule under the revised regulation as of December 12, 2025, in accordance with testing and listing criteria as amended in 2023. This rule will become effective immediately while the EPA seeks comments on this targeted revision of the transition date to the new NCP Product Schedule. The Agency will respond and update this interim final action as appropriate.

C. Statutory Authority

Under sections 311(d) and (j) of the Clean Water Act (CWA), as amended by section 4201 of the Oil Pollution Act of 1990 (OPA), Public Law 101–380, the President is directed to

prepare and publish the NCP for removal of oil and hazardous substances. Specifically, section 311(d)(2)(G) directs the President to include a schedule identifying “(i) dispersants, other chemicals, and other spill mitigating devices and substances, if any, that may be used in carrying out the Plan, (ii) the waters in which such dispersants, other chemicals, and other spill mitigating devices and substances may be used, and (iii) the quantities of such dispersant, other chemicals, or other spill mitigating device or substance which can be used safely in such waters” as part of the NCP. The Agency has promulgated the NCP, see 40 CFR 300.1 *et seq.*, including the schedule of dispersants, other chemicals, and other oil spill mitigating devices and substances (see 40 CFR 300.900 *et. seq.*) as directed by section 311(d)(2)(G) of the CWA. The President is further authorized to revise or otherwise amend the NCP from time to time, as the President deems advisable. 33 U.S.C. 1321(d)(3). The authority of the President to implement section 311(d)(2)(G) of the CWA is delegated to EPA in Executive Order 12777, as amended (56 FR 54757, October 22, 1991). Subpart J of the NCP establishes the framework for the use of dispersants and any other chemical agents in response to oil discharges (40 CFR part 300 series 900). The statutory schedule provided for in CWA section 311(d)(2)(G) includes the NCP Product Schedule, the Sorbent Product List, and the Subpart J authorization of use procedures that, when taken together, identify the waters and quantities in which such dispersants, other chemicals, or other spill mitigating devices and substances may be used safely.

D. Costs and Benefits

EPA has determined that this interim final rule provides benefits by reducing burden through extending the transition date to allow product submissions of certain agent categories and by addressing potential challenges to oil spill responses due to unavailability where the use of such agents may be advantageous to protect human health and the environment.

II. Background

A. General Background

In the United States and around the world, chemical and biological agents are among the oil spill mitigation technologies available that responders may consider. The use of chemical and biological agents are governed by Subpart J of the NCP regulation found at existing 40 CFR 300.900 *et seq.* Subpart J of the NCP sets forth the regulatory requirements for the use of chemical and biological agents when responding to oil discharges to CWA jurisdictional waters. Subpart J of the NCP includes in which includes separate provisions for product testing and listing on the NCP Product Schedule and Sorbent Product List, and for authorization of use procedures. These requirements provide the structure for the On-Scene Coordinator (OSC) to determine in each case the waters and quantities in which dispersants or other chemical agents may be safely used in such waters, if any. This determination is based on all relevant circumstances, testing and monitoring data and information, and is to be made in accordance with the authorization of use procedures, including the appropriate concurrences and consultations, found within the regulation. When taken together, the Subpart J regulatory requirements address the types of waters and the quantities of listed agents that may be authorized for use in response to oil discharges.

B. Product Schedule Transition

The regulatory amendments published on June 12, 2023 (88 FR 38280) provide a process to transition products listed on NCP Product Schedule under the 1994 regulatory requirements to the new NCP Product Schedule, as well as for listing sorbent products on the new Sorbent Product List. The 2023 final rule became effective on December 11, 2023. From December 11, 2023, Subpart J product manufacturers had two years to retest their product and resubmit an application for listing as provided in the NCP Subpart J. The transition period allows for the continued availability of previously listed products to be accessible for planning and response activities until the transition is finalized.

Section 300.955(f) of the 2023 final rule provides that all products listed on the NCP Product Schedule as of December 11, 2023, will remain conditionally listed until December 12,

2025, at which time all products that have not been submitted and listed on the NCP Product Schedule based on the amended testing and listing criteria will be removed. Under the 2023 rule, products will be transitioned from the current NCP Product Schedule to the new NCP Product Schedule prior to December 12, 2025, provided a new complete package is submitted in accordance with 40 CFR 300.955(b), and EPA makes a determination to list the product on the new NCP Product Schedule. Products listed on the NCP Product Schedule prior to December 11, 2023, for which a new submission is not received or that do not meet the revised listing criteria, will not be transitioned to the new NCP Subpart J Product Schedule at the end of the 24-month transition period.

Parallel to the transition for the NCP Product Schedule, the 2023 rule provides that all products previously identified as sorbents that received written certifications confirming their status as a sorbent from EPA will remain available for use during a response until December 12, 2025. EPA no longer issues written certifications for sorbent products as of December 12, 2023. A generic list of sorbents, as well as sorbents meeting the 2023 Subpart J sorbent listing requirements, will be listed on a new publicly available Sorbent Product List.

B. Implementation Issues

There are 130 conditionally listed products listed on the NCP Product Schedule until December 12, 2025, at which time, under the 2023 rule, all products that have not been submitted and listed in the new NCP Product Schedule based on the amended test and listing criteria are to be removed. To date, in addition to the new regulatory listings for generic nutrients under the bioremediation agent category,³ there are three unique formulations for dispersant products listed on the new NCP Product Schedule. Similarly, in addition to the new regulatory listings for generic sorbent materials⁴, nine commercial sorbent products have been listed on the

³ 40 CFR 300.915(d)(4).

⁴ 40 CFR 300.915(g)(1).

new Sorbent Product List in accordance with 40 CFR 300.915(g)(2). There were over 200 sorbents that received sorbent letters under the 1994 rule.

Concerns have been raised by industry and Federal response stakeholders that EPA has not listed any products in the following categories: Surface Washing agents, Herding agents, and Solidifiers. Therefore, absent an extension for those categories, emergency responders would not have certain spill clean-up and/or spill mitigating products available for preauthorization or case-by-case authorization to address oil discharges or threats of discharges after the transition date. The use of oil spill mitigating substances that fall within these agent categories can play a critical role in responding to oil discharges to CWA jurisdictional waters and can help mitigate the impacts of such discharges on the environment. For example, surface washing agents may be used to separate oil from solid surfaces (e.g., the hull of an oil response vessel, rocky beaches) so that the oil can be collected and disposed, thus mitigating the impact of an oil discharge on the environment. Considering numerous response assets (e.g., oil response vessels, oil containment booms, mechanical recovery devices) may be deployed to mitigate an oil discharge, the use of surface washing agents may play a significant role in decontaminating oiled assets used during a response in a controlled manner, thereby minimizing the impact of the discharged oil. Likewise, the availability of herding agents that may be used to control the spreading of oil to allow for oil removal, and of solidifiers that may be used to prevent oil from dissolving into the water column, may also assist in mitigating potential impacts resulting from an oil discharge.

It is important to note that, while Subpart J of the NCP establishes the requirements for product submissions to be considered for listing on the NCP Product Schedule, there is no obligation for product manufacturers or their representatives to make submissions for listing. Additionally, Subpart J does not prohibit submitters from, at any time, requesting their products be removed from the NCP Product Schedule or Sorbent Product List.

Since the new requirements were finalized in 2023, EPA has sent four reminders to known Subpart J product manufacturers to notify them of the new requirements and the Product

Transition details. To date, there have been several products submitted to EPA for review, including dispersants and sorbents. Additionally, the Agency has received several dozen technical assistance requests for both transitioning products and for new products, including for at least one product in each product category. Taken together, these requests represent the potential for additional unique product formulations submissions for listing on the new NCP Product Schedule. Therefore, the Agency believes this transition date extension provides the potential for at least one product in each category to be available at the time the extended transition ends.

III. Regulatory Revisions

This interim final action provides a 180-day extension of the deadline for transitioning listed products under certain specified categories to the new NCP Product Schedule – provided that no products are listed in these categories as of December 12, 2025. The 180-day extension is targeted to only those agent categories for which no products have been listed in accordance with the 2023 final rule amended requirements: Surface Washing agents, Herding agents, and Solidifiers.

This action specifically amends the requirements under Subpart J of the NCP at 40 CFR 300.955(f) – *Transitioning Listed Products to the New NCP Product Schedule or Sorbent Product List* – to include a 180-day extension for products in the Surface Washing, Herding, and Solidifier agent categories that were listed under the prior regulations to remain conditionally listed until June 10, 2026 provided that no products are listed in these agent categories on the new NCP Product Schedule as of December 12, 2025. On June 10, 2026, all products that have not been submitted and listed in the new NCP Product Schedule based on the amended test and listing criteria will be removed. Surface Washing, Herding, and Solidifier agent products will be transitioned from the current NCP Product Schedule to the new NCP Product Schedule prior to June 10, 2026, after new complete packages are submitted in accordance with 40 CFR 300.955(b), and EPA makes a determination to list the product on the new NCP Product

Schedule. The conditionally listed products would remain available to responders through the extended transition period. Products in the Surface Washing, Herding, and Solidifier agent categories that are not transitioned to the new NCP Product Schedule prior to the June 10, 2026 transition deadline, may still be considered for listing on the new NCP Product Schedule after new complete packages are submitted in accordance with 40 CFR 300.955(b), and EPA makes a determination to list the product on the new NCP Product Schedule.

The 180-day extension allows for the 90-day timeline established in the regulation for EPA to review, make a listing determination, and provide written notification to the submitter. In addition to this 90-day listing timeline, it also allows for the 30-day window established in the regulation for submitters to request that EPA review listing denials, and for the subsequent 60-day window for the Agency to provide written notification of its final review determination (see 40 CFR 300.955(c) and (d)). The Agency will continue to provide technical assistance on completing submission packages for new NCP Product Schedule listings during this extended transition period.

This targeted and short-term transition date extension reduces the possibility of oil spill response challenges due to unavailability of certain agent categories where the use of such agents may be advantageous to protect human health and the environment. Nonetheless, it also clearly signals the Agency's intent to transition to the new NCP Product Schedule only products that meet the more stringent testing requirements of the 2023 revisions, with the goal of ensuring that only safer and more effective spill mitigating products continue to be available for responders to consider as potential oil spill response tools.

Products in both the Dispersant and Bioremediation agent categories, either as proprietary formulations as is the case for dispersants, or as generic listings as is the case for Bioremediation agents, have already been approved for transition or inclusion on the new Product Schedule. Thus, the transition date for all products under the Dispersant and Bioremediation agent categories to be transitioned to the new NCP Product Schedule will remain the same: December

12, 2025. All Dispersant and Bioremediation agent products that have submitted packages in accordance with 40 CFR 300.955(b), and for which EPA makes a determination to list the product on the new NCP Product Schedule, will be transitioned to the new NCP Product Schedule. Likewise, the new Sorbent Product List currently includes products in accordance with the 2023 amended requirements, both as a proprietary formulation or as a generic listing. Thus, the transition date for all Sorbent products to be transitioned to the new Sorbent Product List will remain the same: December 12, 2025. All products previously identified as sorbents by EPA will remain available for use until December 12, 2025, at which time all sorbent products must have submitted information as applicable under 40 CFR 300.955(a) and (b) and be listed on the new Sorbent Product List.

Finally, the 2023 final rule removed the category and definition for Miscellaneous Oil Spill Control Agent (MOSCA) from the NCP, as it was used as a catchall for all types of products that did not meet other agent definitions. The Agency continues to believe that removing the MOSCA category and definition does not necessitate the automatic reassignment of these products under the definition of another chemical or biological agent, or substance. Thus, this action does not extend the transition deadline to products conditionally listed under the MOSCA category. Products listed under this category will not be transitioned to the new NCP Product Schedule and will no longer be listed after the December 12, 2023, transition deadline unless the MOSCA is tested and qualifies for listing under a product category contained in the 2023 rule.

IV. Rulemaking Procedures

EPA's authority for the rulemaking procedures followed in this action is provided by the Administrative Procedure Act, 5 U.S.C. 553(b)(B). This provision authorizes agencies to forego prior notice and comment “when the agency for good cause finds (and incorporates the finding and a brief statement of reasons, therefore, in the rule issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.”

The EPA finds good cause to issue this interim final rule without prior notice and comment because such procedures are impracticable. Specifically, there is insufficient time before the December 12, 2025 transition deadline for EPA to ensure that certain NCP Product Schedule categories will be accessible for planning and response activities beyond the current transition period. This is because EPA did not receive revised product packages to evaluate and list in certain categories (i.e., Surface Washing, Herding, and Solidifier agent categories). The Agency engaged in multiple targeted outreach efforts to known Subpart J manufacturers to notify them of the new requirements and Product Schedule details since the 2023 final rule was published and responded to technical assistance requests in order to facilitate product listing efforts. Additionally, EPA met with the oil spill response community, including private and public stakeholders, to update them on the status of the Subpart J transition period and to make them aware of the amended requirements for listing products on the NCP Product Schedule. Given this, and the number of technical assistance requests received during the initial transition period, the Agency did not expect that by the end of the transition period it would face the listing issues now encountered. The Agency did not take earlier action to extend the transition date, as it was expecting there would be sufficient listed products under all product categories available for use in a response. Nonetheless, the transition date extension is targeted to those listed products under the Surface Washing agents, Herding agents, and Solidifiers categories, as these categories are the ones that currently do not have products listed on the new NCP Product Schedule in accordance with the 2023 amended requirements. The use of oil spill mitigating substances that fall within these agent categories can play a critical role in responding to oil discharges to CWA jurisdictional waters and can help mitigate the impacts of such discharges on the environment. For example, surface washing agents may be used to separate oil from solid surfaces (e.g., the hull of an oil response vessel, rocky beaches) so that the oil can be collected and disposed, thus mitigating the impact of an oil discharge on the environment. Considering numerous response assets (e.g., oil response vessels, oil containment booms, mechanical recovery devices) may be

deployed to mitigate an oil discharge, the use of surface washing agents may play a significant role in decontaminating oiled assets used during a response in a controlled manner, thereby minimizing the impact of the discharged oil. Likewise, the availability of herding agents that may be used to control the spreading of oil to allow for oil removal, and of solidifiers that may be used to prevent oil from dissolving into the water column, may also assist in mitigating potential impacts resulting from an oil discharge.

As stated in section III of this preamble, EPA chose to extend the transition date by 180 days to ensure EPA has 90 days to review product submission for these product categories and, as applicable, an additional 90 days for product submitters to request a review of a decision (see 40 CFR 300.955(c) and (d)).

For the reasons discussed earlier in this preamble, this interim final rule is effective immediately upon publication. APA section 553(d) provides that final rules may become effective upon publication in the *Federal Register* if the rule “relieves a restriction,” is an interpretive rule or statement of policy, or if the agency otherwise finds “good cause” for doing so. 5 U.S.C. 553(d)(1)-(3). The purpose of this provision is “to give affected parties a reasonable time to adjust their behavior before the final rule takes effect.” *Omnipoint Corp. v. FCC*, 78 F.3d 620, 630 (D.C. Cir. 1996). In determining whether good cause exists to waive the 30-day delay, an agency should “balance the necessity for immediate implementation against principles of fundamental fairness which require all affected persons be afforded a reasonable amount of time to prepare for the effective date of its ruling.” *Id.* The EPA has determined that there is good cause for making final rule effective immediately under section 553(d) because it provides relief to product manufacturers in certain product categories to submit a product listing package in time to be listed on the new NCP Product Schedule by extending the transition period date. For the same reasons, the rule also “relieves a restriction” under section 553(d)(1).

V. Request for Comment

As explained in section IV of this preamble, the EPA finds good cause to take this interim final action without prior notice or opportunity for public comment. Nevertheless, the EPA is providing an opportunity for comment on the amendments to the transition period in this interim final rule. However, the EPA is not reopening or reconsidering as part of this rule any provisions of the 2023 final NCP Subpart J rule amendments other than the specific provisions that are expressly amended in this interim final rule. The EPA will review and respond to any comments received, including by making changes to this action, if appropriate.

VI. Statutory and Executive Orders

Additional information about these statutes and executive orders can be found at

<https://www.epa.gov/laws-regulations/laws-and-executive-orders>.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Executive Order 14192: Unleashing Prosperity Through Deregulation.

This action is considered an Executive Order 14192 deregulatory action. This interim final rule provides burden reduction by extending the transition period date to allow product submissions of certain agent categories and address potential challenges to oil spill responses due to unavailability where the use of such agents may be advantageous to protect human health and the environment. Details on the estimated cost savings of this final rule can be found in EPA's Regulatory Economic Assessment in the rulemaking docket for this action. The overall cost savings is estimated to be between \$1,017 and \$5,063 per year.

C. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. The Office of Management and Budget (OMB) has previously approved the information collection activities that apply to the regulated entities affected by this action and has assigned OMB

control number 2050-0141 (EPA number 1664.14). This action does not change the information collection requirements.

D. Regulatory Flexibility Act (RFA)

The EPA concludes that this interim final rule will not have a significant economic impact on a substantial number of small entities because the rule has no net increase in burden on the small entities subject to the rule. The interim final action providing a 180-day extension of the date for transitioning listed products under certain specified categories to the new NCP Product Schedule provided that no products are listed in these agent categories on the new NCP Product Schedule as of December 12, 2025, will impose no net regulatory burden for all directly regulated small entities.

E. Unfunded Mandates Reform Act

This action does not contain an unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any State, local or Tribal governments or the private sector.

F. Executive Order 13132: Federalism

This action 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.

G. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. This action provides a 180-day extension for products in the Surface Washing, Herding, and Solidifier agent categories to remain conditionally listed on the NCP Product Schedule until June 10, 2026, provided that no products are listed in these agent categories on the new NCP Product Schedule as of December 12, 2025, and does not impose any new regulatory requirements. It does not have a substantial direct effect on one or more Indian Tribes, in that this action imposes no regulatory burdens on Tribes. Thus, Executive Order 13175 does not apply to this action.

H. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2-202 of the Executive Order. This action is not subject to Executive Order 13045 because the environmental health or safety risks addressed by this action do not present a disproportionate risk to children.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTAA)

This rule does not involve technical standards.

K. Congressional Review Act

This action is subject to the Congressional Review Act, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 300

Environmental protection, Chemicals, Oil pollution.

Lee Zeldin,
Administrator.

For the reasons set out in the preamble, title 40, chapter I, part 300, of the Code of Federal Regulations 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. 1251 *et seq.*; 42 U.S.C. 9601–9657; E.O. 13626, 77 FR 56749, 3 CFR, 2013 Comp., p. 306; 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 § 300.955 by revising paragraph (f) to read as follows:

§ 300.955 Addition of a product to the NCP Product Schedule or Sorbent Product List.

* * * * *

(f) *Transitioning Listed Products to the New NCP Product Schedule or Sorbent Product List.*

(1) Bioremediation and Dispersant Agents. All dispersant and bioremediation agent products on the NCP Product Schedule as of December 11, 2023, will remain conditionally listed until December 12, 2025, at which time all dispersant and bioremediation agent products that have not been submitted and listed in the new NCP Product Schedule based on the amended test and listing criteria will be removed. Your dispersant or bioremediation product will be transitioned from the conditional NCP Product Schedule listing to the new NCP Product Schedule prior to December 12, 2025, after you submit a new complete package in accordance with § 300.955(b), and EPA makes a determination to list the product on the new NCP Product Schedule.

(2) Surface Washing Agents, Herding Agents, and Solidifiers. All surface washing, herding, and solidifier agent products on the NCP Product Schedule as of December 11, 2023, will remain conditionally listed until June 10, 2026 – provided that no products are listed on the new NCP Product Schedule in these categories as of December 12, 2025. On June 10, 2026, all products that have not been submitted and listed in the new NCP Product Schedule based on the amended test and listing criteria will be removed. Your surface washing agent, herding agent, or solidifier

product will be transitioned from the conditional NCP Product Schedule listing to the new NCP Product Schedule prior to June 10, 2026, after you submit a new complete package in accordance with § 300.955(b), and EPA makes a determination to list the product on the new NCP Product Schedule.

(3) Sorbents. All products previously identified as sorbents by EPA will remain available for use until December 12, 2025, at which time all sorbent products must have submitted information as applicable under § 300.955(a) and (b) and be listed in the new Sorbent Product List.

[FR Doc. 2025-19918 Filed: 11/14/2025 8:45 am; Publication Date: 11/17/2025]