

THE
NATIONAL LAW REVIEW

US EPA Proposes to Include Vapor and Other Subsurface Intrusions Component to NPL Hazard Ranking System

Wednesday, March 2, 2016

US EPA may make a significant change to the *Hazard Ranking System*, the system utilized to determine which sites are eligible for inclusion on the Superfund National Priorities List (NPL). (See the proposed rule [here](#).) Currently, the Hazard Ranking System evaluates four exposure pathways when determining eligibility: ground water migration, soil exposure, surface water migration, and (outdoor) air migration. US EPA is proposing to modify the soil exposure pathway to include subsurface intrusion (Ssl). Ssl includes all migrations of hazardous substances, pollutants, or contaminants from the subsurface into aboveground structures regardless of the medium of transport. Vapor intrusion (VI) is the most common form of Ssl. VI occurs when there is a migration of volatile chemicals into an aboveground structure from contaminated ground water or soil. Ssl is broader than just VI however and can also occur through the intrusion of contaminated groundwater. For example, Ssl may occur when contaminants in groundwater directly enter a structure's basement and then vaporizes in the structure.

The proposed modification will not change the Hazard Ranking System scoring procedure. Sites that reach the 28.50 cut-off score will remain qualified for NPL listing. However, by including Ssl to the Hazard Ranking System, multiple sites that were not previously qualified for the NPL may now be qualified with the addition of points for Ssl issues. Currently, NPL sites address Ssl issues but the Ssl pathway alone could not qualify the site for NPL listing. And while US EPA does not anticipate that the proposed addition will spur the Agency to re-score sites that did not previously meet the cut-off score, if a prior applicant believes it may now qualify it may consider seeking re-scoring based on new information about how Ssl impacts the site once US EPA's rule is finalized. However, given potentially limited budgets and the possibility of increased costs for an Ssl site assessment, EPA predicts it may conduct fewer assessments per year. US EPA's detailed fact sheet about the proposed Ssl inclusion is available [here](#).

Comments on the proposed rule are due on or before April 29, 2016. Those who are interested in submitting comments may want to review the more than 40 written comments that were submitted in 2011 when US EPA first conducted outreach to determine the public's interest for VI inclusion in the ranking system. These comments are available at regulations.gov under the docket number EPA-HQ-SFUND-2010-1086 and are associated with 76 Fed. Reg. 5370 (January 31, 2011).

© Copyright 2019 Squire Patton Boggs (US) LLP

Source URL: <https://www.natlawreview.com/article/us-epa-proposes-to-include-vapor-and-other-subsurface-intrusions-component-to-npl>



Article By [Squire Patton Boggs \(US\) LLP](#)
[Lisa J. Zak](#)
[frESH: Perspectives on Environmental, Safety & Health](#)
[Environmental, Energy & Resources](#)
[All Federal](#)