

Dated: December 9, 1998.

Carol M. Browner,

Administrator.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL-6202-8]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent for partial deletion of the Rocky Mountain Arsenal National Priorities List Site from the National Priorities List; announcement to reopen public comment period.

SUMMARY: The Environmental Protection Agency (EPA) Region 8 announced its intent to delete the western tier parcel of the Rocky Mountain Arsenal National Priorities List Site (RMA/NPL Site) On-Post Operable Unit (OU) from the National Priorities List (NPL) on October 2, 1998 (63 FR 53005). The 30-day public comment period ended November 2, 1998, during which two letters were received. In addition to a request for additional time to comment, one of the letters contained significant comments to which EPA has responded by developing a new document specific to the western tier parcel. EPA is reopening the public comment period for an additional 60 days and requests comments on the proposed partial deletion in consideration of this new document.

The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). This partial deletion of the RMA/NPL Site is proposed in accordance with 40 CFR 300.425(e) and Notice of Policy Change: Partial Deletion of Sites listed on the National Priorities List (Nov. 1, 1995).

EPA bases its proposal to delete the western tier of the RMA/NPL Site on the determination by EPA and the State of Colorado, through the Colorado Department of Public Health and Environment (CDPHE), that all appropriate actions under CERCLA have been implemented to protect human health, welfare, and the environment

and that no further response action by responsible parties is appropriate.

This partial deletion pertains only to the western tier of the On-Post OU of the RMA/NPL Site and does not include the rest of the On-Post OU or the Off-Post OU. The rest of the On-Post OU and the Off-Post OU will remain on the NPL and response activities will continue at those OUs.

DATES: Comments concerning this proposed partial deletion may be submitted to EPA on or before February 16, 1999.

ADDRESSES: Comments may be mailed to: Rob Henneke, Community Involvement Coordinator (8OC), U.S. EPA, Region 8, 999 18th Street, Suite 500, Denver, Colorado, 80202-2466, 1-800-227-8917 or (303) 312-6734.

Comprehensive information on the RMA/NPL Site, as well as information specific to this proposed partial deletion, is available through EPA's Region 8 office in Denver, Colorado. Documents are available for viewing by appointment from 8:00 a.m. to 4:00 p.m., Monday through Friday excluding holidays by calling (303) 312-7287. The Administrative Record for the RMA/NPL Site and the Deletion Docket for this partial deletion are maintained at the Joint Administrative Records Document Facility, Building 135, Room 16, 72nd and Quebec Streets, Commerce City, Colorado 80022, (303) 289-0362.

FOR FURTHER INFORMATION CONTACT: Ms. Laura Williams, Remedial Project Manager (8EPR-F), U.S. EPA, Region 8, 999 18th Street, Suite 500, Denver Colorado, 80202-2466, (303) 312-6660.

SUPPLEMENTARY INFORMATION:

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I. Introduction

The EPA Region 8 announced its intent to delete the western tier parcel of the RMA/NPL Site On-Post OU from the NPL on October 2, 1998 (63 FR 53005). The 30-day public comment period ended November 2, 1998, during which two letters were received. In addition to a request for additional time to comment, one of the letters contained significant comments to which EPA has responded by developing a new document specific to the western tier parcel. EPA is reopening the public comment period for an additional 60 days and requests comments on the proposed partial deletion in consideration of this new document.

The NPL constitutes Appendix B of the National Oil and Hazardous

Substances Pollution Contingency Plan (NCP), 40 CFR part 300, which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. 9605. EPA identifies sites that appear to present a significant risk to public health or the environment and maintains the NPL as the list of those sites. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). This partial deletion of the Site is proposed in accordance with 40 CFR 300.425(e) and Notice of Policy Change: Partial Deletion of Sites Listed on the National Priorities List (60 FR 55466 (Nov. 1, 1995)). As described in 40 CFR 300.425(e)(3), portions of a site deleted from the NPL remain eligible for further remedial actions if warranted by future conditions.

EPA will accept comments concerning its intent for partial deletion of the RMA/NPL Site for sixty days after publication of this document in the **Federal Register**.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses the procedures that EPA is using for this proposed partial deletion. Section IV discusses the western tier of the RMA/NPL Site and explains how it meets the deletion criteria.

II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate to protect public health or the environment. In making such a determination pursuant to § 300.425(e), EPA will consider, in consultation with the State, whether any of the following criteria have been met:

Section 300.425(e)(1)(i). Responsible parties or other persons have implemented all appropriate response actions required; or

Section 300.425(e)(1)(ii). All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

Section 300.425(e)(1)(iii). The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking remedial measures is not appropriate.

A partial deletion of a site from the NPL does not affect or impede EPA's ability to conduct CERCLA response activities for portions not deleted from the NPL. In addition, deletion of a portion of a site from the NPL does not

affect the liability of responsible parties or impede agency efforts to recover costs associated with response efforts. The U.S. Army and Shell Oil company will be responsible for all future remedial actions required at the area deleted if future site conditions warrant such actions.

III. Deletion Procedures

Upon determination that at least one of the criteria described in § 300.425(e) of the NCP has been met, EPA may formally begin deletion procedures. The following procedures were used for this proposed deletion of the western tier of the RMA/NPL Site:

(1) EPA has recommended the partial deletion and has prepared the relevant documents.

(2) The State of Colorado, through the CDPHE, has concurred with publication of this notice of intent for partial deletion.

(3) Concurrent with this national Notice of Intent for Partial Deletion, a local notice has been published in a newspaper of record and has been distributed to appropriate federal, State, and local officials, and other interested parties.

(4) EPA has made all relevant documents available at the information repositories listed previously for public inspection and copying.

Upon completion of the sixty calendar day public comment period, EPA Region 8 will evaluate each significant comment and any significant new data received before issuing a final decision concerning the proposed partial deletion. EPA will prepare a responsiveness summary for each significant comment and any significant new data received during the public comment period and will address concerns presented in such comments and data. The responsiveness summary will be made available to the public at the EPA Region 8 office and the information repository listed above and will be included in the final deletion package. Members of the public are encouraged to contact EPA Region 8 to obtain a copy of the responsiveness summary. If, after review of all such comments and data, EPA determines that the partial deletion from the NPL is appropriate, EPA will publish a final notice of partial deletion in the **Federal Register**. Deletion of the western tier of the RMA/NPL Site does not actually occur until a final notice of partial deletion is published in the **Federal Register**. A copy of the final partial deletion package will be placed at the EPA Region 8 office and the information repository listed above after a final

notice has been published in the **Federal Register**.

IV. Basis for Intended Partial Site Deletion

The following information provides EPA's rationale for deletion of the western tier of the RMA/NPL Site from the NPL and EPA's finding that the proposed final deletion satisfies 40 CFR 300.425(e) requirements:

Background

The On-Post OU of the RMA/NPL Site encompasses 27 square miles in southern Adams County, Colorado, approximately 8 miles northeast of the city of Denver. The Rocky Mountain Arsenal was established in 1942 by the U.S. Army, and was used to manufacture chemical warfare agents and incendiary munitions for use in World War II. Prior to this, the area was largely undeveloped ranch and farm land. Following the war and through the early 1980s, the facilities continued to be used by the Army. Beginning in 1946, some facilities were leased to private companies to manufacture industrial and agricultural chemicals. Shell Oil Company, the principal lessee, primarily manufactured pesticides from 1952 to 1982. After 1982, the only activities at the Arsenal involved remediation.

By the late 1950s, complaints of ground water pollution north of the RMA/NPL Site began to surface. Common industrial and waste disposal practices used during these years resulted in contamination of structures, soil, surface water, and ground water. As a result of this contamination, the Arsenal was proposed for inclusion on the NPL in July 1987. On February 17, 1989, an interagency agreement—referred to as a Federal Facility Agreement (FFA)—formalizing the process framework for selection and implementation of cleanup remedies at the RMA/NPL Site, was signed by the Army, Shell Oil Company, EPA, U.S. Department of the Interior, U.S. Department of Justice, and the Agency for Toxic Substances and Disease Registry.

Western Tier of the On-Post OU

A remedial investigation (RI) completed in January 1992 studied each of the five environmental media at the RMA/NPL Site, including soils, water, structures, air, and biota. Based upon evidence gathered during the RI, information on the western tier of the RMA/NPL Site indicated the western tier area was exposed to minimal or no contamination and is considered a "non-source" area. A structures survey

program identified eight structures within the western tier.

Several ground water plumes below the western tier parcel have been identified but are not attributable to the RMA/NPL Site. Because the ground water does not meet drinking water standards, the Klein Water Treatment Facility was built in 1989—prior to completion of the RI—to treat the ground water contamination that is now known to originate from non-RMA/NPL sources. The Klein Water Treatment Facility is located within the area to be deleted; however, its continued operation, and associated 5-year review requirements, have been incorporated as part of the Chemical Sales Company Superfund Site.

The Irondale Containment System (ICS) was constructed during development of the RI/FS as an interim response action (IRA). The ICS is partially located on the western tier and was installed to extract and treat ground water emanating from the Rail Yard and the Motor Pool areas which are in close proximity to the western tier.

A feasibility study (FS) was finalized in October 1995 and a proposed plan prepared and presented to the public in October 1995 as well. On June 11, 1996, the On-Post Record of Decision (ROD) was signed by the Army, EPA, and the State of Colorado. The ROD specified no remedial action for soil within the western tier of the On-Post OU since the soil does not pose a risk to humans or biota. The remedy for structures included the dismantling of three of the eight structures found on the western tier. The selected ground water remedy consisted of continued operation of the ICS.

Community Involvement

Since 1988 each of the Parties has made extensive efforts to ensure that the public is kept informed on all aspects of the cleanup program. More than 100 fact sheets about topics ranging from historical information to site remediation have been developed and made available to the public. Following the release and distribution of the draft Detailed Analysis of Alternatives report (a second phase of the FS), the Army held an open house for about 1,000 community members. The open house provided opportunity for individual discussion and understanding of the various technologies being evaluated for cleanup of RMA/NPL.

The Proposed Plan for the On-Post OU was released for public review on October 16, 1995. On November 18, 1995 a public meeting was held, attended by approximately 50 members of the public, to obtain public comment

of the Proposed Plan. As a result of requests at this meeting, the period for submitting written comments on the plan was extended one month, concluding on January 19, 1996. No public comments were received on the alternatives presented for the western tier of the On-Post OU.

EPA Region 8 announced its intent to delete the western tier parcel from the NPL on October 2, 1998 (63 FR 53005). The 30-day public comment period ended November 2, 1998, during which two letters were received. In addition to a request for additional time to comment, one of the letters contained significant comments to which EPA has responded by developing a new document specific to the western tier parcel. The document, "Further Evaluation of Surficial Soil Data from Western Tier Parcel at Rocky Mountain Arsenal (December 1998)," evaluates surficial soils for the potential future use of daycare facilities. EPA is reopening the public comment period on the proposed partial deletion for an additional 60 days.

Current Status

Of the three structures slated for demolition, one was determined to no longer exist (a building foundation), and the other two structures (survey tower and septic tank) were demolished in October 1997. Since the ROD was signed, three structures referred to as "vaults" were found in Section 9 of the western tier parcel. These structures were used for housing antennae associated with the Titan I Missile system deployed in northern Colorado during the late 1950s through the mid-1960s. Evaluation of the vaults confirmed that no radiological, chemical or biological materials were utilized in these structures. The vaults were removed from the western tier during the week of July 20, 1998.

The ICS extraction wells have met the ROD shut-off criteria and were shut down on October 1, 1997. Extraction wells for the Motor Pool IRA have also met shut-off criteria; therefore, the ICS facility is currently operated solely to treat contaminated ground water which is piped from the Rail Yard IRA and not associated with the western tier parcel. Monitoring of the ground water aquifer previously treated through the ICS extraction wells, as required by the ROD, has been incorporated into the sitewide monitoring program.

Use of the ground water below the western tier for potable drinking purposes is prohibited by the FFA, the RMA National Wildlife Refuge Act of 1992, and the ROD; and will continue to be prohibited even after portions of

the western tier are sold. Additional prohibitions imposed by the FFA, Refuge Act, and ROD include the use of the western tier parcel for residential, industrial, and agricultural purposes, for hunting or fishing for consumptive purposes, and the use of any future surface water as a potable source.

The December 1998 Child Care Risk Assessment document concluded that risks associated specifically with a potential future child care facility located on the western tier parcel are not above acceptable levels. These conclusions are consistent with those of previous investigations and risk assessment scenarios for the western tier which were conducted as part of the site-wide RMA/NPL Site investigations and risk assessment activities. Based on these determinations no further response actions are planned or scheduled for this area.

This remedy for soil and structures does not result in hazardous substances remaining at the site above health-based levels with respect to anticipated uses of and access to the site, which are limited under the Federal Facility Agreement, Rocky Mountain Arsenal National Wildlife Refuge Act and the ROD. All completion requirements for the western tier of the On-Post OU have been achieved as outlined in OSWER Directive 9320.2-3A. Therefore, there are no requirements for a five-year review or operation and maintenance.

EPA, with concurrence from the State of Colorado, has determined that all appropriate CERCLA response actions have been completed at the western tier parcel of the RMA/NPL Site to protect public health and the environment and that no further response action by responsible parties is required. Therefore, EPA proposes to delete the western tier of the On-Post OU of the RMA/NPL Site from the NPL.

Dated: December 8, 1998.

William P. Yellowtail,

Regional Administrator, Region 8.

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FEDERAL MARITIME COMMISSION

46 CFR Part 525

[Docket No. 98-27]

Marine Terminal Operator Schedules

AGENCY: Federal Maritime Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Maritime Commission proposes to add new regulations for marine terminal operator

schedules in accordance with the Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998 and the Coast Guard Authorization Act of 1998.

DATES: Submit comments on or before January 19, 1999.

ADDRESSES: Address all comments concerning this proposed rule to: Joseph C. Polking, Secretary, Federal Maritime Commission, 800 North Capitol St., N.W. Room 1046, Washington, D.C. 20573-0001.

FOR FURTHER INFORMATION CONTACT:

Bryant VanBrakle, Director, Bureau of Tariffs, Certification and Licensing, Federal Maritime Commission, 800 North Capitol St., N.W. Room 940, Washington, D.C. 20573-0001, (202) 523-5796

Thomas Panebianco, General Counsel, Federal Maritime Commission, 800 North Capitol St., N.W. Room 1018, Washington, D.C. 20573-0001, (202) 523-5740

SUPPLEMENTARY INFORMATION: The Ocean Shipping Reform Act of 1998 ("OSRA"), Pub. L. 105-258, 112 Stat. 1902, and the Coast Guard Authorization Act of 1998, § 424 of Pub. L. 105-383, 112 Stat. 3411, amend the Shipping Act of 1984 ("1984 Act"), 46 U.S.C. app. § 1701 *et seq.*, in several areas relating to marine terminal operators ("MTO(s)"). The Federal Maritime Commission ("Commission") proposes new regulations, 46 CFR part 525, which would implement changes made by OSRA to sections 3(15), 8(f), 8(g) and 10(d) of the 1984 Act.

New 46 CFR part 525

Proposed § 525.1 implements OSRA's revision of section 3(15) of the 1984 Act by redesignating that section as 3(14) and amending the definition of MTO to extend Commission jurisdiction over those MTOs who furnish terminal services or facilities in connection with a common carrier and a water carrier subject to Subchapter II of Chapter 135 of Title 49, United States Code. That is, the Commission will have jurisdiction over an MTO who serves mixed commerce, *i.e.*, international and domestic, rather than only those MTOs who solely serve international commerce.

In addition, the proposed rule would implement OSRA's new section (8)(f) of the 1984 Act. This section provides MTOs with the option of making their schedules of rates, regulations, and practices available to the public by publication in a terminal schedule, subject to section 10(d) of the 1984 Act, as amended by OSRA. The 1984 Act does not currently mandate MTO tariff filing, but it is required under