

**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.

#### Appendix B—[Amended]

2. Table 1 of Appendix B to part 300 is amended under Salem Acres Superfund Site by removing the “Salem Acres Superfund Site, Salem, Massachusetts”.

[FR Doc. 01–12709 Filed 5–21–01; 8:45 am]

BILLING CODE 6560–50–P

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 300

[FRL–6947–1]

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

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Partial direct final deletion of the California Gulch Superfund Site from the National Priorities List (NPL).

**SUMMARY:** The Environmental Protection Agency (EPA) Region 8 announces its deletion of Operable Unit 2 (OU2) of the California Gulch Superfund Site (Site) from the National Priorities List (NPL) and requests public comment on this action. The NPL constitutes appendix B of 40 CFR part 300, 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) of 1980, as amended. This partial deletion of the California Gulch Site is in accordance with 40 CFR 300.425(e) and the Notice of Policy Change: Partial Deletion of Sites Listed on the National Priorities List, 60 FR 55466 (Nov. 1, 1995).

This partial deletion pertains to the area addressed by OU 2, and includes the Malta Gulch Fluvial Tailing, Leadville Corporation Mill, Malta Gulch Tailing Impoundment, and the Malta Tailing Impoundment. EPA has issued a Record of Decision (ROD) for OU 2. EPA bases its partial deletion of this area 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 at these sites.

The California Gulch Site has been divided into 12 operable units. This partial deletion pertains only to OU 2 of the Site. Response activities will continue at the remaining OUs.

**DATES:** This “direct final” action will be effective July 23, 2001 unless EPA receives significant adverse or critical comments by June 21, 2001. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Comments may be mailed to Rebecca Thomas, Remedial Project Manager, Environmental Protection Agency, Region 8, Mail Code 8EPR-SR, 999 18th Street, Suite 300, Denver, CO 80202. Telephone: (303) 312–6552.

**Information Repositories:** Comprehensive information on the California Gulch Site is available through EPA, Region 8 public docket, which is located at EPA, Region 8, Superfund Records Center and is available for viewing from 8:00 a.m. to 4:30 p.m., Monday through Friday, excluding holidays. Requests for documents should be directed to the EPA, Region 8, Superfund Records Center. The address for the Region 8 Superfund Records Center is: U.S. Environmental Protection Agency, Superfund Record Center 999 18th Street, 5th Floor, Denver, CO 80202, Telephone (303) 312–6473.

**FOR FURTHER INFORMATION CONTACT:** Rebecca Thomas, Remedial Project Manager, Environmental Protection Agency, Region 8, Mail Code 8EPR-SR, 999 18th Street, Suite 300, Denver, CO 80202. Telephone: (303) 312–6552.

#### SUPPLEMENTARY INFORMATION:

##### Table of Contents

- I. Introduction
- II. NPL Deletion Criteria
- III. Deletion Procedures
- IV. Basis for Intended Partial Site Deletion

#### I. Introduction

The Environmental Protection Agency, Region 8 announces its deletion of a portion of the California Gulch Superfund Site (Site), located in Lake County, Colorado from the National Priorities List (NPL), which constitutes appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300, and requests comments on this proposal. This partial deletion pertains to Operable Unit 2 (OU 2), which consists of the Lower Malta Gulch Fluvial Tailing, Leadville Corporation Mill, Malta Gulch Tailing Impoundment, and the Malta Tailing Impoundment.

The Site is divided into 12 Operable Units (OUs) pursuant to agreement reached in a 1994 Consent Decree settlement. The 12 OUs comprising the California Gulch Site are as follows:

1. Yak Tunnel/Water Treatment Plant.
2. Malta Gulch Tailing Impoundments and Lower Malta Gulch Fluvial Tailing.
3. D&RG Slag piles and Railroad Yard/Easement.
4. Upper California Gulch.
5. Asarco Smelter sites/Slag/Mill sites.
6. Starr Ditch/Stray Horse Gulch/Lower Evans Gulch/Penrose Mine Waste Pile.
7. Apache Tailing Impoundments.
8. Lower California Gulch.
9. Residential and Commercial Populated Areas.
10. Oregon Gulch.
11. Arkansas River Valley Floodplain.
12. Site-wide Water Quality.

OUs 2 through 11 were designated in order to facilitate source remediation of specific geographic areas. OUs 2 through 11 pertain to distinct geographical areas corresponding to areas of responsibility for the identified responsible parties with EPA taking responsibility for areas where no responsible party could be identified, the United States was a responsible party, or cash-out settlements had been reached with the responsible parties. OU 12, which covers the entire Site was designated to address Site-wide surface and groundwater after completion of source remediation pursuant to OUs 2 through 11. EPA is deleting the areas addressed by OU 2 because all appropriate CERCLA response actions have been completed in these areas as described in Section IV. However, response activities are not complete for the other areas. Therefore, those areas will remain on the NPL and are not the subject of this partial deletion.

The NPL is a list maintained by EPA of sites that EPA has determined present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). Pursuant to 40 CFR 300.4–25(e) of the NCP, any site or portion of a site deleted from the NPL remains eligible for Fund-financed remedial actions if conditions at the site warrant such action.

EPA will accept any dissenting comments on this partial deletion for thirty days following publication of this document in the **Federal Register**.

#### 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 of remedial measures is not appropriate.

Deletion of an operable unit at a site from the NPL does not preclude eligibility for subsequent Fund-financed actions at the operable unit deleted, it future site conditions warrant such actions. Section 300.425(e)(3) of the NCP provides that Fund-financed actions may be taken at sites that have been deleted from the NPL. A partial deletion of a site from the NPL does not affect or impede EPA's ability to conduct CERCLA response activities at operable units not deleted and remaining on 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.

### III. Deletion Procedures

Deletion or partial deletion of sites from the NPL does not itself create, alter, or revoke any individual's rights or obligations. The NPL is designed primarily for informational purposes and to assist EPA management. The following procedures were used for the partial deletion of this site:

(1) EPA, Region VIII has recommended the partial deletion of the California Gulch Site and has prepared the relevant documents.

(2) The State of Colorado, through the Colorado Department of Public Health and Environment (CDPHE) has concurred with EPA's recommendation for a partial deletion.

(3) Concurrent with this partial deletion, a public notice has been published in a local newspaper and has been distributed to appropriate Federal, State and local officials, and other interested parties. These notices announce a thirty (30) day public comment period on the deletion package, which commences on the date of publication of this document in the **Federal Register** and a newspaper of record.

(4) EPA, Region VIII has made all relevant documents available in the Regional Office, Superfund Record Center.

EPA is requesting only dissenting comments on the Direct Final Action to Delete. For deletion of the release from the Site, EPA's Regional Office will accept and evaluate public comments on EPA's action before making a final decision to delete. If necessary, the Agency will prepare a Responsiveness Summary, responding to each significant comment submitted during the public comment period. Deletion of the Site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. The NPL is designed primarily for informational purposes and to assist Agency management. As mentioned in section II of this document, § 300.425 (e)(3) of the NCP states that the deletion of a release from a site from the NPL does not preclude eligibility for future response actions.

### IV. Basis for Partial Site Deletion

The following provides EPA's rationale for deletion of OU 2 from the NPL and EPA's findings that the criteria in 40 CFR 300.425(e) are satisfied.

#### *Background*

The California Gulch Superfund Site is located in Lake County, Colorado approximately 100 miles southwest of Denver. The California Gulch Superfund Site was listed on the National Priorities List on September 8, 1983. The Site is in a highly mineralized area of the Colorado Rocky Mountains covering 16 ½ square miles of a watershed that drains along California Gulch to the Arkansas River. Mining, mineral processing, and smelting activities have occurred at the Site for more than 130 years. The Site includes the City of Leadville, various parts of the Leadville Historic Mining District, and a section of the Arkansas River from the confluence of California Gulch to the confluence of Lake Fork Creek.

A site-wide Phase I Remedial Investigation (Phase I RI), which primarily addressed surface and groundwater contamination, was issued in January 1987. As a result of the Phase I RI, EPA developed the first operable unit at the Site, the Yak Tunnel. This first operable unit was designed to address the largest single source of metallic loading.

The Phase I RI was followed by a number of additional site-wide studies, including the Tailing Disposal Area Remedial Investigation Report, Baseline Human Health Risk Assessment Part A, Part B, and Part C, Ecological Risk

Assessment for Terrestrial Ecosystems, Baseline Aquatic Ecological Risk Assessment, Groundwater RI, Surface Water RI, Waste Rock RI, and Site-wide Screening Feasibility Study. In addition, OU 2 specific studies were conducted, including the Malta Gulch Tailing Engineering Evaluation/Cost Analysis and studies conducted by the Hecla Mining Company (Hecla).

In order to expedite the clean-up of the Site, EPA agreed, pursuant to a 1994 Consent Decree settlement, to divide the Site into eleven additional Operable Units. With the exception of OU 12, the operable units pertain to distinct geographical areas corresponding to areas of responsibility for the identified responsible parties and/or to distinct sources of contamination. EPA has taken responsibility for operable units where no responsible party could be identified, the United States was a responsible party, or cash-out settlements had been reached with the responsible parties. Under the settlement agreement reached in 1994, OUs 2 through 11 were designated to deal with areas where the appropriate responsible party or the United States would conduct source remediation. The settlement agreement recognized that additional source remediation or other appropriate response actions related to surface or ground water could occur as part of OU 12 anywhere within the 16.5 square mile of the Site. The OUs are as follows:

1. Yak Tunnel/Water Treatment Plant.
2. Malta Gulch Tailing Impoundments and Lower Malta Gulch Fluvial Tailing.
3. D&RG Slag piles and Railroad Yard/Easement.
4. Upper California Gulch.
5. Asarco Smelter sites/Slag/Mill sites.
6. Starr Ditch/Stray Horse Gulch/Lower Evans Gulch/Penrose Mine Waste Pile.
7. Apache Tailing Impoundments.
8. Lower California Gulch.
9. Residential and Commercial Populated Areas.
10. Oregon Gulch.
11. Arkansas River Valley Floodplain.
12. Site-wide Surface and Ground Water.

The source areas to be addressed by OU 2 included the Malta Gulch Tailing Impoundments, including the Leadville Corporation Mill; the Malta Tailing Impoundment, including the Leadville Silver & Gold Mill facility; and the fluvial tailing in the area known as the Lower Malta Gulch. Pursuant to settlements reached with the responsible parties at each of these properties, EPA is responsible for

conducting the appropriate response actions at these properties.

EPA performed four (4) removal/response actions at these sites. In chronological order, the fluvial tailing in Lower Malta Gulch were excavated from the Gulch and placed in a portion of the Malta Gulch Tailing Impoundment. These materials were graded, capped and revegetated. The remainder of the Malta Gulch Tailing Impoundment was capped in 1992 by Leadville Corporation to control fugitive dust emissions. The material in the Malta Tailing Impoundment (Leadville Silver & Gold) was graded, capped and revegetated. And, forty-two drums were removed from the Leadville Corporation Mill and appropriately disposed.

On September 30, 1999, after completion of the removal actions, EPA issued a Record of Decision for OU 2 presenting EPA's decision that no further CERCLA action, as regards source remediation, is necessary to protect human health and the environment. The OU 2 ROD also provided for long-term monitoring of the Impoundments, including monitoring of the present use restrictions to prevent uses incompatible with the response actions would be necessary at the Malta Gulch Tailing Impoundment and the Malta Tailing Impoundment. Monitoring may include minor maintenance. Monitoring and any minor maintenance will be implemented by the Colorado Mountain College and through funds received by the United States in a settlement with a potentially responsible party. In the event that significant maintenance issues are identified by the Colorado Mountain College, EPA will take appropriate action to ensure protectiveness of the remedy. In addition, five-year reviews are also necessary for these sites.

#### *OU 2 Response Actions*

##### *Lower Malta Gulch*

The fluvial tailings in Lower Malta Gulch, also identified as Fluvial Tailing #7 in the Tailing Disposal Area Remedial Investigation Report, lie directly downstream of the Malta Gulch Tailing Impoundments. Malta Gulch runs in a southwesterly direction for about three miles where it joins California Gulch.

The fluvial tailing in Lower Malta Gulch originated from the milling operations conducted by the Ore & Chemical Company (OCC) from the fall of 1943 through August 1946. OCC had constructed a large tonnage sink-float mill near the site of the present day Leadville Corporation Mill. OCC

deposited approximately 800,000 tons of tailing behind low profile berms. These berms appear to have been unsuccessful in completely containing the tailing and there appears to have been periodic releases of OCC tailing into the Lower Malta Gulch.

Fluvial Tailing Site #7 covered an area of approximately 26 acres. Sampling at this site found lead levels ranging from 5.5 to 47,800 parts per million (ppm). The Time Critical Removal Action for Lower Malta Gulch Fluvial Tailing was performed in the 1995 and 1996 construction seasons. The materials excavated from Lower Malta Gulch Fluvial Tailing were disposed at the Malta Gulch Tailing Impoundment prior to the Non-Time Critical Removal Action which was planned for Malta Gulch Tailing Impoundment in 1996.

During the 1995 construction season, approximately 34,000 cubic yards of contaminated material was removed from Lower Malta Gulch Fluvial Tailing and deposited in the Malta Gulch Tailing Impoundment. Four check dams, and a diversion berm between the upper and lower portions of Malta Gulch were constructed to manage surface runoff. Revegetation work in Malta Gulch was performed in 1996.

The clean-up standard for this removal was the industrial/commercial clean-up level for California Gulch of 6,700 ppm total lead. Confirmation sampling demonstrated that the excavation and removal had successfully lowered lead levels to below the Site residential clean-up level of 3,500 ppm total lead, thus no institutional controls are necessary at this portion of OU 2. Subsequent monitoring in 1997 and 1998 have verified that the revegetation was successful and no long term monitoring is required.

##### *Malta Gulch Tailing Impoundments*

The Malta Gulch Tailing Impoundment (MGTI) is located at the upper end of Malta Gulch about two miles west of the City of Leadville. The Stringtown portion of the Leadville Mining Area District, which includes the Malta Gulch Tailing Impoundments (MGTI), was developed between 1879 and 1882 as a large group of placer claims.

As explained above, it appears that the earliest use of this area for tailing disposal was from the fall of 1943 through August 1946 by the OCC. The OCC tailing berms became the precursors to the current basins known as Impoundments #1 and #2. From the period of 1945 to 1973, there was no activity at this portion of the Site

although ownership of the property changed hands numerous times. The property was purchased by its current owner, Leadville Corporation, in 1968. In 1974, the Hecla Mining Company (Hecla), in conjunction with Day Mines, leased the property as a site for disposal of tailing generated from its milling of ores from the Sherman Mine which was a silver mine in a dolomite formation. The MGTI, in its present configuration, was constructed in 1974 by Hecla/Day. Hecla/Day also constructed 3 tailing impoundments (#1, 2, 3), two water retention impoundments (#4 and 6) and a clarification basin (#5). The entire facility occupies approximately 23 acres. These milling operations were permitted and bonded by the State of Colorado's Division of Minerals & Geology, and the permit remains in effect. Hecla leased the MGTI from Leadville Corporation until 1987. During its leasehold, Hecla/Day operated an on-site flotation mill that generated approximately 680,000 tons of tailing. No cyanide was used in the processing during this time. The Leadville Corp. refitted the mill to use a cyanide leaching process and approximately 50,000 tons of dolomitic tailing were added to the impoundments in 1988.

Hecla completed an engineering evaluation/cost analysis (EE/CA) for the MGTI in July, 1993. Sampling at the MGTI showed lead in the range of 800 to 57,600 parts per million (ppm). Based on the findings of the EE/CA, EPA conducted a non-time critical removal to consolidate, grade, cap, and revegetate the MGTI.

Capping work at the MGTI included the completion of the dust control dolomite gravel caps at Ponds 1, 2, and 3 that was initiated by Leadville Corporation in 1991. EPA work at the MGTI was performed in two field construction seasons. Clean-up activities commenced on October 5, 1995 and were completed on October 15, 1996. Borrow material was obtained from the Leadville Corporation borrow pit immediate north of the impoundments across County Road 3. Borrow material is comprised of non-mineralized glacial moraine deposits. This helped assure that cap materials had lead levels below the 6,700 mg/kg total lead (the commercial/industrial soil lead action level for this property). Borrow was placed at a depth of 6-12 inches. Prior to capping, 30,000 cubic yards of metals-contaminated fluvial tailings from Lower Malta Gulch were also transported and placed in the MGTI Pond 3. These materials were capped, graded, and revegetated. Other elements of the MGTI clean-up included: The

construction of a rip-rap geotextile spillway to control runoff, the stabilization of a section of retention berm, the reestablishment of the local drainage and fencing, and soil hot spot removals and revegetation of areas around the mill building.

In order to ensure continued protectiveness of the remedy, long-term monitoring will be conducted in accordance with the Monitoring Plan to assure that the cover material and vegetation remain effective. In addition, present zoning of the MGTI is Industrial Mining which will not allow uses inconsistent with the remedy. Periodic monitoring and review is necessary to verify that zoning of the MGTI has not been changed to allow uses inconsistent with the remedy, and that groundwater is not being used as a source of drinking water. Monitoring is also necessary to periodically review the status of this DMG permit. Site closure and reclamation will be completed in accordance with the DMG permit requirements. The long-term monitoring program for the MGTI will be implemented by the Colorado Mountain College. This program will commence upon finalization of the work plan submitted in August 2000.

#### Malta Tailing Impoundment

The Malta Tailing Impoundment (MTI), owned by Leadville Silver & Gold, Inc., is located 1.5 miles west of Leadville, 0.8 miles north of Stringtown and 0.6 miles north of California Gulch. Leadville Silver & Gold, Inc. constructed a mill to recover pyritic materials from various tailing and waste materials from nearby properties which had been obtained under leasehold arrangements. This pyritic materials recovery process operated from 1983 through 1988.

Approximately 2,000 tons of pyrite were shipped to various off-site smelters for use as a flux. As a result of this operation, approximately 10,000 cubic yards of tailing were disposed of at the Malta Tailing Impoundment.

The Malta Tailing Impoundment consists of three small impoundments surrounded by berms, and occupies 4.6 acres of nearly flat land at the top of a ridge. The total volume of tailing is estimated to be slightly in excess of 10,000 cubic yards.

Areas within the immediate vicinity of the tailing impoundments were littered with scrap metal, concrete slabs, and other mining/processing material. There was also a stockpile of mine waste, including drums of product, nearby.

Sampling of the tailing showed lead concentrations ranging from 3,850 mg/Kg to 7,250 mg/Kg. The tailing and

pyritic material presented a risk to human health and the environment, since they are a source of acid mine drainage.

In the fall of 1996, EPA conducted a removal action to consolidate the acid-generating materials, neutralize the acidic leachate, and grade, cap, and revegetate the MTI. In addition, the piles of pyrite concentrate, and drums were removed during the 1996 construction season, for use as a product.

Confirmation samples showed the revegetated soil surface of the impoundment to be below the 6,700 ppm total lead commercial/industrial Site standard.

In order to ensure continued protectiveness of the remedy, long-term monitoring will be required to assure that the cover material and vegetation remain effective. In addition, present zoning of the MTI is Industrial Mining which will not allow uses inconsistent with the remedy. Periodic monitoring and review is necessary to verify that zoning of the MTI has not been changed to allow uses inconsistent with the remedy, and that groundwater is not used as a source for drinking water. Monitoring may include minor maintenance. Monitoring and any minor maintenance will be implemented by the Colorado Mountain College. In the event that significant maintenance issues are identified by the Colorado Mountain College, EPA will take appropriate action to ensure protectiveness of the remedy. This program commenced in July 2000.

#### Leadville Corporation Mill, Drum Removal

The Leadville Corporation mill is located at the southern boundary of the MGTI. In 1997, officials of the State's Division of Minerals & Geology conducted a mine permit inspection and discovered that 42 drums, in one of the buildings at the Leadville Corporation mill, were corroding and beginning to leak. Since Leadville Corporation did not have the resources to dispose of the drums, the State requested EPA's Emergency Response Team to dispose of them. Thirty-six 55 gallon drums and six 5 gallon drums were involved. The drums contained hazardous substances which represented a threat to human health and the environment. The drums contained acids, bases and flammable liquids.

EPA conducted an emergency removal action in 1998 to address the threats posed by these drums. The drums were over packed and sent off-site for appropriate disposal. This was a complete removal so no monitoring or

institutional controls are necessary for this portion of OU 2.

#### Community Involvement

At Leadville, Colorado, the public interest in the clean up of this Superfund Site has been intensive; many public meetings have been held. Numerous Fact Sheets have been released to the public. On August 2, 1993, the public was notified in the local newspaper that the Final Engineering Evaluation/Cost Analysis (EE/CA), Malta Gulch Tailing, Leadville, Colorado, dated July 29, 1993 was available for review and comment. EPA held a public meeting in Leadville on August 12, 1993. The comment period continued through September 1, 1993. EPA responded to all comments on the EE/CA in a Responsiveness Summary which was prepared in September 1993 prior to the issuance of the Action Memorandum on September 10, 1993. The notice of availability of the Proposed Plan and supporting documents was published in the Leadville Herald Democrat on March 13, 1997. The public comment period was held from March 19, 1997 to April 18, 1997. A Public meeting was held on March 19, 1997. Responses to all comments received during the public comment period are included in the Responsiveness Summary attached to the ROD for OU 2. On September 30, 1999, EPA issued a final ROD for OU 2. As described above, the ROD called only for ongoing monitoring of active response actions and use restrictions. EPA's decision is based on information contained in the final Administrative Record for OU 2. The final Administrative Record is available at the California Gulch Site information repository and the EPA Region 8, Superfund Records Center.

#### Current Status

Based on the successful completion of the above described removal actions and implementation of the long-term monitoring program for the MGTI and MTI, there are no further response actions planned or scheduled for OU 2.

Because this decision results in hazardous substances remaining on site, above health-based levels, monitoring of the previous response actions will be required. This monitoring will be conducted in addition to site-wide five-year reviews. The next five-year review at the California Gulch Site is scheduled to be initiated in October 2000 for completion in 2001.

While EPA does not believe that any future response action in the Malta Gulch area will be needed, if future conditions warrant such action, the

deletion areas of the California Gulch Superfund Site remain eligible for future Fund-financed response actions. Furthermore, this partial deletion does not alter the status of the other OUs of the Site which are not being deleted and remain on the NPL. EPA, with concurrence from the State of Colorado, has determined that all appropriate CERCLA response actions have been completed at OU 2 and protection of human health and the environment has been achieved in this area. Therefore, EPA is deleting the Malta Gulch area of the California Gulch Superfund Site from the NPL. This action will be effective July 23, 2001. However, if EPA receives dissenting comments by June 21, 2001, EPA will publish a document that withdraws this action.

#### List of Subjects in 40 CFR Part 300

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

Dated: February 12, 2001.

**Jack W. McGraw,**

*Acting Regional Administrator, Region 8.*

Part 300, Title 40 of Chapter 1 of the Code of Federal Regulations is amended as follows:

#### PART 300—[AMENDED]

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

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

2. Table 1 of appendix B to part 300 is amended by revising the entry for “California Gulch” so that it reads as follows:

TABLE 1.—GENERAL SUPERFUND SECTION

State	Site name	City/County	Notes
*	*	*	*
CO	California Gulch.	Leadville .....	P
*	*	*	*

P = Sites with partial deletion(s).

[FR Doc. 01–12710 Filed 5–21–01; 8:45 am]

BILLING CODE 6560–50–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Care Financing Administration

#### 42 CFR Parts 441 and 483

[HCFA–2065–IFC2]

RIN 0938–AJ96

#### Medicaid Program; Use of Restraint and Seclusion in Psychiatric Residential Treatment Facilities Providing Inpatient Psychiatric Services to Individuals Under Age 21

**AGENCY:** Health Care Financing Administration (HCFA), HHS.

**ACTION:** Interim final rule; amendment and clarification with request for comment.

**SUMMARY:** On January 22, 2001, we published an interim final rule with comment period (66 FR 7148) that established a definition of a “psychiatric residential treatment facility” that is not a hospital and that may furnish covered Medicaid inpatient psychiatric services for individuals under age 21. The interim final rule established standards for the use of restraints or seclusion that psychiatric residential treatment facilities must have in place to protect the health and safety of residents.

In response to some of the concerns submitted in comments on that interim rule, this document clarifies what facilities are subject to the requirements of the interim final rule, modifies reporting requirements to facilitate HCFA monitoring, and amends staffing requirements applicable to restraints and seclusion.

Due to the operational significance of these issues, amendment to the interim final rule is required by the May 22, 2001 effective date of the interim final rule. Without such amendments, we are concerned that substantial numbers of facilities would not be able to comply with certain requirements of our interim final rule, and that beneficiaries will suffer needless displacement from those facilities. We are also concerned that HCFA will not be able to timely obtain data necessary to monitor for situations involving jeopardy to program beneficiaries. We will accept comments on these amendments, and will address all comments on the interim final rule and these amendments at a later date.

**DATES:** *Effective date:* May 22, 2001.

*Comment date:* Comments concerning these amendments to the interim final rule will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on July 23, 2001.

**ADDRESSES:** Mail written comments (one original and three copies) to the following address ONLY: Health Care Financing Administration, Department of Health and Human Services, Attention: HCFA–2065–IFC2, P.O. Box 8010, Baltimore, MD 21244–8010.

If you prefer, you may deliver your written comments (one original and three copies) by courier to one of the following addresses: Room 443–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or C5–15–03, Central Building, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Comments mailed to those addresses may be delayed and could be considered late.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code HCFA–2065–IFC2.

Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 443–G of the Department’s offices at 200 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (Phone (202) 690–7890).

For comments that relate to information collection requirements, mail a copy of comments to: Health Care Financing Administration, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Room N2–14–26, 7500 Security Boulevard, Baltimore, MD 21244–1850, Attn: Julie Brown, HCFA–2065–IFC.

**FOR FURTHER INFORMATION CONTACT:** Mary Kay Mullen, (410) 786–5480.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On January 22, 2001, we published an interim final rule with comment period (66 FR 7148) that defined a “psychiatric residential treatment facility” that is not a hospital and that may furnish covered Medicaid inpatient psychiatric services for individuals under age 21. The interim final rule established standards for the use of restraints or seclusion in psychiatric residential treatment facilities to protect the health and safety of residents.

Section 3207 of the Children’s Health Act of 2000 (Pub. L. 106–310) requires that health care facilities receiving support in any form from any program supported in whole or part with funds appropriated to any Federal department or agency shall protect and promote the