

this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

*Small Business Regulatory Enforcement Fairness Act*

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of \$100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local governmental agencies or geographic regions; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

*Unfunded Mandates*

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of \$100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

**List of Subjects in 30 CFR Part 916**

Intergovernmental relations, Surface mining, Underground mining.

Dated: August 15, 2002.

**Ervin J. Barchenger,**

*Acting Regional Director, Mid-Continent Regional Coordinating Center.*

[FR Doc. 02-24016 Filed 9-20-02; 8:45 am]

**BILLING CODE 4310-05-P**

**DEPARTMENT OF THE INTERIOR**

**36 CFR Chapter I**

**Public Meeting Dates of the Negotiated Rulemaking Advisory Committee for Off-Road Driving Regulations at Fire Island National Seashore**

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice of meeting dates.

**SUMMARY:** Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770, 5 U.S.C. App 1, section 10), of a meeting of the Negotiated Rulemaking Advisory Committee for Off-Road Driving Regulations at Fire Island National Seashore (36 CFR 7.20).

**DATES:** The Committee meeting scheduled for September 13-14, 2002 has been rescheduled for November 8-9, 2002.

**ADDRESSES:** The meeting will begin at 9 a.m. and will be held at Dowling College, New York.

**FOR FURTHER INFORMATION CONTACT:** Barry Sullivan, Acting Superintendent, Fire Island National Seashore, 120 Laurel Street, Patchogue, NY 11772, 631-289-4810 (Ext. 221).

**SUPPLEMENTARY INFORMATION:** The Committee was established pursuant to the Negotiated Rulemaking Act of 1990 (5 U.S.C. 561-570). The purpose of the Committee is to advise the National Park Service with regard to proposed rulemaking governing off-road vehicle use at Fire Island National Seashore. Notice of intent to establish this committee was published in 65 FR 70674-70675, November 27, 2000.

Dated: September 6, 2002.

**Barry T. Sullivan,**

*Acting Superintendent, Fire Island National Seashore.*

[FR Doc. 02-24046 Filed 9-20-02; 8:45 am]

**BILLING CODE 4310-70-M**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 300**

[FRL-7380-4]

**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; request for comments.

**SUMMARY:** The Environmental Protection Agency (EPA) Region 8 announces 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) and requests public comment on this proposed action. 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 (November 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 on or before October 23, 2002.

**ADDRESSES:** Comments may be mailed to: Catherine Roberts, Community Involvement Coordinator (8OC), U.S. EPA, Region 8, 999 18th Street, Suite 300, Denver, Colorado, 80202-2466, 1-800-227-8917 or (303) 312-6025.

Comprehensive information on the RMA/NPL Site, as well as information specific to this proposed partial deletion, is available through EPA's Region 8 Superfund Records Center 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) 312-6473. 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, Rocky Mountain Arsenal, Building 129, Room 2024, Commerce City, Colorado 80022-1748, (303) 289-0362. Documents are available for viewing from 12:00 p.m. to 4:00 p.m., Monday through Friday or by appointment.

**FOR FURTHER INFORMATION CONTACT:** Ms. Laura Williams, Remedial Project Manager (8EPR-F), U.S. EPA, Region 8, 999 18th Street, Suite 300, Denver Colorado, 80202-2466, (303) 312-6660.

**SUPPLEMENTARY INFORMATION:**

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### I. Introduction

The United States Environmental Protection Agency (EPA) Region 8 announces its intent to delete the western tier parcel of the Rocky Mountain Arsenal National Priorities List (RMA/NPL) Site, Commerce City, Colorado, from the National Priorities List (NPL) and requests comment on this proposed action. 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 (November 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 thirty days after publication of this notice 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 section 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. These notices announce a thirty (30) day public comment period on the deletion package, which ends on October 23, 2002, based upon publication of this notice in the **Federal Register** and a local newspaper of record.

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

Upon completion of the thirty 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 document 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:

#### *RMA/NPL Site Background*

The On-Post OU of the RMA/NPL Site encompasses 27 square miles in southern Adams County, Colorado, approximately 8 miles northeast of downtown 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 farmland. 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.

Complaints of ground water pollution north of the RMA/NPL Site began to surface in 1954. 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 October 15, 1984. The listing of RMA on

the NPL, excluding Basin F, was finalized on July 22, 1987. Basin F was added to the RMA/NPL Site listing on March 13, 1989. 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, became effective. The FFA 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, the western tier of the RMA/NPL Site was exposed to minimal contamination and is considered a “non-source” area. A structures survey program identified eight structures within the western tier all which have no potential contamination history.

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 was partially located on the western tier and installed to extract and treat ground water emanating from the Rail Yard and the Motor Pool areas, both of 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 as 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. The ROD also required continued use restrictions for the property.

On October 2, 1998, EPA published a notice of intent for partial deletion (NOIDp) in the **Federal Register** which proposed to delete the western tier parcel from the RMA/NPL Site. EPA received several comments during the public comment period including one expressing a concern for the potential future placement of a child daycare facility at the western tier parcel and reiterating previous concerns that RMA, and hence the western tier parcel, might be contaminated with dioxins. Based on the comments, EPA postponed action on the partial deletion until additional soil sampling and analysis of the western tier parcel could be conducted. These studies specifically include the Soil Sampling Risk Report, Denver Front Range Soil Dioxin Study, Section 9 Borrow Area Report, and Site Reconnaissance Report. Additional studies and reports include Surface Flux Chamber Testing, Geophysical Survey on Section 9, Vapor Pathway Analysis, Assessment of Residual Ecological Risk Report, and Potential Ordnance/Explosives and Recovered Chemical Warfare Materiel Hazards Report.

#### *Community Involvement*

Since 1988, each of the parties involved with the Arsenal cleanup 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 the RMA/NPL Site.

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.

Based on public comment received for the NOIDp published on October 2,

1998, EPA postponed action on partial deletion until additional soil sampling and analysis of the western tier parcel could be conducted. Members of the Site Specific Advisory Board also requested that National Ombudsman, Robert Martin, include deletion of the western tier parcel as one of fifty-two issues to be investigated at RMA. The Ombudsman held two public meetings, one on January 26, 2000, followed by the second on November 6, 2000. EPA, Region 8, continues to coordinate with the Ombudsman's office on this process.

Upon completion of the thirty calendar day public comment period for this NOIDp, EPA Region 8 in consultation with the State and the Army, will evaluate each comment and any significant new data received before issuing a final decision concerning the proposed partial deletion.

#### *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 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 demolished and disposed of 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 in March 1998; therefore, the ICS facility was demolished and removed on May 7, 2002. A treatment system was constructed at the Rail Yards to more directly treat the contaminated groundwater associated with the Rail Yards. The Rail Yard IRA and Treatment System, Motor Pool IRA, and Irondale facility are 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 surface water as a water source.

Based on the extensive investigations and risk assessment performed for the western tier of the RMA/NPL Site, there are no further response actions planned or scheduled for this area. Currently, no hazardous substances remain 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. Because the western tier parcel is subject to these restrictions on land and water use, it will be included in the RMA-wide five-year reviews. 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 is no requirement for 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: September 10, 2002.

**Robert E. Roberts,**

*Regional Administrator, U.S. Environmental Protection Agency, Region 8.*

[FR Doc. 02-23988 Filed 9-20-02; 8:45 am]

BILLING CODE 6560-50-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 02-2201, MB Docket No. 02-271, RM-10441]

### Digital Television Broadcast Service; Belton, TX

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission requests comments on a petition filed by Central Texas College, licensee of station KNCT-TV, NTSC channel 46, Belton, Texas, proposing the substitution of DTV channel 38 for DTV channel 47c

for station KNCT-DT. DTV Channel 38 can be allotted to Belton at reference coordinates 30-59-08 N. and 97-37-51 W. with a power of 200, a height above average terrain HAAT of 392.9 meters.

**DATES:** Comments must be filed on or before November 1, 2002, and reply comments on or before November 18, 2002.

**ADDRESSES:** The Commission permits the electronic filing of all pleadings and comments in proceeding involving petitions for rule making (*except in broadcast allotment proceedings*). See *Electronic Filing of Documents in Rule Making Proceedings*, GC Docket No. 97-113 (rel. April 6, 1998). Filings by paper can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistrionix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8:00 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Ernest T. Sanchez, The Sanchez Law Firm, 2000 L Street, NW., Suite 200, Washington, DC, 20036 (Counsel for Central Texas College).

**FOR FURTHER INFORMATION CONTACT:** Pam Blumenthal, Media Bureau, (202) 418-1600.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 02-271, adopted September 4, 2002, and released September 10, 2002. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC, 20554. This document

may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC, 20554, telephone 202-863-2893, facsimile 202-863-2898, or via-e-mail [qualexint@aol.com](mailto:qualexint@aol.com).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

### List of Subjects in 47 CFR Part 73

Digital television broadcasting, Television.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows

### PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334 and 336.

#### § 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Texas is amended by removing DTV channel 47c and adding DTV channel 38 at Belton.

Federal Communications Commission.

**Barbara A. Kreisman,**

*Chief, Video Division, Media Bureau.*

[FR Doc. 02-24105 Filed 9-20-02; 8:45 am]

BILLING CODE 6712-01-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 02-2219, MB Docket No. 02-273, RM-10562]

### Digital Television Broadcast Service; Tuscaloosa, AL

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission requests comments on a petition filed by TV