

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: October 10, 2002.

Jack W. McGraw,

Acting Regional Administrator, Region 8.

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 300**

[FRL-7399-2]

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; extension of the 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 September 23, 2002 (67 FR 59487). The 30-day public comment period is scheduled to end on October 23, 2002. During the public meeting held on October 10, 2002, a formal request was made to extend the public comment period. In response, EPA is extending the public comment period for an additional 30 days concluding on November 22, 2002.

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).

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 November 22, 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, 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.

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I. Introduction

The Environmental Protection Agency (EPA) Region 8 announces a thirty (30) day extension of the public comment period for the 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 (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 until November 22, 2002.

Section II of this notice 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 Section 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, concurred with publication of the notice of intent for partial deletion.

(3) Concurrent with the national Notice of Intent for Partial Deletion, a local notice was published in a newspaper of record and distributed to appropriate federal, State, and local officials, and other interested parties. These notices announced a thirty (30) day public comment period on the deletion package, ending October 23, 2002, based upon publication of the notice in the **Federal Register** and a local newspaper of record.

(4) Concurrent with this national Notice of the Public Comment Extension, 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 extension of the public comment period, which ends on November 22, 2002.

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

Upon completion of the thirty (30) calendar day extension of the 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

This notice announces a thirty (30) day extension of the public comment period for the proposed partial deletion of the RMA/NPL Site. EPA Region 8 announced its intent to delete the western tier parcel of the RMA/NPL Site from the NPL on September 23, 2002. The original basis for deleting the western tier parcel from the RMA/NPL Site has not changed. The **Federal Register** notice (67 FR 59487) provides a thorough discussion of the basis for the intended western tier parcel deletion.

Dated: October 16, 2002.

Robert E. Roberts,

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

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition to List the Cerulean Warbler as Threatened With Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day petition finding and initiation of status review.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to list the cerulean warbler (*Dendroica cerulea*) as threatened, under the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*). We find that the petition presented substantial information indicating that listing this species may be warranted. We are initiating a status review to determine if listing the cerulean warbler is warranted.

DATES: The finding announced in this document was made on September 24, 2002. To be considered in the 12-month finding for this petition, comments and information should be submitted to the Service by January 21, 2003.

ADDRESSES: Data, information, comments, or questions should be submitted to the Field Supervisor, Ecological Services Field Office, U.S. Fish and Wildlife Service, 608 East Cherry Street, Room 200, Columbia, MO 65201, or by facsimile to (573) 876-1914. The complete petition finding, supporting literature, and comments are available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT:

Amy Salveter at the Columbia, Missouri, Field Office see **ADDRESSES**, or at (573) 876-1911, extension 113.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires that the U.S. Fish and Wildlife Service (Service) make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to demonstrate that the petitioned action may be warranted. This finding is based on information contained in the petition, supporting information submitted with the petition, and information otherwise available to us at the time we make the finding. To the maximum extent practicable, we make this finding within 90 days of the receipt of the petition, and the finding is to be published promptly in the **Federal Register**. If we find that substantial information was presented, we commence a review of the status of the species. After considering the comments and information submitted to us during the status review comment period following this 90-day finding, we will issue an additional finding (*i.e.*, the 12-month finding) determining whether listing is in fact warranted.

On October 31, 2000, we received a petition to list the cerulean warbler as a threatened species and to designate critical habitat for the species pursuant to the Act. The petition was submitted by the Southern Environmental Law Center, which acted on its own behalf, and for 27 other organizations, and 7 scientists.

The letter clearly identified itself as a petition, and included the name, signature, and address of the representative of the parties submitting the petition. The petition referenced supporting information on the species' description, natural history, habitat, and population status. It also presented information on threats to the cerulean warbler including present or threatened destruction, modification, or