

**Environment**

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (32)(e) of the Instruction, from further environmental documentation.

Paragraph (32)(e) excludes the promulgation of operating regulations or procedures for drawbridges from the environmental documentation requirements of the National Environmental Policy Act (NEPA). Since this regulation would alter the normal operating conditions of the drawbridge, it falls within this exclusion. A “Categorical exclusion Determination” is available in the docket for inspection or copying where indicated under **ADDRESSES**.

**List of Subjects in 33 CFR Part 117**

Bridges.

**Regulations**

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

**PART 117—DRAWBRIDGE OPERATION REGULATIONS**

■ 1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

■ 2. From 7:30 a.m., December 17, 2004, until 7:30 a.m., March 1, 2005, in § 117.671, add new paragraph (c) to read as follows:

**§ 117.671 Upper Mississippi River.**

\* \* \* \* \*

(c) The Clinton Railroad Drawbridge, mile 518.0 Upper Mississippi River, at Clinton, Iowa, shall open on signal if at least 24 hours notice is given. Notice may be given by calling the Clinton Yardmaster’s office at (563) 244–3204 at any time; or (563) 244–3269 weekdays between 7 a.m. and 3:30 p.m.; or Mr. Tomaz Gawronski, office (515) 263–4536 or cell phone (515) 229–2993.

Dated: December 10, 2004.

**R.F. Duncan,**

*Rear Admiral, U.S. Coast Guard, Commander Eighth Coast Guard District.*

[FR Doc. 04–27820 Filed 12–15–04; 3:56 pm]

**BILLING CODE 4910–15–P**

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Parts 52 and 81**

[R03–OAR–2004–WV–0001; FRL–7850–6]

**Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Withdrawal of Direct Final Rule**

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

**ACTION:** Withdrawal of direct final rule.

**SUMMARY:** Due to an adverse comment, EPA is withdrawing the direct final rule to redesignate the City of Weirton PM10 nonattainment area to attainment and approval of the maintenance plan. In the direct final rule published on October 27, 2004 (69 FR 62591), we stated that if we received adverse comment by November 26, 2004, the rule would be withdrawn and not take effect. EPA subsequently received an adverse comment. EPA will address the comment received in a subsequent final action based upon the proposed action also published on October 27, 2004 (69 FR 62637). EPA will not institute a second comment period on this action.

**EFFECTIVE DATE:** The direct final rule is withdrawn as of December 20, 2004.

**FOR FURTHER INFORMATION CONTACT:** Linda Miller, (215) 814–2068, or by e-mail at [miller.linda@epa.gov](mailto:miller.linda@epa.gov).

**List of Subjects****40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter, Reporting and recordkeeping requirements.

**40 CFR Part 81**

Air pollution control, National parks, Wilderness areas.

Dated: December 13, 2004.

**Donald S. Welsh,**

*Regional Administrator, Region III.*

Accordingly, the addition of § 52.2520 (c)(60) and the amendment in § 81.349 to the table for “West Virginia—PM<sub>10</sub>” revising the entry for Hancock and Brooke Counties (part): The City of

Weirton are withdrawn as of December 20, 2004.

[FR Doc. 04–27664 Filed 12–17–04; 8:45 am]

**BILLING CODE 6560–50–P**

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 300**

[FRL–7848–7]

**National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final notice of partial deletion of the Uravan Superfund Site from the National Priorities List.

**SUMMARY:** The Environmental Protection Agency (EPA) Region 8 is publishing a direct final notice of partial deletion of 9.84 acres within the Uravan Superfund Site (Site), located in Montrose County, Colorado, from the National Priorities List (NPL).

The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final partial deletion is being published by EPA with the concurrence of the State of Colorado, through the Colorado Department of Public Health and the Environment because EPA has determined that all appropriate response actions, for the 9.84 acres including two historic structures, under CERCLA have been completed and, therefore, further remedial action pursuant to CERCLA is not appropriate.

**DATES:** This direct final deletion will be effective February 18, 2005. If adverse comments are received by January 19, 2005, EPA will publish a timely withdrawal of the direct final deletion in the **Federal Register** informing the public that the deletion will not take effect.

**ADDRESSES:** Comments may be mailed to: Rebecca Thomas, Remedial Project Manager (RPM), 8EPR–SR, [thomas.rebecca@epa.gov](mailto:thomas.rebecca@epa.gov), U.S. EPA, Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202, (303) 312–6552 or 1–800–227–8917, extension 6552.

Information Repositories: Comprehensive information about the Site is available for viewing and copying at the Site information repository

located at: U.S. EPA Region 8 Records Center, 999 18th Street, Suite 300, Denver, Colorado 80202, (303) 312-6473.

**FOR FURTHER INFORMATION CONTACT:**

Rebecca Thomas, Remedial Project Manager, 8EPR-SR, [thomas.rebecca@epa.gov](mailto:thomas.rebecca@epa.gov), U.S. EPA, Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202, (303) 312-6552, or 1-800-toll-free.

**SUPPLEMENTARY INFORMATION:**

**Table of Contents:**

- I. Introduction
- II. NPL Deletion Criteria
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- V. Deletion Action

**I. Introduction**

EPA Region 8 is publishing this direct final notice of partial deletion of 9.84 acres within the Uravan Superfund Site from the National Priorities List.

The 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. As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions if conditions at a deleted site warrant such action.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication of a notice of intent to delete. This action will be effective February 18, 2005, unless EPA receives adverse comments by January 19, 2005, on this document. If adverse comments are received within the 30 day public comment period on this document, EPA will publish a timely withdrawal of this direct final partial deletion before the effective date of the deletion and the deletion will not take effect. EPA will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Uravan Superfund Site and demonstrates how it meets the deletion criteria. Section V discusses EPA's action to delete the Site from the NPL unless adverse comments are received during the public comment period.

**II. NPL Deletion Criteria**

Section 300.425(e) of the NCP provides that releases may be deleted

from the NPL where no further response is appropriate. In making a determination to delete a Site from the NPL, EPA shall consider, in consultation with the State, whether any of the following criteria have been met:

- i. Responsible parties or other persons have implemented all appropriate response actions required;
- ii. All appropriate Fund-financed (Hazardous Substance Superfund Response Trust Fund) response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or
- iii. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the deleted site above levels that allow for unlimited use and unrestricted exposure, CERCLA section 121(c), 42 U.S.C. 9621(c) requires that a subsequent review of the site be conducted at least every five years after the initiation of the remedial action at the deleted site to ensure that the action remains protective of public health and the environment. If new information becomes available which indicates a need for further action, EPA may initiate remedial actions. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

**III. Deletion Procedures**

The following procedures apply to deletion of the Site:

- (1) The EPA consulted with Colorado on the deletion of the Site from the NPL prior to developing this direct final notice of partial deletion.
- (2) Colorado concurred with deletion of the Site from the NPL.
- (3) Concurrently with the publication of this direct final notice of partial deletion, a notice of the availability of the parallel notice of intent to partially delete published today in the "Proposed Rules" section of the **Federal Register** is being published in a major local newspaper of general circulation at or near the Site and is being distributed to appropriate federal, state, and local government officials and other interested parties; the newspaper notice announces the 30-day public comment period concerning the notice of intent to delete the Site from the NPL.
- (4) The EPA placed copies of documents supporting the deletion in the Site information repository identified above.

(5) If adverse comments are received within the 30-day public comment period on this document, EPA will publish a timely notice of withdrawal of this direct final notice of partial deletion before its effective date and will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to partially delete and the comments already received.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

**IV. Basis for Site Deletion**

The following information provides EPA's rationale for partially deleting the Site from the NPL:

*Site Location*

The Uravan site is located in western Colorado in the western portion of Montrose County on Highway 141 approximately 13 miles northwest of the Town of Nucla. The town of Uravan was demolished during remedial activities at the site and, except for two historical structures, no longer exists. The site is located adjacent to the San Miguel River which drains into the Colorado River.

This partial deletion pertains to 9.84 acres containing two historic structures remaining on the Site, the Boarding House and the Community Center.

*Site History*

The Boarding House is located in the former town area of Uravan at the intersection between County Roads Y-11 and EE-22, just east of the former Uravan Mill site. The structure was built circa 1914 to provide meals and housing to employees. In 1971 housing was discontinued, and in 1982 meal service was terminated.

The Community Center is located across County Road EE-22 from the Boarding House. It was built in the mid 1930s from a sugar factory dismantled in Delta, Colorado. The building served as a multipurpose recreation center for company workers, which included a dance hall, movie theatre, church, roller skating rink, performance theatre and shooting range. Recently, the Community Center has been used to store historical artifacts that will be

displayed after the buildings are deleted from the NPL.

#### *Site Investigation*

Investigations in 1994 indicated that radon levels in the Boarding House and the Community Center were below a working level standard of 0.03 which is the alpha radiation in the atmosphere that is considered acceptable for residential structures that are being occupied full time.

A characterization study in 1995 measured both gamma radiation and soil concentrations. This study was completed to determine the feasibility of preserving the buildings and releasing them for unrestricted use. Elevated radium 226 concentrations were identified in the soils beneath and surrounding both buildings.

The Boarding House was sampled for radon in 1996. The results showed that concentrations were below a level of concern. Like the measurements collected in 1994, the survey indicated that the structures were very leaky which prevented accurate measurement of the indoor concentrations.

Elevated radon measurements were obtained from the basement in the Community Center in 1997. Also in 1997, an exploratory excavation along the east end of the Community Center was conducted to determine the depth of contaminated soil and to examine the foundation. After exposing a portion of the foundation, it was determined that the depth of contamination extended six to eight feet below the surface to a point at or slightly below the depth of the concrete footing and stem wall which supported the block walls of the basement.

#### *Remedy Decision*

The buildings contained radioactive contamination and were constructed on soils exceeding cleanup standards. To preserve the structures as an historical resource, and at the same time protect the health of the public, and to comply with applicable laws, the following remediation plan was adopted:

- Removing the most significant contamination from within the structures.
- Removing soils underlying and immediately surrounding the buildings without endangering the stability of the foundations.
- Restoring the buildings to the extent that they will be in stable structural condition.
- Remediating the soils outside the immediate vicinity of the buildings in accordance with the RAP.
- Installing a radon mitigation system in the Community Center.

#### *Characterization of Risk*

Radiation risks to members of the general public from residual radioactive materials associated with the two buildings were calculated using data generated during pre- and post-remediation site surveys. These surveys included direct gamma exposure rate measurements before and after excavation of contaminated soils around the buildings, surface contamination surveys, and laboratory analysis of soils collected from selected locations outside the buildings. In addition, the radon concentrations in air in several locations inside the buildings were measured and reported separately.

Potential risk was evaluated for three types of individuals:

- A staff person working approximately 800 hours per year,
- A volunteer working approximately 120 hours per year,
- A visitor who visits for approximately 4 hours per year.

Based on the data collected, it was concluded that there is no risk to any person from the three occupancy scenarios from gamma exposure. In the case of both the Boarding House and the Community Center, gamma exposure levels at the present time are so low that they present no incremental risk above background.

Further, based on the radon exposure data, it was concluded that the radon exposure under any of the occupant scenarios would be acceptable.

#### *Response Actions*

Radiological and non-radiological contaminants were removed from the Community Center and Boarding House starting in 1993. Excavating contaminated material from the exterior perimeter of the Boarding House and Community Center was conducted in 1998. The grading plan prescribed removing contaminated material from the perimeter of the buildings so that excavation would not adversely affect the structural stability of the foundations. The soil directly in contact with the foundations was left undisturbed and fully supported the buildings during the removal of contaminated soil. Material removal continued away from the buildings until the soil cleanup level was achieved. The depth of excavation varied from three feet to approximately 15 feet.

After the contaminated material was removed, geotextile fabric was placed over the soils remaining against the buildings to identify the contact between the undisturbed foundation support soils and the uncontaminated backfill soils.

Restoration of the exterior of the Boarding House was completed in 2000. The porch, east side concrete staircase, and landing slab were removed. Underlying contaminated soils were excavated and the area backfilled. The concrete landing was replaced and the porch and staircase were rebuilt. In general, the remedial activities conducted within and around the Boarding House and Community Center successfully removed and isolated radioactive materials. These actions have mitigated potential radiological hazards and have provided a safe environment for future uses of the structures.

An active radon mitigation system was installed in the Community Center. This system will remove radon gas from the soils beneath the basement and vent it outside by small fans. This system is designed to be operational 24 hours per day, seven days per week and has a built-in alarm system should the fans stop working.

#### *Cleanup Standards*

The cleanup standard for the historic structures is 0.03 working levels. A working level is the concentration of alpha radiation in the atmosphere that is considered acceptable for residential structures that are being occupied full time.

#### *Operation and Maintenance*

Institutional controls, in the form of an environmental covenant granted to the Colorado Department of Public Health and Environment (CDPHE), will prevent activities that might cause contact with radioactive materials on both the exterior and interior of the historic structures. The environmental covenant also requires an annual inspection of the radon mitigation system.

#### *Five Year Review*

Since waste has been left in place at concentrations that do not allow for unrestricted and unlimited use, the Environmental Protection Agency will continue to conduct Five Year Reviews of the Site. The next Five Year Review is scheduled for completion in 2005.

#### *Community Involvement*

Public participation activities have been satisfied as required in CERCLA section 113(k), 42 U.S.C. 9613(k), and CERCLA section 117, 42 U.S.C. 9617. Documents in the deletion docket which EPA relied on for recommendation of the deletion from the NPL are available to the public in the information repository.

## V. Deletion Action

The EPA, with concurrence of the State of Colorado, has determined that all appropriate responses, for the 9.84 acres containing two historic structures, under CERCLA have been completed, and that no further response actions, under CERCLA, other than O&M and five-year reviews, are necessary. Therefore, EPA is partially deleting the Site from the NPL.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication. This action will be effective February 18, 2005, unless EPA receives adverse comments by January 19, 2005. If adverse comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final notice of deletion before the effective date of the deletion and it will not take effect and, EPA will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

### List of Subjects in 40 CFR Part 300

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

Dated: December 6, 2004.

**Max Dodson,**

*Acting Regional Administrator, Region 8.*

■ For the reasons set out in this document, 40 CFR part 300 is amended as follows:

### PART 300—[AMENDED]

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

**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 by revising the entry for “Uravan” by adding a note “P” so that it reads as follows:

TABLE 1.—GENERAL SUPERFUND SECTION

State	Site name	City/coun-ty	Notes(a)
CO .....	Uravan Uranium Project (Union Carbide).	Uravan ...	P

(a) \* \* \*

\* \* \* \* \*

P = Sites with partial deletion(s).

[FR Doc. 04–27551 Filed 12–17–04; 8:45 am]

BILLING CODE 6560–50–P

## FEDERAL MARITIME COMMISSION

### 46 CFR Part 531

[Docket No. 04–12]

RIN 3072–AC30

### Non-Vessel-Operating Common Carrier Service Arrangements

**AGENCY:** Federal Maritime Commission.

**ACTION:** Final rule.

**SUMMARY:** The Federal Maritime Commission is exempting non-vessel-operating common carriers from the tariff publication requirements of the Shipping Act of 1984, subject to certain filing and publication conditions placed on these Non-Vessel-Operating Common Carrier Service Arrangements or “NSAs.” This final rule: Revises the rule as proposed to allow affiliates of NSA signatories to have access to service, and to provide service under an NSA; corrects typographical errors and an internal reference; and deletes a portion of Form FMC–78 that affects only internal agency use.

**DATES:** Effective January 19, 2005.

**FOR FURTHER INFORMATION CONTACT:**

Amy W. Larson, General Counsel, Federal Maritime Commission, 800 N. Capitol St., NW., Washington, DC 20573–0001, (202) 523–5740, [generalcounsel@fmc.gov](mailto:generalcounsel@fmc.gov); Austin L. Schmitt, Director of Operations, Federal Maritime Commission, 800 N. Capitol St., NW., Washington, DC 20573–0001, (202) 523–0988.

**SUPPLEMENTARY INFORMATION:** On October 28, 2004, the Federal Maritime Commission (“FMC” or “Commission”) issued a notice of proposed rulemaking (“NPR”) pursuant to its authority under section 16 of the Shipping Act of 1984 (“Shipping Act”), 46 U.S.C. app. § 1715, to exempt non-vessel-operating common

carriers (“NVOCCs”) from the tariff publication requirements of the Shipping Act, subject to certain conditions. 69 FR 63981 (Nov. 3, 2004). Interested persons were given until November 19, 2004, to comment on the NPR. This deadline was later extended to November 30, 2004 in response to a request from the U.S. Department of Justice (“DOJ”).

The Commission received comments on the NPR from: Transoceanic Shipping Co., Inc. and Jagremer Marine, Inc. (“Transoceanic”); NVOCC Committee of China Association of Shipping Agency (“CASA”); the American Institute for Shippers’ Associations, Inc. (“AISA”); the National Customs Brokers and Forwarders Association of America, Inc. (“NCBFAA”); the North Atlantic Alliance Association, Inc. (“NAAA”); the Fashion Accessories Shippers Association, Inc. (“FASA”); the Pacific Coast Tariff Bureau (“PCTB”); the International Shippers’ Association (“ISA”); DOJ;<sup>1</sup> and joint comments from the National Industrial Transportation League, United Parcel Service, Inc., BAX Global, Inc., Transportation Intermediaries Association, Fedex Trade Networks Transport and Brokerage, Inc., C.H. Robinson Worldwide, Inc., and BDP International, Inc. (“Joint Commenters”).

The exemption as proposed would allow individual NVOCCs to offer NVOCC Service Arrangements (“NSAs”) to NSA shippers, provided that such NSAs are filed with the Commission and their essential terms are published in the NVOCC’s tariff. The proposed rule defined an NSA as “a written contract, other than a bill of lading or receipt, between one or more NSA shippers and an individual NVOCC in which the NSA shipper makes a commitment to provide a certain minimum quantity or portion of its cargo or freight revenue over a fixed time period, and the NVOCC commits to a certain rate or rate schedule and a defined service level.” 69 FR at 63990. The proposed rule defined an “NSA shipper” as a cargo owner, the person for whose account the ocean transportation is provided, the person to whom delivery is to be made, or a shippers’ association. *Id.* This proposed definition, however, specifically did not include NVOCCs or shippers’ associations with NVOCC members. *Id.*

<sup>1</sup> DOJ filed its comments on December 3, 2004, along with a motion requesting leave to submit its comments past the deadline. We agree with DOJ’s assertion that the public interest will be served and no prejudice will result, and have accepted the late filing.