

notice announcing the 30 day notification period clearly states that *if no request for a public hearing is received the hearing will be cancelled*, then the public hearing may be cancelled. These requirements apply for adoption and submission to EPA of:

\* \* \* \* \*

(f) The State must submit with the plan, revision, or schedule, a certification that the requirements in paragraph (a) and (d) of this section were met. Such certification will include the date and place of any public hearing(s) held or that no public hearing was requested during the 30 day notification period.

\* \* \* \* \*

3. Section 51.103 is revised to read as follows:

**§ 51.103 Submission of plans, preliminary review of plans.**

(a) The State makes an official plan submission to EPA only when the submission conforms to the requirements of appendix V to this part, and the State delivers five hard copies or at least two hard copies with an electronic version of the hard copy (unless otherwise agreed to by the State and Regional Office) of the plan to the appropriate Regional Office, with a letter giving notice of such action. If the State submits an electronic copy, it must be an exact duplicate of the hard copy.

(b) Upon request of a State, the Administrator will provide preliminary review of a plan or portion thereof submitted in advance of the date such plan is due. Such requests must be made in writing to the appropriate Regional Office, must indicate changes (such as, redline/strikethrough) to the existing approved plan, where applicable and must be accompanied by five hard copies or at least two hard copies with an electronic version of the hard copy (unless otherwise agreed to by the State and Regional Office). Requests for preliminary review do not relieve a State of the responsibility of adopting and submitting plans in accordance with prescribed due dates.

4. Appendix V to Part 51 is amended by revising paragraphs (d) and (g) under Section 2.1 to read as follows:

**Appendix V of Part 51—Criteria for Determining the Completeness of Plan Submissions**

\* \* \* \* \*

2.1. \* \* \*

(d) A copy of the actual regulation, or document submitted for approval and incorporation by reference into the plan, including indication of the changes made (such as, redline/strikethrough) to the existing approved plan, where applicable.

The submittal shall be a copy of the official State regulation/document signed, stamped and dated by the appropriate State official indicating that it is fully enforceable by the State. The effective date of the regulation/document shall, whenever possible, be indicated in the document itself. *If the State submits an electronic copy, it must be an exact duplicate of the hard copy with changes indicated, signed documents need to be in portable document format, rules need to be in text format and files need to be submitted in manageable amounts (e.g., a file for each section or chapter, depending on size, and separate files for each distinct document) unless otherwise agreed to by the State and Regional Office.*

\* \* \* \* \*

(g) Certification that public hearing(s) were held in accordance with the information provided in the public notice and the State's laws and constitution, if applicable and consistent with the public hearing requirements in 40 CFR 51.102.

\* \* \* \* \*

**PART 52—[AMENDED]**

5. The authority citation for part 52 continues to read as follows:

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

6. Section 52.02 is amended by revising paragraphs “(d)(2)(iii)”, “(d)(2)(iv)”, “(d)(2)(vii)”, and “(d)(2)(viii)” to read as follows:

**§ 52.02 Introduction.**

\* \* \* \* \*

(d) \* \* \*  
(2) \* \* \*

(iii) Delaware, District of Columbia, Pennsylvania, Maryland, Virginia, and West Virginia. Environmental Protection Agency, Region 3, 1650 Arch Street, Philadelphia, PA 19103–2029.

(iv) Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee. Environmental Protection Agency, Region 4, 61 Forsyth Street, Atlanta, Georgia 30303.

\* \* \* \* \*

(vii) Iowa, Kansas, Missouri, and Nebraska. Environmental Protection Agency, Region 7, 901 North 5th Street, Kansas City, KS 66101.

(viii) Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming. Environmental Protection Agency, Region 8, 1595 Wynkoop Street, Denver, CO 80202–1129.

\* \* \* \* \*

7. Section 52.16 is amended by revising paragraphs “(b)(3)”, “(b)(4)”, “(b)(7)” and “(b)(8)” to read as follows:

**§ 52.16 Submission to administrator.**

\* \* \* \* \*

(b) \* \* \*

(3) Delaware, District of Columbia, Pennsylvania, Maryland, Virginia, and

West Virginia. EPA Region 3, 1650 Arch Street, Philadelphia, PA 19103–2029.

(4) Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee. EPA Region 4, 61 Forsyth Street, Atlanta, Georgia 30303.

\* \* \* \* \*

(7) Iowa, Kansas, Missouri, and Nebraska. EPA Region 7, 901 North 5th Street, Kansas City, KS 66101.

(8) Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming. EPA, Region 8, 1595 Wynkoop Street, Denver, CO 80202–1129.

\* \* \* \* \*

[FR Doc. E7–4563 Filed 3–12–07; 8:45 am]

BILLING CODE 6560–50–P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 300**

[EPA–HQ–SFUND–1989–0011; FRL–8286–7]

**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 Flats Plant from the National Priorities List; request for comments.

**SUMMARY:** The Environmental Protection Agency (EPA) Region 8 announces its intent to delete the Peripheral Operable Unit (OU) and Operable Unit 3 (OU 3), also referred to as the Offsite Areas, encompassing approximately 25,413 acres, of the Department of Energy (DOE) Rocky Flats Plant 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). Rocky Flats Plant means the property owned by the United States Government, also known as Rocky Flats, Rocky Flats Site, or Rocky Flats Environmental Technology Site (RFETS), as identified in Figure 1. The Rocky Flats Plant is divided into the Central and Peripheral Operable Units (Figure 2) which contain 1,308 and 4,933 acres, respectively, and OU 3 (Figure 3) which contains approximately 20,480 acres. The 3 referenced figures are available as

described below in the section entitled *Docket*.

EPA bases its proposal to delete the Peripheral OU and OU 3 of the Rocky Flats Plant 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 to the surface media (soil, surface water, sediment) and subsurface media, including groundwater, within the Peripheral OU and OU 3 of the Rocky Flats Plant. The Central OU will remain on the NPL and is not being considered for deletion as part of this action.

**DATES:** Comments must be received on or before April 12, 2007.

**ADDRESSES:** Submit your comments, identified by Docket ID no. EPA-HQ-SFUND-1989-0011, by one of the following methods:

- <http://www.regulations.gov>. Follow on-line instructions for submitting comments.

- *E-mail:* [henneke.rob@epa.gov](mailto:henneke.rob@epa.gov).
- *Fax:* 303-312-6961.
- *Mail:* Rob Henneke, Community Involvement Coordinator (8OC), U.S. Environmental Protection Agency Region 8, 1595 Wynkoop Street, Denver, Colorado 80202-1129.

- *Hand delivery:* Rob Henneke, 1595 Wynkoop Street, Denver, Colorado 80202-1129. Such deliveries are only accepted during normal business hours from 8 a.m.—4 p.m., Monday through Friday, excluding legal holidays. Special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID no. EPA-HQ-SFUND-1989-0011. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA, not through [http://](http://www.regulations.gov)

[www.regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents and referenced figures in the docket are listed in the <http://www.regulations.gov> index.

Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in the hard copy. Publicly available docket materials may be accessed at the following locations during specified hours of operation. The U.S. EPA Region 8 Docket Facility, EPA Technical Library, 1595 Wynkoop Street, Denver, Colorado 80202-1129, is open from 8 a.m. to 4 p.m. by appointment, Monday through Friday, excluding legal holidays. The EPA Docket telephone number is 303-312-6734. The DOE Rocky Flats Plant Docket Facility is located at Front Range Community College, 3705 112 Avenue, Westminster, Colorado, 80030. The Rocky Flats Plant Docket Facility is open from 9 a.m. to 5 p.m., Monday through Thursday and 10 a.m. to 5 p.m., Friday, excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:** Rob Henneke, Community Involvement Coordinator (8OC), U.S. Environmental Protection Agency Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129; telephone number: 1-800-227-8917 or (303) 312-6734; fax number: 303-312-7150; e-mail address: [henneke.rob@epa.gov](mailto:henneke.rob@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **Table of Contents**

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

#### **I. Introduction**

EPA Region 8 announces its intent to delete the Peripheral OU and OU 3 of the Rocky Flats Plant, Jefferson and Boulder Counties, Colorado, from the NPL and requests comment on this

proposed action. The NPL constitutes Appendix B of the NCP, 40 CFR Part 300, which EPA promulgated pursuant to Section 105 of 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 NPL (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 Rocky Flats Plant for 30 days after publication of this notice in the **Federal Register** (FR).

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 Peripheral OU and OU 3 of the Rocky Flats Plant 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 40 CFR 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;

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.

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. DOE 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 Peripheral OU and OU 3 of the Rocky Flats Plant from the NPL:

(1) DOE has requested the partial deletion and has prepared the relevant documents.

(2) The State of Colorado, through 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 30 day public comment period on the deletion package, which ends on April 12, 2007, 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 30 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 repositories 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 Peripheral OU and OU 3 of the Rocky Flats Plant 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 repositories listed above after a final document has been published in the **Federal Register**.

### IV. Basis for Intended Partial Deletion

The following provides EPA's rationale for deletion from the NPL of the Rocky Flats Plant Peripheral OU and OU 3 and EPA's finding that the criteria in 40 CFR 300.425(e) are satisfied.

#### *Site Background and History*

The Rocky Flats Plant is a DOE facility owned by the United States. Rocky Flats is located in the Denver metropolitan area, approximately sixteen miles northwest of Denver, Colorado, and ten miles south of Boulder, Colorado. Nearby communities include the Cities of Arvada, Broomfield, and Westminster, Colorado. The majority of the Site is located in Jefferson County, with a small portion located in Boulder County, Colorado.

Rocky Flats Plant was proposed by EPA for inclusion on the CERCLA NPL in 1984, and was added to the CERCLA NPL on September 21, 1989 (54 FR 41015, October 4, 1989). The EPA Superfund Identification Number for Rocky Flats Plant is CO7890010526. The Site was proposed for listing because activities at Rocky Flats resulted in the release of materials defined by CERCLA as hazardous substances, contaminants, and pollutants, as well as hazardous wastes and hazardous waste constituents as defined by the Resource Conservation Recovery Act (RCRA) and Colorado Hazardous Waste Act (CHWA). Contaminants released to the environment from the activities at Rocky Flats have included, but were not limited to: Radionuclides (such as plutonium, americium, and various uranium isotopes), organic solvents (such as trichloroethene, tetrachloroethene, and carbon tetrachloride), metals (such as chromium), and nitrates. Apart from the activities of DOE and its contractors at the Site, there are no other known, significant, human-caused sources of contamination at Rocky Flats.

Two Operable Units (OUs) are present within the boundaries of the Site: the Peripheral OU and the Central OU. The Central OU consolidated all areas of the Site that required remedial actions, while also considering practicalities of future land management. The Central OU is not included within this proposed partial deletion action. The Peripheral OU includes the majority of the Buffer Zone and was left undisturbed. This land provided a security and safety buffer area around the former

manufacturing areas of the Site. Portions of the Buffer Zone have been co-managed by the U.S. Fish and Wildlife Service for ecological resources since 1999. Based upon the RCRA Facility Investigation—Remedial Investigation/Corrective Measures Study—Feasibility Study Report for the Rocky Flats Environmental Technology Site (RI/FS) Report, which included both a Human Health and Ecological Risk Assessment, DOE (as the Lead Agency under CERCLA) determined that no action was necessary to protect public health, welfare or the environment for the Peripheral OU. That decision was supported and documented in the Rocky Flats Environmental Technology Site Corrective Action Decision/Record of Decision (CAD/ROD) signed by DOE, CDPHE and EPA, Region 8 on September 29, 2006.

OU 3 encompasses an area north, south, and primarily east of the Peripheral and Central OUs. OU 3 was addressed under a separate CAD/ROD, Corrective Action Decision/Record of Decision Operable Unit 3, The Offsite Areas Rocky Flats Environmental Technology Site dated April 1997. The OU 3 CAD/ROD was signed by DOE, CDPHE and EPA, Region 8 on June 3, 1997 and determined that no action was necessary to protect public health, welfare or the environment.

#### A. Peripheral Operable Unit

The RI/FS Report was prepared in accordance with the Interim Final Guidance for Conducting Remedial Investigations and Feasibility Studies under CERCLA. Because remedial activities at RFETS were conducted under RCRA and CHWA, this RI/FS Report also met RCRA/CHWA requirements for an RCRA Facility Investigation/Corrective Measures Study (RFI/CMS) Report. References to CERCLA requirements were also intended to encompass RCRA/CHWA requirements. For simplicity, the report is hereinafter referred to as the RI/FS Report. The RI/FS Report, approved by EPA and CDPHE on July 5, 2006, was the basis for development of the Rocky Flats Environmental Technology Site Proposed Plan that described the preferred remedy. The Proposed Plan was the basis for the Final CAD/ROD.

##### A.1 Description of the Peripheral OU Remedial Investigation

DOE began more than 20 years ago to develop an extensive body of documentation about the use of hazardous substances and the known or suspected release of hazardous substances at Rocky Flats. Information was gathered from an extensive review

of Rocky Flats operating records and contemporaneous documents. In addition, interviews were conducted of persons with knowledge of Rocky Flats operations and of events that did release or were suspected of releasing hazardous substances. The information collected is organized in the Rocky Flats Historical Release Report (HRR), originally published in 1992, which has been periodically updated as investigation and cleanup of the Site progressed. The final version of the HRR is provided as Appendix B of the RI/FS report entitled FY2005 FINAL Historical Release Report dated October 2005.

Sampling and analysis of surface and subsurface soil, groundwater, and surface water were extensively used to locate and measure hazardous substance contamination at historical release locations and guide the conduct and completion of remediation activities. Environmental monitoring was performed under the auspices of a site-wide integrated monitoring plan. Additional monitoring was conducted pursuant to environmental permits, including the National Pollutant Discharge Elimination System permit and the State of Colorado Air Quality Operating Permit, issued to DOE and its contractors.

Environmental data for Rocky Flats were collected in accordance with agency-approved Sampling and Analysis Plans (SAPs) and standardized contract-required analytical procedures. Approved Work Plans and SAPs specified the use of EPA-approved sampling procedures and analytical methods, data quality requirements, and data management processes, and specified the appropriate data quality objectives. Documented releases of hazardous substances at Rocky Flats include radionuclides, volatile organic compounds (VOCs), and semivolatile organic compounds (SVOCs), inorganic compounds, and metals.

Known or suspected release locations (primarily soil) were delineated by 183 Individual Hazardous Substance Sites (IHSSs), 146 Potential Areas of Concern (PACs), 31 Under Building Contamination (UBC) Sites, and 61 Potential Incidents of Concern (PICs) (totaling 421 areas). The IHSSs, PACs, UBC Sites, and PICs were thoroughly investigated and characterized, as appropriate, and accelerated actions, including non-time critical removals, triggered by contamination levels have been confirmed as completed and met response goals.

The nature and extent of contamination evaluations considered the following environmental media: soil, groundwater, surface water,

sediment, and air. These evaluations were conducted to show the types of analytes of interest (AOIs) remaining in the environmental media and their extent at Rocky Flats following the completion of accelerated actions. The purpose of identifying AOIs was to focus the nature and extent evaluation on constituents that were detected at concentrations that may contribute to the risk to future receptors and to show the overall spatial and temporal trends of those constituents on a sitewide basis. These evaluations identified 14 AOIs for surface soil, 14 AOIs for subsurface soil, 19 AOIs for groundwater, 18 AOIs for surface water, 5 AOIs for sediment, and 5 AOIs for air. The contaminant fate and transport evaluation used information about the Site physical characteristics, contaminant source characteristics, and contaminant distribution across the Site to develop a conceptual understanding of the dominant transport processes that affect the migration of different contaminants in various Rocky Flats environmental media. The primary focus was evaluating the potential for contaminants from any medium to impact surface water quality. Evaluation of a contaminant's fate and transport was based upon two criteria: (1) Does a complete migration pathway to a potential receptor exist based on an evaluation of contaminant transport in each environmental medium; and (2) is there a potential impact to surface water quality based on an evaluation of data at representative groundwater and surface water monitoring locations in the creek drainages.

The RI included a Comprehensive Risk Assessment (CRA). The CRA consisted of two parts: Human Health Risk Assessment (HHRA) and Ecological Risk Assessment (ERA). The CRA was designed to provide information to decision makers to help determine the effectiveness of the accelerated actions and select a final remedy that is protective of human health and the environment. The CRA evaluated the risks posed by conditions at the Site to the anticipated future users (wildlife workers and visitors) and anticipated future land use. The CRA did not evaluate an unrestricted use scenario, but did consider an indoor air pathway, if occupied structures were to be present at the Site in the future.

The Peripheral OU was determined to be unimpacted by hazardous substances, pollutants or contaminants with the exceptions subsequently discussed. A small portion of the Peripheral OU was impacted by Site activities from a radiological perspective. For example, plutonium

exists above background in surface soil in small areas within the Peripheral OU. A few sampling locations for plutonium within the Peripheral OU exceed a level of 9.8 picocuries per gram (pCi/g), which corresponds to a  $1 \times 10^{-6}$  risk level for a wildlife refuge worker. Of these few sampling locations, the highest result is approximately 20 pCi/g. If that highest concentration of 20 pCi/g was considered the average concentration over an appropriate exposure unit, it would correspond to a risk of approximately  $1 \times 10^{-5}$  for a resident, which would be in the middle of the CERCLA risk range ( $10^{-6}$  to  $10^{-4}$ ). These levels of radioactivity are also far below the 231 pCi/g activity level for an adult rural resident, which equates to the 25-millirem per year dose criterion specified in the Colorado Standards for Protection Against Radiation.

#### A.2 Declaration Statement for the Peripheral OU CAD/ROD

Based upon the RI/FS Report, which included both a Human Health and Ecological Risk Assessment, DOE (as the Lead Agency under CERCLA) determined that no action was necessary to protect public health or welfare or the environment for the Peripheral OU.

The RI/FS Report concluded that the Peripheral OU was in a state protective of human health and the environment. The NCP provides for the selection of a no action remedy when an OU is in such a protective state and therefore, no remedial action for the Peripheral OU was warranted. The selected remedy for the Peripheral OU was no action.

#### A.3 Peripheral OU Conclusions

The selected remedy for the Peripheral OU meets the requirements of CERCLA Section 121, and to the extent practicable, the NCP. The selected remedy for the Peripheral OU is protective of human health and the environment, complies with Federal and State requirements, and is cost-effective. The selected remedy complies with applicable requirements of the CHWA. No accelerated actions were taken in the Peripheral OU, and no remedial action alternatives other than the no action alternative were required to be evaluated for the Peripheral OU. Because no hazardous substances, pollutants, or contaminants occur in the Peripheral OU above levels that allow for unlimited use and unrestricted exposure, no five-year review is required for this remedy.

#### B. Operable Unit 3 (Offsite Areas)

The OU 3 CAD/ROD was prepared by DOE, Rocky Flats Field Office, Golden,

Colorado, in April 1997, and was signed by DOE, CDPHE, and EPA Region 8 on June 3, 1997. The following is the basis for deleting OU3 and is a part of the deletion docket.

OU 3 was investigated and a remedy was selected in compliance with the Federal Facility Agreement and Consent Order—Interagency Agreement (IAG), signed by DOE, CDPHE, and EPA on January 22, 1991. The selected remedy is also consistent with the Federal Facility Agreement and Consent Order—Rocky Flats Cleanup Agreement (RFCA), signed by DOE, CDPHE, and EPA on July 19, 1996.

OU 3 is one of sixteen OUs at Rocky Flats identified in the 1991 IAG, and is the only one not located within the RFETS boundaries. The 1996 RFCA consolidated the original sixteen OUs into three OUs, but OU 3 remained separate, owing both to its unique geographic location and to the fact that investigations and administrative activity for OU 3 were nearly completed when the 1996 RFCA was signed. OU 3 is comprised of four Individual Hazardous Substance Sites (IHSSs): Contamination of the Land's Surface (IHSS 199), Great Western Reservoir (IHSS 200), Standley Lake (IHSS 201) and Mower Reservoir (IHSS 202). IHSSs are specific locations where hazardous substances, solid wastes, pollutants, contaminants, hazardous wastes or hazardous constituents may have been disposed of or released to the environment from Rocky Flats at any time in the past.

#### B.1 Description of the OU 3 Remedial Investigation

The selected remedy for OU 3 was no action. A Baseline Risk Assessment (BRA), including an HHRA and an ERA, was conducted as part of the OU 3 Resource Conservation and Recovery Act (RCRA) Facility Investigation. The RCRA Facility Investigation/CERCLA Remedial Investigation (RFI/RI) Report was completed in accordance with requirements presented in the Interagency Agreement and specifically identified in the OU3 RFI/RI Work Plan and addenda. The RFI/RI Report evaluated human health risks based upon exposure to identified Contaminants of Concern (COCs) and was reported as the probability of an individual developing cancer as a result of exposure to OU 3 contamination under recreational and residential exposure scenarios. Assumptions regarding future land use provided the basis to calculate human health risks for both IHSS 199 and for IHSS 200. No COCs were identified in surface water samples collected from Standley Lake,

Great Western Reservoir, and Mower Reservoir.

For IHSS 199, risks from both plutonium and americium were calculated and were assumed to be additive. For IHSS 200, only the risks associated with plutonium were calculated, as plutonium was the only COC there. In both IHSSs, the highest contaminant concentration was used in risk calculations. The RFI/RI Report also calculated radiation doses that would be expected as a result of the recreational and residential scenarios described in the OU 3 CAD/ROD.

Excess lifetime cancer risk (that is, the incremental additional cancer risk that is incurred through exposure to COCs at OU 3 or any other contaminated site) is calculated by multiplying the average daily chemical intake over a lifetime of exposure by the contaminant's individual slope factor. For radionuclides, slope factors are the average risk per unit intake or exposure for an individual in a stationary population with mortality rates typical of those in the United States in 1970. EPA guidelines indicate that excess lifetime cancer risks which are within or below the one in ten thousand ( $1 \times 10^{-4}$ ) to one in one million ( $1 \times 10^{-6}$ ) range are considered protective of human health.

For IHSS 199, the highest calculated excess cancer risk, assuming reasonable maximum exposures (RME) under a residential exposure was three in one million ( $3 \times 10^{-6}$ ). Using central tendency, the risk under a residential scenario was two in ten million ( $2 \times 10^{-7}$ ). For the recreational exposure, the excess cancer risk was five in one hundred million ( $5 \times 10^{-8}$ ) using the RME, and three in one billion ( $3 \times 10^{-9}$ ) using central tendency.

For IHSS 200, the highest calculated excess cancer risk employing RME and the residential exposure was nine in ten million ( $9 \times 10^{-7}$ ); the corresponding risk using central tendency was six in one hundred million ( $6 \times 10^{-8}$ ). Using the recreational scenario, the highest risk using RME was one in one hundred million ( $1 \times 10^{-8}$ ), and the risk using central tendency was eight in ten billion ( $8 \times 10^{-10}$ ).

The highest calculated radiation dose for IHSSs 199 and 200 occurred using the RME, assuming a residential exposure scenario. The highest Total Effective Dose Equivalent (TEDE, which incorporates both internal and external radiation dose) for IHSS 199 for an adult was 0.12 millirem per year (mrem/yr); the corresponding TEDE for IHSS 200 is 0.0065 mrem/yr. The average radiation dose in the U.S. is estimated to be about 300 mrem/year, while the average dose

in Colorado may be as much as 700 mrem/year, owing to the state's higher altitude and relative abundance of naturally occurring radionuclides.

These levels of radioactivity are also far below the 231 pCi/g activity level for an adult rural resident that equates to the 25 mrem/year dose criterion specified in the Colorado Standards for Protection Against Radiation. Based on these results, the Peripheral OU is determined to be acceptable for all uses from a radiological perspective.

The RFI/RI Report evaluated health risks and radiation dose from surface water. Surface water was sampled for plutonium and americium. The maximum and mean concentrations of plutonium and americium detected in surface water from the reservoirs were well below the CDPHE standards, the National Drinking Water Standards, and the Rocky Flats Site specific standards for plutonium and americium.

DOE submitted the RFI/RI Report to the Agency for Toxic Substances and Disease Registry (ATSDR), a part of the federal Center for Disease Control, for the purpose of obtaining a Health Consultation. The purpose of the Health Consultation was to obtain an independent evaluation as to whether COCs had been adequately identified in OU 3, the risks to human health posed by releases of hazardous substances in OU 3 adequately analyzed, and whether the proposal for no remedial action in OU 3 was appropriate considering these risks. The ATSDR concluded that the COC selection process was based on reasonable assumptions, and that none of the constituents present in OU 3 posed public health concerns. Further, the ATSDR Health Consultation stated that no additional activities were needed in OU 3 in order to ensure the public's health.

Based upon the BRA and the ERA contained in the RFI/RI Report, DOE, the lead agency under CERCLA for OU 3, concluded that no action was appropriate for OU 3. The RFI/RI Report concluded that all IHSSs within OU 3 are already protective of human health and the environment. Field and laboratory work showed no indications of adverse effects from plutonium or americium on the ecology of OU 3. The NCP provides for the selection of a no action remedy when an OU is in such a protective state. Therefore, no remedial action regarding OU 3 or any of its constituent IHSSs was warranted.

#### B.2 Declaration Statement for Offsite Areas OU CAD/ROD

DOE in consultation with CDPHE and EPA, determined that no remedial action was necessary for OU 3 to be

protective of human health, welfare and the environment. No hazardous substances, pollutants or contaminants remain within the boundaries of OU 3 above levels that allow for unlimited use and unrestricted exposure, as these levels have been calculated in the OU 3 RFI/RI Report.

### B.3 Evaluation of OU 3 CAD/ROD Data in First Five-Year Review

A five-year review of the OU 3 CAD/ROD was conducted to assess the continued protectiveness of the remedy. The OU 3 CAD/ROD concluded that transport by wind and water was the primary means by which plutonium and americium were carried to OU 3. Therefore, available air and water monitoring data collected after the OU 3 CAD/ROD was signed were reviewed to determine if environmental conditions at OU 3 have changed since the BRA was completed. The air monitoring data from the RFETS perimeter air monitoring network were analyzed and the conclusion was that the amounts of plutonium and americium that have been measured at the RFETS perimeter since 1997 have been environmentally insignificant. These amounts of plutonium and americium would not have caused contaminant levels in OU 3 to change significantly since the OU 3 CAD/ROD was signed. Water monitoring data from the RFCA Points of Compliance on Woman Creek and Walnut Creek at Indiana Street, and data collected by the City of Broomfield for Great Western Reservoir, were analyzed. Samples of water leaving RFETS showed consistent compliance with RFCA surface water standards, and water samples from Great Western Reservoir were consistently at or below detection limits for plutonium and americium. The report also included a Protectiveness Statement as required by EPA guidance. Pursuant to the Protectiveness Statement, DOE's ongoing custody and control of RFETS, ongoing monitoring programs, and restriction of public access serve to adequately control risks posed by contamination at RFETS. The no action decision for OU 3 was determined to be adequately protective.

Review of air monitoring data and water quality data at the Points of Compliance since the first five-year review also indicate there have not been significant amounts of plutonium or americium that have entered OU 3 through the air or water pathways. Therefore, environmental conditions at OU 3 have not changed significantly since the OU 3 CAD/ROD was signed.

### B.4 OU 3 Conclusions

Conditions in OU 3 pose no unacceptable or significant risks to human health or the environment; future unacceptable or significant exposures will not occur there as a result of past contamination. DOE concluded that no action was necessary in OU 3 for the protection of human health or the environment. Reviews following the OU 3 CAD/ROD have concluded that environmental conditions at OU 3 have not changed significantly since the OU 3 CAD/ROD was signed.

#### *Community Involvement*

Public Participation activities for the cleanup of the Peripheral OU and OU 3 were conducted as required under CERCLA Section 113(k), 42 U.S.C. 9613(k) and Section 117, 42 U.S.C. 9617. Public review included the following activities:

#### A. Community Involvement for the Peripheral OU

The Draft RI/FS Report for the RFETS was released for public review and information in October 2005, and was available at that time in the Rocky Flats public reading rooms and online. Several informational public meetings on the draft RI/FS were held, at which representatives from DOE and its contractor, EPA and CDPHE were present to answer questions. These meetings included a discussion at the Rocky Flats Citizens Advisory Board meeting on November 3, 2005. The final RI/FS report was approved by EPA and CDPHE on July 5, 2006. Copies of the final RI/FS report were placed at seven information centers in the Denver metropolitan area on July 14, 2005. In addition, the RI/FS report was available on line at <http://www.rfets.gov>, and copies on compact disc were available at the public information meetings during the comment period for the Proposed Plan. DOE, EPA and CDPHE held a pre-release informational meeting for the Proposed Plan on May 30, 2006, to explain changes that were made to the draft RI/FS report, and to describe the major components of the Proposed Plan. The Proposed Plan was released for formal public comment on July 14, 2006. Notice of the public comment period appeared in The Rocky Mountain News and The Denver Post from May 22 through May 28, 2006, and was also provided at the informational public meeting. DOE sent out community and media advisories prior to the release of the Proposed Plan, and prior to each informational meeting and the public hearing. The Proposed Plan was placed

in seven information centers in the Denver metropolitan area, was available at the informational meetings held during the comment period, and was available on line at <http://www.rfets.gov>. The Proposed Plan included discussions on future land use and use of groundwater at Rocky Flats. The Rocky Flats administrative record file was available for public review at the Front Range Community College reading room in Westminster, Colorado, as well as on line at <http://www.rfets.gov>.

DOE held two informational meetings during the public comment period, at which agency representatives presented the scope and purpose of the Proposed Plan, discussed opportunities to provide input on the Proposed Plan, and responded to questions from the public. The first informational meeting was held on July 19, 2006 in Golden, Colorado, and the second informational meeting took place in Westminster, Colorado on August 8, 2006. Prior notice of each meeting was provided through advertisements in the aforementioned newspapers, running from July 13 through July 19, 2006, and again from August 2 through August 8, 2006. A public hearing for the Proposed Plan took place on August 31, 2006 in Arvada, Colorado; separate sessions were held in the afternoon and in the evening on that date to accommodate as many members of the public as possible. Prior notice of the public hearing was accomplished through advertisements in the aforementioned newspapers that ran from August 25 through August 31, 2006, with a display ad posted in both papers on August 29, 2006. Both written and oral public comments were accepted at the public hearing. A transcript of the public hearing has been made available to the public and placed in the Rocky Flats administrative record file.

The public comment period for the Proposed Plan extended from July 14 through September 13, 2006. No requests for extension of the public comment period were received. DOE's responses to public comments received during the comment period are included in the Responsiveness Summary section of the RFETS CAD/ROD.

#### B. Community Involvement for OU 3

DOE submitted the final RFI/RI Report for OU 3 to EPA on July 11, 1996 following resolution of final comments by EPA, CDPHE, the City of Broomfield, and the City of Westminster. Regulatory approval to release the OU 3 Proposed Plan for public comment was granted on August 7, 1996.

The Proposed Plan was released for public comment on August 7, 1996. A

public hearing on the OU 3 Proposed Plan was held on September 18, 1996 at the Arvada Center for the Performing Arts and Humanities in Arvada, Colorado. Citizen comments received at the public hearing were recorded and responses to those comments were included in a Responsiveness Summary. The public comment period for the OU 3 Proposed Plan ended on October 11, 1996. Written comments on the Proposed Plan were received from the Cities of Westminster and Broomfield. Responses to those written comments were also included in the Responsiveness Summary.

#### *Current Status*

The RFETS RI/FS Report concluded that the Peripheral OU was already in a state protective of human health and the environment, therefore the selected remedy in the RFETS CAD/ROD for the

Peripheral OU was no action. No accelerated actions were taken in the Peripheral OU, and no remedial action alternatives were evaluated for the Peripheral OU. Because no hazardous substances, pollutants, or contaminants occur in the Peripheral OU above levels that allow for unlimited use and unrestricted exposure, a five-year review was not required for this remedy. This documentation provides the technical justification for deletion of the Peripheral Operable Unit, Rocky Flats Plant from the NPL.

For the OU 3 (Offsite Areas) conditions were determined to be protective of human health and the environment at the time the OU 3 CAD/ROD was signed in 1997, and again during the first five-year review finalized in September 2002. Since then, summary data for OU 3 has been

reviewed and indicate that conditions have not changed to alter conclusions of earlier OU 3 assessments. This documentation provides the technical justification for deletion of OU 3 (Offsite Areas), Rocky Flats Plant from the NPL.

EPA, with concurrence from CDPHE, has determined that all appropriate CERCLA response actions have been completed within the Peripheral OU and OU 3 to protect public health and the environment and that no further response action by responsible parties is required. Therefore, EPA proposes to delete the Peripheral OU and OU 3 of the Rocky Flats Plant from the NPL.

Dated: March 1, 2007.

**Robert E. Roberts,**

*Regional Administrator, Region 8.*

[FR Doc. E7-4449 Filed 3-12-07; 8:45 am]

**BILLING CODE 6560-50-P**