UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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JUN 11 2007

Ref: 8EPR-F

Honorable Samuel W. Bodman
Secretary of Energy
U.S. Department of Energy
1000 Independence Ave., SW
Washington, DC 20585

Honorable Dirk Kempthorne
Secretary of the Interior
Department of the Interior
1849 C Street, NW
Washington DC 20240

Dear Secretary Bodman and Secretary Kempthorne:

As required by section 3175(a)(3) of the Rocky Flats National Wildlife Refuge Act of 2001(Refuge Act), Public Law 107-107, upon completion of site cleanup and closure by the Department of Energy, the Administrator of the Environmental Protection Agency must certify to the Secretary of Energy and to the Secretary of the Interior "that cleanup and closure at Rocky Flats has been completed, except for the operation and maintenance associated with response actions, and that all response actions are operating properly and successfully." As defined in section 3173(3) of the Refuge Act, "the term 'cleanup and closure' means the response actions for covered substances carried out at Rocky Flats as required by any of the following (A) The RFCA, (B) CERCLA, (C) RCRA, (D) The Colorado Hazardous Waste Act, 25-15-101 to 25-15-327, Colorado Revised Statutes."

The Department of Energy, pursuant to section 120 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 6920, has completed cleanup and closure at the Rocky Flats National Priorities List site. Certain areas of the site, designated the Peripheral Operable Unit (OU) and Operable Unit 3 (OU3), have been deleted from the National Priorities List in accordance with 40 CFR 300.425(e) and Notice of Policy Change: Policy Regarding Partial Deletion of Sites Listed on the National Priorities List (60 FR 55466 (Nov. 1, 1995)). Enclosed is a copy of the Notice of Partial Deletion for the Peripheral OU and OU 3 of the Rocky Flats National Priorities List site which was published in the Federal Register on May 25, 2007, and was effective on that date. The only response actions at the site are located in the Central Operable Unit which has not been deleted at this time.

Pursuant to authority delegated to me by the Administrator of the Environmental Protection Agency, Stephen L. Johnson, on October 11, 2006, I hereby certify that cleanup and closure at Rocky Flats has been completed, except for the operation and maintenance associated with response actions in the Central Operable Unit, and that all response actions in the Central Operable Unit are operating properly and successfully.

This certification is based on the information contained in the documents that constitute the record which supported deletion of the Peripheral OU and OU 3 from the National Priorities List, the Rocky Flats Legacy Management Agreement (March 14, 2007), the Rocky Flats Site Annual Report of Site Surveillance and Maintenance Activities, Calendar Year 2006 (April, 2007), and the Determination that Response Actions in the Central OU at Rocky Flats are Operating Properly and Successfully (May 2, 2007).

Sincerely,

Robert E. Roberts
Regional Administrator

Enclosure

cc: Mitch King, Regional Director
US Fish and Wildlife Service
PO Box 25486
Denver Federal Center
Denver, CO 80226

James B. Martin, Executive Director
Colorado Department of Public Health and Environment
4300 Cherry Creek Drive South
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postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: May 16, 2007.

Russell L. Wright, Jr.,

Acting Regional Administrator, Region 4.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart K—Florida

■ 2. Section 52.530 is amended by revising paragraphs (a) and (b) to read as follows:

§ 52.530 Significant deterioration of air quality.

(a) EPA approves the Florida Prevention of Significant Deterioration program, as incorporated into this chapter, for power plants subject to the Florida Power Plant Siting Act.

(b) [Reserved]

* * * * *

[FR Doc. E7–10061 Filed 5–24–07; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1989–0011; FRL–8317–5]

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

AGENCY: Environmental Protection Agency.

ACTION: Notice of partial deletion of the rocky flats plant from the national priorities list.

SUMMARY: The United States Environmental Protection Agency (EPA) Region 8 announces the deletion of the Peripheral Operable Unit (OU) of the Department of Energy (DOE) Rocky Flats Plant and Operable Unit 3 (OU 3), also referred to as the Offsite Areas, encompassing approximately 25,413 acres, from the National Priorities List (NPL). 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 shown 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 in the *http://www.regulations.gov* index identified by Docket ID no. EPA–HQ–SFUND–1989–0011.

EPA and the State of Colorado, through the Colorado Department of Public Health and Environment (CDPHE), have determined that the Peripheral OU of the Rocky Flats Plant and OU 3 (Offsite Areas) poses no significant threat to public health or the environment and, therefore, no further remedial measures pursuant to CERCLA are 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.

DATES: This partial deletion of the Peripheral OU and OU 3 is effective on May 25, 2007.

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

SUPPLEMENTARY INFORMATION: 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.

Two OUs are present within the boundaries of the Site (the Peripheral OU and the Central OU), while OU 3 (Offsite Areas) encompasses property north, south, and primarily east of the Peripheral and Central OUs. This partial deletion pertains to the surface media (soil, surface water, sediment) and subsurface media, including groundwater, within the Peripheral OU and OU 3. The Central OU is not included within this partial deletion action and will remain on the NPL.

On March 13, 2007, EPA published a Notice of Intent for Partial Deletion in the **Federal Register** (72 FR 11313) and local newspapers, announcing a thirty day public comment period, which proposed to delete the Peripheral OU and OU 3 from the NPL. Comments were received in the form of letters from CDPHE dated April 3, 2007 and from the City and County of Broomfield and City of Westminster, both April 12, 2007. The letters from the two cities were identical in terms of the comments each made. In all instances the state and the cities support the actions proposed in the notice of intent for partial deletion, however, the cities have other comments in their identical letters.

The following are comments from the City and County of Broomfield and City of Westminster regarding the points-of-compliance as summarized:

Broomfield/Westminster described that "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 point-of-compliance for the Central OU is located within the Peripheral OU. The partial deletion assumes all surface water leaving the Central OU flowing through the Peripheral OU will meet surface water quality standards at the site boundary. There is a potential for the drainages to become contaminated by contaminated surface water or contaminated sediment flowing through the drainages."

Broomfield/Westminster also added that "language in the **Federal Register** states the Department of Energy (DOE) will be responsible for all future remedial actions required at the area deleted if future site conditions warrant such actions. We support the language in the **Federal Register**. Our concern is the Department of Energy will only be evaluating surface water quality for uranium, plutonium, and americium as it flows from the Central OU. Other potential analytes that could be considered contaminants will not be evaluated to determine potential impacts to surface water or the drainages within the Peripheral OU."

In the Responsiveness Summary, EPA explained that DOE is required to evaluate uranium, plutonium and

americium at five locations: The terminus of the A-series ponds (GS11 at the outfall of terminal pond A–4); the terminus of the B-series ponds (GS08 at the outfall of terminal pond B–5); the outfall of terminal pond C–2 (GS31), all of which are in the Central OU (DOE retained land); where Woman Creek meets Indiana (GS01); and where Walnut Creek meets Indiana (GS03). Prior to any release from the terminal ponds DOE is required to take pre-discharge samples. These samples include the three radionuclides mentioned above as well as nitrates. Based on extensive sampling throughout the life of the cleanup project these are the only constituents requiring ongoing evaluation at these locations. We have not found other constituents in the surface water at levels that exceed cleanup standards. Moreover, the Comprehensive Risk Assessment for Human Health and Ecological risk determined that the Peripheral OU is suitable for all uses. Therefore, monitoring of additional constituents is not needed in the Peripheral OU in order to protect human health and the environment.

Broomfield/Westminster "are concerned that previous closure documents did not address how the points-of compliance would be secured and controlled if they are not in an area located within DOE's jurisdiction. It is very important to us, as a downstream community, to ensure the integrity of the monitoring stations within the deleted area are maintained and secured."

In the Responsiveness Summary, EPA explained that the CAD/ROD requires that DOE retain points-of-compliance in surface water at discharge points from the three terminal ponds (A–4, B–5 and C–2), as well as at the points-of-compliance near Indiana Street. DOE's operation and maintenance responsibilities require that the monitors remain secure and in working order. A feature of the compliance monitoring system is that automatic alerts are sent to DOE personnel who are responsible for operation and maintenance of the monitors anytime there is a malfunction with the equipment. Because of this feature, problems with the monitors are immediately identified and corrected. As a part of operation and maintenance activities, the Parties will determine if additional security measures to protect these monitoring locations are needed.

Broomfield/Westminster "believe the protection of the monitoring stations within the proposed deleted area is a significant and valid concern because there were no institutional controls identified to protect the only enforceable monitoring stations at the site. EPA should be responsive and proactive and identify how these stations will be controlled and protected to prevent access to the general public. It is not good management to develop a protocol to protect the monitoring stations after their integrity has been jeopardized."

In the Responsiveness Summary, EPA agrees that protection of the monitoring stations at the site is important. Security of these monitoring stations has not been a problem in the past. The DOE, State, and EPA agree to review any future changes to the current uses and activities that could jeopardize the integrity of the monitors. Since DOE personnel receive automatic alerts whenever there are performance problems with the compliance monitors, implementation of other security measures is not necessary. The purpose of these monitors is to take samples during run-off events and the likelihood of tampering with the monitors during these events is less than the chances of failure occurring due to equipment break down. In either case, DOE personnel will be notified immediately and steps taken to correct the problems. Addition of security measures as suggested by Broomfield and Westminster will not add appreciably to the reliability of the monitors to take samples when flow events dictate.

EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of those sites. Any site deleted from the NPL remains eligible for Fund-financed actions in the unlikely event that conditions at the site warrant such action. Section 300.425(e)(3) of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL. Deletion of a site from the NPL does not affect responsible party liability or impede Agency efforts to recover costs associated with response efforts.

Lists of Subjects in 40 CFR Part 300

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

Dated: May 16, 2007.

Robert E. Roberts,

Regional Administrator, Region 8.

■ For the reasons set forth in the preamble title 40 part 300 of the Code of Federal Regulations is amended as follows.

PART 300—[AMENDED]

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

Authority: 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 2 of appendix B to part 300 is amended by revising the entry for "Rocky Flats Plant (USDOE)" by adding a note "P" so that it reads as follows:

Appendix B to Part 300—National Priorities List

TABLE 2.—FEDERAL FACILITIES SECTION

State	Site name	City/county	Notes [a]
*	*	*	*
CO	Rocky Flats Plant (USDOE)	Jefferson and Boulder Counties	P
*	*	*	*

[a] * * *

P = Sites with partial deletion(s).

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