for certain source categories if we ultimately issue a FIP in conjunction with the NO_X SIP call.

10. How is This Action Related to the NO_X SIP Call?

This action is not directly related to the NO_X SIP Call, but is related indirectly. The data could be used to determine NO_X allowance allocations if we issue a FIP because a State fails to respond adequately to the NO_X SIP Call. States could also use the data to prepare NO_X allowance allocations for their SIPs. Some Northeastern States have stated that they intend to submit SIPs in response to EPA's NO_X SIP Call by September 30, 1999.

Dated: July 30, 1999.

Robert Perciasepe,

Assistant Administrator for Air and Radiation.

[FR Doc. 99–20465 Filed 8–6–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6413–6]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to delete the Smuggler Mountain Superfund site from the National Priorities List; request for comments.

SUMMARY: The Environmental Protection Agency, Region 8 announces its intent to delete the Smuggler Mountain Superfund Site (Site) 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) of 1980, as amended. EPA and the State of Colorado (State) have determined that the Site as remediated poses no significant threat to public health or the environment and, therefore, further remedial measures pursuant to CERCLA are not appropriate.

DATES: Comments concerning this Site may be submitted on or before September 8, 1999.

ADDRESSES: Comments may be mailed to: Armando Saenz, Remedial Project Manager, U.S. Environmental Protection Agency, Region 8, 999 18th Street, Suite 500, Mail Stop EPR–SR, Denver, Colorado 80202–2466.

Comprehensive information on this Site is available through the public docket which is available for viewing at the Smuggler Mountain Superfund Site information repositories at the following locations:

Superfund Records Center, U.S. Environmental Protection Agency, Region 8, 999 18th Street, 5th Floor, Denver, Colorado 80202–2466, (303) 312–6473. Hours of operation are 8:00 AM to 4:30 PM.

Aspen/Pitkin Environmental Health Department, 130 S. Galena Street, Aspen, Colorado 81611, (970) 920–5070. Hours of operation are 8 AM to 5 PM.

FOR FURTHER INFORMATION CONTACT: Armando Saenz, Remedial Project Manager, U.S. Environmental Protection Agency, Region 8, 999 18th Street, Suite 500, Mail Stop EPR–SR, Denver, Colorado 80202–2466, (303) 312–6559.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Intended Site Deletion
V. Summary

I. Introduction

The Environmental Protection Agency (EPA), Region 8 announces its intent to delete the Smuggler Mountain Superfund Site (Site) located in Aspen, Colorado from the National Priorities List (NPL), appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300, and requests comments on this deletion. EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as a list of these sites. As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions in the unlikely event that conditions at the site warrant such action.

EPA will accept comments on this proposed deletion for thirty days following publication of this document in the **Federal Register**.

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 Smuggler Mountain Superfund Site and explains how the Site meets the deletion criteria. Section V summarizes this document.

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 release 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 parties have implemented all appropriate response actions required;

(ii) All appropriate Fund-financed responses under CERCLA have been implemented, and no further 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, taking remedial measures is not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the site above levels that allow for unlimited use and unrestricted exposure, EPA will conduct a five-year review of the site five years after the initiation of the remedial action to ensure that the site remains protective of public health and the environment. A statutory five-year review was completed at this site on November 11, 1997. In the case of this Site, the selected remedy is protective of human health and the environment. A subsequent five-year review will be completed prior to November 11, 2002. 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 site may be restored to the NPL without the application of the Hazard Ranking System.

III. Deletion Procedures

The following procedures were used for the intended deletion of this Site: (1) EPA Region 8 has recommended deletion of the Smuggler Site and has prepared the relevant documents; (2) The State of Colorado has concurred with EPA's intent to delete the Smuggler Site; (3) Concurrent with this Notice of Intent to Delete, a notice has been published in local newspapers and has been distributed to appropriate Federal, State and local officials, and other interested parties announcing the commencement of a 30-day public comment period on EPA's Notice of Intent to Delete; and, (4) The Region has made all relevant documents available in the Regional Office and local Site information repositories.

Deletion of the Site from the NPL does not in itself create, alter, or revoke any

individual's rights or obligations. The NPL is designed primarily for informational purposes and to assist Agency management. As mentioned in section II of this document, § 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 Site conditions warrant such action.

Prior to deletion of this Site, EPA's Regional Office will accept and evaluate public comments on EPA's Notice of Intent to Delete before making a final decision to delete. If necessary, the Agency will prepare a Responsiveness Summary to address any significant comments received.

A deletion occurs when the Regional Administrator places a final notice in the **Federal Register**. Generally, the NPL will reflect deletions in the final update following the notice.

IV. Basis for Intended Site Deletion

The following summary provides EPA's rationale for recommending deletion of the Smuggler Mountain Superfund Site.

A. Site Background

The Smuggler Mountain Superfund Site is located in northeastern Aspen, Pitkin County, Colorado. It is in the Roaring Fork River valley, on the southwestern flank of Smuggler Mountain. The Site is largely developed, containing large and small condominiums, mobile home parks, a tennis club and numerous single family residences. The Site was placed on the National Priorities List (NPL) on June 10, 1986 (51 FR 21073).

Soil analyses in the early 1980's, conducted first by residents and later by EPA and the Potentially Responsible Parties (PRP's), identified concentrations of lead as high as 46,000 parts per million (ppm), well above EPA's cleanup level of 1,000 ppm. Elevated levels of cadmium were also found in the soils of the site. The sources of the lead and cadmium are the waste rock and tailings (mine wastes) from the mines on Smuggler Mountain. These wastes are exposed, covered or mixed with native soils across the site.

The Site has been divided into two study areas or Operable Units (OUs)—OU1 and OU2. OU1 is mainly a residential area on the northeastern edge of the town of Aspen and covers approximately 300 acres. OU2 includes the mine site on the upward slope of Smuggler Mountain just north of OU1 and covers approximately 25 acres.

Three mine waste dumps, containing an estimated 22,000 cubic yards of mine wastes, are located on the mine site. Potential future mining activities at OU 2 are expected to produce as much as 2,100 cubic yards of additional waste rock per year. These wastes will be placed on the existing dumps. The mine site dumps can accommodate the projected quantities of waste for the projected life of the mine without significantly changing the character of the dumps.

B. Early Actions Performed

A number of investigations have been undertaken at the site. An EPA Field Investigation Team sampled the site in 1983. This study was the result of a request by Pitkin County to characterize any human or environmental threat posed by abandoned mine tailings in the northeast quarter of the Aspen townsite.

Another study was sponsored by Western Slope Development Company on behalf of the Hunter Creek Condominiums, and a plan for surface covering and revegetation was developed for the areas surrounding the development (1985). Similar studies were conducted by other condominium developments in the area. In July 1985, discussions were held between a number of potentially responsible parties and EPA resulting in a Remedial Investigation/Feasibility Study (RI/FS). The RI/FS was conducted by Fred C. Hart Associates, Inc.

C. Remedial Investigation/Feasibility Study (RI/FS)

The RI/FS Report was finished and released in March 1986. Environmental protection goals and remedial objectives used to analyze potential remedial alternatives called for an isolation of the source of the contamination (lead in mine wastes) to prevent direct contact and the distribution of windblown dusts. The recommended remedial action from the selection of two alternatives was surface sealing (capping) and grading. An RI/FS Addendum for OU 2 was issued on May 7, 1986, to characterize the nature and extent of contamination and determine the appropriate extent of remedy at the Smuggler-Durant Mine Site.

The contaminants of concern at the Smuggler site are primarily lead and cadmium in soils. Lead and cadmium are hazardous substances within the meaning of CERCLA section 101(14), 42 U.S.C. 9604(14). Potential and/or actual routes of exposure are direct ingestion of contaminated soils and inhalation of wind blown dust.

There are no surface water sources on or flowing through the area. Nor are there any significant gullies entering or leaving the area. Thus, there is little opportunity for exposure to potentially contaminated runoff. Additionally, there are no known threatened or endangered wildlife or plant species inhabiting the site.

D. ROD & ESD Findings & Cleanup Activities Performed

In September 1986, a Record of Decision (ROD) was issued that divided the Site into two OUs. The OU 1 remedy was modified by several Explanations of Significant Differences (ESDs), the last of which was dated June, 1993. OU 1 is mostly residential. The remedy selected in the ROD was solely for OU 1, but OU 2 was briefly discussed. The mine site (OU 2) is not developed for residential use, but does include the Smuggler Mine on Smuggler Mountain. OU 2 is an ongoing mining operation and operations are expected to continue for the next 25–30 years and perhaps indefinitely. The remedy selection for OU 2 was documented in an Action Memorandum.

Operable Unit 1. During the OU1 Remedial Design (RD), additional technical information showed that the OU 1 remedy was not implementable due to the unexpectedly high volume of soils. The ROD was modified in the March 1989 ESD. This ESD described a plan to remove the top two feet of soils containing more than 1,000 ppm lead in the residential areas, an additional on-site repository for the extra volume of soil, and institutional controls to ensure the permanence of the remedy. However, the Aspen community found this remedy unacceptable and the plan was put on hold pending further investigation.

The Aspen community submitted an alternative proposal to EPA which resulted in a second ESD issued in May 1990. The May 1990 ESD included a greater reliance on Institutional Controls (ICs) and removal of 6 inches of contaminated soil in the Hunter Creek and Centennial Condominium areas. For individual properties, the protective cover of clean soil, placed over contaminated areas, would be reduced from two feet to a geotextile liner overlain with one foot of clean soil. Pitkin County adopted ICs in May, 1991, but they were repealed based upon citizen concerns about the need for any remedy at all.

EPA issued a Minor Modification to the remedy in October of 1991 that recognized that landowners could implement land use controls rather than local government. The modification provided for implementation of ICs by the adoption and enforcement of local ordinances by Pitkin County or the City of Aspen, by compliance with EPA approved Operation and Maintenance

plans by private parties or by the use of EPA's enforcement authority.

Some citizens contended that the cleanup, with heavy equipment and dust, would be more hazardous than living with the health risk at the Site. To address the community's concerns, an independent panel, called a Technical Advisory Committee (TAC), was convened in October of 1992. The TAC included six nationally recognized lead experts and three technical advisors. It released a final report in January 1993. The June 1993 ESD was based on the TAC report.

The June 1993 ESD modified the ROD and previous ESDs. The OU 1 actions were to be implemented through a Partial Consent Decree with Pitkin County filed with the United States District Court for the District of Colorado on March 24, 1995, for civil action No. 89–C–1802. The final OU 1 remedy selected and ultimately implemented was: (1) The Pitkin County Health Department agreed to a blood lead surveillance program for young children and implemented an indoor dust sampling program over a two year period; (2) The berm area was to be capped with clean soil and revegetated. Other common-use areas of exposed mine waste, including Mollie Gibson Park, were to be covered, revegetated and monitored; (3) Vegetable gardens were required to be planted in at least 12 inches of clean soil; and (4) The Aspen/Pitkin Environmental Health Department was required to evaluate site construction projects or land use changes to determine whether they present a threat of soil exposure to young children.

The ESD also stated that groundwater monitoring would cease and that a ground-water corrective action was not necessary. Site conditions suggested that the groundwater contamination identified earlier was due to the high natural metals content in the soils, or the result of well materials and ultimately not a health threat.

EPA was also to make a final determination regarding remediation of the OU 1 residential soils based on EPA's review of completed lead speciation, bioavailability, and blood lead monitoring studies. Please see the ''Monitoring Results'' section.

Operable Unit 2. An Engineering Evaluation/Cost Analysis (EE/CA) was conducted for OU2 to determine the necessary removal actions. The EE/CA was completed on January 25, 1995 and stated the following removal objectives: abate the threat of direct contact with lead contaminated soils and waste rock in mine waste dumps; abate the threat of inhalation of contaminated dust; abate the threat of migration of contamination via air and surface water; and attain applicable or relevant and appropriate requirements (ARARS).

The removal actions, outlined in an Action Memorandum dated April 19, 1995, were eventually made part of an Administrative Order on Consent with the mine owners in May 1995. An Action Memorandum was used because of the simplicity of the response action. The removal action selected in the OU2 Action Memorandum included the following: (1) Regrading a part of mine dump #2 to drain back into the mountain; (2) Cribbing the unstable, if any, portions of the toe of Dump #2. (This has turned out to be unnecessary.); (3) Regrading the lower parking area to drain back into the mountain; (4) Controlling dust emissions from dirt roads and the parking area by periodic spraying of a magnesium chloride dust suppressant solution; and (5) Extending the existing fence to restrict entry to the lower portion of the mine site. All of the work was completed by September 1996, except for the second activity. The toe of Dump #2 was not unstable, therefore cribbing was not necessary.

E'. Protectiveness

Monitoring Results. Under the OU 1 June 1993 ESD, EPA was to make a final determination regarding remediation of the OU 1 residential soils based on EPA's review of completed lead speciation, bioavailability, and blood lead monitoring studies. The results of the soil bioavailability study may be found in the May 1996 preliminary report, ''Bioavailability Of Lead In Soil Samples From The Smuggler Mountain NPL Site Aspen, Colorado.'' This study showed that bioavailability of predominately lead carbonate was near the EPA default of 30% (absolute) which further substantiated the need for a blood lead assessment to help ascertain potential future risks.

In 1996, the Pitkin County Health Department's contractor, the University of Cincinnati (UC), and EPA Region 8 designed a biological and environmental sampling study to identify blood lead levels in children associated with lead levels found in the children's play environment. This biomonitoring study was recommended by the TAC and included in the 1993 ESD. Children between the ages of 1 and 7 years were identified who lived in the more contaminated yards, and venous blood samples were obtained. At the same time the biological samples were obtained, environmental samples were taken (indoor and exterior dust, soil, water, and hand-wipes from the children).

To complete the requirement of identifying all pertinent facts surrounding the demographic element for the study, a survey was created to document all variables that might affect the results found in the blood study. In other words, all major sources and factors that might impact the blood lead levels found in the children were identified.

The schedule of events focused on obtaining the biological and environmental samples in the late Summer and early Fall of 1996 (and was partially repeated in the early Fall of 1997). This was done to optimize the time when the children had been exposed to their outside environment, and to maximize the level of lead they had obtained throughout the summer.

The final report summarizing the results of the blood lead study and incorporating data from previous studies was completed in October 1998. The report, titled ''Blood Lead Surveillance and Exposure of Young Children to Elevated Soil Lead at the Smuggler Superfund Site, Aspen, CO—Final Report,'' was prepared by UC.

Additional analyses of the study were conducted by EPA Region 8 toxicologist. These findings can be found in a report titled ''Further Assessment of Risks from Exposure to Lead in Soils at the Smuggler Superfund Site, Aspen, CO, Using a Weight of Evidence Approach,'' EPA Region 8, Denver, CO, May 1999 (Gerry Henningsen, Region 8 Toxicologist).

Both reports conclude that children living on the Site are not at unacceptable risk due to exposure to lead in the soil. Although environmental lead levels are slightly elevated, and the EPA IEUBK modeling indicates some potential risk to children who are in contact with this lead, repeated screening of children shows no impact of this exposure on blood lead levels of children at the Site. Consequently, EPA has concluded that further remediation of the OU 1 soils is not needed to adequately protect human health.

O&M Assurances. The OU 1 Operations and Maintenance Plan (O&M Plan) is represented in its entirety by the Institutional Controls (ICs) enacted for OU1 under the Consent Decree. After the signing of the Consent Decree, Pitkin County proposed amendments to the Pitkin County Code to enact ICs (Land Use Restrictions) for the Site. These ICs were reviewed and approved by EPA and enacted by the City of Aspen and Pitkin County to restrict the movement of contaminated soils in and from the Site and to aid in preserving the

integrity of the remedy constructed at the Site.

With the OU 1 Consent Decree, The Aspen/Pitkin Environmental Health Department has assured EPA and the State that all necessary ICs are in full force and effect within the Site boundary. The Consent Decree also includes reopeners in the event that the County were to repeal or disregard these ordinances. A Five-year Review conducted by EPA and completed on November 7, 1997, confirmed that these controls are in force and that the program is working.

A recent amendment to the OU 2 AOC has provided EPA and the State with indefinite O&M assurances. As stated in the AOC Amendment, the O&M Plan, as defined by the EE/CA, Action Memorandum and original workplan, will provide for maintenance of runoff control, dust control, restricted site access and site reclamation measures. This O&M Plan will become effective upon the termination of the permit with the Colorado Mined Land Reclamation Board and will be implemented by the PRP, Wright and Preusch Mining, LTD.

F. Community Relations

Community outreach at the Smuggler Mountain Superfund Site included: timely information about the Superfund process, ongoing communications, and opportunities for community participation in the decision-making process for the Site remedy. Specific activities included monitoring community concerns, preparation and mailing of fact sheets, coordination of community meetings and providing communication between EPA, the community and Pitkin County (and the other PRPs). EPA's outreach efforts to meet community needs and interests resulted in integral participation by the Aspen community and periodic revision(s) to the Site remedy.

V. Summary

The responsible parties have implemented all appropriate response actions required to sufficiently protect human health and the environment. Reports on lead speciation, bioavailability, and blood lead monitoring studies have concluded that children living on the Site are not at unacceptable risk due to exposure to lead in the soil. Also, this Site meets all the site completion requirements as specified in Close Out Procedures for National Priorities List Sites (OSWER Directive 9320.2–09). Further, O&M of the Site is assured via the OU 1 Consent Decree and the OU 2 AOC and AOC Amendment.

Because hazardous substances will remain at the site, EPA will conduct periodic inspections of the site to ensure that the remedy remains protective of human health and the environment. EPA is required to conduct such reviews under section 121(c) of CERCLA and the NCP.

EPA, with the concurrence of the State of Colorado, has determined that all appropriate response actions required by CERCLA at the Smuggler Mountain Site have been completed, and that no further cleanup by responsible parties is appropriate.

Dated: July 27, 1999.

Jack W. McGraw,

Acting Regional Administrator, Region 8.

[FR Doc. 99–20199 Filed 8–6–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–1525, MM Docket No. 99–265, RM–9660]

Digital Television Broadcast Service; Monroe, LA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Noe Corporation, licensee of station KNOE–TV, NTSC Channel 9, Monroe, Louisiana, seeking the substitution of DTV Channel 7 for its assigned DTV Channel 55. DTV Channel 7 can be allotted to Monroe in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates 32–11–45 N. and 92–04–10 W. As requested, we also propose to modify KNOE–TV's authorization to specify operation on DTV Channel 7 at Monroe, Louisiana, with a power of 5.0 (kW) and a height above average terrain (HAAT) of 519 meters.

DATES: Comments must be filed on or before September 24, 1999, and reply comments on or before October 12, 1999.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW, Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Robert B. Jacobi, Esq., Cohn and Marks, 1920 N Street, NW, Suite 300, Washington, DC, 20036 (Counsel for Noe Corporation).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–265, adopted July 30, 1999, and released August 3, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

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

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

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

List of Subjects in 47 CFR Part 73

Digital Television Broadcasting.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 99–20389 Filed 8–6–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AE89

Endangered and Threatened Wildlife and Plants; Withdrawal of Proposed Rule To List the Plant Rumex orthoneurus (Chiricahua Dock) as Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; withdrawal.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), withdraw the proposed rule to list the plant *Rumex orthoneurus* (Chiricahua dock or Blumer's dock) as a threatened species under the Endangered Species Act of