

Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

#### *Paperwork Reduction Act*

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### *Congressional Review Act*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under Section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 4, 2007. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not 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 62**

Environmental protection, Administrative practice and procedure, Air pollution control, Waste treatment and disposal, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: June 25, 2007.

**Bharat Mathur,**

*Acting Regional Administrator, Region 5.*

■ For the reasons stated in the preamble, part 62, chapter I, of title 40 of the Code of Federal Regulations is amended as follows:

#### **PART 62—[AMENDED]**

■ 1. The authority citation for part 62 continues to read as follows:

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

#### **Subpart KK—Ohio**

■ 2. Subpart KK is amended by adding an undesignated center heading and § 62.8880 to read as follows:

\* \* \* \* \*

#### **Emissions From Hospital, Medical, and Infectious Waste Incinerators (HMIWI)**

##### **§ 62.8880 Identification of plan.**

(a) *Identification of plan.* Ohio rules to Control Emissions from Hospital, Medical, and Infectious Waste Incinerators (HMIWI), submitted by the Ohio EPA on October 18, 2005. Rules 3745–75–01, 3745–75–02, 3745–75–03, 3745–75–04, 3745–75–05, and 3745–75–06 of the Ohio Administrative Code, effective in the state March 23, 2004, with the exception of rules 3745–75–02(I)(1), 3745–75–02(I)(2), 3745–75–02(I)(4), and 3745–75–02(I)(7).

(b) *Identification of sources.* The plan applies to existing hospital/medical/infectious waste incinerators for which construction, reconstruction, or modification was commenced on or before June 20, 1996, as described in 40 CFR part 60, subpart Ce.

(c) *Effective date.* The effective date of the plan is August 6, 2007.

[FR Doc. E7–13002 Filed 7–3–07; 8:45 am]

**BILLING CODE 6560–50–P**

#### **ENVIRONMENTAL PROTECTION AGENCY**

##### **40 CFR Part 300**

**[EPA–HQ–SFUND–1986–0005; FRL–8335–9]**

#### **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 approximately 7 acres within the Uravan Superfund Site (Site), located in Montrose County, Colorado, from the National Priorities List (NPL). The acreage comprises a one mile section of Colorado State Highway 141 between mile posts 75 and 76.

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

Substance 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, under CERCLA, for the approximate 7 acres have been completed and, therefore, further remedial action pursuant to CERCLA is not appropriate.

**DATES:** This direct final deletion will be effective September 4, 2007. If adverse comments are received by August 6, 2007, 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, Project Manager, 8EPR–SR, [thomas.rebecca@epa.gov](mailto:thomas.rebecca@epa.gov), U.S. EPA, Region 8, 1595 Wynkoop, Denver, Colorado 80202–1129, (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, 1595 Wynkoop, Denver, Colorado 80202–1129, (303) 312–6473, hours of operation M–F 8 a.m. to 4 p.m., or at the Colorado Department of Public Health and the Environment, Records Center, Building B, Second Floor, 4300 Cherry Creek Drive South, Denver, CO 80246–1530, hours of operation M–F 8 a.m. to 5 p.m.

#### **FOR FURTHER INFORMATION CONTACT:**

Rebecca Thomas, Project Manager, 8EPR–SR, [thomas.rebecca@epa.gov](mailto:thomas.rebecca@epa.gov), U.S. EPA, Region 8, 1595 Wynkoop, Denver, Colorado 80202–1129, (303) 312–6552 or toll free 1–800–227–8917, extension 6552.

#### **SUPPLEMENTARY INFORMATION:**

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- V. Deletion Action

#### **I. Introduction**

EPA Region 8 is publishing this direct final notice of partial deletion of approximately 7 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 non-controversial and routine, EPA is taking it without prior publication of a notice of intent to delete. This action will be effective September 4, 2007, unless EPA receives adverse comments by August 6, 2007, 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 a portion of the site 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 right 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. The Site is located adjacent to the San Miguel River which drains into the Dolores River and hence to the Colorado River.

This partial deletion pertains to approximately 7 acres, a one mile section of Colorado State Highway 141, comprised of a right-of-way up to 60 feet in width between mile posts 75 and 76.

## Site History

Colorado State Highway 141 traverses the Uravan Superfund site in western Colorado. The Uravan site is included on the National Priorities List (NPL) and is undergoing remedial work pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). The Colorado Department of Transportation (CDOT) has completed cleanup activities along the portion of Highway 141 impacted by radioactive mill tailings generated from the Manhattan Project in the 1940's.

A curve in State Highway 141 between mile posts 75 and 76 was identified as having significant safety issues related to its design. Highway 141 in this area was thought to be underlain by radioactive materials. Gamma data and 26 soil borings along the roadway confirmed that the roadway was underlain by radioactive materials.

Construction activities associated with the road realignment exposed approximately 1 mile of road bed containing radioactive materials and these waste materials were removed and relocated to a secure on-site repository on Club Mesa for long-term isolation. Institutional controls or future site inspections of the highway are not warranted because of the successful removal of contaminated materials.

## Site Investigation

Post-remedial action conditions at the Highway 141 site were evaluated using penetrating radiation surveys and laboratory analyses conducted on surface and subsurface soil samples collected in 2006. All of the pertinent details concerning site activities were taken from the September 2006 *Final Construction and Soil Confirmation Investigation Report* prepared by Umetco Minerals Corporation (Umetco). Twelve representative soil sample locations were randomly selected using the U.S. Department of Energy's (DOE) Visual Sampling Plan Version 2.2

software. Investigative procedures followed site-specific guidance documents regarding data collection.

CDPHE conducted walking surveys of the highway right-of-way after excavation was complete. In addition, CDPHE obtained splits of selected samples and conducted soil sample analyses in their laboratory. Both of these activities confirmed that the measurements and analytical results obtained during Umetco's investigation were reasonable, repeatable and valid.

Cleanup criteria for soils in the Uravan area were established in Umetco's report titled *Soil Cleanup Program Methodology for Uravan, Colorado* dated June 1999. The report sets forth two criteria for unrestricted use of the property. Category 1 criteria are based on attaining soil cleanup levels that are within background ranges and Category 2 criteria represent soil cleanup levels that are health-risk based. Both Category 1 and 2 cleanup levels are protective of human health and allow for unrestricted use of the property.

#### *Remedy Decision*

Evaluation of radioactive materials and contaminated soils along Highway 141 was initiated in 1996 with the development of a remedial investigation plan for the highway right-of-way and surrounding environs that Umetco reported in a March 1996 *Remedial Investigation Plan for Surface and Subsurface Soils and Structures Northeast of Highway 141*. This investigation plan described field techniques and methods to be used during site characterization activities and set forth data quality objectives for conducting on-site gamma measurements and obtaining analytical data from the laboratory testing of surface and subsurface soil samples. The April 2000 *Characterization Report and Remedial Action Plan* prepared by Umetco shows that contaminated materials were likely present beneath the roadway between mileposts 75 and 76 but that the remaining part of the roadway from milepost 76 and 78 did not contain uranium mill tailing materials. This conclusion was in conformance with known, historical processing activities that only occurred in the area between mileposts 75 and 76 (the Manhattan Project).

CDOT characterized the area utilizing 26 soil borings along the highway shoulders to obtain subsurface geological, environmental and geotechnical information. Boring depths ranged from 4 to 20 feet and all were logged with a gamma scintillometer. The borings were advanced until native

soils were encountered, generally 10 to 20 feet, or until refusal. Umetco supplied trained radiological technicians and equipment to assist in logging the borings, and to maintain control of contaminated materials.

Direct surface and subsurface field measurements included the use of scintillation penetrating radiation measurements. Gamma radiation measurements were performed at the soil surface and subsurface at approximately 1 foot intervals along the vertical bore path. Gamma radiation measurements were collected in-situ to appraise penetrating radiation exposure rates and to estimate soil radionuclide concentrations.

#### *Characterization of Risk*

A characterization investigation was conducted in accordance with established procedures that indicated radioactive materials were present in the area from mileposts 75 and 76 but that such materials were not present in the remaining Highway 141 right-of-way.

Following site cleanup, the average contaminant concentrations of radionuclides and heavy metals in soil in the CDOT Highway 141 project area have been reduced to levels below appropriate soil cleanup objectives. Remedial actions were successful in restoring the land to concentrations at or below background ranges and, thus, assuring that there is no incremental human risk from any of the eleven constituents of concern.

#### *Response Actions*

CDOT's contractor began the removal of contaminated materials in the southwest area of Highway 141 on January 16, 2006. The contractor removed contaminated debris and excavated contaminated soils from specified areas within the highway right-of-way. Radiologically elevated soils were removed to depths determined by real time scintillometer surveys. Approximately 51,000 cubic yards of contaminated materials were removed from the CDOT right-of-way and an additional 2,800 cubic yards were removed from Umetco's property adjacent to the right-of-way.

All material excavated from the roadway was dry and groundwater was not encountered while conducting the remedial activities. In addition, there was a sharp boundary between the tailings material and the underlying native, clayey soils. Contaminated materials did not migrate into the soils or into groundwater in the subject area.

The area was backfilled and regraded. On numerous occasions, CDPHE

verified that cleanup activities were being conducted properly.

Contaminated materials were removed from the access to county road EE-22 and the bypass was backfilled. All disturbed areas were graded to blend with the surrounding topography and provide, as far as practicable, the original drainage features. The area was revegetated in May 2006.

#### *Cleanup Standards*

Remedial activities were conducted in accordance with the Uravan Consent Decree and Remedial Action Plan that sets forth cleanup goals for the removal and disposal of radioactive materials. These cleanup goals were established using applicable, relevant and appropriate standards described in the Consent Decree. The Final Construction and Soil Confirmation Report describes the remedial actions performed along the roadway and assesses the effectiveness of the soil cleanup activities.

#### *Operation and Maintenance*

The remedial actions attained the goal of unrestricted use of the property. Future institutional controls or future site inspections are not warranted in the Highway 141 project area because all soil cleanup criteria for unrestricted use of the land have been attained at the site.

#### *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 approximate 7 acres within the Uravan Superfund Site, under CERCLA have been completed, and that no further response actions, under CERCLA, 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 September 4, 2007, unless EPA receives adverse comments by August 6, 2007. 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: June 26, 2007.

**Robert E. Roberts,**

*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.

■ 2. Table 1 of Appendix B to Part 300 is amended by revising the entry under Colorado for “Uravan Uranium Project (Union Carbide)” to read as follows:

#### Appendix B to Part 300—National Priorities List

TABLE 1.—GENERAL SUPERFUND SECTION

State	Site name	City/county	Notes (a)
CO	Uravan Uranium Project (Union Carbide)	(former town of) Uravan	P*

(a) \* \* \*

\*P = sites with partial deletion(s).

[FR Doc. E7–13056 Filed 7–3–07; 8:45 am]

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

#### 42 CFR Part 100

RIN 0905–AA68

#### National Vaccine Injury Compensation Program: Calculation of Average Cost of a Health Insurance Policy

**AGENCY:** Health Resources and Services Administration (HRSA), HHS.

**ACTION:** Final rule.

**SUMMARY:** Subtitle 2 of Title XXI of the Public Health Service Act, as enacted by the National Childhood Vaccine Injury Act of 1986, as amended (the Act), governs the National Vaccine Injury Compensation Program (VICP). The VICP, administered by the Secretary of Health and Human Services (the Secretary), provides that a proceeding for compensation for a vaccine-related injury or death shall be initiated by service upon the Secretary, and the filing of a petition with the United States Court of Federal Claims (the Court). In some cases, the injured individual may receive compensation for future lost earnings, less appropriate taxes and the “average cost of a health insurance policy, as determined by the Secretary.” The final rule establishes the

new method of calculating the average cost of a health insurance policy and determines the amount of the average cost of a health insurance policy to be deducted from the compensation award.

**DATES:** This regulation is effective August 6, 2007.

#### FOR FURTHER INFORMATION CONTACT:

Tamara Overby, Chief, Policy Analysis Branch, Division of Vaccine Injury Compensation, Healthcare Systems Bureau, Health Resources and Services Administration (HRSA), Room 11C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857; e-mail: [toverby@hrsa.gov](mailto:toverby@hrsa.gov); telephone number: (301) 443–6593.

**SUPPLEMENTARY INFORMATION:** On June 9, 2006, the Secretary published in the **Federal Register** (71 FR 33420), a Notice of Proposed Rulemaking (NPRM) to revise regulations for the National Vaccine Injury Compensation Program (VICP) to establish a new method of calculating the average cost of a health insurance policy. The public comment period on the NPRM closed on August 8, 2006.

The Secretary received one written comment. The one commenter stated that the proposed rule raises both Federalism and Constitutional issues. The Secretary has considered this comment and notes that section 2115(a)(3)(B) of the Public Health Service Act gives explicit authority to the Secretary to determine the average cost of a health insurance policy.

Based on the new methodology, the amount of a health insurance policy to

be deducted from a compensation award for the 12-month period, October 1, 2006–September 30, 2007 is \$363.12 per month. In August 2006, Medical Expenditure Panel Survey-Insurance Component (MEPS-IC), available at <http://www.meps.ahrq.gov>, published the annual 2004 average total single premium per enrolled employee at private-sector establishments that provide health insurance. The figure published was \$3,705. This figure is divided by 12 months to determine the cost per month of \$308.75 which is the proposed new baseline figure for 2004. The baseline of \$308.75 shall be increased or decreased by the percentage change reported by the most recent “Employer Health Benefits” Annual Survey, Kaiser Family Foundation and Health Research and Educational Trust (KFF/HRET) survey at <http://www.kff.org>. The percentage increase from 2004–2005 was 9.2 percent. By adding this percentage increase, the calculated average monthly cost of a health insurance policy in 2005 is \$337.16. The KFF/HRET reported increase from 2005–2006 was 7.7 percent. By adding this percentage increase to the calculated \$337.16 for 2005, the calculated average cost of a health insurance policy in 2006 is \$363.12 per month.

Because the KFF/HRET survey is published annually, the Department will periodically (generally on an annual basis) recalculate the average cost of a health insurance policy by obtaining a new baseline from the latest MEPS-IC data and updating this