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**FOR FURTHER INFORMATION CONTACT:** For general information, contact the RCRA Call Center at 800 424-9346 or TDD 800 553-7672 (hearing impaired). In the Washington, DC, metropolitan area, call 703 412-9810 or TDD 703 412-3323.

For more detailed information on specific aspects of this rulemaking, contact Tracy Atagi, Office of Solid Waste 5304W, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460-0002, 703-308-8672, [atagi.tracy@epa.gov](mailto:atagi.tracy@epa.gov).

**SUPPLEMENTARY INFORMATION:** This document concerns revising the mixture rule in order to correct errors made in a previous notice. For further information, please see the information provided in the direct final action that

is located in the "Rules and Regulations" section of this **Federal Register** publication.

#### Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. Because the purpose of today's action to make a clarification that will not change the current regulatory status quo, it has no economic impact and is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule also does not have tribal implications, as specified by Executive Order 13175 (65 FR 67249, November 6, 2000). This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

This action does not involve technical standards; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). 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.*). This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

#### List of Subjects in 40 CFR Part 261

Environmental protection, Hazardous waste, Recycling, Waste treatment and disposal.

Dated: September 20, 2001.

**Christine Todd Whitman,**  
*Administrator.*

[FR Doc. 01-24073 Filed 10-2-01; 8:45 am]

**BILLING CODE 6560-50-U**

#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Part 300

[FRL-7070-2]

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

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of Intent to Delete McAdoo Associates Superfund Site from the National Priorities List; Request for Comments.

**SUMMARY:** The Environmental Protection Agency (EPA) Region III announces its intent to delete the McAdoo Associates Superfund Site (Site) located in Kline Township, Schuylkill County, Commonwealth of Pennsylvania, 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), as amended. EPA and the Pennsylvania Department of Environmental Protection (PADEP) have determined that the remedial action for the site has been successfully executed.

**DATES:** Comments concerning the proposed deletion of this Site from the NPL may be submitted on or before November 2, 2001.

**ADDRESSES:** Comments may be mailed to: Eugene Dennis (3HS21), Remedial Project Manager, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103-2029.

Comprehensive information, including the deletion docket, on this Site is available for viewing at the Site information repositories at the following locations: Regional Center for Environmental Information, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103,

215-814-5254 or 800-553-2509, Monday through Friday 8:00 a.m. to 4:30 p.m.; McAdoo-Kelayers Library, 15 Kelayers Road, McAdoo, Pennsylvania 18237, 570-929-1120.

**FOR FURTHER INFORMATION CONTACT:**

Eugene Dennis (3HS21), Remedial Project Manager, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103-2029. Telephone 215-814-3202 or 800-553-2509, e-mail address: [dennis.eugene@epa.gov](mailto:dennis.eugene@epa.gov).

**SUPPLEMENTARY INFORMATION:**

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**I. Introduction**

The U.S. Environmental Protection Agency, Region III announces its intent to delete the McAdoo Associates Superfund Site, Schuylkill County, Pennsylvania from the NPL, Appendix B of the National Oil and Hazardous Substance Pollution Contingency Plan (NCP), which constitutes 40 CFR Part 300, and requests public comments on this proposed action. 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 these sites.

EPA and the Pennsylvania Department of Environmental Protection (PADEP) have determined that remedial activities conducted at the Site have been successfully executed.

EPA will accept comments on the proposal to delete this Site for thirty calendar days after publication of this notice in the **Federal Register**.

Section II of this notice explains the criteria for deleting sites from the NPL. Section III discusses the procedures that EPA is using for this action. Section IV discusses the McAdoo Associates Superfund Site and explains how the Site meets the deletion criteria.

**II. NPL Deletion Criteria**

Section 300.425(e)(1) of the NCP provides that releases may be deleted from, or recategorized on 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) The responsible parties or other parties have implemented all appropriate response actions required; or
- (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, remedial measures are 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 review of the site at least every five years after the initiation of the remedial action at the site to ensure that the site 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 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 III has recommended deletion and has prepared the relevant documents. All appropriate response actions required under CERCLA have been implemented and no further response by EPA is appropriate.

2. PADEP has concurred with the proposed deletion decision.

3. A notice has been published in the local newspapers and has been distributed to appropriate Federal, state, and local officials and other interested parties announcing the commencement of a thirty (30) day public comment period on EPA's Notice of Intent to Delete.

4. The EPA Region III Office has made all relevant documents supporting the proposed deletion available for the public to review in the Site information repositories identified above.

Deletion of the Site from the NPL does not 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 Notice, 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.

For 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 EPA will prepare a Responsiveness Summary to address any significant public comments received.

A deletion occurs when the Regional Administrator places a final notice, a Notice of Deletion, in the **Federal Register**. Generally, the NPL will reflect deletions in the final update. Public notices and copies of the Responsiveness Summary will be made available to the public by the EPA Regional Office.

**IV. Basis for Intended Site Deletion**

The following summary provides the EPA's rationale for the proposal to delete this Site from the NPL.

*Site Location*

The McAdoo Associates Site consists of two operable units (OUs) that are located approximately 3 miles apart from one another. Operable Unit 1 is known as the McAdoo Kline Township (MKT) location and is located approximately 1.5 miles south of McAdoo Borough, due east of U.S. Route 309 in Kline Township, Schuylkill County, Pennsylvania. Operable Unit 2 is known as the McAdoo Blaine Street (MBS) location and is located in the Borough of McAdoo, Schuylkill County, Pennsylvania.

*Site History*

The MKT location consists of approximately 8 acres and is situated at the site of an old (subsurface and surface strip) coal mine which operated sporadically from the 1880's to the 1960's. In 1975 McAdoo Associates acquired the site property and installed two rotary kiln furnaces and an upright liquid waste incinerator which were operated to reclaim metals from waste sludges, reportedly using waste solvents as fuel. The MKT location was ordered closed in 1979 by the Pennsylvania Department of Environmental Resources (now known as the Pennsylvania Department of Environmental Protection) as a result of numerous environmental compliance problems. At the time of closure in April 1979, the MKT location was inventoried and found to contain 6,790 drums of hazardous waste, four above ground 15,000 gallon storage tanks, three above ground 10,000 gallon storage tanks and miscellaneous debris. Between January 1981 and October 1982 the Potentially Responsible Parties (PRP's) removed all of the drums and all site features, with the exception of one 15,000 gallon storage tank from the MKT location.

The MBS location consists of a small lot (approximately 100' x 150') situated at the intersection of west Fourth street and north Harrison street in a residential area of McAdoo Borough. Prior to 1972, the MBS location was the site of a heating oil and gasoline storage

business which utilized five underground storage tanks. From 1972 to 1979 the property allegedly was used by the owners of McAdoo Associates for temporary storage of various liquid wastes in the underground tanks. The waste was reportedly used as fuel to be burned at the MKT location. Operations at the MBS location were discontinued in 1979.

Because both locations were operated as one facility involving the same ownership and waste, they were combined and collectively called the McAdoo Associates site for evaluation in the Hazard Ranking System (HRS) scoring process. The site received a score of 63.03 and the McAdoo Associates site was placed on the National Priorities List (NPL) in September, 1983.

#### *Record of Decision—MBS Location*

EPA conducted investigations of the underground tanks at the MBS location in 1982, and response activities also began in 1982 when EPA ordered the PRPs to pump 11,000 gallons of waste liquids from four of the underground tanks. The liquid waste was described as petroleum distillates and PAHs. Gasoline and water were reported to be contained in one tank, and oils and solvents were identified in the other tanks. Based on the results of the investigations, EPA issued a Record of Decision (ROD) for Interim Remedial Measures (IRM) on June 5, 1984, calling for cleaning and removal of the underground tanks, the removal of contaminated soil, and the sampling of subsurface soils. The implementation of the ROD began in March 1985 with the excavation and removal of the tanks and was completed in June 1985 when the MBS location was backfilled and graded.

#### *Record of Decision—MKT Location*

EPA conducted a Remedial Investigation (RI) at the MKT location in 1984. The results of the RI indicated elevated levels of metals in the mine pool underlying the site and in the site fill. Based on the results of the RI and subsequent Feasibility Study (FS), EPA issued a Record of Decision on June 28, 1985, for the MKT location, which selected a remedial action alternative that included the following components:

- Implementing a mine subsidence study (MSS) to determine the risk and magnitude of mine subsidence;
- Removing and disposing of miscellaneous surface debris and the remaining 15,000 gallon above ground tank;

- Implementing a soil sampling program to define the extent of soil contamination;
- Excavating and offsite disposal of contaminated soils and backfilling of the excavated areas with clean fill;
- Regrading, constructing a cap with surface water diversion and re-vegetation; and
- Performing operation and maintenance (O&M), including groundwater monitoring, for up to 30 years.

The PRP's began remedial activities at the MKT location in 1988 with the removal of the remaining storage tank and the MSS required by the ROD. Excavation and disposal of contaminated soils in two areas defined by the soil sampling program and MSS were performed in 1990. The construction of the cap was initiated on July 20, 1991, and was completed on November 14, 1991.

#### *Record of Decision—Both MKT and MBS Locations*

In 1990/1991 EPA conducted a focused RI/FS at the MBS and MKT locations to investigate outstanding concerns not addressed by RODs previously issued for these locations. The scope of the focused RI/FS was to evaluate the surface water, sediment and groundwater at the MKT location and groundwater at the MBS location. The focused RI/FS was completed in July 30, 1991. Based on the results of the focused RI/FS, EPA issued a ROD on September 30, 1991. The ROD stated that no further actions beyond those already implemented at the MKT and MBS locations were required. At the same time, however, the 1991 ROD required long-term groundwater monitoring at both locations. The major components of the monitoring program include:

- Expansion of the long-term water quality monitoring program as needed at the MKT location (originally included as part of the 1985 ROD) to include additional sampling of all existing monitoring wells;
- Installation of four groundwater monitoring wells at the MBS location to be used for long-term monitoring of groundwater quality.

The Operations and Maintenance Plan, attached to the 1988 Consent Decree for the MKT location, was amended in June, 1998 to expand the groundwater monitoring program to include the requirements of the 1991 ROD. Subsequently, annual groundwater monitoring was initiated by the PRP's in October, 1998 at the MKT location.

Since no agreement had been formulated between EPA and the PRP's for the MBS location, the wells required by the 1991 ROD for the MBS location were installed by EPA in May and June, 1992. Groundwater samples were then collected and the results indicated that petroleum-related organic compounds and semi-volatile organic compounds were present in the monitoring wells located down-gradient of the former tank location. Subsequent groundwater sampling was performed as part of a Focused Feasibility Study (FFS) conducted by EPA in the Spring of 1993. The results of the FFS sampling confirmed the presence of organic contaminants in the groundwater as well as a free product (in one monitoring well) determined to be weathered fuel oil and gasoline. Based on the results of the FFS, EPA issued a ROD Amendment for the MBS location on September 30, 1993. The major components of the ROD Amendment are:

- Installation of new groundwater extraction wells at the MBS location and extraction of contaminated groundwater;
- Installation and operation of a free product removal system to extract the fuel and gasoline;
- Installation of a groundwater treatment system to include oil/water separation, air stripping, and polishing using granular activated carbon;
- Performance of groundwater monitoring; and
- The establishment of Performance Standards for Benzene, Ethylbenzene, 1,2-dichloroethane Bis(2-ethylhexyl)phthalate and Manganese.

Phase one of the Remedial Action (RA) at the MBS location was implemented by EPA on March 28, 1995 with the installation of five groundwater extraction wells and the recovery of free product from an existing monitoring well. After installation of the groundwater extraction wells EPA determined, through groundwater extraction, that a pumping rate of 15 gallons per minute could not be sustained by pumping these wells individually or collectively. The capacity of the aquifer to recharge the wells and produce the amount of water needed for treatment was not sufficient. As a result, EPA terminated the RA for the MBS location after Phase One.

Following the termination of the RA at the MBS location, EPA issued an Explanation of Significant Differences (ESD) on September 26, 1995. The ESD identified several Significant Differences that warranted changes to the remedy presented in the 1993 ROD Amendment for the MBS location. The

Significant Differences presented in the ESD are as follows:

(1) Mechanical pumping of the wells at the MBS location, on a continuous basis, was determined not to be a viable option due to insufficient water volume as described above. The contaminated groundwater would have to be manually extracted by hand bailing the wells.

(2) The small volume of ground water capable of being removed from the extraction wells did not warrant the construction of a treatment system at the MBS location. The manually extracted groundwater would be contained and taken off-site for treatment.

(3) The extraction and treatment of groundwater from the MBS location would not be performed on a continuous basis. Rather, the manual extraction would be performed on a periodic basis.

(4) The free product recharge rate was extremely slow and as a result a free product recovery system was not warranted. Instead the free product was manually removed on the same schedule as the manual removal of the contaminated groundwater.

The ESD for the MBS location was implemented in 1996. Between 1996 and June, 2001 the wells at the MBS location were purged and sampled 4 times. A review of the monitoring data indicates the presence of PAHs which are constituents of gasoline and fuel oil. Benzene and ethylbenzene are present at concentrations above the performance standards. These contaminants have been determined not to be compounds of concern, but instead residuals of the gasoline and fuel oil once stored at the MBS location. Bis(ethylhexyl)phthalate is a suspect contaminant present at concentrations slightly above the performance standards.

Based on a thorough evaluation of the results of the groundwater data collected from the wells at the MBS location, EPA has determined that the volatile organic compounds being found in the groundwater are constituents of gasoline and fuel oil and are not compounds of concern related to the past storage of waste liquids at the MBS location. Also, there are no threats to residents who use groundwater in the area of the MBS location, as the source of potable groundwater is located approximately 3 miles away and the wells are several hundred feet deep. There is no hydraulic connection between the shallow groundwater at the MBS location and the public water supply wells. As such, EPA has discontinued the manual extraction of groundwater. Groundwater will continue to be monitored at the MBS location.

#### Five-Year Review

A five-year review for the Site was completed on June 27, 2000. Five-year reviews for the Site will continue to be conducted. The next Review is scheduled to be completed by September 30, 2004.

#### 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 on which EPA relied to make this recommendation of deletion from the NPL are available to the public in the information repositories.

#### Applicable Deletion Criteria

EPA is proposing deletion of this Site from the NPL. PADEP has concurred with EPA that all appropriate responses under CERCLA have been implemented. Documents supporting this action are available from the docket. EPA believes that the criteria stated in Section II(i) and (ii) for deletion of this Site have been met. Therefore, EPA is proposing the deletion of the McAdoo Associates Superfund Site from the NPL.

Dated: September 19, 2001.

**Thomas C. Voltaggio,**

*Acting Regional Administrator, U.S. EPA Region III.*

[FR Doc. 01-24486 Filed 10-2-01; 8:45 am]

**BILLING CODE 6560-50-P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

**RIN 1018-A116**

#### **Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for the Rota Bridled White-Eye (*Zosterops rotensis*) From the Commonwealth of the Northern Mariana Islands**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, propose endangered status pursuant to the Endangered Species Act of 1973, as amended, for the Rota bridled white-eye (*Zosterops rotensis*), a bird. The Rota bridled white-eye is a recognized species of white-eyes endemic to the Mariana archipelago, which comprises the U.S. Territory of Guam and the U.S. Commonwealth of the Northern Mariana Islands. The Rota

bridled white-eye is endemic to the island of Rota, and was once widespread, possibly occupying forested habitat at all elevations. The total population of the Rota bridled white-eye was estimated at 1,167 individuals in 1996, which is a decline of 89 percent from the 1982 estimated population. The population estimate of Rota bridled white-eyes in 1999 was 1,092 (Amidon 2000). The Rota bridled white-eye is currently found in four patches of mature wet forests at elevations above 200 meters (650 feet) in elevation. The reasons for this species' decline is likely due to degradation or loss of habitat due to development, agricultural activities, and naturally occurring events; avian disease; predation; and pesticides. This proposal, if made final, would implement the protection provisions of the Act.

**DATES:** Comments from all interested parties must be received by December 3, 2001. Public hearing requests must be received by November 19, 2001.

**ADDRESSES:** If you wish to comment, you may submit your comments and materials concerning this proposal by any one of several methods.

(1) You may submit written comments to the Field Supervisor, U.S. Fish and Wildlife Service, Pacific Islands Office, 300 Ala Moana Boulevard, Room 3-122, Box 50088, Honolulu, Hawaii 96850.

(2) You may send comments by electronic mail (e-mail) to: [rota\\_bwe\\_pr@fws.gov](mailto:rota_bwe_pr@fws.gov). See the Public Comments Solicited section below for file format and other information about electronic filing.

(3) You may hand-deliver comments to our office at 300 Ala Moana Boulevard, Room 3-122, Box 50088, Honolulu, Hawaii.

**FOR FURTHER INFORMATION CONTACT:** Field Supervisor, Pacific Islands Office, at the above address (telephone 808/541-3441; facsimile 808/541-3470).

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

The Rota bridled white-eye (*Zosterops rotensis*) is endemic to the island of Rota, U.S. Commonwealth of the Northern Mariana Islands (CNMI). Rota is approximately 86 square kilometers (km<sup>2</sup>) (33 sq miles (mi<sup>2</sup>)) and is the fourth largest island in the Mariana Islands archipelago. The island of Rota is composed of a series of uplifted coral limestone plateaus with a volcanic outcrop. The climate is tropical marine with high humidity and uniform temperatures throughout the year. Average daytime temperatures are approximately 12 degrees Celsius (80