

EPA determines that it meets all the CAA requirements for redesignation to attainment.

III. Response to Comments

EPA received one comment letter in response to the proposed rulemaking. The letter, submitted on behalf of the Louisiana Chemical Association, Louisiana Mid-Continent Oil and Gas Association, and the Baton Rouge Area Chamber of Commerce, expressed support for EPA's proposal.

IV. Final Action

For the reasons set forth in the proposed rulemaking and in this final rulemaking, and based on upon complete, quality-assured, certified ambient air monitoring data showing the BR area has monitored attainment of the 1997 8-hour ozone NAAQS for the 2006–2008 and 2007–2009 monitoring periods, and preliminary data for 2010 that is consistent with continued attainment, EPA is finalizing its determination that the BR area has attained the 1997 8-hour ozone standard. As provided in 40 CFR 51.918, the requirements for submitting the 1997 8-hour ozone attainment demonstration SIP, the RFP requirements, section 172(c)(9) contingency measures and any other planning SIPs related to attainment of the 1997 8-hour ozone NAAQS are suspended for so long as the area continues to attain the 1997 8-hour ozone standard.

V. Statutory and Executive Order Reviews

This action makes a determination of attainment based upon air quality that results in suspensions of certain Clean Air Act requirements, and does not impose additional requirements. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive

Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
 - Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
 - Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
 - Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).
- In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because there is no federally recognized Indian country located in the states, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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 action 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 rules 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 Clean Air Act, petitions for judicial review of these actions must be filed in the United States Court of Appeals for the appropriate circuit by November 8, 2010. Filing a petition for reconsideration by the Administrator of these final rules does not affect the finality of this action 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 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 25, 2010.

Al Armendariz,

Regional Administrator, Region 6.

■ 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 T—Louisiana

■ 2. Section 52.977 is amended by designating the existing undesignated paragraph as paragraph (a) and by adding a new paragraph (b) to read as follows:

§ 52.977 Control strategy and regulations: Ozone.

* * * * *

(b) *Determination of Attainment.* Effective October 12, 2010 EPA has determined that the Baton Rouge 8-hour ozone nonattainment area has attained the 1997 8-hour ozone National Ambient Air Quality Standard (NAAQS). Under the provisions of 40 CFR 51.918 this determination suspends the requirements for this area to submit an attainment demonstration, a reasonable further progress plan, applicable contingency measures, and other planning Louisiana State Implementation Plan (SIP) requirements related to attainment of the 1997 8-hour ozone NAAQS for so long as the area continues to attain the 1997 8-hour ozone NAAQS.

[FR Doc. 2010–22341 Filed 9–8–10; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1983–0002; FRL–9198–6]

National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List; Partial Deletion of the Denver Radium Superfund Site

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) Region 8 is publishing a direct final Notice of Partial Deletion of

the Denver Radium Superfund Site (Site). Specifically, EPA intends to delete from the National Priorities List (NPL) each of the 11 operable units at the Denver Radium Site, located in the City and County of Denver, Colorado. Groundwater contamination associated with Operable Unit 8 will remain on the NPL. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances 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 Environment, because EPA has determined that all appropriate response actions at these identified parcels under CERCLA, other than operation, maintenance, and five-year reviews, have been completed. However, this partial deletion does not preclude future actions under Superfund.

This partial deletion pertains to each of the 11 operable units of the Denver Radium Superfund Site. Groundwater contamination associated with Operable Unit 8 will remain on the NPL and is not being considered for deletion as part of this action.

DATES: This direct final rule is effective November 8, 2010 unless EPA receives adverse comments by October 12, 2010. If adverse comments are received, EPA will publish a timely withdrawal of the direct final partial deletion in the **Federal Register** informing the public that the partial deletion will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID no. EPA-HQ-SFUND-1983-0002, by one of the following methods:

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

- *E-mail:* dalton.john@epa.gov.

- *Fax:* (303) 312-7110 (Attention: John Dalton, Public Affairs and Involvement)

- *Mail:* John Dalton, Public Affairs and Involvement (8OCPI), U.S. EPA Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129, (303) 312-6633.

- *Hand Delivery:* U.S. EPA Region 8, 1595 Wynkoop Street, Denver, CO. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID no. EPA-HQ-SFUND-1983-

0002. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket

All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in the hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at: U.S. Environmental Protection Agency Region 8 Records Center, 1595 Wynkoop Street, Denver, CO 80202, Hours: M-F, 8 a.m. to 4 p.m. Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South, Denver, CO 80246, Hours: M-F, 8 a.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT:

Rebecca Thomas, Project Manager (8EPR-SR), U.S. Environmental Protection Agency Region 8, EPR-SR, 1595 Wynkoop Street, Denver, CO 80202-1129, (303) 312-6552, thomas.rebecca@epa.gov.

SUPPLEMENTARY INFORMATION:

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- II. NPL Deletion Criteria
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I. Introduction

EPA Region 8 is publishing this direct final Notice of Partial Deletion for the Denver Radium Superfund Site (Site) from the National Priorities List (NPL). This partial deletion pertains to each of the 11 operable units of the Denver Radium Superfund Site, with the exception of groundwater contamination associated with Operable Unit 8. The NPL constitutes Appendix B of 40 CFR part 300, which is the 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 maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). This partial deletion of the Denver Radium Superfund Site is proposed in accordance with 40 CFR 300.425(e) and is consistent with the Notice of Policy Change: Partial Deletion of Sites Listed on the National Priorities List, 60 FR 55466 (Nov. 1, 1995). As described in Section 300.425 (e)(3) of the NCP, a portion of a site deleted from the NPL remains eligible for Fund-financed remedial action if future conditions warrant such actions.

Because EPA considers this action to be non-controversial and routine, this action will be effective November 8, 2010 unless EPA receives adverse comments by October 12, 2010. Along with this direct final Notice of Partial Deletion, EPA is co-publishing a Notice of Intent for Partial Deletion in the "Proposed Rules" section of the **Federal Register**. If adverse comments are received within the 30-day public comment period on this partial deletion action, EPA will publish a timely withdrawal of this direct final Notice of Partial Deletion before the effective date of the partial deletion, and the partial 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 for Partial Deletion 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 Denver Radium Superfund Site and demonstrates how portions of the Site proposed for deletion meet the deletion criteria. Section V discusses EPA's action to partially delete the Site from the NPL unless adverse comments are received during the public comment period.

II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making such a determination pursuant to 40 CFR 300.425(e), EPA will consider, in consultation with the state, whether any of the following criteria have been met:

- i. Responsible parties or other persons have implemented all appropriate response actions required;
- ii. All appropriate Fund-financed 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.

Pursuant to CERCLA section 121(c) and the NCP, EPA conducts five-year reviews to ensure the continued protectiveness of remedial actions where hazardous substances, pollutants, or contaminants remain at a site above levels that allow for unlimited use and unrestricted exposure. EPA conducts such five-year reviews even if a site is deleted from the NPL. EPA may initiate further action to ensure continued protectiveness at a deleted site if new

information becomes available that indicates it is appropriate. 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. Partial Deletion Procedures

The following procedures apply to partial deletion of the 11 operable units of the Site:

(1) EPA consulted with the State of Colorado prior to developing this direct final Notice of Partial Deletion and the Notice of Intent for Partial Deletion co-published in the "Proposed Rules" section of the **Federal Register**.

(2) EPA has provided the State 30 working days for review of this notice and the parallel Notice of Intent for Partial Deletion prior to their publication today, and the State, through the Colorado Department of Public Health and Environment, has concurred on the partial 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 for Partial Delete is being published in a major local newspaper, *The Denver Post*. The newspaper notice announces the 30-day public comment period concerning the Notice of Intent for Partial Deletion of the Site from the NPL.

(4) The EPA placed copies of documents supporting the partial deletion in the deletion docket and made these items available for public inspection and copying at the Site information repositories identified above.

(5) If adverse comments are received within the 30-day public comment period on this partial deletion action, 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 for Partial Deletion and the comments already received.

Deletion of a portion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a portion 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 Partial Site Deletion

The following information provides EPA's rationale for deleting from the NPL each of the 11 operable units of the Denver Radium Site, with the exception of groundwater contamination associated with Operable Unit 8:

Site Location

The Denver Radium Superfund Site (EPA ID: COD980716955), located in Denver, Colorado, consists of more than 40 contaminated properties. These properties have been grouped into 11 operable units which, except for groundwater contamination associated with OU 8, are proposed for deletion from the NPL. At certain locations, marked with an asterisk, waste has been left in place. These locations will require continued operation and maintenance to inspect the integrity of the cap and ensure institutional controls (ICs) are functioning properly. The Site was added to the Superfund NPL in 1983 (48 FR 40658, September 8, 1983).

OU	Property name	Address
OU1	B & C Metals (<i>now Martin Shea Millworks</i>)	1623-1625 West 12th Ave.
OU1	Erickson Monuments	1241-1245 Quivas St.
OU1	Materials Handling, Inc	1740 West 13th Ave.
OU1	Rudd	1223-1229 Quivas St.
OU1	City/County of Denver Alley/Driveway	East of B & C Metals, between 12th Ave. and Erickson Monuments.
OU2*	DuWald Steel (<i>now Atlas Metals & Iron</i>)	1100 Umatilla Street.
OU2	Rocky Mountain Research Corporation (<i>now A1 Transmission and Nationwide Courier</i>).	1020-1030 Yuma Street.
OU2	G&K Services	999 Vallejo Street.
OU2	Jenkins Property	2191 West 10th Street.
OU2	Staab Property	2121 West 10th Street.
OU2	Air Conditioning, Inc	1001 South Tejon Street.
OU2*	Burlington Northern Railroad	Between 10th & 11th Avenues.
OU2	Colorado DOT—Jerome Maintenance Yard	2300 West 11th Avenue.
OU2	Flame Spray, Inc	1900 West 12th Avenue.
OU2	Alpha Omega Electronics	1010 Yuma Street.
OU2	Capital Management Realty (<i>now Royal Textile</i>)	1050 Yuma Street.
OU2	Denver Water Board	1600 West 12th Avenue.

OU	Property name	Address
OU3	Creative Illumination, Inc	1298 South Kalamath Street.
OU3*	Packaging Corporation of America (PCA) (now <i>Caraustar Custom Packaging</i>).	1377 South Jason Street.
OU3	GT Car Shop/Aspen Design and Manufacturing	1235 South Jason Street.
OU3*	Denver right-of-way	1377 S. Jason Street.
OU3	Kwan Sang Noodle Company, formerly Titan Labels	1140 West Louisiana.
OU3	Various tenants	1300 South Jason Street.
OU3*	Central & Sierra Railroad	Between W. Louisiana & W. Florida Streets.
OU4*	Robinson Brick and Tile Company (ROBCO) (now <i>Home Depot</i>).	500 South Santa Fe Drive.
OU5	Denver and Rio Grande Western Railroad ROW	Immediately East of OU4.
OU6	Alley in City and County of Denver right-of-way	Between Mariposa and Lipan Streets and between 5th and 6th Avenues.
OU6	Allied (General Chemical)	1271 West Bayaud Avenue.
OU6	Brannan Sand and Gravel	61st Ave. and Clear Creek.
OU6	Central and Sierra Railroad right-of-way/Centennial Tire	2301 15th Street.
OU6	Denver Water Department	1190 Yuma Street.
OU6	Public Service Company	South Pecos St. & West Arizona Ave.
OU6	Ruby Hill Park	Jewell St. and S. Platte River Drive.
OU6	Environmental Metals, Inc. (bldg has been razed)	1155 West 5th Avenue.
OU7	9th Ave.: Ogden St. to Cheesman Pk	N/A.
OU7	11th Ave.: Josephine St. to Cheesman Pk	N/A.
OU7	23rd St.: California St. to Lawrence St	N/A.
OU7	Corona: 7th Ave. to 10th Ave	N/A.
OU7	Downing St.: 7th Ave. to 10th Ave	N/A.
OU7	Humboldt St.: 7th Ave. to 9th Ave	N/A.
OU7	Lafayette St.: 1st Ave. to 10th Ave	N/A.
OU7	Marion St.: 6th Ave. to 10th Ave	N/A.
OU7	York St.: 6th Ave. to 13th Ave	N/A.
OU8	S.W. Shattuck Chemical Company (soil)	1805 South Bannock Street.
OU8*	S.W. Shattuck Chemical Company (groundwater)	1805 South Bannock Street.
OU9A	International House of Pancakes and Larry's Trading Post (now <i>Mama's Café, Herbs and Art, and Purple Haze</i>).	2001, 2015, and 2017 East Colfax Avenue.
OU9B*	Robinson Brick and Tile Company (ROBCO) Metals (now <i>Home Depot</i>).	500 South Santa Fe Drive.
OU10	Card Corp	1314 West Evans Avenue.
OU11	Commercial Investors Realty (formerly owned by Thomas Real Estate Corp.) (now <i>Murphy Beds and a Starbucks</i>).	1285–1295 South Santa Fe Drive.

Site History

OU1

Contamination at OU1 resulted from a radium, vanadium, and uranium processing facility at 1201 Quivas Street owned by the Pittsburgh Radium Company (PRC) from 1925 until 1926. The Radium Ores Company, which was associated with PRC, operated the facility until approximately 1927. Approximately 120 tons of carnotite and 500 tons of vanadium were processed monthly.

OU2

The contamination at Operable Unit 2 is believed to be from activities of the Schlesinger Radium Company which began operations in 1914 where Atlas Metals & Iron (formerly DuWald Steel Corporation) currently is located (1100 Umatilla Street). In 1917, Schlesinger Radium Company became Radium Company of Colorado. Radium Company of Colorado ceased operations at OU2 in 1924. Complex Ore Recovery Company occupied the 1100 Umatilla property until 1928. It is not known

whether that company also processed radium ore.

Since 1914, at least 38 companies have operated within the operable unit. OU2, as originally designated, included only the 1100 Umatilla and 1020 and 1030 Yuma Street properties. The other properties were included as subsequent investigations revealed additional contamination.

OU3

It is believed that the vacant lot, located at 1000 South Louisiana and owned by Packaging Corporation of America, may have been the site of a smelter that operated in the late 19th century. This smelter may have been turned into a radium-processing facility in the early 20th century. The Chemical Products Company, which occupied portions of OU3 between 1918 and 1921, separated radium and vanadium from uranium ores for the National Radium Institute. Most of the buildings associated with radium processing were demolished prior to 1970. The exception was a brick building located at 1298 South Kalamath Street, which was purchased by Creative Illumination,

Inc. and used for light-fixture fabrication. The Creative Illumination, Inc. building was demolished during remediation activities.

OU4/5

OU4 (ROBCO) was the site of a radium processing facility established by the National Radium Institute (NRI) in 1913. The NRI facility was created for the purpose of developing and demonstrating the commercial feasibility of radium extraction techniques. This facility operated on the site for approximately four years and then closed after producing 7.5 grams of radium and successfully demonstrating commercially feasible extraction processes. ROBCO acquired the property in the 1940s and used it as a brick and tile-manufacturing site until the 1980s. The radium-contaminated area of OU5 (D&RGW right-of-way) covers 1.6 acres. This property is crossed by several rail lines and contains a network of electronic controls to operate railway lights and switches. OU5 has been in use as a railroad right-of-way throughout the

industrial and commercial use of the adjacent ROBCO property.

OU6, OU9A, OU11

Much of the radiological contamination present at OU6, OU9A and OU11 is believed to be either the direct result of radium and uranium processing on the property or the result of deposition of residual wastes from other processing sites.

OU7

These properties comprise a number of city streets which were underlain by radium-contaminated soil. Radium production from about 1914 to the mid-1920s generated large quantities of radioactive residues in the Denver area. Radium-contaminated tailing and other wastes were discarded or left on site when the facilities were closed. Due to changes in ownership and use of the properties, the residues were used as cover, fill, foundation material, and as aggregate in concrete and asphalt mixtures.

OU8

The Shattuck property has been the location of several mineral-processing operations since the early 1900s. The operations included the extraction of molybdenum and vanadium from ores, processing of "radium slimes" for the production of radium salts and uranium compounds, recovery of rhenium as a by-product of molybdenum production, and for a short period of time processing of depleted uranium. The primary site contaminants were radium, thorium, uranium, molybdenum, arsenic, selenium, and several volatile and semi-volatile organics. Shattuck's operations ceased in 1984.

OU9B

OU 9B—ROBCO Metals was designated to distinguish response actions addressing metals contamination from response actions addressing the OUs 4/5 radium contamination. In May 1988, excavation of the radiologically contaminated soil began at OUs 4/5. In September 1988, during the course of the radium cleanup, metals contamination was discovered on the ROBCO property. Contaminants of concern included arsenic, lead, and zinc. An investigation to characterize the nature and extent of metals contamination was conducted in 1989 and 1990. This metal contamination is believed to be from the operation of the Tabor Smelter on this property in the 1880s and 1890s.

OU10

Contamination at OU10 was from PRC processing of vanadium between 1920 and 1924. During 1924, PRC is believed to have processed as much as 10 tons of vanadium daily. OU1—OU11, with the exception of OU8 groundwater, are proposed for partial deletion.

Characterization of Risk

Radium and its associated decay products were the primary contaminants of concern at the Denver Radium Site. Other contaminants at the site were thorium, uranium, arsenic, zinc, and lead.

The elevated concentration of radium and the uncontrolled state of contaminants at the Denver Radium Site posed a health hazard due to three potential exposure pathways: Inhalation of radon gas and its decay products, direct gamma radiation exposure from the decay of radium and ingestion or inhalation of radium-contaminated materials. Ingestion or contact with contaminated groundwater is not a principal exposure pathway. There is no surface water on site.

Inhalation of radon decay products presents the greatest health risk from long-term exposure. Prolonged inhalation of air with a high concentration of radon decay products has been conclusively shown to increase the risk of lung cancer. Dispersion quickly dilutes radon emanating from radium-contaminated ground. The greatest risk from radon is when it builds up in well-sealed buildings. Radon decay product contamination in buildings (where applicable) was as much as 0.30 working levels (WL) above the EPA standard of 0.02.

Remedial Investigation and Feasibility Study

The Remedial Investigation (RI) report for the Denver Radium Superfund Site was issued in April 1986. The Feasibility Study (FS) was issued in September 1987. The site-wide RI focused on radium and uranium processing residues discarded in the early 1900s. These residues contain uranium, radium, and thorium.

A number of Remedial Action alternatives were evaluated in the site-wide FS including: No Action; On-Site Processing with Permanent Disposal; In-Situ Vitrification; On-Site Permanent Disposal; Off-Site Permanent Disposal, and On-Site Temporary Containment with Off-Site Permanent Disposal. These site-wide RI and FS reports provided the basis for selecting remedies in most of the Records of Decision. Separate RI/FS reports were generated for the metals

contamination at OU4 (ROBCO) and the contamination at OU8 (Shattuck).

Remedial Action Objectives

The following objectives were identified for soil across the site:

Remedial actions shall be conducted so as to provide reasonable assurance that, as a result of residual radioactive materials from any designated processing site:

(a) The concentration of radium-226 in land averaged over any area of 100 square meters shall not exceed the background level by more than—

(1) 5 pCi/g, averaged over the first 15 centimeters of soil below the surface, and

(2) 15 pCi/g, averaged over 15-centimeter thick layers of soil more than 15 centimeters below the surface.

Supplemental Standards: (OUs 2, 3, 4, 9B)

40 CFR Part 192 provides that under certain circumstances the agency performing the cleanup may choose a remedial action that does not achieve complete removal of radium contamination to the levels described in 40 CFR Section 192.12(a). Under 40 CFR Section 192.21(c), "supplemental standards" can be applied when:

"The estimated cost of remedial action to satisfy 40 CFR Section 192.12(a) at a * * * site * * * is unreasonably high relative to the long-term benefits, and the residual radioactive materials do not pose a clear present or future hazard. The likelihood that buildings will be erected or that people will spend long periods of time at such a vicinity site should be considered in evaluating this hazard. Remedial action will generally not be necessary where residual radioactive materials have been placed semi-permanently in a location where site-specific factors limit their hazard and from which they are costly or difficult to remove, or where only minor quantities of residual radioactive materials are involved. Examples are residual radioactive materials under hard surface public roads and sidewalks, around public sewer lines, or in fence post foundations."

The following objectives were identified for buildings across the site:

(b) In any occupied or habitable building—

(1) The objective of remedial action shall be, and reasonable effort shall be made to achieve, an annual average (or equivalent) radon decay product concentration (including background) not to exceed 0.02 WL. In any case, the radon decay product concentration (including background) shall not exceed 0.03 WL, and

(2) The level of gamma radiation shall not exceed the background level by more than 20 microrentgens per hour.

The following objectives were identified for groundwater:

OU8—Restoration of groundwater quality to Safe Drinking Water Act maximum contaminant levels through monitored natural attenuation.

OU9B—No remedial action objectives were identified for groundwater because the alluvial aquifer is not presently used as a drinking water source and is unlikely to be used as a drinking water source due to poor natural quality (*i.e.*, high total dissolved solids), low yield, and its location (*i.e.*, in an industrial area between a major rail corridor and an interstate highway). Groundwater protection is achieved by controlling the source of contamination and periodic monitoring to verify that contamination does not reach the South Platte River in detrimental concentrations. Deed restrictions include a prohibition on placement of any wells on the Site for the purpose of supplying drinking water.

Selected Remedies

The RODs for OUs 1, 2, 3, 4/5, 6/9/11, and 10 each selected excavation and off-site permanent disposal as the remedy. At the time the RODs were signed, there were no disposal facilities in the nation that accepted radioactive waste. For this reason, the RODs included temporary on-site land storage of the contaminated materials with subsequent off-site permanent disposal. Plans for on-site temporary land storage were abandoned for all operable units, with the exception of OU 4/5, when a permanent disposal facility opened before excavation began. Excavated material was shipped by rail to Envirocare of Utah, Inc., a disposal facility in Tooele County, Utah. For OU 4/5, contaminated soil was stockpiled on the ROBCO property until the permanent disposal facility became available and a transportation contract was negotiated.

OU1

In the Record of Decision (ROD), dated September 1987, EPA selected excavation and off-site disposal as the remedy for OU1. The objectives of this remedy were to prevent: Radiation exposure due to inhalation of radon gas and its daughter products; radiation exposure due to inhalation and ingestion of long-lived radionuclides; and direct exposure to gamma radiation.

OU2

In the ROD, dated September 1987, EPA selected excavation and off-site permanent disposal as the remedy for OU2. The objectives of this remedy were to prevent: Radiation exposure due to

inhalation of radon gas and its daughter products; radiation exposure due to inhalation and ingestion of long-lived radionuclides; and direct exposure to gamma radiation.

The scope of Remedial Action detailed in the ROD included:

- Decontaminating the roof of the Rocky Mountain Research Corporation building and excavating the majority of the approximately 15,400 cubic yards of contaminated material located under buildings and in open areas on the properties, and placing the material in a temporary on-site land storage facility,
- Maintaining the 6-inch-thick concrete pad, covering contaminated soil on the northeast part of the Atlas Metals & Iron (formerly DuWald Steel Corporation) property,
- Removing the contaminated material from the temporary storage and containment locations to the permanent disposal facility when such a facility became available.

In September 1993, EPA issued an Explanation of Significant Differences (ESD) to address on-site conditions that became apparent after the ROD was signed. The changes made to the remedy selected for OU2 in the ROD were:

- A greater volume of radium-contaminated soil was excavated and removed.
- Relatively small amounts of radium contamination were left on the 1100 Umatilla Street property. Radium contaminated soil was left in place in the following locations: (a) Under structures on the Du-Wald property, (b) near the underground power line, (c) within a four foot buffer zone around water and sewer lines, (d) below the ground water level, and (e) on the Burlington Northern Railroad (BNRR) right-of-way.
- Institutional controls (ICs) were required where waste was left in place.
- There was no temporary on-site storage.
- Soil containing commingled radium and lead was solidified in a cement matrix prior to shipment to a permanent, off-site disposal facility.

OU3

In the ROD, dated September 1987, EPA selected excavation and off-site disposal as the remedy for OU3. The objectives of this remedy were to prevent: Radiation exposure due to inhalation of radon gas and its daughter products; radiation exposure due to inhalation and ingestion of long-lived radionuclides; and direct exposure to gamma radiation.

In December 1993, EPA issued an ESD to address on-site conditions that became apparent after the ROD was

signed. The ESD presents the changes that were made to the remedy selected for OU3; briefly, the differences were:

- No temporary storage prior to removal and shipment of contaminated material to the permanent off-site disposal facility.
- Over 52,000 cubic yards of contaminated soil were excavated and the area of contamination was extended east of South Jason Street.
- As part of the remediation, the Creative Illumination building was demolished, contaminated material was removed, and the contaminated materials were shipped to the off-site repository.
- There was no excavation of contaminated soil below groundwater, near water lines, or under South Jason Street, Platte River Drive and the Packaging Corporation of America building.
- ICs were required where waste was left in place.

OU4/5

EPA selected excavation and off-site disposal as the remedy for this OU in a ROD dated September 30, 1986. The objectives of this remedy were to prevent: Radiation exposure due to inhalation of radon gas and its daughter products; radiation exposure due to inhalation and ingestion of long-lived radionuclides; and direct exposure to gamma radiation. The ROD determined that the shallow alluvial aquifer is not a drinking water source.

In December 1994, EPA issued an ESD to address on-site conditions that became apparent after the ROD was signed. The ESD describes in more detail the changes that were made to the remedy selected for OU4 and OU5. The remedy, as implemented, differed in two respects from the remedy chosen in the 1986 ROD. Those differences were:

- The volume of contaminated soil increased; and
- Relatively small volumes of contaminated soil were left in place below the groundwater level.
- ICs were required on the OU4 property where wastes were left in place.

OU6, OU9A, OU11

EPA selected excavation and off-site disposal as the remedy for OU6, OU9A, and OU11 in a ROD dated September 29, 1987. The objectives of this remedy were to prevent: Radiation exposure due to inhalation of radon gas and its daughter products; radiation exposure due to inhalation and ingestion of long-lived radionuclides; and direct exposure to gamma radiation.

Remedial design at these operable units focused on excavation and direct off-site disposal of radiologic waste materials.

In January 1995, EPA issued an ESD to address on-site conditions that became apparent after the ROD was signed. The ESD describes the changes that were made to the remedy selected for OU6, OU9A, and OU11. Briefly, these differences include:

- A relatively small volume of radium-contaminated soil was left in place at the following locations in OU6: a) near a concrete box culvert on the Confluence Park property; and b) under the Environmental Materials (EMI) Building.

- ICs were required on the OU6 property where wastes were left in place. Note: Even though the 1995 ESD describes waste left in place, all contamination was subsequently removed. ICs are not required.

- Additional properties were found to be contaminated and a greater volume of radium-contaminated soil was excavated and placed in a permanent off-site repository.

- Soil commingled with metals contamination was shipped to the permanent off-site disposal facility.

OU7

EPA issued a ROD for OU7 on March 24, 1986 that combined features of the Excavation and Off-site Disposal alternative with a no action alternative. The ROD called for leaving the contaminated material in-place and required ICs to monitor all maintenance, repair, or construction activities in the affected streets. Any contaminated material excavated during these activities would be shipped off site for disposal.

The objectives of this remedy were to prevent: Radiation exposure due to inhalation of radon gas and its daughter products; radiation exposure due to inhalation and ingestion of long-lived radionuclides; and direct exposure to gamma radiation.

In September 1992, EPA issued an ESD to address on-site conditions that became apparent after the ROD was signed. This ESD amended the existing ROD to allow for reburial of excavated materials. The significant difference from the original remedy allows on-site retention and reburial of radium-contaminated material excavated during all maintenance, repair or other construction activities. Should maintenance, repair or other construction activities be required, excavated radium-contaminated materials will be retained and reburied on site if feasible, provided that the area

to be excavated is not greater than 20% of the total area of the roadway in one city block. Special variance to the 20% limit may be granted by the CDPHE should an unusual circumstance require such a variance. Reburied materials will be covered with a new, hard surface, such as asphalt or concrete having a minimum depth of 6 inches to ensure no direct exposure. If retention and reburial are not feasible, the materials will be disposed at a licensed, off-site disposal facility, consistent with the ROD.

OU8

The original ROD for Shattuck was signed on January 28, 1992. EPA selected on-site soil stabilization and solidification to prevent further degradation of groundwater and allow for natural attenuation with monitoring for groundwater. Groundwater monitoring will be performed to (1) monitor the effectiveness of source control measures, and (2) monitor attenuation of the plume until it meets maximum contaminant levels for contaminants of concern. An IC program was an integral part of the remedy and required restrictions against excavating into the cover and stabilized materials, prohibition of the construction of enclosed structures on the disposal site, restrictions against the use of groundwater, and restrictions to prevent agricultural use of the site. In 1999, EPA conducted a discretionary five-year-review of the Shattuck OU and found deficiencies in aspects of the design and integrity of the on-site disposal cell. Based on these findings, EPA could not be assured of the long-term protection of the original remedy. In addition to the technical concerns raised by the 1999 five-year review, the State, Denver, elected officials, and the local community requested that EPA consider other alternatives to the on-site remedy to allow for unrestricted use of the site.

In June 2000, after developing a proposed plan and receiving public input, EPA selected off-site removal in a ROD Amendment. Off-site disposal benefits included the following:

- Long-term protection of human health and the environment;
- Removal of potential source material for future groundwater contamination;
- Disposal of material in a permitted facility;
- Unrestricted future land use; and
- Monitored attenuation of the plume until it meets maximum contaminant levels for contaminants of concern for groundwater use remain as required in the 1992 Record of Decision.

An ESD was issued for the Shattuck Site in February 2007. The ESD was required due to the elevated costs from the original estimate based on the 2000 ROD. The 2000 estimate cost for the off-site removal was \$29 million with a final cost of \$57 million. Reasons for the increased costs are described in the ESD.

OU9B

As discussed above, OU9B was designated when substantial metals-contaminated soil, not commingled with radium wastes, was discovered during implementation of the OU 4/5 remedy. At this OU, EPA selected a remedy leaving the metals-contaminated soil on site under a protective soil cover and implemented ICs. The objectives of the remedy were to:

- Prevent direct contact with or ingestion of metals-contaminated soil that exceeds the health-based action levels and monitor migration of the contaminants of concern in groundwater that could result in degradation of water quality in the South Platte River.

- Cap the metals-contaminated soil, conduct environmental monitoring to ensure the effectiveness of the Remedial Action, and implement ICs to limit use of groundwater at the site and maintain the integrity of the cap.

OU10

In the ROD, dated June 30, 1987, EPA selected excavation and off-site disposal as the remedy for OU10. The objectives of this remedy were to prevent: Radiation exposure due to inhalation of radon gas and its daughter products; radiation exposure due to inhalation and ingestion of long-lived radionuclides; and direct exposure to gamma radiation.

Response Actions

OU1

Remediation activities at OU1 were conducted in three phases to facilitate construction and to accommodate the various business activities in the unit. Construction began on October 2, 1989 and concluded on July 18, 1991. The quantity of material removed during remediation was 32,665 tons.

OU2

Remedial Actions at OU2 began in August 1990 and, except for ICs, were completed in August 1993. Activities included:

- Excavation of radium-contaminated soil in open areas.
- Analysis of the contaminated materials for disposal to ensure compliance with transportation and disposal regulations.

- Shipment of contaminated materials to the permanent off-site disposal facility.
- Confirmation sampling of excavated area.

A total of 14,211 tons of radiologic and commingled material was excavated and shipped off site. The commingled material was stabilized by solidification prior to off-site disposal. A Supplemental Standards Report was prepared in May 1994 to document that 11,060 cubic yards of radiological contaminated soil were left in place on the Burlington Northern Railroad property and the 1100 Umatilla Street property (Atlas Metals and Iron) at OU2.

Pursuant to the terms of an administrative settlement agreement (November 22, 2005), the current owner of the former DuWald property, Atlas Umatilla, LLC, has prepared and is implementing an O&M Plan and signed and executed an environmental covenant on June 25, 2006. The environmental covenant restricts disturbance of the concrete cap and subsurface soil. In addition, Denver's zoning ordinance and its radium fee ordinance provide ICs generally at properties in OU2 where radium-contaminated soil remains in place under supplemental standards.

OU3

Remedial Actions at OU3 began in August 1989 and were completed in September 1991. A phased approach to the cleanup allowed on-site businesses to maintain operations throughout the excavation and shipment of 63,672 tons of contaminated material from OU3. Activities included:

- Excavation of radium-contaminated soil in open areas;
- Demolition of certain radium-contaminated buildings;
- Analysis of the contaminated materials to be disposed to ensure compliance with transportation and disposal regulations;
- Shipment of contaminated materials to the permanent off-site disposal facility; and
- Confirmation sampling of excavated area.

The Creative Illumination building was demolished and 3,657 tons of radium-contaminated materials were excavated and removed from this location. A total of 32,389 tons of radium-contaminated soil was excavated and removed from the Packaging Corporation of America (PCA) property and a vacant lot owned by PCA located at 1000 West Louisiana. Other activities included the excavation and off-site disposal of 27,626 tons of radiologically contaminated soil.

Remediation of OU3 was completed when 50 tons of radiologically contaminated soil were excavated from the GT Car Shop and Aspen Design and Manufacturing properties for off-site disposal.

OU4/5

Remedial Action at OU4 and OU5 included the following:

- Excavation of radium-contaminated soil;
- Demolition of certain radium-contaminated buildings;
- Analysis of the contaminated materials to ensure compliance with transportation and disposal regulations;
- Shipment of contaminated materials to the permanent off-site facility; and
- Confirmation sampling of excavated area.

Remedial Action at OU4/5 was conducted in phases, beginning in April 1988 and, except for ICs, completed in March 1991. A total of 57,586 tons of radiologically contaminated material was excavated during the initial phase of the cleanup. This material was stockpiled on site temporarily until it could be transported to the off-site disposal facility. Approximately 1,290 tons of soil, contaminated with elevated levels of Thorium-230, were removed during a later phase of the project. The stockpiled material, as well as an additional 9,677 tons of contaminated material situated immediately below the stockpile, were shipped during a later phase of the cleanup. Finally, 29,721 tons of radiologically contaminated soil were excavated and transported by rail in covered gondola cars to a permanent off-site disposal facility operated by Envirocare of Utah, Inc., in Tooele County, Utah. Of this total, 2,100 tons were contaminated with metals as well as radioactive material. A Supplemental Standards Report, prepared in March 1994, documented radiological contamination that remained on site at OU4. Materials left in place are located at 500 South Santa Fe Drive (ROBCO); and the Burlington Northern Railroad ROW immediately east of ROBCO (OU4).

Pursuant to the terms of the Agreement and Covenant Not To Sue (July, 1995; also called the Prospective Purchaser Agreement (Home Depot PPA), Home Depot USA (Home Depot) placed a restrictive covenant on OU4. The restrictive covenant restricts future use of the areas where radiological contamination was left in place under supplemental standards. In addition, Denver's zoning ordinance and its radium fee ordinance provide ICs generally at properties in OU 4/5 where

radium-contaminated soil remains in place under supplemental standards. Also, the PPA provides additional ICs for this operable unit.

OU6, OU9A, OU11

Remedial Action operations at OU6, OU9A, and OU11 included the following:

- Excavation of radium-contaminated soil;
- The analysis of the contaminated materials to ensure compliance with transportation and disposal regulations;
- Shipment of contaminated materials to the permanent off-site disposal facility; and
- Confirmation sampling of excavated area.

Remediation was conducted in phases to facilitate the cleanup and to accommodate the various business activities within these operable units. Remediation began in March 1989 and was completed in December 1993. During the Remedial Action for OU6, OU9A, and OU11, 8,336 tons of contaminated soil were excavated and disposed off site.

118 tons of contaminated soil were excavated from a property at South Pecos Street and West Arizona Avenue and disposed off site. The excavated area was backfilled with clean soil and re-vegetated. Various properties within OU6, OU9A and OU11 also were remediated and a total of 5,365 tons of material were excavated for off-site disposal. A total of 2,403 tons of contaminated soil was excavated from the Environmental Materials, Inc. (EMI) and Regional Transportation District properties. This soil was transported by rail to the permanent disposal facility in Utah. In 1993, during the final phase, 450 tons of contaminated soil were excavated from the EMI property and transported by rail to the permanent disposal facility in Utah. Even though the 1995 ESD spoke about supplemental standards applying to OU6, all contamination was subsequently removed, thus, institutional controls are not required.

OU7

The EPA selected remedy combines features of excavation and disposal with the modified no action alternative. This remedy entails:

- Leaving the contaminated material in place;
- Improving ICs so that all routine maintenance, repair and construction activities in the affected streets by government agencies, utility companies, contracting companies, and private individuals will be monitored; and

- Removing any contaminated material excavated during routine maintenance, repair, or construction activities in the affected streets to a facility approved for storage or disposal of contaminated material.

- Due to the location, nature, and volume of radioactive contamination at OU7, the modified no action alternative was implemented at this operable unit. The potential routes of human exposure to the radioactivity are limited since the contaminated material is bound in the asphalt and is not free to move in any direction. None of the streets are near surface water or groundwater resources and the material has little potential for erosion or leaching because the contaminated aggregate is bound in the asphalt matrix within the pavement cap. Thus, the contamination in the asphalt matrix does not pose a threat to human health or the environment if left undisturbed.

The City and County of Denver has been actively managing the radium materials for many years. This active management served as the ICs for this operable unit. Due to the effort, requiring annual training for city and utility workers and the financial commitment, the City and County of Denver opted to ensure long-term public health and safety by removing the contaminated material from these streets in OU7. This action included the removal of asphalt and any contaminated road base and fill material.

As part of the Denver Radium Streets Program, between 2003 and 2007 Denver removed contamination from the following properties: South Bannock Street; 11th Avenue from Race Street to Josephine; Marion Street from 6th Avenue to 10th Avenue; Humboldt Street from 7th to 9th Avenue; Lafayette Street from 1st Avenue to 10th Avenue; Downing Street from 7th to 10th Avenue; 9th Avenue from Ogden to Franklin Street; Corona Street from 7th to 10 Avenue; Park Avenue West from Arapahoe to California Street; York from 6th to 13th Avenue. In addition, the Denver Streets portion of OU3, Jason Street, was remediated in 2007. As a result of these actions, there is no waste left in place within Operable Unit 7, and ICs are not required.

OU8

The initial Remedial Action at OU8 was substantially completed in September 1998. Remedial Action at OU8 included the following:

- Demolition of radium-contaminated buildings;
- Excavation of radium-contaminated soil from vicinity properties, Bannock

Street, the storm sewer located east of Santa Fe Drive, and the Shattuck Chemical property;

- On-site stabilization/solidification of the radium-contaminated soil into a disposal cell;
- Capping of the stabilized material; and
- Installation of monitoring wells to evaluate the effectiveness of the remedy.

The Remedial Action at OU8 was conducted in two phases, beginning September 1992, and was substantially complete in September 1998. During Phase I approximately 67,345 tons of building debris were disposed off site and 8,700 cubic yards of soil were excavated from the vicinity properties. During this phase, approximately 200 cubic yards of asbestos containing material were removed and disposed under appropriate regulations. Approximately 400 cubic yards of radiologically contaminated material were excavated from beneath Bannock Street. Stabilization/solidification of the radiologically contaminated material began in July 1996 and was completed in November 1997.

Approximately 65,000 loose cubic yards of radiologically contaminated soil excavated from Shattuck Chemical and the vicinity properties were stabilized/solidified on site in a disposal cell. Capping of the stabilized material was completed in June 1998. ICs were implemented through a Declaration of Covenants and Restrictions, filed with the City and County of Denver on March 25, 1999, that restricted surface and groundwater use.

During the excavation of radiologically contaminated soil, oil-impacted soil also was found on site. The materials were below the action levels established in the ROD. Approximately 2,000 cubic yards of oil-impacted soil were excavated from the Shattuck Chemical Property located at 1805 South Bannock Street during Phase 2 activities. This material was covered and transported by truck to Conservation Services, Inc. in Thornton, Colorado. Bioremediation was used for oil-impacted soil that extended beneath the completed portion of the monolith. A plan addressing the remaining oil-contaminated soil at OU8 was submitted in August 1998. The bio-venting system was approved by EPA and was installed in September 1998.

In 1997, the storm sewer along Santa Fe Boulevard west of the site was remediated. During the remediation, an in-situ form liner was installed into the original pipe to isolate storm water discharges to the South Platte River from the influx of contaminated groundwater. This liner system, while

in place, did not remedy the problem. In 1998, the sewer remediation was investigated by EPA and the City of Denver and determined to be incomplete. The City and County of Denver installed a new sewer cutoff that has significantly limited the amount of potential infiltration into the sewer line along Bannock Street. A management plan for OU8 Bannock Street was developed and adopted in March 1999 by the City and County of Denver to govern all maintenance, repair, or other construction activities at OU8 Bannock Street.

In 1999, the EPA conducted a discretionary five-year review of the monolith and found deficiencies in the cover design and the structural and chemical integrity of the structure. EPA concluded that it could not assure the long-term protectiveness of this remedy. The June 2000 amended ROD required removal of 100,000 cubic yards of the material and full cleanup of the site. Groundwater quality will continue to be monitored until performance standards are met; therefore, the groundwater is not part of this partial deletion.

EPA began to remove the contaminated soil and monolith in March 2003 to U.S. Ecology, a permitted facility in Grandview, Idaho. Waste shipments began on March 9, 2003. A total of 243,872 tons of contaminated soil and materials was removed by the fall of 2006. The site has been verified to be clean and restored. Clean excavation and fill material was backfilled into all open areas where the contamination was removed and has been returned to grade. The covenant restricting surface and groundwater use was later modified to remove the surface use restrictions.

The Amended Declaration of Covenants and Restrictions was filed in 2007. However, there are still elevated levels of contaminants in groundwater including uranium, arsenic, cadmium, selenium, molybdenum, and gross alpha and gross beta radioactivity. In addition to the restrictive covenant, a restriction notifying each well permit applicant about the potential for contamination in the groundwater was placed July 17, 2006 on OU8 through the Colorado Office of the State Engineer.

OU9B

The Remedial Action at OU9B (ROBCO Metals) was completed in three phases, beginning in October 1995 and completed in April 1996. During Phase 1 activities, the ROBCO Site was prepared for the excavation, movement and consolidation of heavy metal contaminated soil. During Phase 2 activities, the existing ROBCO Building/

Plant foundation was demolished and the area of contamination outside the Area of Consolidation was excavated. Approximately 62,062 cubic yards of material were excavated and/or moved during Phase 2 of the Remedial Action. During Phase 3 activities, the Area of Consolidation cap was constructed, the identification barrier was installed, and structural fill was placed and compacted to final design grade and contour.

In accordance with the Home Depot PPA, Home Depot, USEPA, and CDPHE performed closure of the Robinson Brick Company in a defined "shared" and "phased" manner. Home Depot submitted a Draft O&M Plan on May 30, 1997. CDPHE and EPA approved the O&M Plan on March 17, 1998. Based on the O&M Plan, EPA and CDPHE will perform biannual, off-site groundwater monitoring and Home Depot will perform biannual inspections of store facilities and site utilities.

The restrictive covenant that Home Depot recorded for OU 4/5 waste also covers the OU 9B heavy metal contamination. The restrictive covenant prohibits disturbance of the Area of Consolidation and prohibits use of groundwater.

The Home Depot PPA requires that any breaches of the soil cap system over the Post-Consolidation Area of Contamination will be reported to EPA and CDPHE with the requirement that new construction, remodeling and site repair generally will not be conducted in this area.

OU10

Remediation activities at OU10 began in September 1988 and ended September 22, 1989. A total of 15,021 tons of materials with depths ranging from 0 to 80 inches was removed and was disposed off site at Envirocare of Utah.

No extensive changes were made to the major structures on the property, although several small structures were removed and not replaced at the request of the owner. Some un-assessed contamination required removal, but the volumes were not large.

Cleanup Standards

For radiological contamination, EPA calculates risk based on area averaging of several measurements over 100 square meters. When these calculations are below the EPA surface standard of less than 5 pCi/g above background and below the subsurface standard of 15 pCi/g above background, the area is considered safe for unlimited use and unrestricted exposure as long as soil at

depth with 15 pCi/g above background remains at depth.

Operation and Maintenance

The City and County of Denver have agreed to implement a management plan for radium-contaminated soil remaining in place in Denver's rights-of-way and to continue to enforce Denver's zoning ordinance and its radium fee ordinance as ICs at private properties where radium-contaminated soil remains in place under supplemental standards. The management plan and ordinances provide ICs wherever supplemental standards apply across the Site. Specifically, these institutional controls apply to waste left in place at Operable Units 2, 3, and 4.

In addition to the Denver management plan and ordinances, EPA has agreements in place with owners of other operable units whereby those owners have agreed to manage waste left in place and provide institutional controls. These additional controls include limitations on the use of groundwater at OUs 8 and 9B. Those operable units are described below.

OU2

Pursuant to the terms of a settlement agreement, the current owner of the Umatilla property, formerly DuWald property, Atlas Umatilla, LLC, has prepared an O&M Plan and signed and executed an environmental covenant on June 25, 2006. The environmental covenant restricts disturbance of the concrete cap and subsurface soil. In addition, indoor air quality will be monitored.

OU4/5 & 9B

Pursuant to the terms of the Home Depot PPA, Home Depot prepared an O&M Plan and placed a restrictive covenant on OU4. The restrictive covenant restricts future use of the areas where wastes were left in place, including the area of consolidation of metal wastes and the radioactive waste left in place under supplemental standards. Home Depot has an amended O&M Plan as of August 18, 2003.

Five-Year Reviews

Remedial actions which result in any hazardous substances, pollutants, or contaminants remaining on site will be subject to statutory five-year reviews. The purpose of a five-year review is to evaluate the implementation and performance of a remedy to ensure that the remedy is and remains protective of public health and the environment.

The first five-year review was completed in September of 1993, triggered by remedial actions at OU

4/5. The first five-year review addressed OU 4/5 only. The following year, a site-wide review was completed on September 12, 1994. No modifications or improvements to the remedy were suggested in these first two reviews.

A discretionary five-year review, conducted in 1999 for OU8 only, identified concerns with the long-term effectiveness of the on-site remedy. The remedy was modified in 2000, and remediation was completed in 2006.

Another site-wide five-year review was completed in 2003. This review identified (1) deficiencies in ICs at three OUs and (2) new requirements for risk assessments where waste was left in place under supplemental standards. ICs have since been implemented and the risk assessments were revised. No modifications to the selected remedies were required.

The 2008 Five-Year Review identified a few issues, however none of them affected current or future protectiveness. The review found that because the remedial actions at all OUs are protective, the Site is protective of human health and the environment.

Since waste is left in place, five-year reviews will continue indefinitely to ensure continued protectiveness of the remedies. The next statutory five-year review is scheduled September 2013.

Community Involvement

EPA's Community Relations Plan involved the community in the decision process for selecting all remedies for the Denver Radium Site and promoted communications among interested parties throughout the duration of the project.

Community relation's activities included:

- Briefing State and local officials, public interest groups, neighborhood associations, interested citizens, and media representatives on the status of the various phases of the project,
- Conducting public meetings to keep citizens informed of the progress of the Denver Radium Site project and to solicit comments,
- Establishing information centers at the Denver Public Library and the EPA's Denver Superfund Records Center to make available for public review the study reports, site air-monitoring data, supplemental assessments, and other Denver Radium Site information,
- Maintaining a mailing list of interested parties and distributing information updates to those parties during the Remedial Action phases,
- Organizing a committee of representatives from citizen groups, State and local governments, EPA, DOE, USBR, and the transportation contractor

to provide input to the transportation and disposal activities associated with the Denver Radium Site,

- Informing communities along the transportation route, through meetings and mailings, of health and safety issues associated with waste transportation,
- Distributing news releases to the major news media in affected areas.

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 repositories.

Determination That the Criteria for Partial Deletion Have Been Met

In accordance with 40 CFR 300.425(e), Region 8 of the EPA finds that the Denver Radium Superfund Site meets the substantive criteria for partial NPL deletions, with the exception of groundwater at OU8. Groundwater contamination associated with OU8 will remain on the NPL. EPA has consulted with and has the concurrence of the State of Colorado. All responsible parties or other persons have implemented all appropriate response actions required. All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate.

V. Partial Deletion Action

The EPA, with concurrence of the State of Colorado, through the Colorado Department of Public Health and Environment, (in a letter dated January 2, 2008) has determined that all appropriate response actions under CERCLA, other than operation, maintenance, monitoring and five-year reviews, have been completed. Therefore, EPA intends to delete from the NPL each of the 11 OUs at the Denver Radium Site. Groundwater contamination associated with OU8 will remain on the NPL.

These remedies ensure protection of human health and the environment by minimizing exposure to any radium-contaminated or heavy metals contaminated soil that remain within the Denver Radium Superfund Site. Therefore, EPA is deleting the above properties 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 November 8, 2010 unless EPA receives adverse comments by October 12, 2010. If adverse comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final Notice of Partial Deletion before the effective date of the partial deletion, and it will not take effect. EPA will prepare a response to comments and continue with the deletion process

on the basis of the Notice of Intent for Partial Deletion 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: August 31, 2010.

James B. Martin,

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.

Appendix B—[Amended]

- 2. Table 1 of Appendix B to part 300 is amended by revising the entry under Colorado for “Denver Radium Site”, “Denver” to read as follows:

Appendix B to Part 300—National Priorities List

TABLE 1—GENERAL SUPERFUND SECTION

State	Site name	City/county	Notes ^(a)
* * * * *	* * * * *	* * * * *	* * * * *
Colorado	Denver Radium Site	Denver	P
* * * * *	* * * * *	* * * * *	* * * * *

^(a) A = Based on issuance of health advisor by Agency for Toxic Substances and Disease Registry (if scored, HRS score need not be > 28,50).

* P = Sites with partial deletion(s).

[FR Doc. 2010–22489 Filed 9–8–10; 8:45 am]

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CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

45 CFR Chapter XXV

RIN 3045–AA51

AmeriCorps National Service Program

AGENCY: Corporation for National and Community Service.

ACTION: Final rule; correction.

SUMMARY: The Corporation for National and Community Service (the Corporation) is correcting a final rule to implement changes to the operation of the National Service Trust and the Senior Corps programs under the Serve America Act, that appeared in the **Federal Register** of August 20, 2010 (75 FR 51395). That document incorrectly failed to redesignate part 2533 as part 2534. This document corrects the final rule by revising the instruction.

DATES: Effective September 20, 2010.

FOR FURTHER INFORMATION CONTACT:

Amy Borgstrom, Docket Manager, Corporation for National and Community Service, (202) 606–6930, TDD (202) 606–3472. Persons with visual impairments may request this document in an alternate format.

SUPPLEMENTARY INFORMATION: In FR Doc. 2010–20525, beginning on page 51395 in the **Federal Register** of Friday, August 20, 2010, make the following correction: On page 51413, in the third column, revise instruction number 36 to read as follows: 36. Under the authority of 42 U.S.C. 12651d, redesignate parts 2530, 2531, 2532, and 2533 as parts