

[FR Doc. 01-17333 Filed 7-13-01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL-7007-1]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final deletion of the Red Penn Landfill Site from the National Priorities List (NPL).

SUMMARY: EPA Region 4 announces the deletion of the Kentucky Red Penn Landfill Site (site) from the NPL and requests public comment on this action. The NPL constitutes appendix B to Part 300 of the National and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) as amended. The EPA has determined that the site poses no significant threat to public health or the environment, as defined by CERCLA, and therefore, no further remedial measures pursuant to CERCLA are warranted.

DATES: This "direct final" action will be effective on September 14, 2001 unless EPA receives significant adverse or critical comments by August 15, 2001. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Comments may be mailed to Femi Akindele, Project Manager, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, GA 30303, or by email to akindele.femi@epa.gov. Comprehensive information on this site is available through the public docket which is available for viewing at the site information repositories at the following locations: U.S. EPA Region 4, 61 Forsyth Street, SW., Atlanta, GA 30303; and the South Oldham Library, 6720 W. Highway 146, Crestwood, Kentucky 40014, telephone number (270) 247-2911.

FOR FURTHER INFORMATION: Contact Femi Akindele, Project Manager, U.S. EPA Region 4, 61 Forsyth Street, SW., Atlanta, GA 30303, telephone (404)

562-8809, fax number(404) 562-8788, email address: akindele.femi@epa.gov.

SUPPLEMENTARY INFORMATION:

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I. Introduction

The U.S. EPA, Region 4, announces the deletion of the Red Penn Landfill Superfund Site, Oldham County, Kentucky, from the National Priorities List (NPL), Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300. EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL for these sites. EPA has determined that the Red Penn Site *does not* pose a significant risk to human health or the environment. EPA will accept public comments for thirty days after publication of this notice in the **Federal Register**.

Sections II and III of this notice describe the criteria for deleting sites from the NPL and the procedure used for the intended deletion of the Red Penn Site. Section IV summarizes the history of Red Penn and explains how the site meets EPA deletion criteria. Section V provides a summary statement on the current action of deleting the site from the NPL subject to any dissenting comments received during the comment period.

II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that sites may be deleted from, or re-categorized on the NPL where no further response is appropriate. In making a determination to delete a site from the NPL, EPA shall consider, in consultation with the state, whether any of the following criteria has been met:

- (i) Responsible parties or other persons have implemented all appropriate response action required;
- (ii) All appropriate fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or
- (iii) Remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, no remedial measures are needed.

In the case of the Red Penn Site, EPA's remedial investigation and subsequent groundwater monitoring conducted by the state indicated that the site did not pose a significant threat

to public health or the environment, and, therefore, no Superfund remedial measures were justifiable. However, pursuant to State solid waste law, the landfill required proper closure to prevent deterioration and threat to human health and the environment. Therefore, the responsible parties implemented an appropriate response action by installing a landfill cap at the site under the State's authority and supervision. Nevertheless, EPA may initiate any necessary remedial action in the future if new information so indicates. In accordance with the NCP (40 CFR § 300.425(e)(3)), whenever there is a significant release from a site deleted from the NPL, the site shall be restored to the NPL without application of the Hazard Ranking System (HRS).

III. Deletion Procedures

The following procedures were used for the intended deletion of the site:(1) All appropriate response under CERCLA has been implemented and no further action by EPA is appropriate; (2) The Commonwealth of Kentucky has concurred with the proposed deletion decision; (3) A notice has been published in the local newspaper and has been distributed to appropriate federal, state and local officials and other interested parties announcing the commencement of a 30-day public comment period on EPA's Direct Final Deletion; and, (4) All relevant documents have been made available for public review in the local site information repository. EPA is requesting only dissenting comments on this proposed action to delete.

EPA's Regional Office will accept and evaluate public comments on EPA's Final Notice before making a final decision to delete. If necessary, EPA will prepare a Responsiveness Summary, responding to each significant comment submitted during the public comment period. If no dissenting comments are received, no further activities will be implemented and this "direct final" action will become effective. 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 information purposes and to assist EPA management. As mentioned in Section II of this document, § 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions.

IV. Basis for Intended Site Deletion

The following site summary provides EPA's rationale for the proposal to

delete the Red Penn Landfill Site from the NPL.

The Red Penn Landfill is located approximately 1.5 miles southeast of Pewee Valley in Oldham County, Kentucky. Shelby County lies to the east and southeast of the site, and Jefferson County lies to the south and southwest. Floyds Fork Creek bounds the property on the east and southeast sides while an unnamed creek tributary, which runs along Kentucky State Route 362, forms the southwest boundary. Hawley Gibson Road forms the northwest property boundary.

The landfill was operated as an unlined waste disposal facility between 1954 and late 1986. Although, the facility was permitted by the local authority to accept only sanitary waste, the operators allowed industrial wastes to be placed in the landfill. Paint waste, sludge, drawing solution from copper wire curing, and scrap varnish were some of the materials found in drums which were buried in the landfill. The Kentucky Division of Waste Management (KDWM) discovered that the landfill operator accepted unauthorized wastes which were potentially hazardous at the facility in 1986, and ordered that the wastes be removed and disposed of at appropriate locations. Approximately 154 tons of hazardous materials and contaminated soil were removed under the order. Additional waste removal required of the operators were never conducted and when the facility was shut down by KDWM in 1987, for improper operations and violation of permit requirements, it was not properly closed.

The site was scored by KDWM in 1987, after the results of a preliminary assessment and site investigation indicated that surface water and groundwater in the area could be affected adversely by the site. A major source of drinking water in the area is the Laurel aquifer which is exposed at the landfill and the Floyds Fork Creek is used locally for recreational fishing. On the basis of high hazard ranking system results, the site was listed on the NPL by EPA in 1989. Following the listing, a fund-lead remedial investigation was conducted on the site. After a careful evaluation of all exposure routes, estimated carcinogenic and non-carcinogenic health risks, and ecological impacts, EPA concluded in 1993, that the landfill does not pose an unacceptable risk to human health and the environment. However, because the landfill was not properly closed, EPA advised KDWM to ask the responsible parties to implement an appropriate corrective action at the site. As planned by EPA and KDWM, the Record of

Decision indicating no further EPA action at the site was issued in September 2000, to coincide with the completion of the necessary corrective action.

The responsible parties submitted a draft scope of work for a landfill cap to KDWM in 1994. The proposal was finalized in 1998. KDWM and the responsible parties signed an Agreed Order in August 1999, requiring the responsible parties to design and install an approved cap on the landfill. The cap design included landfill regrading, installation of a geosynthetic clay liner and clean dirt, grass planting, and site monitoring. Construction of the cap was completed in September 2000, under KDWM supervision. The final inspection conducted by KDWM in October 2000, concluded that the corrective action implemented at the site was satisfactory.

V. Action

In view of the satisfactory completion of the corrective action taken by the responsible parties at the Red Penn Site, EPA notified the Commonwealth of Kentucky on April 5, 2001, of the intent to delete the site from the NPL. In its letter of April 15, 2001, the Commonwealth concurred that no further CERCLA action is necessary at the site and that the deletion action is appropriate. The site does not pose a threat to human health and the environment and it continues to be monitored by the responsible parties under state authority. In the event of a significant future release of contamination that may impact human health or the environment, EPA may initiate appropriate CERCLA actions in accordance with the NCP.

VI. State Concurrence

As stated above, the Commonwealth of Kentucky, in a letter dated April 15, 2001, concurred with EPA that the criteria for deletion of the NPL listing have been met. Therefore, EPA is deleting the Red Penn Landfill Site from the NPL, effective on June 29, 2001. However, if EPA receives dissenting comments by June 28, 2001, EPA will publish a document that withdraws this action.

List of Subjects in 40 CFR Part 300

Environmental protection, Chemicals, Hazardous substances, Hazardous wastes, Intergovernmental relations, Penalties, Superfund, Water pollution control, Water supply.

Dated: May 14, 2001.

A. Stanley Meiburg,

Acting Regional Administrator, U.S. EPA Region 4.

Part 300, title 40 of Chapter I of the Code of Federal Regulations is amended as follows:

PART 300—[AMENDED]

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

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp.; p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp.; p. 193.

Appendix B—[Amended]

2. Table 1 of Appendix B to Part 300 is amended by removing the listing under Kentucky for the “Red Penn Sanitation Co. Landfill”.

[FR Doc. 01–17557 Filed 7–13–01; 8:45 am]

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FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA–7765]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register**.

EFFECTIVE DATES: The effective date of each community's suspension is the third date (“Susp.”) listed in the third column of the following tables.

ADDRESSES: If you wish to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

FOR FURTHER INFORMATION CONTACT: Ed Pasterick, Division Director, Program Marketing and Partnership Division, Federal Insurance Administration and Mitigation Directorate, 500 C Street,