

at the Site information repositories located at: U.S. EPA Region III, Regional Center for Environmental Information (RCEI), 1650 Arch Street, Philadelphia, PA 19103-2029, (215) 814-5364, Monday through Friday 8 a.m. to 4:30 p.m.; Follansbee City Library, 844 Main Street, Follansbee, WV 26037, (304) 527-0860, Monday through Thursday 11 a.m. to 7 p.m., Friday and Saturday 9 a.m. to 1 p.m.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

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I. Introduction

EPA Region III is publishing this direct final notice of deletion of the Follansbee Superfund Site from the NPL.

The EPA identifies sites that appear to present a significant risk to public health or the environment and maintains the NPL as the list of those sites. As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions if conditions at a deleted site warrant such action.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication of a notice of intent to delete. This action will be effective January 16, 2004 unless EPA receives adverse comments by December 17, 2003 on this document. If adverse comments are received within the 30-day public comment period on this document EPA will publish a timely withdrawal of this direct final notice of deletion before the effective date of the deletion and the deletion will not take effect. Alternatively, EPA will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Follansbee Superfund Site and demonstrates how it meets the deletion criteria. Section V discusses

EPA's action to delete the Site from the NPL unless adverse comments are received during the public comment period.

II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that releases may be deleted from the NPL where no further response is appropriate. In making a determination to delete a Site from the NPL, EPA shall consider, in consultation with the State, whether any of the following criteria have been met:

- i. Responsible parties or other persons have implemented all appropriate response actions required;
- ii. All appropriate Fund-financed (Hazardous Substance Superfund Response Trust Fund) response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or
- iii. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Consistent with § 300.425(e) of the NCP, EPA proposes deletion of this Site because no further response action is appropriate under CERCLA, as laid out in EPA's policy entitled "The National Priorities List for Uncontrolled Hazardous Waste Sites; Deletion Policy for Resource Conservation and Recovery Act ("RCRA") Facilities." Published in the **Federal Register** on March 20, 1995 (60 FR 14641), this policy sets forth the following criteria, all of which should be met, and their general application for deleting RCRA facilities from the NPL:

1. If evaluated under EPA's current RCRA/NPL deferral policy the site would be eligible for deferral from listing on the NPL;
2. The CERCLA site is currently being addressed by RCRA corrective action authorities under an existing enforceable order or permit containing corrective action provisions;
3. Response under RCRA is progressing adequately; and
4. Deletion would not disrupt an ongoing CERCLA response action.

Under this policy EPA has determined that the Site is eligible for deletion from the NPL.

III. Deletion Procedures

The following procedures apply to deletion of the Site:

- (1) EPA determined that no further response under CERCLA is necessary due to the fact that the

Site is being investigated and cleaned up using RCRA authorities.

- (2) West Virginia concurred with deletion of the Site from the NPL.
- (3) Concurrently with the publication of this direct final notice of deletion, a notice of the availability of the parallel notice of intent to delete published today in the "Proposed Rules" section of the **Federal Register** is being published in a major local newspaper of general circulation at or near the Site and is being distributed to appropriate federal, state, and local government officials and other interested parties. The newspaper notice announces the 30-day public comment period concerning the notice of intent to delete the Site from the NPL.
- (4) The EPA placed copies of documents supporting the deletion in the Site information repositories identified above.
- (5) If adverse comments are received within the 30-day public comment period on this notice or the companion notice of intent to delete also published in today's **Federal Register**, EPA will publish a timely notice of withdrawal of this direct final notice of deletion before its effective date or will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions should future conditions warrant such actions.

IV. Basis for Site Deletion

The following information provides EPA's rationale for deleting the Site from the NPL:

Site Description

The Follansbee Site is located in the northern panhandle of West Virginia along the east bank of the Ohio River in Brooke County, just north of the city of Follansbee, West Virginia. The Site is roughly rectangular with the approximate dimensions of 3,000 feet in a northwest-southeast direction and 500 feet perpendicular to the river. The Site occupies 34 acres. The Site is bounded