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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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Commander, Atlantic Division
Naval Facilities Engineering Command
Code 1822
Attn: Ms. Laurie A. Boucher, P.E.
Remedial Project Manager for MCB Camp Lejeune
Norfolk, Virginia 23511-6287

RE: Interim Remedial Action Guidance
Marine Corps Base Camp Lejeune, North Carolina

Dear Ms. Boucher:

As requested at our April 16, 1991, meeting, EPA is providing the Navy with guidance on the process and documentation to support a Record of Decision (ROD) for an interim remedial action under CERCLA. The underlying authority for interim remedial action may be found in EPA's program management principles for Hazardous Substance Response in 40 CFR 300.430(a)(1) and (f)(ii)(C)(1) of the National Contingency Plan (NCP) which states in part:

> Sites should generally be remediated in operable units[1] when early actions are necessary or appropriate to achieve significant risk reduction quickly, when phased analysis and response is necessary or appropriate given the size or complexity of the site, or to expedite completion of total site cleanup.

The remedy selection process for an interim remedial action may be initiated at any time during the remedial process. To implement an early action under remedial authority, an operable unit for which an interim remedial action is appropriate is identified. The only prerequisite for an interim remedial action operable unit is that it should not be inconsistent with nor preclude implementation of the final remedy.

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[1] The term "operable unit" used in the context of interim action simply means a discrete action that comprises an incremental step toward final site cleanup.

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Data sufficient to support the Interim Action Record of Decision (ROD) is extracted from past or ongoing RI/FS work for the site or operable unit[2] and an appropriate set of alternatives is evaluated. Few alternatives, and perhaps only one "action" alternative, need to be developed for interim actions (note: the no action alternative will always be carried through the alternatives analysis even if only one action alternative is being considered). A completed baseline risk assessment generally will not be available or necessary to justify an interim action. Qualitative risk information should be compiled to demonstrate that the action is necessary to stabilize the site, prevent further degradation, or achieve significant risk reduction quickly. Supporting data and risk information should be documented in a focused RI report. The criteria under statute (i.e., "Nine Point Criteria") to be evaluated may be limited to those which apply specifically to the action(s) under consideration. In cases where the relevant data can be summarized briefly and the alternatives are few and straightforward, it may be adequate to document this supporting information in the proposed plan which is issued for public comment. This information should also be summarized in the ROD. While the documentation of interim remedial action decisions may be more streamlined than for final action, all public, State, EPA, and Natural Resource Trustee participation procedures contained in the NCP, as relates to the final ROD, should be followed.

To illustrate how an interim remedial action could be utilized at Marine Corps Base Camp Lejeune, consider the following example for the Hadnot Point Industrial Area. The Navy has submitted a "Limited Site Scope of Work for Hadnot Point...", has conducted recent field work and is even starting limited cleanup action (free product removal at the tank farm). Existing data from these previous studies indicates that a large plume of contamination is moving unchecked through the surficial aquifer towards the New River. The Navy wishes to characterize the site by determining source areas and eventually remediate sources of contamination as well as the contamination itself. Prior to initiating this work for source characterization, the Navy should prepare and submit to EPA an expedited RI/FS report for interim remedial action for the Hadnot Point Industrial Area surficial aquifer. The Navy should also issue for public comment a proposed plan for interim action. The proposed plan need only summarize the supporting data to justify the action, provide qualitative risk information, describe one or more alternatives, and summarize the results of the alternative(s) analysis against the nine point criteria of 40 CFR 300.430(e)(9)(iii). Evaluation criteria ("Nine Point") relevant to the evaluation of the interim remedial action need not be addressed in detail. Rather, their irrelevance to the decision should be noted briefly. Following the public comment period, the Navy would submit a draft ROD to EPA for review which summarizes the information contained in the proposed plan and the response to public comments.

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[2] The term "operable unit" used in this context means a portion of a site undergoing a RI/FS.

Enclosed is a draft copy of the current guidance on interim remedial action documents. If you need further information on interim remedial action, this subject is discussed in the preamble to the NCP beginning on page 8704 (March 8, 1990, Federal Register). I urge you to contact me at (404) 347-3016, if you still have questions after reviewing these referenced documents.

Sincerely yours,

Carl R. Froede Jr.

Carl R. Froede Jr.
Remedial Project Manager
DOD Remedial Unit
RCRA and Federal Facilities Branch
Waste Management Division

Enclosure

cc: Mr. Jack Butler, NCDEHNR
Ms. Stephanie Del-Re Johnson, MCB Camp Lejeune

DRAFT

United States Environmental Protection Agency

Office of Solid Waste and Emergency Response

Superfund Publication: 9355.3-02FS-3
March 1991

EPA

Guide to Developing Superfund No Action, Interim Action, and Contingency Remedy RODs

Office of Emergency and Remedial Response
Hazardous Site Control Division OS-220W

Quick Reference Fact Sheet

This guide provides quick reference to the essential components of Records of Decision (RODs) that are prepared to document three specific types of remedial action decisions: (1) **no action**; (2) **interim actions**; and (3) **contingency remedies**. In preparing one of these three types of RODs, RPMs should modify the format of the "standard ROD" for final response actions (see **Highlight 1**) as indicated in this guide (i.e., sections of the standard ROD that have been crossed out should be eliminated, and sections appearing in bold should be modified according to the directions provided). Sections of the standard ROD that are not crossed out or do not appear in bold should be prepared as in a standard ROD. More detail on preparing these three types of RODs is provided in Chapter 9 of the *Interim Final Guidance on Preparing Superfund Decision Documents* (OSWER Directive 9355.3-02).

DOCUMENTING NO ACTION DECISIONS

EPA may determine that no action (i.e., no treatment, engineering controls, or institutional controls[1]) is warranted under the following general sets of circumstances:

- When the site or a specific problem or area of the site (i.e., an operable unit) poses no current or potential threat to human health or the environment;
- When CERCLA does not provide the authority to take remedial action; or
- When a previous response eliminated the need for further remedial response.

Examples of potential situations where no action decisions may be appropriate are provided in **Highlight 2**. The remainder of this section outlines ROD formats to use for situations under which a no action ROD may be warranted.

[1] An alternative may include monitoring only and still be considered "no action."

HIGHLIGHT 1
OUTLINE FOR THE STANDARD ROD

1. Declaration

- Site Name and Location
- Statement of Basis and Purpose
- Assessment of the Site
- Description of the Selected Remedy
- Statutory Determinations
- Signature and Support Agency Acceptance of the Remedy

2. Decision Summary

- Site Name, Location, and Description
- Site History and Enforcement Activities
- Highlights of Community Participation
- Scope and Role of Operable Unit
- Site Characteristics
- Summary of Site Risks
- Description of Alternatives
- Summary of Comparative Analysis of Alternatives
- Selected Remedy
- Statutory Determinations
- Documentation of Significant Changes

3. Responsiveness Summary

- Community Preferences
- Integration of Comments

HIGHLIGHT 2
SITUATIONS WHERE NO ACTION DECISIONS MAY BE APPROPRIATE

- Where the baseline risk assessment concluded that conditions at the site pose no unacceptable risks to human health and the environment.
- Where a release involved only petroleum product that is exempt from remedial action under CERCLA section 101.
- Where a previous removal action eliminated existing and potential risks to human health and the environment such that no further action is necessary.

NO ACTION SITUATION #1: ACTION NOT NECESSARY FOR PROTECTION

1. Declaration

- Site Name and Location
- Statement of Basis and Purpose
- ~~Assessment of the Site~~
- **Description of the Selected Remedy:** The lead agency should state that no action is necessary for the site or operable unit, although it may authorize monitoring to verify that no unacceptable exposures to potential hazards posed by conditions at the site or operable unit occur in the future.
- ~~Statutory Determinations~~
- **Declaration Statement:** None of the Section 121 statutory determinations are necessary in this section. Instead, the lead agency should state briefly that no remedial action is necessary to ensure protection of human health and the environment.
- Signature and Support Agency Acceptance of the Remedy

2. Decision Summary

- Site Name, Location, and Description
- Site History and Enforcement Activities
- Highlights of Community Participation
- Scope and Role of Operable Unit or Response Action
- Site Characteristics

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- **Summary of Site Risks:** The information in this section provides the primary basis for the no action decision. The discussion should support the determination that no remedial action is necessary to ensure protection of human health and the environment. The lead agency should explain the basis for its conclusion that unacceptable exposures to hazardous substances will not occur. (In most cases, this will be based on the baseline risk assessment conducted during the remedial investigation (RI).) In limited cases where alternatives were developed in the feasibility study (FS), the lead agency should reference the RI/FS Report.
- ~~Description of Alternatives~~
- ~~Summary of Comparative Analysis of Alternatives~~
- ~~Selected Remedy~~
- ~~Statutory Determinations~~
- Explanation of Significant Changes

3. Responsiveness Summary.

NO ACTION SITUATION #2: NO CERCLA AUTHORITY TO TAKE ACTION

1. Declaration

- Site Name and Location
- Statement of Basis and Purpose
- ~~Assessment of the Site~~
- **Description of the Selected Remedy:** The lead agency should state that no action is necessary for the site or operable unit, although it may authorize monitoring to verify that no unacceptable exposures to potential hazards posed by conditions at the site or operable unit occur in the future.
- ~~Statutory Determinations~~
- **Declaration Statement:** No Section 121 statutory determinations are necessary in this section. This section should explain that EPA does not have authority under CERCLA Sections 104 or 106 to address the problem(s) posed by the site or operable unit. If the problem has been referred to other authorities, this should be explained.
- Signature and Support Agency Acceptance of the Remedy

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2. Decision Summary

- Site Name, Location, and Description
- Site History and Enforcement Activities
- Highlights of Community Participation
- Scope and Role of Operable Unit or Response Action
- Site Characteristics
- Summary of Site Risks
- ~~Description of Alternatives~~
- ~~Summary of Comparative Analysis of Alternatives~~
- ~~Selected Remedy~~
- **Statutory Authority Finding:** The concluding statement of the absence of CERCLA authority to address the problem should be the same as in the Declaration.
- Explanation of Significant Changes

3. Responsiveness Summary.

NO ACTION SITUATION #3:
NO FURTHER ACTION NECESSARY

1. Declaration

- Site Name and Location
- Statement of Basis and Purpose
- ~~Assessment of the Site~~
- **Description of the Selected Remedy:** The lead agency should state that no action is necessary for the site or operable unit, although it may authorize monitoring to verify that no unacceptable exposures to risks posed by conditions at the site or operable unit occur in the future.
- ~~Statutory Determinations~~
- **Declaration Statement:** This Declaration should state that it has been determined that no further remedial action is necessary at the site or operable unit. The Declaration should explain that a previous response(s) at the site or operable unit eliminated the need to conduct additional remedial action. This section also should note whether a five-year review is required. Section 121(c) of CERCLA requires a five-year review of any earlier post-SARA remedy that eliminated the need to take further action (i.e., using engineering and/or institutional controls to prevent unacceptable exposures), yet resulted in hazardous substances, pollutants, or contaminants remaining at the site. As a matter of policy, EPA should generally perform a five-year review for pre-SARA remedies and removal actions that result in hazardous substances remaining on site, and any remedial action that requires five or more years to attain the cleanup levels specified in the ROD.
- Signature and Support Agency Acceptance of the Remedy

2. Decision Summary

- Site Name, Location, and Description
- Site History and Enforcement Activities
- Highlights of Community Participation
- Scope and Role of Operable Unit or Response Action
- Site Characteristics
- **Summary of Site Risks:** The information in this section provides the primary basis for the no action decision. The discussion should support the determination that no further remedial action is necessary to ensure protection of human health and the environment. The lead agency should explain the basis for its conclusion that unacceptable exposures to hazardous substances will not occur. (In most cases, this will be based on the baseline risk assessment conducted during the remedial investigation (RI).) Any previous responses that were conducted at the site or operable unit that served to eliminate the need for additional remedial action should be summarized in this discussion. In limited cases where alternatives were developed in the feasibility study (FS), the lead agency should reference the RI/FS Report.
- ~~Description of Alternatives~~
- ~~Summary of Comparative Analysis of Alternatives~~
- ~~Selected Remedy~~
- ~~Statutory Determinations~~
- Explanation of Significant Changes

3. Responsiveness Summary.

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II. DOCUMENTING INTERIM ACTION DECISIONS

During scoping, or at other points in the RI/FS, the lead agency may determine that an interim remedial action is appropriate.[2] An interim action is limited in scope and only addresses areas/media that will be followed by a final operable unit ROD. Reasons for taking an interim action could include the need to:

- Take quick action to protect human health and the environment from an imminent threat in the short term, **while a final remedial solution is being developed**; or
- Institute **temporary** measures to stabilize the site or operable unit and/or prevent further migration or degradation.

Interim actions either are implemented for separate operable units or may be a component of a final ROD. In either case, an interim action must be followed by a final ROD, which should: (1) provide long-term protection of human health and the environment; (2) fully address the principal threats posed by the site or operable unit; and (3) address the statutory preference for treatment that reduces the toxicity, mobility, or volume of wastes. Examples of possible interim actions are provided in **Highlight 3.**

Interim Actions vs. Early Actions

Interim remedial actions should not be confused with "early remedial actions," which may be **either interim or final.** For example, an early interim action might include providing a temporary alternate water supply and sealing wells that are pumping from a contaminated aquifer. An early final action might involve the complete removal of drums and a limited amount of surrounding contaminated soil that, without early attention, could result in contamination to currently uncontaminated areas.

Because an interim action may be taken early to mitigate the more immediate threats, there may not be sufficient time to prepare a "formal" RI or "formal" FS report. Although preparation of an RI/FS report is not required for an interim action, for the purpose of fulfilling the NCP's Administrative Record requirements, there must be documentation that supports the rationale for the action. A summation of site data collected during field investigations should be sufficient to document a problem in need of response; in addition, a short analysis of what remedial alternatives were considered, which ones were rejected, and the basis for the evaluation (as is done in a focused FS) should be summarized to support the selected action.

HIGHLIGHT 3
EXAMPLES OF POSSIBLE INTERIM ACTIONS

- Installing extraction wells to pump a ground-water aquifer to restrict migration of a contaminant plume with the intention of later installing additional wells (or taking other action) to address the contamination in a final action.
- Providing a temporary alternate source of drinking water with the intention of later, in a subsequent action, remediating the source of contamination and/or the aquifer.
- Constructing a temporary cap to control or reduce exposures until a subsequent action is taken.
- Relocating contaminated material from one area of a site (e.g., residential yards) to another area of the site for temporary storage until a decision on how best to manage site wastes is made. (Note: This interim action (i.e., for temporary storage) also could contain a final action component if the excavated area will not require further remediation.)

INTERIM ACTION ROD FORMAT[3]

The Interim Action ROD should be tailored to the limited scope and purpose of the interim action.

The format for Interim Action RODs is outlined below.

1. Declaration

- Site Name and Location
- Statement of Basis and Purpose

[2] A removal action also may be appropriate to address short-term risks at an NPL site. See Interim Guidance on Addressing Immediate Threats at NPL Sites, OSWER Directive 9200.2-03, January 30, 1990.

[3] In some cases, RODs will be prepared that include both interim actions and a final action; such RODs should clearly specify which components of the action are interim and which are final. For any final action components, the ROD should include the information and documentation required for the "standard ROD." For example, where a ROD includes a final source control measure and a temporary alternate water supply, the ROD must provide the documentation required in the "standard format" for the final source control action, as well as addressing, in the streamlined manner discussed above, the rationale and justification for the interim water supply action. In this example, it would be necessary to address the contaminated ground water in a final action ROD at a later time.

- Assessment of the Site

- Description of Selected Remedy

Statutory Determinations: The declaration statement should read as follows:

This interim action is protective of human health and the environment, complies with (or waives) Federal and State applicable or relevant and appropriate requirements for this limited-scope action, and is cost-effective. This action is interim and is not intended to utilize permanent solutions and alternative treatment (or resource recovery) technologies to the maximum extent practicable for this [*interim action/operable unit*]. [*Note: The following sentence should be included, where treatment is part of the interim action: This interim action utilizes treatment and thus is in furtherance of the statutory preference for treatment.*] Because this action does not constitute the final remedy for the [*site/operable unit*], the statutory preference for remedies that employ treatment [*although partially addressed in this remedy*] that reduces toxicity, mobility, or volume as a principal element will be addressed by the final response action. Subsequent actions are planned to address fully the threats posed by the conditions at this [*site/operable unit*]. Because this remedy will result in hazardous substances remaining on site above health-based levels, a review will be conducted within five years after commencement of the remedial action as EPA continues to develop final remedial alternatives for the [*site/operable unit*]. The review will be conducted to ensure that the remedy continues to provide adequate protection of human health and the environment. Because this is an interim action ROD, review of this site and of this remedy will be continuing as part of the development of the final remedy for the [*site/operable unit*].

- Signature and Support Agency Acceptance of the Remedy

2. Decision Summary

- Site Name, Location, and Description

- Site History and Enforcement Activities

- Highlights of Community Participation

- **Scope and Role of Operable Unit:** This section provides the rationale for taking the limited action. To the extent that information is available, the section should detail how the response action fits into the overall site strategy. This section should state that the interim action will be consistent with any planned future actions, to the extent possible.

- **Site Characteristics:** This section should focus on the description of those site or operable unit characteristics to be addressed by the interim remedy.

- **Summary of Site Risks:** This section should focus on risks addressed by the interim action and should provide the rationale for the limited scope of the action. The rationale can be supported by facts that indicate that temporary action is necessary to stabilize the site or portion of the site, prevent further environmental degradation, or achieve significant risk reduction quickly while a final remedial solution is being developed. Qualitative risk information may be presented if quantitative risk information is not yet available, which often will be the case. The more specific findings of the baseline risk assessment should be included in the subsequent final action ROD for the operable unit and the ultimate cleanup objectives (i.e., acceptable exposure levels) for the site or operable unit.

- **Description of Alternatives:** This section should describe the limited alternatives that were considered for the interim action (generally three or fewer). Only those requirements that are applicable or relevant and appropriate requirements (ARARs) to the limited-scope interim action should be incorporated into the description of alternatives.

- **Summary of Comparative Analysis of Alternatives:** The comparative analysis should be presented in light of the limited scope of the action. Evaluation criteria not relevant to the evaluation of interim actions need not be addressed in detail. Rather, their irrelevance to the decision should be noted briefly.

- Selected Remedy

- **Statutory Determinations:** The interim action should protect human health and the environment from the exposure pathway or threat it is addressing and the waste material being managed. The ARARs discussion should focus only on those ARARs specific to the interim action (e.g., residuals management during implementation).[4] The discussion under "utilization of permanent solutions and treatment to the maximum extent practicable" should indicate that the interim action is not designed or expected to be final, but that the selected remedy represents the best balance of

[4] An interim remedy waiver may be appropriate where a requirement that is ARAR cannot be met as part of the interim remedy but will be attained (unless use of one of the other five waivers is justified) by the final site remedy (CERCLA §121(d)(4)(A) and NCP 300.430(f)(1)(ii)(C)(1)).

tradeoffs among alternatives with respect to pertinent criteria, given the limited scope of the action. The discussion under the preference for treatment section should note that the preference will be addressed in the final decision document for the site or final operable unit.

- Explanation of Significant Changes

3. Responsiveness Summary.

III. DOCUMENTING CONTINGENCY REMEDIES

The lead agency in consultation with the support agency may decide to incorporate a contingency remedy in the ROD. Use of a contingency ROD may be appropriate when there is significant uncertainty about the ability of remedial options to achieve remediation levels (e.g., cleanup of an aquifer to non-zero MCLGs or MCLs).

For example, a contingency ROD may be appropriate when the performance of an innovative treatment technology (or a demonstrated technology being used on a waste for which performance data are not available) appears to be the most promising option, but additional testing will be needed during remedial design to verify the technology's performance capabilities; in this case, a more "proven approach" could be identified as a contingency remedy. [Note: The use of contingency remedies should be carefully considered. Site managers should perform the necessary steps of treatability studies/ and investigations to evaluate a technology's performance capabilities during the RI/FS. More detailed testing at the operational-scale level may be performed during design.]

Where applicable, the ROD should specify under what circumstances the contingency remedy would be implemented, i.e., what are the general criteria (e.g. failure to achieve desired performance levels) that EPA will use to decide to implement the contingency option as opposed to the selected remedy.

CONTINGENCY REMEDY ROD FORMAT

1. Declaration

- Site Name and Location
- Statement of Basis and Purpose
- Assessment of the Site
- **Description of the Selected Remedy:** Both the selected remedy and the contingency remedy should be described in bullet form.
- **Statutory Determinations:** The Declaration should be modified to indicate that both the selected remedy and the contingency remedy will satisfy the statutory requirements.
- Signature and Support Agency Acceptance of the Remedy

2. Decision Summary

- Site Name, Location, and Description
- Site History and Enforcement Activities
- Highlights of Community Participation
- Scope and Role of Operable Unit or Response Action
- Site Characteristics
- Summary of Site Risks
- **Description of Alternatives:** This section should identify any uncertainties about the use of the technologies being considered, and the extent additional testing is needed. The selected remedy and the contingency remedy must be fully described.
- **Summary of Comparative Analysis:** The selected remedy and the contingency remedy should be evaluated fully against the nine criteria; the uncertainties should be noted, as well as the expectations for performance. Community (and support agency) acceptance of an innovative technology should be discussed in light of the CERCLA provisions in Section 121(b)(2), which takes into account the degree of support for the action by the community.
- **Selected Remedy:** The selected and contingency remedies should be identified. Additional testing/investigations to occur as part of remedial design to further evaluate the selected remedy should be discussed. **The criteria that will be used to decide to implement the contingency remedy should be identified.**
- **Statutory Determinations:** The statutory determination discussion should document that both remedies fulfill CERCLA Section 121 requirements.
- Explanation of Significant Changes

3. Responsiveness Summary.

NOTICE: The policies set out in this memorandum are intended solely as guidance. They are not intended, nor can they be relied upon, to create any rights enforceable by any party in litigation with the United States. EPA officials may decide to follow the guidance provided in this memorandum, or to act at variance with the guidance, based on an analysis of specific site circumstances. The Agency also reserves the right to change this guidance any time without public notice.

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