



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
SAM NUNN ATLANTA FEDERAL
CENTER 61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

ACTION MEMORANDUM

SUBJECT: Change in Scope, Ceiling Increase and 12-Month Exemption for the Time-Critical Removal Action at the Westside Lead Site, Atlanta, Fulton County, Georgia

FROM: Charles L. Berry,
On-Scene Coordinator
Emergency Response, Removal, Prevention, & Preparedness Branch

THRU: James W. Webster, Ph.D., Chief
Emergency Response, Removal, Prevention, & Preparedness Branch

TO: Carol J. Monell, Director
Superfund & Emergency Management Division

I. PURPOSE

The purpose of this Action Memorandum is to request and document the approval of a change in the scope of work, a ceiling increase, and approval of a 12-month exemption for the time-critical removal action at the Westside Lead Site (the Site) in Atlanta, Fulton County, Georgia. The original Action Memorandum, dated November 4, 2019, identified the need for a time-critical removal action and set a project budget of \$1,814,869. This request expands the scope of work to include additional properties with lead concentrations over the site-specific removal goal (SSRG) of 400 milligrams per kilogram (mg/kg), requests an exemption to the 12-month statutory limitation on removal actions, and requests additional funding to cover the increased scope of work. The total project ceiling for this time-critical removal action, if approved, will be \$5,940,000.

II. SITE CONDITIONS AND BACKGROUND

CERCLIS ID: GAN000407160
Site ID Number: C482
Removal Category: Time-Critical Removal

Removal activities began on January 6, 2020, and residential soil excavation began on January 27, 2020. The Site boundary was expanded from 368 to 1068 residential parcels in February of 2020. All other information pertaining to Site conditions and background information that were identified in the original Action Memorandum of November 4, 2019 (attached) equally apply to this amended Action Memorandum.

III. THREATS TO PUBLIC HEALTH OR WELFARE OR THE ENVIRONMENT, AND STATUTORY AND REGULATORY AUTHORITIES

All information pertaining to threats to public health or welfare or the environment, and statutory or regulatory authorities described in the original Action Memorandum of November 4, 2019, remain applicable to this Action Memorandum.

IV. ENDANGERMENT DETERMINATION

Actual or threatened releases of hazardous substances from this Site, if not addressed by implementing the response actions selected in this Action Memorandum, may present an imminent and substantial endangerment to public health, welfare or the environment.

V. EXEMPTION FROM STATUTORY LIMITATIONS

A. Emergency Exemption

1. There is an immediate risk to public health or welfare from approximately 95 contaminated parcels. Soil currently found in the yards of many residents of the community is contaminated in excess of the SSRG of 400 mg/kg. The families of these contaminated properties and community members who frequent these parcels are subject to exposure to lead. Exposures can occur when residents conduct routine activities such as cutting the grass, gardening, or playing outside.
2. Response actions are immediately required to prevent, limit or mitigate an emergency. The analytical results of soil samples collected by the U.S. Environmental Protection Agency show high levels of contamination in the top few inches of soil at the properties identified for remediation via the proposed removal action. Lead concentrations have been screened or analyzed as high as 3,400 mg/kg at some properties. Gardening or construction, literally any activity that disturbs the soil, may result in human exposure and/or migration of contaminants. The contaminated soil must be addressed to eliminate ingestion and inhalation risks to all residents.
3. Unless the EPA conducts a removal action, assistance will not otherwise be provided on a timely basis. Neither the State or local government, nor the residents themselves, have the resources to accomplish this proposed removal action. Investigations to identify Potentially Responsible Parties (PRPs), are ongoing but will take time and require enforcement measures should viable parties be found. The Site is being evaluated for potential listing on the National Priorities List (NPL), but this outcome is not a given, and the process will likely take at least a year or more to complete.

VI. PROPOSED ACTIONS AND ESTIMATED COSTS

A. Proposed Actions

1. Proposed action description

Lead concentration in surficial soil has been documented to be as high as 3,400 mg/kg. Based on bioavailability data, the Region 4 Scientific Support Section has provided a SSRG for lead of 400 mg/kg.

The EPA's proposed actions include the following:

- a. Survey properties to verify current property boundaries, if not apparent;
- b. Develop a Community Involvement Plan, and implement the plan to ensure continued participation of affected residents and community leaders in the removal action; Construct a staging area for Site to accommodate soil stockpiling, equipment storage and an office trailer;
- c. Inventory existing vegetation, utilities and outbuildings on each property;
- d. Remove impediments, as allowed, to provide for an appropriate excavation effort;
- e. Excavate contaminated surficial soils at the Site until:
 - i. Lead concentrations in exposed soil, as determined by ex-situ XRF screening, are less than the SSRG of 400 mg/kg, or;
 - ii. Twelve inches of soil is removed, unless visible source material is present, at which excavation will continue until either:
 - i. the lead concentration in exposed soil falls below the SSRG of 400 mg/kg as determined by ex-situ XRF screening, or;
 - ii. 24 vertical inches of soil has been excavated.
 - iii. If contamination exceeding the SSRG at any exposed depth remains after excavation is complete, a geotextile fabric will be placed over the contaminated soil to warn against further intrusion past the barrier.
- f. Backfill with clean soil, shape to original contours and lightly compact;
- g. Replace or repair any EPA-damaged concrete, piping, fencing, outbuildings, etc;
- h. Conduct ex-situ screening and/or collect samples for laboratory analysis as necessary;
- i. Restore areas which are disturbed by the removal action to their pre-removal state to the maximum extent practicable;
- j. Monitor ambient dust levels generated by the response actions to ensure no impacts to nearby populations or property;
- k. Perform on-site treatment of characteristically hazardous waste, as appropriate;
- l. Arrange for off-site transportation and disposal/treatment of contaminated soil according to applicable regulations and the CERCLA off-site rule;
- m. Maintain Site security and limit access during implementation of the removal action;
- n. Conduct all removal actions pursuant to an EPA-approved Health and Safety Plan;
- o. Temporarily relocate residents, if necessary, during excavation activity; and,
- p. Re-establish vegetation.

2. Contribution to remedial performance

The proposed removal action is warranted to address the threats discussed in Section III, which meet the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) Section 300.415 (b) (2) removal criteria. The Site is currently undergoing a Preliminary Assessment under the Pre-Remedial Process. The removal action contemplated in this Action Memorandum will be consistent with any remedial action selected.

3. Engineering Evaluation/Cost Analysis (EE/CA)

This proposed action is time-critical and does not require an EE/CA.

4. Applicable or Relevant and Appropriate Requirements (ARARs)

In accordance with the NCP at 40 C.F.R. § 300.415(j), on-site removal actions conducted under CERCLA are required to attain ARARs to the extent practicable, considering the exigencies of the situation, or provide grounds for invoking a CERCLA waiver under Section 121(d)(4). Off-site removal activities need only comply with all applicable federal and state laws, unless there is an emergency. This cleanup is being conducted as a time-critical removal action.

A letter to the State of Georgia requesting identification of State ARARs was sent on August 1, 2019. A response from the State was not received prior to submission of this Action Memorandum.

Under CERCLA Section 121(e)(1), federal, state or local permits are not required for the portion of any removal or remedial action conducted entirely on-site as defined in 40 C.F.R. § 300.5. See also 40 C.F.R. §§ 300.400(e)(1) & (2). On-site means the areal extent of contamination and all suitable areas in very close proximity to the contamination necessary for implementation of the response action. On-site response actions must comply, to the extent practicable, with substantive but not administrative requirements of ARARs. Off-site activities such as transportation and disposal of wastes are required to comply with all applicable requirements, including the administrative portions.

Depending upon results of further investigation of the Site, additional ARARs may be applicable. The EPA On-Scene Coordinator is in communication with the State to develop an approach consistent with all ARARs as practicable.

As provided in CERCLA Section 121(d)(3) and the Off-site Rule at 40 C.F.R. 300.440 *et seq.*, the off-site transfer of any hazardous substance, pollutant or contaminant generated during the response action will be sent to a treatment, storage or disposal facility that is in compliance with applicable federal and state laws and has been approved by the EPA for acceptance of CERCLA waste.

5. Project schedule

Removal activities are ongoing. Based on the current progress and the number of identified properties, it is expected that this removal will exceed the statutory

12-month limit on removal actions.

B. Estimated Costs

<u>Extramural Costs:</u>	<u>Current Ceiling</u>	<u>Proposed Ceiling</u>
<u>Regional Allowance Costs:</u>		
ERRS	\$ 1,516,520	\$ 4,100,000
START	\$ 133,361	\$ 1,300,000
<u>Subtotal, Extramural Costs:</u>	\$ 1,649,881	\$ 5,400,000
10% Contingency	\$ 164,988	\$ 540,000
TOTAL EXTRAMURAL COSTS:	\$ 1,814,869	\$ 5,940,000

VII. EXPECTED CHANGE IN THE SITUATION SHOULD ACTION BE DELAYED OR NOT TAKEN

If this response action is significantly delayed or not taken, ongoing exposure of the public will continue.

VIII. OUTSTANDING POLICY ISSUES

No outstanding policy issues have been determined at this time.

IX. ENFORCEMENT

Enforcement activities have been initiated and are ongoing. See Attachment, "Enforcement Sensitive," for more detailed information.

The total EPA costs for this removal action based on full-cost accounting practices that will be eligible for cost recovery are estimated to be **\$10,387,917** using the following formula¹:

Direct Costs	Total Extramural Costs	\$	5,940,000
	+ Total Intramural Costs	\$	103,000
	Total Direct Costs	\$	6,043,000
+ Indirect Costs	+ 71.19%	\$	4,344,917
	Total EPA Costs	\$	10,387,917

X. RECOMMENDATION

This decision document represents the selected removal action for the Westside Lead Site in Atlanta, Fulton County, Georgia, developed in accordance with CERCLA as amended, and not inconsistent with the NCP. The document is based on the administrative record for the Site.

¹ Direct cost include direct extramural costs and direct intramural costs. Indirect costs are calculated based on an estimated indirect cost rate expressed as a percentage of site-specific direct costs, consistent with the full cost accounting methodology effective October 2, 2000. These estimates do not include pre-judgment interest, do not consider other enforcement costs, including Department of Justice costs, and may be adjusted during the course of a removal action. The estimates are for illustrative purposes only and their use is not intended to create any rights for responsible parties. Neither the lack of a total cost estimate nor deviation of actual total costs from this estimate will affect the United States' right to cost recovery.

Conditions at the Site meet the NCP Section 300.415 (b)(2) criteria for a time-critical removal action. This time-critical removal action is anticipated to be fund-lead with a total project ceiling of **\$5,940,000** funded through the Regional Removal Allowance.

APPROVED: _____ DATE: _____
Carol J. Monell, Director
Superfund & Emergency Management Division

DISAPPROVED: _____ DATE: _____
Carol J. Monell, Director
Superfund & Emergency Management Division

Attachments:

1. Enforcement Addendum
2. Action Memorandum dated 11/4/19