RfR Determinations: Applicability, Limitations, and IC Considerations

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Site Applicability

- All or a portion of a Superfund site
  - Proposed and final NPL sites
  - NTC removal action sites
  - Superfund Alternative Sites
- Sites with restricted and unrestricted uses
- No requirement to issue RfR determinations

The LCP Chemical RfR Determination was for Quadrant 1 on Operable Unit (OU) 3 of the Site. The two parcels covered by the RfR Determination were 38 acres of the 813-acre site. Today, the site supports a jail.
Superfund RfR Determinations: Anecdotal Benefits

• Improves local economic opportunities

• Protects human health, the environment, and the remedy

• May increase property values
RfR Determination Limitations

• Not a legal document
• Not a certificate
• Site must meet CERCLA standards of protectiveness
• Creates no rights or obligations
• Cannot relay new information about the site – everything needed to draft an RfR Determination must be available as part of the site’s administrative record
When Can a Site Receive an RfR Determination?

- Site meets CERCLA standards of protectiveness
- Pre-ROD
- ROD or Action Memo stage
- After a site is remediated

The Harris Corp. RfR Determination was written at the same time as the Five Year Review.
Rules for Institutional Controls

• Questions to Ask:
  • Are institutional controls in place?
    • If yes...
    • If no...
  • Is HQ/OSRE concurrence required?

RfR determinations do not supersede or modify easements, restrictions, or institutional controls.
Preparing an RfR Determination

- EPA role (RPMs, OSCs, PADs)
- Role of States, Tribes, and local governments
- Role of landowner(s)
- Public notice requirements
Preparation Considerations

• Landowners and PRPs should NOT prepare RfR determinations
• RfR determinations should maintain a consistent look and feel to promote national consistency
• Templates for the cover sheets are available from HQ
• Be sure your regional attorney is onboard and has a chance to review!
• Some contractor support available

Visit the website at:
https://www.epa.gov/superfund-redevelopment-initiative/ready-reuse-rfr-determinations
Example: Arlington Blending & Packaging

The site before:

• A former pesticide formulation and packaging plant

In 2004, EPA issued a Ready for Reuse Determination for the site to reassure Arlington residents and officials of the site’s compatibility as a future park.
Arlington Blending & Packaging - Important Considerations

• Written with minimal resources by making use of a recently completed Five Year Review

• Included a County groundwater restriction as part of RfR Determination to reinforce the institutional control

• Used in conjunction with a comfort letter, which addressed liability concerns of the local government
Example: Arlington Blending & Packaging

The site now:

• A beautiful community park that revitalized the surrounding neighborhood

“Without the Ready for Reuse Determination, there is no way we could have ever convinced the board and people that here’s a property that was once a Superfund site, and we’re going to put it to use. It enhanced the aesthetics of the community, upgraded the property value of the surrounding properties, and makes a better experience for the people and children in the area.”

— Ed Haley, Arlington Superintendent