

Response to EPA Comments on the
25 Site Focused Feasibility Study
Picatinny Arsenal, New Jersey
June 5, 2008

Comment 1. Executive Summary, seventh paragraph, page ES-1 –

Comment: The next to last sentence in this paragraph states: “As an administrative action, land use controls (LUCs) will be put in place to document the risk assessment assumptions.” EPA disagrees with the use of the term “administrative action” in regards to land use controls at CERCLA operable units. See Comment 12 below.

Response: The comment refers to a group of four sites in this FS for which no CERCLA action is required. At these four sites the Army is proposing to take an action (Land Use Controls) as an administrative measure.

Actions under CERCLA are taken as a result of unacceptable risk. In completing the RI/FS for these sites, the Army has performed risk assessments which calculate excess cancer risk and hazard to humans that are either currently exposed to these sites or have a reasonable anticipation of being exposed to the environmental media at these sites. The current and reasonably anticipated land use at these sites is industrial. The risk assessments for these four sites did not indicate unacceptable risk or hazard. Therefore no CERCLA remedial action is necessary. Thus, according to the baseline risk assessment, current industrial land use is protective. No action is required under CERCLA.

The Army has agreed to use USEPA Region 9 Residential PRGs as comparison criteria for making no further action decisions (in the absence of a residential risk assessment). The Army and the USEPA have agreed that if there are no exceedances of Region 9 PRGs, a site requires no further action. Comparison of the soils data for these four sites to Region 9 PRGs did identify some exceedance conditions. Therefore, the Army has agreed to maintain Land Use Controls to ensure the current protective land use continues, and that unrestricted land use, which may result in unacceptable risk, does not take place. The Army cannot call this action a CERCLA action because it was not triggered by any legal driver. However, the Army is committed to documenting this administrative action in a ROD and maintaining these land use controls until they are no longer needed. If conditions ever changed such that cessation of Land Use Controls could happen, this would be documented in the five year review and the USEPA and NJDEP would be notified prior to cessation taking place.

This administrative action will be protective of human health and the EPA will be continually updated on the protectiveness of the Land Use Control remedy through the five-year review process. If the USEPA does not agree with the selection of this action the Army believes that it may be necessary to elevate this matter through the formal dispute resolution process.

Comment 2. Section 3.1, Allowable Exposure Based on Risk Assessment (Including ARARs), page 3-1 –

Comment: The last two sentences of this section refer to the fact that there are no promulgated standards for soil. This statement is no longer true as New Jersey promulgated soil cleanup standards on June 2, 2008. EPA requests that these sentences be revised accordingly.

Response: Agreed. The text will be revised accordingly.

Comment 3. Table 3-1, Surface and Subsurface Soil Chemical-Specific TBCs, page 3-3 –

Comment: Per Comment 2, New Jersey has promulgated soil cleanup standards for soil. EPA requests that this table be revised to reflect this. Please note that the actual soil cleanup standards have changed.

Response: **Agreed. The table will be revised accordingly.**

Comment 4. Table 3-2, TBCs for Surface Soil (mg/kg), page 3-4 –

Comment: New Jersey has promulgated cleanup standards for soil. EPA requests that this table be revised to reflect this. Please note that the actual soil cleanup standards have changed.

Response: **Agreed. The table will be revised accordingly.**

Comment 5. Table 3-3, TBCs for Surface Soil (mg/kg), page 3-4 –

Comment: New Jersey has promulgated cleanup standards for soil. EPA requests that this table be revised to the extent that NJ non-residential direct contact cleanup criteria are used for sediment levels of concern. Please note that the actual soil cleanup standards have changed.

Response: **Due to inconsistent references the EPA's comment is unclear, however; Table 3-3, TBCs for Subsurface Soil, on page 3-5 will be revised to reflect NJ soil cleanup standards promulgated on June 2, 2008. Please note that Table 3-4 will reference the promulgated NJ soil criteria as TBC for sediment.**

Comment 6. Section 3.1.3.2, Sediments, Federal, State and "other" Sediment TBCs, New Jersey Cleanup Criteria, (nonresidential), ninth paragraph, page 3-8 –

Comment: This paragraph indicates that the NJ SCC have not been promulgated. This is incorrect. EPA requests that this paragraph be revised accordingly.

Response: **Agreed. The paragraph will be revised to reference the promulgated NJ soil standards as TBC for sediment.**

Comment 7. Table 3-10, Human Health Risk-Driver Constituents in Surface Soil, page 3-22 –

Comment: EPA requests that this table be revised to reflect the newly promulgated New Jersey soil cleanup criteria.

Response: **Agreed.**

Comment 8. Table 3-11, Surface Soil COCs and SCLs, page 3-23 –

Comment: EPA requests that this table be revised to reflect the newly promulgated New Jersey soil cleanup criteria.

Response: **Agreed.**

Comment 9. Table 3-12, Human Health Risk-Driver Constituents in Subsurface Soil, page 3-24 -

Comment: New Jersey has promulgated cleanup standards for soil. EPA requests that this table be revised to the extent that NJ non-residential direct contact cleanup criteria are used for sediment levels of concern. Please note that the actual soil cleanup standards have changed.

Response: **Table 3-12 will be revised to reference the promulgated NJ soil cleanup standards. There are no references to sediment LOCs in Table 3-12.**

Comment 10. Table 3-13, Groundwater Constituents above LOCs, page 3-25 –

Comment: It should be noted that the exposure pathways at a particular site should be summed to determine the cumulative site risk (Risk Assessment Guidance for Superfund). If there are risks posed by multiple exposure pathways at a site, such as groundwater and surface soil, they should be added together. Therefore, EPA requests that risk assessments for 25 Site FS be adjusted to account for risk levels posed by groundwater.

Response: **As stated in the feasibility study, this document addresses surface soil and subsurface soil for the subject sites. Groundwater is being addressed as part of separate operable units. All of the sites in the “25 Sites FS” are located in Area D or within the Mid-Valley groundwater operable unit. Groundwater risk assessments have been performed for Area D and for the Mid-Valley unit. Excess cancer risk from potential groundwater exposure was calculated to be greater than 1×10^{-4} for Area D and Mid-Valley. In the case of Area D a final groundwater remedy has been implemented. In the case of the Mid-Valley a final remedy is being selected in that feasibility study. Adding the risk from exposure to soil would not change the path forward for the sites in the 25 Sites FS.**

Comment 11. Table 3-16, page 3-33 -

Comment: New Jersey has promulgated cleanup standards for soil. EPA requests that this table be revised to the extent that NJ non-residential direct contact cleanup criteria are used for sediment levels of concern. Please note that the actual soil cleanup standards have changed.

Response: **Table 3-16 will be revised to reference the promulgated NJ soil cleanup standards. There are no references to sediment LOCs in Table 3-12.**

Comment 12. Section 3.4, Administrative Action Objectives, page 3-43 –

Comment: a. Although land use controls (LUCs) by definition consist of administrative actions, they are still considered a component of a remedy when they are utilized at a CERCLA site. In fact, the NCP refers to institutional controls as “a component of a completed remedy” and cautions against their use “as the sole remedy unless such active measures are determined not to be practicable”(40 CFR 300.430(a)(1)(iii)(D)). In addition, EPA does not agree with the conclusion that “no CERCLA action will be undertaken” at CERCLA operable units where land use controls are implemented to address contamination. Therefore, EPA requests that this section be revised accordingly.

b. New Jersey has promulgated soil cleanup criteria and therefore references to the Geis memorandum are no longer valid. The NJ criteria are considered ARARs and must be met by all remedies proposed for soil.

Response: **a. Please refer to the response to Comment 1.**

b. Agreed. The promulgated NJ soil cleanup standards will be identified as ARARs for all sites in which an unacceptable risk is present.

Comment 13. Section 4.4.1.1, Evaluation of Screening Criteria, Compliance with ARARs, page 4-6

Comment: This section indicates that there are not promulgated standards for soils. EPA requests that this language be revised to reflect the newly promulgated soil cleanup standards by the state of New Jersey.

Response: **Agreed.**