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ENVIRONMENTAL QUALITY

PUBLIC PARTICIPATION REQUIREMENTS FOR DEFENSE ENVIRONMENTAL RESTORATION PROGRAM

ENGINEER PAMPHLET

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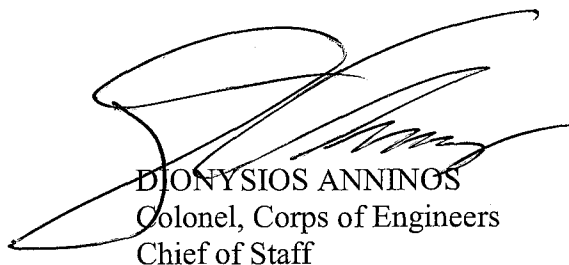
30 September 2011

Environmental Quality
PUBLIC PARTICIPATION REQUIREMENTS FOR
DEFENSE ENVIRONMENTAL RESTORATION PROGRAM

1. Purpose. This pamphlet provides U.S. Army Corps of Engineers (USACE) personnel with information on public participation activities required during CERCLA actions, such as Military Munitions Response Program (MMRP) and Hazardous, Toxic, and Radioactive (HTRW) Response Actions.
2. Applicability. This pamphlet applies to all Headquarters, U.S. Army Corps of Engineers (HQUSACE) elements and all USACE commands having responsibility for response actions.
3. Distribution Statement. Approved for public release; distribution is unlimited.
4. References. References are in Appendix A.
5. Explanations of Abbreviations and Terms. Abbreviations/acronyms used in this pamphlet are explained in the Glossary.

FOR THE COMMANDER:

17 Appendices
(see Table of Contents)



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DEFENSE ENVIRONMENTAL RESTORATION PROGRAM

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CHAPTER 1

General

1-1. Purpose. This Engineer Pamphlet (EP) provides USACE personnel with information on public participation activities required during CERCLA Response Actions. These actions may include MMRP or HTRW response actions.

1-2. Applicability. This pamphlet applies to all HQUSACE elements and all USACE commands having responsibility for MMRP or HTRW response actions. Certain administrative requirements and organizational responsibilities as defined in this pamphlet for Formerly Used Defense Site (FUDS) projects, may be different when conducting response actions for other than USACE customers. Public participation activities will be conducted in accordance with this pamphlet and customer requirements.

1-3. Distribution Statement. Approved for public release; distribution is unlimited.

1-4. References. References are in Appendix A.

1-5. Background.

a. The primary goal of USACE environmental restoration actions is to protect human health and the environment from the hazards associated with Unexploded Ordnance (UXO), Discarded Military Munitions (DMM), and from risk associated with Munitions Constituents (MC) and CERCLA hazardous substances, pollutants, and contaminants. USACE response actions shall be conducted in accordance with the Defense Environmental Restoration Program (DERP) (Title 10 United States Code [USC] §2701); CERCLA (42 USC §9601 et seq.); Executive Order 12580 (as amended), Superfund Implementation [January 23, 1997]); and the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) (40 Code of Federal Regulations [CFR] Part 300.

b. The statutory authorities and regulatory authorities discussed below provide the basis for community relations during response activities.

(1) CERCLA, passed by Congress in 1980, authorizes the government to respond directly to releases, or threatened releases, of hazardous substances that may endanger public health, welfare or the environment. In 1986, Congress amended CERCLA by enacting the Superfund Amendment and Reauthorization Act (SARA). SARA called for increased public participation during all phases of response actions and required the establishment of information repositories and Administrative Records for each remedial or removal response action.

(2) SARA established DERP under 10 USC 2701 et seq. Under DERP, the Department of Defense (DoD) issued policy for implementation of community relations activities at active installations and Formerly Used Defense Site (FUDS) properties, including the

establishment of Restoration Advisory Boards (RABs) to review and comment on environmental restoration activities being conducted at military installations and FUDS properties. In 1996, Congress authorized DoD to obtain technical assistance to help RAB members and Technical Review Committees (TRCs) better understand the scientific and engineering issues underlying environmental restoration activities. In response to this authority, DoD finalized the Technical Assistance for Public Participation (TAPP) program; thereby, providing an avenue for community members of RABs to obtain technical assistance.

(3) The National Oil and Hazardous Substances Pollution Contingency Plan (NCP) is the Environmental Protection Agency's (EPA) regulation that implements CERCLA. The NCP provides detailed requirements for community involvement in all phases of environmental response actions. Regulatory requirements for community relations are contained in the NCP, depending on what type of action is being taken. See 40 CFR 300.430(c) and 430(f)(3) for remedial actions, and 40 CFR 300.415(n) for removal actions. Further, the NCP provides procedures and requirements for establishing and maintaining the Administrative Record for remedial and removal actions in 40 CFR 300.800-8250.

(4) The Resource Conservation and Recovery Act (RCRA), passed in 1976, established a state-run regulatory system to track hazardous waste from generation to disposal. In accordance with RCRA, permits are required for hazardous waste treatment, storage and disposal facilities. Public involvement activities are associated with obtaining and renewing those permits to operate facilities. RCRA community relations requirements apply to sites undergoing RCRA corrective action versus a CERCLA cleanup and as such do not apply at FUDS properties. However, RCRA public relations requirements may apply to sites at active or BRAC installations. Specific RCRA requirements are not addressed in this pamphlet.

(5) Restoration Advisory Board Rule. The RAB Rule was published in 32 CFR Part 202. The RAB Rule addresses the establishment, characteristics, composition, funding, operation, adjournment, and dissolution of a RAB. The requirements of the RAB Rule and the DoD RAB Rule Handbook, published March 2007, are discussed in Chapter 3 of this pamphlet.

1-6. Responsibilities. USACE responsibilities for community relations activities are as follows:

a. Office of Public Affairs, HQUSACE.

(1) Coordinates or approves media responses or visits concerning response actions that have national significance.

(2) Coordinates public affairs issues with appropriate elements, to include the U.S. Army Environmental Center (USAEC); major Army and other Services commands; Office

of Public Affairs, Headquarters, Department of the Army (HQDA); and Congressional delegations, regarding response actions, as needed.

(3) Provides public affairs guidance and advice to district and division public affairs offices working with the FUDS program.

(4) Provides public involvement and risk communication training as appropriate.

b. Public Affairs Office (PAO), U.S. Army Engineering and Support Center, Huntsville (USAESCH).

(1) Provides public affairs guidance to USACE Division Commands and District PAOs concerning response actions, as requested.

(2) Prepares or provides input to programmatic plans, fact sheets, and news releases concerning MMRP and HTRW issues, response actions, and policy as requested.

(3) Provides public affairs support in the field of MMRP Site Inspections (SI) and response actions to USACE Divisions and Districts at their request and as appropriate resources permit.

(4) Coordinates with lead District PAO for any news or public queries and visit requests concerning MMRP and HTRW projects.

c. Environmental and Munitions Center of Expertise (EM CX), USAESCH. The EM CX is the USACE Center of Expertise (CX) for MMRP and HTRW projects. The EM CX provides general support to Military Munitions Design Centers, Remedial Action Districts, and PM Districts. To accomplish this, the EM CX has dedicated personnel available for telephonic or written inquiries from Military Munitions Design Centers, Districts, Divisions, or HQUSACE regarding regulatory issues, safety issues and technical information for MMRP and HTRW projects. As needed, the EM CX supports the District's execution of its responsibility for public affairs and interface support for EPA, tribal governments, state and local regulatory agencies, and the community. For a complete discussion on the roles and responsibilities of the EM CX, refer to Engineer Regulation (ER) 1110-1-8153, Military Munitions Support Services.

d. Military Munitions Design Centers. The Military Munitions Design Centers support the Districts on all MMRP projects. The Centers will designate a point of contact (POC) for each project. The POC will coordinate all project activities with the project manager (PM). The POC will also perform the following:

(1) Provide project updates to relevant Design Center PAO.

(2) Provide technical support to briefings and public meetings.

(3) Act as a representative of the relevant Design Center at RABs and other community relations activities.

(4) Prepare or provide input to programmatic plans, fact sheets, and news releases concerning MMRP and HTRW issues, response actions, and policy as requested and in coordination with the USAESCH PAO.

(5) Provide, in coordination with the USAESCH PAO, public affairs support in the field of MMRP SIs and response actions to USACE Division and District commands at their requests and as appropriate resources permit.

(6) Support the PM District in the development of appropriate Community Relations Plans (CRPs), as requested.

e. PAO, PM District, USACE.

(1) Serves as the primary POC for dissemination of information to the public and the media with respect to MMRP and HTRW projects.

(2) Keeps all affected USACE and HQUSACE elements informed of anticipated or ongoing activity at MMRP and HTRW projects that could result in public inquiry.

(3) Provides public affairs guidance and expertise to support the public involvement program for all phases of a response action by serving as a member of the Project Delivery Team (PDT).

(4) Produces public statements and media releases for use at major milestone achievements during work progress for the response action.

(5) Refers all information of national significance to the PAO, HQUSACE, for release through proper channels.

(6) Serves as the spokesperson and community POC who responds to news media and public queries by using statements coordinated with the PM District PAO and the Military Munitions Design Center, or statements from previously approved documents, as appropriate.

(7) Plans and coordinates with the PM District PAO and the Military Munitions Design Center PAO, as appropriate, for support of public briefings, speeches, tours, open houses, news media requests, and visits pertaining to the project(s).

(8) Provides the PM District, the PM District PAO, and the USAESCH PAO, as appropriate, with copies of all released information and copies of pertinent print and electronic news clippings.

(9) Modifies the CRP to indicate the formation of the RAB and assists the PM District in the implementation of RAB policies and procedures with respect to projects where the PM District has established a RAB.

f. PM, USACE District. The PM, in coordination with the District PAO, is responsible for all community relations activities at MMRP and HTRW projects when such

responsibility is delegated by the relevant Division Commander. The PM District performs the following activities:

- (1) Provides funding for the public involvement program.
- (2) Establishes and maintains information repositories.
- (3) Provides project updates and information to the District PAO.
- (4) Accomplishes all coordination requirements to support the public involvement program. Contractors may be used to develop plans, arrange and advertise meetings, facilitate RABs, prepare news releases and procedures for approval, and conduct interviews. Contractors may not act as spokespersons for USACE.
- (5) Establishes and maintains the Administrative Record for each MMRP and HTRW project within his or her geographic area of responsibility.
- (6) Prepares the CRP when applicable (See paragraph 2-5 for a statement of when CRPs are required).
- (7) Establishes a RAB when appropriate and oversees all operations of the RAB. If a RAB is not established, the PM District will document the circumstances which made the establishment of a RAB inappropriate.
- (8) Prepares a summary of community relations activities following completion of various phases of the removal and remedial response action to evaluate their effectiveness and identify areas for improvement.
- (9) Develops and maintains positive community relations.
- (10) Develops and manages community relations initiatives and activities, as defined in the CRP, during removal and response actions within the geographic boundaries.
- (11) Administers community relations contracts.
- (12) Promotes the USACE programs regionally and locally.
- (13) Develops memorandums of agreement in coordination with the Division Commander and the EM CX.
- (14) Ensures that all documents released to the public for formal 30-day review and comment (e.g., Remedial Investigation/Feasibility Study [RI/FS], Proposed Plan, Record of Decision [ROD], and Engineering Evaluation/Cost Analysis [EE/CA] are in draft-final form (i.e., appropriate USACE entities have reviewed the draft document, comments have been resolved, and the draft document has been revised to produce the draft-final document for formal public and regulatory review).
- (15) Makes the determination of eligibility/Preliminary Assessment (PA), SI, and RI reports available in the information repository after appropriate USACE and regulatory reviews.

(16) Makes all final technical reports relating to MMRP and HTRW projects, which are not subject to a legal privilege, available to the public in the Information Repository/Administrative Record. The Office of Counsel will be consulted concerning such release.

(17) Ensures that a CRP has been developed for all MMRP properties at the conclusion of the SI phase, with the exception of time critical removal actions expected to extend beyond 120 days. See Paragraph 2-5b (1) (a) for preparation of a CRP on TRC projects.

(18) Ensures that implementation, review, and updating of CRPs are in accordance with the NCP.

(19) Ensures that the public involvement program meets the regulatory coordination requirements set forth in ER 200-3-1, Chapter 9.

(20) For FUDS properties, ensures that public notification and involvement requirements for the Munitions Response Site Prioritization Protocol (MRSPP) are performed.

(21) Ensures that the RAB, if one has been established for the project, is represented on the project delivery team during the technical planning process.

(22) Prepares decision documents (DDs) (i.e., ROD/DD or Action Memorandum), obtains District Commander's signature, publishes a notice of the final decision in the local newspaper of general circulation, and updates the information repository and Administrative Record by including the notice, the DD, and materials that support issuance of the DD.

g. Potentially Responsible Party (PRP) District. See ER 200-3-1, Chapter 5, for information on properties involving PRP/Third Party Sites projects.

1-7. Terminology. CRP is the current terminology for a plan formerly referred to as a Public Involvement Plan, Community Involvement Plan, or Public Participation Plan by USACE. To remain consistent with EPA equivalent plans, the term "community relations" has been retained by USACE.

CHAPTER 2

Public Involvement Programs

2-1. Introduction.

a. Public involvement programs are an integral part of the MMRP and HTRW response process. These programs provide the opportunity for dialogue between the USACE and the local groups and individuals interested, affected, and perceived to be affected by investigations or actions conducted at a site. Public involvement programs may also be part of the selected response action.

b. The following public involvement activities will be discussed in this chapter: holding public meetings; contacting local officials and news media; conducting community interviews; developing a CRP; establishing an Administrative Record; requesting rights-of-entry; gathering information to complete the MRSPP; providing specific information on Chemical Warfare Materiel (CWM); and maintaining Congressional Relations. Other key components of the public involvement program, RABs and the Administrative Record, will be discussed in Chapter 3 and 4, respectively. Although the USACE Technical Project Planning (TPP) process is oriented toward successful design of the technical elements of an environmental project, it can also serve as a strong foundation for the project's Community Relations Plan. The TPP process is ideally implemented as early as possible in a project and solicits active participation from key stakeholders. Both of these characteristics are also key elements of a successful public involvement program. Planning and execution of a successful TPP workshop will often serve as a natural springboard into a public involvement program. Details for conducting TPP can be found in EM 200-1-2, Technical Project Planning (TPP) Process, and EM CX Interim Guidance Document IGD 01-02, Implementation of Technical Project Planning (TPP) for Ordnance and Explosives (OE) FUDS Projects.

c. USACE has developed a FUDS Program Public Involvement Toolkit to provide guidance for developing and conducting public affairs activities. The Toolkit includes methods, examples, and information related to public involvement. It also provides tools to ensure the dissemination of accurate, consistent, and timely information to the public. The Toolkit may be obtained from the District PAO. The U.S. Army has also developed a Public Involvement Toolbox that may be found at <http://www.asaie.army.mil/Public/IE/Toolbox/default.html>. Another reference document is EPA 540-K-05-002: the Superfund Community Involvement Toolkit.

2-2. Stakeholders.

- a. Stakeholders that are key participants in public involvement programs may include:
- (1) Residents of areas containing UXO, DMM, MC, or HTRW.
 - (2) Users of a property containing UXO, DMM, MC, or HTRW.

(3) Business persons affected by a property containing UXO, DMM, MC, or HTRW.

(4) Officials whose political or technical responsibilities and/or jurisdictions include a property containing UXO, DMM, MC, or HTRW. Examples include local governments, the Bureau of Land Management, U.S. Fish and Wildlife Service, and U.S. Forest Service.

(5) Native American tribal governments and Native Alaskan representatives dealing with UXO, DMM, MC, and HTRW issues.

(6) State and Federal regulators.

(7) USACE personnel and contractors.

b. Other persons whose interests include the safety, environmental, and economic issues associated with a property containing UXO, DMM, MC, or HTRW. These individuals may include special interest and stakeholder groups.

2-3. Goals of Public Involvement Programs. The goals of the Public Involvement Program include:

a. Ensure that stakeholders understand that personal, environmental, and property safety is the paramount concern during response actions.

b. Serve the community's information needs by keeping local residents, officials, and other stakeholders informed in a timely manner of response actions and public involvement activities.

c. Actively solicit the community's input and collaboration in planning, designing, and executing the project.

d. Provide local residents, officials, and other stakeholders an opportunity to review and comment on studies being conducted, and on proposed remedial or removal response alternatives or decisions.

e. Encourage and enable the public to get involved.

f. Identify and deal responsively with public concerns.

g. Foster and maintain a climate of understanding and trust between stakeholders and USACE by explaining to stakeholders how USACE considered their comments, what USACE plans to do, and why USACE reached its decisions.

2-4. Requirements for a Public Involvement Program.

a. A public involvement program must be tailored to the distinctive needs of each property and community. However, there are some public involvement activities that must be performed, at a minimum, during each phase of the response action.

b. ER 200-3-1, Chapter 8, Tables 8-1 and 8-2, illustrate the recommended and desirable public participation activities that should occur during removal and remedial response actions applicable to FUDS properties.

2-5. Community Relations Plan.

a. Purpose of the CRP.

(1) The CRP provides a method for USACE to communicate with the local community during response actions. Through the CRP, the USACE addresses stakeholder/community concerns and expectations for a project.

(2) The CRP documents concerns identified during community interviews. It provides a detailed description of the public involvement activities planned on the basis of these interviews. The CRP should focus on public involvement techniques and approaches to the project-specific property.

(3) The best CRPs are those that generally convey a working knowledge of the local community and its concerns, while providing a framework for addressing community concerns during the remedial or removal response.

(4) The PM District, in coordination with the PAO, should revise and update the document as changes occur at the property. As a project progresses, the CRP should be updated to ensure that accurate and timely information is distributed to the public; provide additional opportunities for public interaction; and strengthen the relationship between the district and the local community.

b. Preparation of the CRP.

(1) The NCP requires a CRP for all CERCLA remedial response actions according to 40 CFR Part 300.430(c). A CRP is also required for all removal actions expected to extend beyond 120 days per 40 CFR Part 300.415(n).

(a) For time-critical removal actions expected to extend beyond 120 days, the CRP will be required no later than 120 days following the start of the on-site removal response action. The CRP for time-critical removal response actions will specify the public involvement activities that USACE expects to undertake during the response action.

(b) For all non-time-critical removal actions, an initial CRP may be prepared at the conclusion of the SI phase to ensure maximum public participation in the environmental restoration decision-making process.

(c) For remedial actions, the CRP should address interim periods and the projected schedule for initiating the RI.

(2) While RCRA requires community relations during permitting activities, there is no requirement in which a "Public Participation Plan" must be developed. RCRA does provide

directions on developing a Public Participation Plan in the RCRA Public Participation Manual, Chapter Five, Public Participation Activities: How to Do Them. This document is available at: <http://www.epa.gov/waste/hazard/tsd/permit/pubpart/manual.htm>.

(3) USACE follows the EPA guidance for preparing the CRP. EPA references include EPA 540-K-05-003, Superfund Community Involvement Handbook, April 2005 and EPA 540-K-05-002, Superfund Community Involvement Toolkit, April 2005. These documents are available at <http://www.epa.gov/superfund/>.

c. Initial CRP. The initial CRP is prepared at the end of the SI phase of non-time-critical removal actions or remedial response actions. The initial CRP will provide a brief history, discuss SI findings, and indicate potential response actions. Since the CRP will be revised throughout the environmental restoration process, as appropriate, the initial CRP does not need to be elaborate. It must, however, be sufficiently detailed to ensure informed public participation in the environmental restoration decision-making process. This is especially important with respect to determinations of No Further Action or No DoD Action Indicated (NDAI) (for FUDS properties).

(1) For remedial response actions, the initial CRP will be revised before the RI/FS phase begins. It will outline public involvement activities to be held during the RI/FS.

(2) For removal response actions, the initial CRP will be revised before the EE/CA is initiated. It will outline public involvement activities that are required during the remedial or removal design and subsequent response actions (i.e., the preparation of a fact sheet after the engineering design is complete). In order to identify additional activities during remedial or removal design and cleanup, the revised CRP will be updated before the remedial or removal design phase begins.

2-6. Format of the Community Relations Plan. The format of the CRP can vary to reflect the unique characteristics of a specific public involvement program. For sample CRPs, see the FUDS Program Public Involvement Toolkit. The following sections, at a minimum, are recommended:

a. Section 1: Overview of the Community Relations Plan. This section generally consists of two brief paragraphs. The first paragraph states USACE purpose for developing the CRP and affirms that USACE will use the community involvement activities outlined in the plan to ensure that the community is continuously informed about and provided opportunities to be involved in the environmental restoration process at the property. The second paragraph indicates the coverage of each section and the appendices of the CRP, notes what sources USACE drew upon in developing the plan, and states that the USACE district will oversee the implementation of the community involvement activities outlined in the plan.

b. Section 2: Site Description and History. This section should describe the basic historical, geographical and technical details to allow readers and users of the CRP to

understand why the remedial or removal response action is being executed. This section should include the following information:

(1) Property History. Specific topics to be included in this discussion are as follows:

(a) Detailed chronological history of the property use and ownership relevant to the problem at hand.

(b) Contaminants or explosives safety hazards produced by or found at the property.

(c) When and why USACE became involved.

(d) Community reaction to the problem.

(2) Property Description/Location. Specific topics to be included in this discussion are as follows:

(a) Geographical location, size and surroundings of the property.

(b) Property in relationship to homes, businesses, schools, playgrounds, lakes, streams/rivers, wetlands, parks, health facilities, and wildlife species/sensitive ecological areas.

(c) Maps showing the location of the property within the state/region and community, the proximity to the property to the elements of concern indicated in (b) above, and the property, itself, should be included.

(3) Property Inspections and Cleanup Activities. Specific topics to be included in this discussion area as follows:

(a) Type of contaminants or explosives safety hazards present.

(b) Nature of threat and potential threat to public health, safety and the environment, if known.

(c) History of inspections and studies conducted at the property.

(d) Lead agency responsible for the property.

c. Section 3: Community Background. This section contains the following information:

(1) Community Profile describes the community (setting, population/growth, minorities, businesses, etc.) and analyzes key local issues and interests, including the need for translation services.

(2) History of Community Involvement identifies how the community has reacted to the property in the past. Address the following questions: What actions, if any, has the public taken to resolve problems at the property? How did the public view previous response actions at the property? How does the public perceive various levels of the government's

involvement at the property? Are Public Response Plans associated with the property or past operations at the property?

(3) Key Community Concerns analyzes the major public concerns regarding the property, as well as the actions proposed to deal with those concerns. Focus should be on community perceptions of the events and problems at the property, not on the technical history of the site. This section will contain much of the information obtained during the community interviews.

(4) Response to Community Concerns discusses any community involvement activities the Corps undertook in direct response to community concerns before the CRP was prepared.

(5) Summary of Communication Needs briefly summarizes communication needs and desires as identified by the community members interviewed.

d. Section 4: Public Involvement Program. This section begins with a brief introductory narrative which states the overall goal of USACE's CRP, affirms that USACE will implement the community involvement activities to be discussed, notes that the following plan is based on the community interviews and addresses each issue that was identified as being important to the community. The remainder of the section consists of two parts, as follows:

(1) The Plan. The Plan addresses each issue that was identified during the community interviews. The issue is stated first, then the activity (or activities) intended to address the issue is presented. That is followed by the objective of the activity and how and when the objective will be achieved.

(2) Projected schedules for community involvement activities. This includes a timeframe summary of the community involvement activities to be performed. Present this information in a tabular format or matrix that relates the finding of public involvement activities to technical and other milestones for the property.

e. Section 5: References. This section lists all sources used to develop the CRP.

f. Appendix A: Community Survey. This appendix contains a sample of the community survey questionnaire and all completed surveys received.

g. Appendix B: Media List. This appendix provides a list of local media including the type of media, contact name, address, e-mail address, phone and fax numbers, Web site and deadlines.

h. Appendix C: Potential Meeting Locations. This appendix contains a list of all locations that can be used for public meetings.

i. Appendix D: Public Involvement Tools. This appendix contains samples of a news release, public service announcement, flier, newspaper ad, letters of invitation and fact sheets.

j. Appendix E: Stakeholders List. This appendix contains a list of stakeholders affiliated with the site. Stakeholders include elected officials, media, civic organizations, public safety officials and community groups that are interested in the project.

2-7. Revision of the Community Relations Plan.

a. Description. All or parts of the fully developed CRP for response actions should be revised to incorporate new information, reflect changes in community concerns, or prepare for community activities during remedial or removal design and subsequent response actions.

b. Purpose. The CRP is revised to ensure that it remains sensitive to citizen's concerns throughout all phases of removal or remedial response actions and to evaluate which public involvement activities were effective and which were not.

c. Technique. A CRP initially discusses the findings of the SI and potential response actions. If the project will proceed beyond the SI phase, the CRP is revised to outline the public involvement program techniques for the RI/FS or EE/CA phase of the response action. Once the ROD/DD or Action Memorandum for a project is completed, it is appropriate to re-assess the nature and extent of community concerns and develop a new schedule of public involvement activities for the design and cleanup phases of the response action.

d. Accompanying Activities. The responsiveness summary will provide some information to assess the nature and extent of citizens' concerns after the RI/FS or EE/CA report has been reviewed by the public. Additional community interviews can provide further information for revising the CRP.

e. Limitations. The PM District should make certain that resources are available to implement all activities identified in the revised plan. The PM District should plan, budget, and program funding to include revision of the CRP.

2-8. Communication and Media Techniques. There are many public involvement activities available for use at MMRP and HTRW projects. Not all available activities are appropriate for use at every project. The following is a brief discussion of communication media and techniques typically employed at MMRP and HTRW projects:

a. Community Interviews. To identify the attitudes and concerns of area residents concerning the response activities during the study phase (including time-critical removal actions expected to extend beyond 120 days), community interviews will be conducted by representatives of USACE and contractors, where appropriate, with members of the public involvement program audiences. Appendix B of this pamphlet provides a sample list of questions for participants. Analysis of these interviews will form the basis for the fully developed CRP for the specific response action in question.

b. Fact Sheets.

(1) The fact sheet is a brief document written to help the local community understand highly technical topics, concepts, and information. The purpose of fact sheets is to provide site-related information to surrounding communities. Fact sheets provide summary information for a specific topic.

(2) Fact sheets are to be written in simple, easy-to-understand language, avoiding complicated scientific or engineering terms, jargon or acronyms that are difficult for the public and media to understand. A fact sheet contains essential information only. Fact sheets should be written in a short and understandable format, identifying key points. In a site-specific fact sheet, the community should be informed about the work to be done, planned work hours, and health and safety precautions.

(3) The fact sheet must contain a contact name, phone number and an e-mail address for more information. The finished product should be sent to everyone on the stakeholder mailing list.

(4) Additional information on the fact sheet may be found in the FUDS Program Public Involvement Toolkit and the Army Public Involvement Toolbox.

c. News Releases.

(1) A news release is issued when the media is needed to publicize something, such as a public meeting or an unexpected discovery/event. A news release is a formal announcement that there is news for the media to print or broadcast. A news release offers a newsworthy story in clear and simple text.

(2) News releases will be disseminated to local and regional news media and the information repositories upon an award of contract, upon initiation of work during the various phases of the project, and upon completion of project phases. This medium keeps the news media informed directly and supplements information directly disseminated to stakeholders.

(3) News releases are to be written in simple, easy to understand language—avoiding complicated scientific or engineering terms, acronyms, and jargon that are difficult for the media and public to understand. It contains the facts and does not contain opinions, suppositions or theories.

(4) The news release contains essential information only, (i.e., explains the who, what, when, where, why and how of a given topic).

(5) A news release on the project should be issued before any work begins, although not necessarily prior to information being provided to the community through fact sheets. Prior to dissemination, news releases must be reviewed by the appropriate personnel, which may include a legal review. Tribal and government officials (local, state and federal) whose communities and constituents may be affected by the action are also to be informed prior to the dissemination of information. Prior to issuing a news release, appropriate political

figures and regulators are to be informed or notified. Special consideration may also be necessary for sensitive stakeholders or stakeholders who may prefer avoiding media attention due to the interference it may cause with their businesses or organizations (for example, private and commercial business owners, universities, and Tribal Nations). The lead District PAO has releasing authority for all news releases.

(6) Additional information on the news release may be found in the FUDS Program Public Involvement Toolkit and the Army Public Involvement Toolbox.

d. Response to Queries. The District PAO will serve as the POC for direct calls from the public and news media seeking information on MMRP and HTRW projects within its areas of geographic responsibility.

e. Presentations to Groups.

(1) A presentation is useful in educating those attending the public meeting about the details of the project. Graphics and photos should be used when possible to make difficult concepts easier to understand and help make the presentation more interesting.

(2) The presentation should contain general information about the project site and a brief overview of the investigation and the actions intended for a particular site in language the public understands. The presentation should not contain complicated scientific or engineering terms, jargon, or acronyms that will confuse the audience. The presentation should not provide more information than necessary. The goal of the presentation is to educate the audience, not to raise unnecessary concerns or fear.

(3) For MMRP Projects, the group presentation should emphasize the steps to be taken upon discovery of a munition: the Three R's (Recognize, Retreat, and Report).

(4) Presentations should be reviewed and approved by public affairs, security, and counsel.

(5) Additional information on presentations may be found in the FUDS Program Public Involvement Toolkit and the Army Public Involvement Toolbox.

f. Special Briefings. When appropriate, special project briefings will be given by representatives from USACE to local officials or RABs. Such briefings will be coordinated by the District PAO, with logistical and technical support being provided by the district or the Design Center as appropriate on an as-needed basis.

g. Public Meetings.

(1) A public meeting is a forum open to the community and general public that is structured and formal in nature. The purpose of the meeting is to present information to the public and receive feedback from them. The goal of the meeting is to facilitate communication between the USACE and stakeholders.

(2) Public meetings are to be conducted in accordance with procedures specified in CERCLA, the NCP, DERP, and ER 200-3-1.

(3) Meetings should be held near the project and in an appropriate facility. Consideration should be given to the audience size, accessibility, and convenience of the location for the expected participants from the community. Proceedings of the meeting should be placed in the information repository in a timely fashion.

(4) A public meeting provides an opportunity to assess the level of community interest in the project. Public meetings allow for an unfiltered, consistent message to be delivered from an official source. Meetings also provide a means to determine the need for and best method of providing ongoing communication with a specified audience or the community at large. During the public meeting, participants should be notified of the existence of any RABs for the site.

(5) Detailed information on public meetings may be found in the FUDS Program Public Involvement Toolkit and the Army Public Involvement Toolbox.

h. Public Availability Session. The use of public availability sessions, which facilitate one-on-one communication, is highly desirable in situations where formally structured public meetings or hearings are not mandated. At these sessions, poster stations manned by subject matter experts who can answer questions and respond to concerns will normally be set up. Section 1, Public Meeting, of the FUDS Program Public Involvement Toolkit provides a recommended room set up for poster stations. Stations should include program information, site history, potential hazards, technologies, land use issues, alternatives for cleanup, and recommended actions. Participants should be notified during the session of the existence of RABs for the site.

i. Good Neighbor Program. Property owners, renters, and homeowners associations with lands adjacent to or on the project property will be included on the information mailing list as stakeholders. If sufficient interest exists within this group of stakeholders, as determined by the PM District and the District PAO, special briefings and tours may be arranged by the PM District. A visit and briefing would be designed to place the project into perspective and to ensure that the proper emphasis on safety to life, environment and property is understood.

j. Special Concerns Workshops. Individuals and groups may express unusual levels of concern or even hostility about activities that may affect the environment. If such groups or individuals emerge in the course of a MMRP or HTRW project, they should be contacted directly by the District PAO, in coordination with the PM District, to participate in a special concerns workshop. If necessary, the workshop will allow for an open forum for the expression of concerns relating to the response action.

k. Web Sites. Web sites or project home pages are very effective public involvement tools. They can be used to disseminate to and receive from the public various types of

information. They can, for example, be used in conjunction with various other types of communication techniques discussed above.

2-9. Right-of-Entry.

a. A Right-of-Entry (ROE) is a legal document that gives USACE access to a privately owned property for a specified amount of time to conduct an investigation or intrusive work. The property owner must sign the ROE before USACE begins work on the property.

b. All activities for ROE requests should be coordinated with the district's Real Estate Office, Public Affairs Office and Project Management Team. The property owner should be contacted by USACE via phone before the request for the ROE is mailed to the owner. If necessary, someone within USACE should make a personal visit to the property owner before the letter is mailed. If it is difficult to contact the property owner via these methods (for example, the property is located within a large geographic area), then the media may be used to try to inform the public about the necessity of a ROE prior to work commencing on the property.

c. For tools to use to request the ROE, consult the FUDS Program Public Involvement Toolkit and the Army Public Involvement Toolbox.

2-10. Munitions Response Site Prioritization Protocol Coordination Requirements.

a. In response to Congress' request to establish a method for assigning a relative priority for response actions to defense sites containing military munitions, DoD developed the Munitions Response Site Prioritization Protocol (MRSP). The MRSP is applicable to sites known or suspected to contain UXO, DMM, or MC.

b. If USACE is implementing a MMRP response action, it must inform the EPA, other federal agencies, state regulatory agencies, tribal governments, local government officials and the community prior to initiating the MRSP. Stakeholder involvement is a critical step in the MMRP process. For stakeholder involvement to be successful, effective two-way communication is necessary between USACE and interested stakeholders during the application of the MRSP and the sequencing of a Munitions Response Site (MRS).

c. An announcement regarding stakeholder participation should be published during the initial application of the MRSP, requesting information from stakeholders that is pertinent to prioritization or sequencing. For example, stakeholders from a community near an MRS can provide the MRS project team information on local history, citizen involvement, and MRS conditions that may facilitate the protocol's application and be important factors in sequencing decisions. All announcements must allow for a minimum of a 30-day public comment period.

d. After the MRSP application has been made, a second announcement should be published. This announcement should provide stakeholders information on prioritization and sequencing changes.

e. During the annual reapplication of the MRSPP, if the MRS priority or alternative MRS rating does not change, stakeholder notification does not have to be conducted. Stakeholders only need to be involved if the MRSPP is reapplied. If there are changes, another public announcement should be published.

f. The project team should incorporate stakeholder comments in the prioritization and sequencing decisions. The project team should document the decisions in the Statewide Management Action Plan (MAP) or its equivalent.

g. A copy of public notices and information from stakeholders should be maintained in an MRS Administrative Record, Information Repository or project file.

h. Tools for coordinating public involvement in support of the MRSPP include notifications, stakeholder list, media list and a fact sheet. Additional details on these tools and coordinating the MRSPP and public involvement are found in the FUDS Program Public Involvement Toolkit and the Army Public Involvement Toolbox.

2-11. Chemical Warfare Materiel.

a. The Army defines CWM as an item configured as a munition that contains a chemical substance intended to kill, injure or incapacitate a person. By definition, CWM does not include riot control agents, chemical herbicides (plant/weed killers), smoke and flame producing items, or soil, water or other debris contaminated with chemical agents. CWM is a safety and health hazard and may pose risks to the general public, site personnel and the environment. Access to these items and the potential for their removal by unauthorized personnel is a national, state and local security and safety concern.

b. Due to the sensitive nature of CWM, frequent public communication is necessary. In order to best communicate any risks to the public, it is important for the project team to understand the history of the site and the nature of chemicals used at the site.

c. The FUDS Program Public Involvement Toolkit and the Army Public Involvement Toolbox contain tools needed to implement public outreach at CWM sites. The tools include: Fact Sheets; Emergency Responder Training and Public Education Sessions.

2-12. Congressional Relations.

a. At times, Congress will express interest in the work being performed at a MMRP or HTRW property. The most common way for a member of Congress to gather information about an ongoing project is to have someone on their staff call and ask questions. These calls are similar to media calls and should be treated in the same way.

b. A Congressional Member may request an Information Paper or a Briefing on the project. An Information Paper is a document that plainly, and in detail, lays out the basic components of an issue or project. This document includes a detailed background of the site, what USACE is currently doing at the site, and the future work to be completed at the site. Congressional Relations Tools can be found in the Army Public Involvement Toolbox located at <http://www.asaie.army.mil/Public/IE/Toolbox/default.html>.

CHAPTER 3

Establishing and Maintaining Restoration Advisory Boards

3-1. Introduction.

a. This chapter presents the procedures for establishing and maintaining RABs at properties during a response action. The contents of this chapter are presented in accordance with 32 CFR Part 202, the RAB Rule, and the RAB Rule Handbook published by the DoD, March 2007. The RAB Rule Handbook was developed by DoD to accompany the RAB Rule and serves as a user-friendly guide for individual RABs. It is available at http://www.hnd.usace.army.mil/oew/handbooks/RAB-Rule-Handbook_Final.pdf

b. The procedures presented in this chapter apply to all HQUSACE elements and all USACE Commands having responsibility for establishing and maintaining RABs for response actions. These procedures apply to PRP projects only in those rare instances when, based on a formal PRP agreement, USACE serves as the lead for execution of the response and agrees to establish and maintain a RAB. In such instances, the PM District will work closely with the Office of Counsel to ensure that no project documentation subject to a legal privilege is inappropriately released. For additional information on this topic, see ER 200-3-1.

c. During a MMRP removal project, the RAB process is initiated when the EE/CA is initiated, provided any one of the criterion listed in paragraph 3-3a exists. For a MMRP remedial project, the RAB process will be initiated when the RI/FS is initiated, provided any one of the criterion listed in paragraph 3-3a exists.

3-2. Overview of the Restoration Advisory Board.

a. The RAB serves as a forum for stakeholder involvement for environmental restoration activities associated with DERP, including MMRP and HTRW projects. The RAB provides an interactive opportunity for stakeholders to have early involvement and influence in the environmental restoration process, as well as an open avenue for continual discussion and information exchange with DoD, federal agencies, local tribes and community members. RABs provide stakeholders with the opportunity to review and comment on technical documents associated with environmental restoration activities; comment on property restoration progress; provide individual advice to decision makers regarding restoration activities; and obtain status information on the project. Comments given by RAB members should receive careful consideration by decision makers.

b. The RAB is composed of local stakeholders interested in the environmental restoration of a property that is currently or formerly owned by DoD, and the environmental restoration process of this property is overseen by DoD. The local stakeholders may choose to participate by becoming a RAB member or attending the RAB meetings. The RAB meets on a regular basis.

c. RAB activities and meeting minutes are publically available at an Information Repository. The Information Repository, typically located at a public library or community location, is easily accessible to the local community. The RAB POC should be contacted for the location of the Information Repository.

3-3. Criteria for Establishing a RAB.

a. Determine the need for a RAB.

(1) RABs will be established for response actions only where there is sufficient, sustained community interest as determined by the District Commander. Such interest is evidenced by any one of the following:

- (a) The installation is closing and transferring the property to the community;
- (b) Fifty local citizens sign a petition requesting that a RAB be formed;
- (c) Federal, state, tribal, or local government representatives request that a RAB be formed; or,
- (d) The PDT recommends that a RAB be established.

(2) Regional and Joint Regional RABs. When more than one MMRP or HTRW project is located within a 5- to 10-mile range of each other, a regional RAB covering both projects will be considered. A regional RAB may also be appropriate at remote sites, where no town or settlement is nearby. When a project is located near an installation that already has an established RAB, the PM District should coordinate with the installation for inclusion of the restoration activities in this RAB. In addition, regional joint RABs covering restoration activities being conducted by different Services may be an option for inclusion of the project. This option should be considered and evaluated by the PM District as appropriate. Contact HQUSACE, Directorate of Military Programs, for further information regarding regional joint RABs.

(3) When there is no existing RAB near the MMRP or HTRW project, the PM District will determine that at least one of the criteria listed in paragraph 3-3a exists. Once this requirement has been met, various community involvement techniques should be used to determine whether or not a RAB should be formed. The minimum steps that must be followed are as follows:

- (a) Review correspondence files to determine what community comments have been received regarding the project or other environmental issues related to the community.
- (b) Review media coverage to evaluate the extent, type, and duration of such coverage.
- (c) Determine interest of local community members through advertisement and public service announcements.
- (d) Conduct interviews with officials and others involved in the environmental restoration process.

(e) Advertise in local newspapers.

(f) Review the CRP to determine if the residents indicated an interest in forming a RAB. Send letters and fact sheets to individuals on the mailing list to solicit their interest.

(4) Local surveys also can be conducted to determine interest. If soliciting for community interest reveals that there is none, evidence of such solicitation and the fact that there was no expressed interest will be documented. That documentation will be included in the CRP and the Information Repository.

(5) If less than fifty people live in a community, but have sufficient and sustained interest in forming a RAB, the PM District will take this under consideration. The PM District will determine if the interest individuals represent different backgrounds and interests in the community. The community may still petition for the creation of a RAB. Interested persons may contact the PM District or District PAO to express the desire to establish a RAB and ask about alternative opportunities for involvement. EPA, the tribe with jurisdiction over the property (if any), or the state environmental regulatory agency may also be contacted.

(6) If the community is not interested in forming a RAB, the PM District will document that fact in a memorandum for record (MFR) which will be signed by the District Commander. A copy of this MFR will be forwarded to the relevant Division Command and to HQUSACE, ATTN: CEMP-RF. The MFR, itself, will be placed in the permanent Project File.

(7) The PM District is required by the RAB Rule to reassess the need to establish a RAB at least every 24 months while environmental restoration activities are active. However, the need for establishing a RAB should also be reassessed when the project circumstances change.

3-4. RAB Establishment.

a. When establishing a RAB, the requirements of the RAB Rule, 32 CFR Part 202, will be met.

b. Once the need for a RAB is identified, the PM District should begin informing and educating the community about the purpose of the RAB and opportunities for membership and participation before any RAB formulation meetings are held. Early in the member recruitment process, the PM District will ensure that all potential public members of the RAB understand that their service will be entirely voluntary and that they will receive no monetary compensation for their service. Sample documents that may be used in the RAB formulation process are provided in Appendices C, D, E, and F.

c. When establishing a RAB, members of the community are contacted for consultation. The PM District should notify various organizations within the community, such as local government, environmental groups, and special interest groups, about the formation of the RAB. All community members identified on a local public-participation mailing list should be contacted. This process should be completed in consultation with the state, the EPA, and the existing TRC. While there is not a set timeframe for the establishment of a RAB,

community members should be contacted as soon as possible once the need for a RAB is identified.

d. The size of the RAB will depend on the complexity of the situation, the number of stakeholders, the level of community interest, and size of the local population. The number of RAB members should be large enough to reflect community diversity, yet small enough to be workable. It is recommended that the RAB consist of no more than 30 members.

e. RABs will meet the requirements of 10 USC 2705(c) of DERP, which requires DoD to establish TRCs. Where TRCs or other similar advisory groups already exist, they will be considered, in consultation with the state and where appropriate EPA, for conversion to RABs rather than creating a separate board. These conversions will include the selection of additional community representatives, the selection of a community co-chairperson, and the establishment of a policy whereby meetings are open to the public. As a general rule, TRC members should be given preference in obtaining seats on the RAB in order to preserve the continuity of the restoration process. In all cases, the diversity of the current TRC membership should be evaluated to ensure that the RAB is representative of the community's diverse interests.

3-5. Selection of RAB Members.

a. A selection panel made up of community members will be formed. This panel will recommend the community members who will serve on the RAB. This panel will be organized by the PM District, with support from the District PAO, in consultation with EPA and state regulators, as applicable. The selection panel is composed of DoD regulatory officials, local government leaders, and diverse community members. Members of the selection panel may not serve as RAB members.

b. The selection panel should represent a cross section of the community and its views. Representatives of minority populations and low-income groups should be included in the process. Panel members may be drawn from the following sources:

- (1) Local residents/community members.
- (2) Current TRC members.
- (3) Local environmental groups/activists, civic groups.
- (4) Business and religious community, school districts.
- (5) Low-income and minority groups.
- (6) Local government, local regulatory agencies.
- (7) Homeowners Associations.
- (8) Native American tribes or tribal governments and Alaskan Natives governments.

(9) Landowners of project properties.

c. A number of options may be used when forming a selection panel. The PM District, in consultation with EPA and the state, may choose any of the following:

(1) Organize a selection panel of community members to nominate RAB members.

(2) Identify a neutral facilitator to establish the selection panel.

(3) Have community representatives choose the members of the selection panel.

(4) Place paid public notices in the local newspapers asking for volunteers to serve on the selection panel.

(5) Ask existing community members of the TRC to act as the selection panel.

(6) Have the PM District, the EPA, and the state representatives nominate community members to serve on the selection panel.

d. The selection panel will identify the diverse community interest groups that need to be represented on the RAB. This process will be carried out with support from and in consultation with the District PAO. Based on this identification, the panel will develop a solicitation process and establish criteria for selection of RAB members.

e. The following selection process is recommended in order to ensure that RAB members are selected from the diverse interest groups and to allow any other interested community members to be considered for RAB membership:

(1) Announce participation opportunities through news releases and paid public notices (see sample in Appendix C).

(2) Develop a community interest form to determine community concerns and their interest in participating (see sample format in Appendix D). Actions should be coordinated by the District or HQUSACE PAO.

(3) Establish a time period for receipt of the community interest forms.

(4) Mail letters of invitation (see sample in Appendix E), fact sheets (see sample in Appendix F), and community interest forms to all community members on the existing mailing list and to the groups identified by the selection panel.

(5) Place fact sheets and community interest forms in information repositories and at other locations where the public may normally look for community information, such as libraries, community centers, supermarkets, etc.

(6) Hold an initial public meeting about the RAB to discuss purpose, member solicitation process, and membership responsibilities; provide fact sheets and community interest forms to meeting attendees.

(7) After the designated solicitation period ends, the selection panel will convene to develop a list of suggested RAB members who reflect the diverse interests of the community. The community interest forms submitted will be used in developing this list. The selection panel will submit the list of suggested RAB members, along with full explanation establishing the fact that the members represent the diverse interest groups of the community, to the PM District for the District Commander's approval. The District Commander, in consultation with EPA and state representatives, must accept the list unless it is determined that the diverse community interests are not fully represented. If this determination is made, the District Commander will specify the weaknesses to be corrected. The selection panel will be instructed to develop a new list for review and approval. Once the list is approved, the selection panel will be disbanded.

3-6. Announcement of RAB Members. RAB membership should be announced by the District PAO, based on information provided by the PM District, in the following manner:

a. Send letters to the selected RAB members to notify them of their selection. Send news releases to the local newspapers announcing the formation of the RAB and the date of the first meeting.

b. Send letters to those who submitted community interest forms but were not selected, announcing the names of the RAB members, thanking those not selected for their interest, encouraging them to attend future RAB meetings, and notifying them that their interest forms will be kept on file in case future membership openings should occur.

c. Distribute a brief fact sheet announcing the RAB members and meeting schedule and publicly thanking all community members who expressed an interest in RAB participation and encouraging ongoing community attendance and participation at future RAB meetings.

d. Additions to and deletions from the RAB can be made at any time the RAB deems necessary. Procedures for additions and resignations should be outlined in the operating procedures discussed in paragraph 3-10. Sample Operating Procedures for RABs are provided in Appendix G.

3-7. Training of RAB Members.

a. RAB members may receive training whenever necessary. RAB members will require some initial orientation to enable them to perform their duties. The PM District should work with the state, EPA, and environmental groups to develop methods to inform and educate RAB members. RAB members should receive information regarding current environmental restoration technologies, chemicals of concern at the site, and sampling protocols. RAB members will be provided instruction on the relative risk process, the budgeting process, and how these affect the sequencing of restoration response actions so that RABs can provide informed advice. RAB members should be made aware of independent resources such as EPA's Technical Assistant Grant (TAG) program and DoD's Technical Assistance for Public Participation (TAPP) program.

b. Technical support staff from state, Federal, and local agencies should be requested to attend such sessions to provide information and explanation to RAB members. In addition, contractors who are performing work at the MMRP or HTRW property can provide technical support.

c. RAB member training should be site specific. It may be accomplished at initial RAB meetings or at special orientation sessions.

d. Funding for training activities must be within the scope of administrative support for RABs, as permitted in the RAB Rule, Section 202.12. There is no dedicated funding source for RAB training. RABs seeking additional support could potentially qualify for a TAG or TAPP or technical advice from EPA's Technical Outreach Services for Communities.

3-8. RAB Member Roles and Responsibilities. The roles and responsibilities of RAB members include the following:

a. DoD Co-Chair. It is the responsibility of the DoD Co-Chair (i.e., the PM District or the higher-level USACE manager) to:

(1) Coordinate with the Community Co-Chair to prepare and distribute an agenda prior to each RAB meeting.

(2) Ensure that USACE participates in an open and constructive manner.

(3) Ensure that the RAB has the opportunity to participate in the restoration decision-making process.

(4) Ensure that community issues and concerns related to restoration are addressed when raised.

(5) Ensure that documents distributed to the RAB are also made available to the general public.

(6) Ensure that an accurate list of interested and affected parties is developed and maintained. This will be done with the assistance of the RAB and the District PAO.

(7) Provide relevant policies and guidance documents to the RAB in order to enhance the RAB's operation.

(8) Ensure that adequate administrative support is provided to the RAB.

(9) Refer issues not related to restoration to appropriate district officials for action.

(10) Report back to the USACE district.

(11) Ensure that the RAB is represented on the PDT during the Technical Project Planning (TPP) process.

(12) Ensure that any significant documentation generated by the RAB meets the regulatory coordination requirements set forth in ER 200-3-1 for FUDS.

(13) Ensure that RAB meeting minutes summarizing topics discussed are prepared and made available, at a minimum, in the information repository.

(14) Ensure that information on activities relating to the RAB (e. g., efforts made to survey community interest in forming a RAB, steps taken to establish a RAB where there is sustained community interest, how the RAB relates to the overall public involvement program, steps taken to adjourn the RAB, etc.) is documented and made available in the information repository.

(15) Ensure that, to the extent that RAB input is considered in a decision regarding response activities, information about the RAB is included in the Administrative Record.

(16) Ensure that all RAB meetings are open to the public and announced to the public via public notice.

b. Community Co-Chair. It is the responsibility of the Community Co-Chair to:

(1) Coordinate with the DoD Co-Chair and RAB community members to prepare an agenda prior to each RAB meeting.

(2) Ensure that community members participate in an open and constructive manner.

(3) Ensure that community issues and concerns related to restoration are raised.

(4) Assist with the dissemination of information to the general public.

(5) Report back to the community.

(6) Serve without compensation.

c. RAB Community Members. It is the responsibility of RAB community members to:

(1) Attend RAB meetings as required by the RAB operating procedures.

(2) Provide individual advice and comments on restoration issues to decision makers.

(3) Represent and communicate community interests and concerns to the RAB.

(4) Act as a conduit for the exchange of information among the community, the USACE district(s), and environmental agencies regarding the restoration program.

(5) Review, evaluate, and comment on documents and other such materials related to restoration activities.

(6) Serve without compensation.

d. State Regulatory Agency Member. It is the responsibility of the state regulatory agency member to:

- (1) Attend RAB meetings as required by the RAB operating procedures.
- (2) Serve as an information, referral, and resource bank for the community, the USACE district, and involved Federal, state, and local agencies regarding restoration activities.
- (3) Review documents and other materials related to restoration activities.
- (4) Ensure that applicable environmental standards and regulations are identified and addressed by USACE.
- (5) Facilitate flexible and innovative resolutions of environmental issues and concerns.
- (6) Assist in education and training for RAB members.

e. EPA Member. Where EPA participates, it is the responsibility of the EPA members to:

- (1) Attend RAB meetings as required by the RAB operating procedures.
- (2) Serve as an information, referral, and resource bank for the community, the USACE district, and involved Federal, state, and local agencies regarding restoration activities.
- (3) Facilitate flexible and innovative resolutions of environmental issues and concerns.
- (4) Ensure that applicable environmental standards and regulations are identified and addressed by USACE.
- (5) Assist in education and training for RAB members.

f. Tribal Members. While DoD encourages individual tribal members to participate on RABs, as appropriate, RABs do not replace or serve as a substitute forum for the government-to-government relationship between DoD and Federally-recognized tribes. When tribal members participate, it is the responsibility of tribal members to:

- (1) Attend RAB meetings as required by the RAB operating procedures.
- (2) Serve as an information, referral, and resource bank for the community, the USACE district, and involved Federal, state, and local agencies regarding restoration activities.
- (3) Ensure that tribal environmental standards and regulations are identified and addressed by the installation.
- (4) Facilitate flexible and innovative resolutions of environmental issues and concerns.

(5) Educate RAB members regarding tribal sovereignty, tribal laws and their application to the property.

(6) Participate in the RAB without replacing the government-to-government relationship with the Federal government.

(7) Assist in education and training for RAB members.

g. Public. When members of the public participate, it is their responsibility to:

(1) Participate in community RAB meetings.

(2) Observe rules and operating procedures when participating at RAB meetings or interacting with RAB members.

(3) Ask questions to ensure understanding of RAB activities and impact on the community.

3-9. RAB Responsibilities. The responsibilities of the RAB include the following:

a. Providing individual advice on environmental restoration issues to USACE and regulatory agencies.

b. Conducting regular meetings, open to the public, at convenient times and locations, in most cases after normal duty hours.

c. Recording minutes of all meetings and making them available to interested parties.

d. Encouraging community involvement.

e. Developing and using a mailing list of interested parties who wish to receive information on the environmental restoration process.

f. Reviewing and evaluating documents, for example, Archives Search Reports, sampling and analysis data, EE/CAs, and other technical documents.

g. Identifying project requirements.

h. Proposing cleanup levels consistent with planned land use based on coordination with Land Reuse Authorities or other land use planning entities.

i. Developing a RAB mission statement.

j. Developing RAB operating procedures.

k. Ensuring that the RAB is represented on the PDT during the TPP process.

3-10. RAB Operations.

a. RAB Operating Procedures

(1) The RAB is responsible for developing its own operating procedures. Operating procedures guide the RAB and enhance its effectiveness. While these procedures should be reflective of the specific project, operating procedures should include the following, as specified in the RAB Rule:

(a) Clearly defined goals and objectives for the RAB, as determined by the co-chairs in consultation with the RAB.

(b) Meeting announcements.

(c) Attendance requirements of members at meetings.

(d) Development, approval and distribution procedures for the minutes of RAB meetings.

(e) Meeting frequency and location.

(f) Rules of order.

(g) The frequency and procedures for conducting training.

(h) Procedures for selecting or replacing co-chairs and selecting, replacing, or adding RAB members.

(i) Specifics on the size of the RAB, periods of membership, and co-chair length of service.

(j) Review of public comments and responses.

(k) Participation of the general public.

(l) Keeping the public informed about proceedings of the RAB.

(m) Discussing the agenda for the next meeting and issues to be addressed.

(n) Methods for resolving disputes.

(2) These procedures should reflect the fact that all advice provided by the RAB is understood to be the advice of the individual RAB members, not consensus advice of the RAB. The RAB is not an advisory committee, as that term is used in the Federal Advisory Committee Act (FACA). If consensus advice is determined by the RAB to be necessary, legal counsel should be consulted regarding FACA applicability. Sample Operating Procedures for RABs are provided in Appendix G.

b. **Mission Statement.** Each RAB will develop a brief mission statement that specifies its overall purpose and goals. For example, "The RAB mission is to establish and maintain a forum with all stakeholders for the exchange of information in an open and interactive dialogue concerning the environmental restoration activities at this property."

c. **RAB Support.** The PM District must ensure that adequate administrative support is provided to establish and operate the RAB. This support will typically include the following:

- (1) Providing meeting facilities, organizing and facilitating public meetings.
- (2) Preparing and distributing meeting minutes, management of RAB mailing lists, mailings, and other routine word-processing tasks.
- (3) Copying/printing and distributing RAB documents, notices, and fact sheets.
- (4) Translating and distributing outreach and other RAB materials.
- (5) Modifying Community Relations Plans to incorporate RAB requirements.
- (6) Providing certain types of training.

d. **Frequency of Meetings.** The RAB should meet as often as necessary depending on the phase of environmental restoration activities. The RAB's operating procedures should outline a meeting schedule. Depending on necessity, meetings may be added or deleted.

e. **Conducting RAB Meetings.**

(1) **Notice of Meeting.** The PM District shall publish a timely notice of the meeting in the local newspaper. Meetings shall be held at a time and place to provide access and use by all participants. Materials should be user friendly and easy to read.

(2) **Public Attendance.** Per the RAB Rule, interested persons are allowed to attend, appear before, or file statements with any RAB within the bounds of reasonable rules or regulations. Open solicitation of public comments shall be permitted. The public will have a designated time on the agenda to speak to the RAB committee as a whole.

(3) **Meeting Minutes.** The RAB Co-Chairs shall prepare the meeting minutes. The meeting minutes will be maintained in the information repository. If the meeting minutes reflect decision making that occurred during the RAB meeting, copies of the minutes shall be maintained in the Administrative Record. RAB meeting minutes can be posted on a project website.

(4) **Meeting Materials.** All documents that were prepared for or by the RAB and made available during a RAB meeting shall be accessible to the public. These documents shall be stored at the information repository until the RAB is dissolved and can be posted on a project website.

3-11. Technical Support for RABs. Two programs exist to provide technical support to RABs: TAGs and TAPPs. Both provide independent technical assistance to the RAB to interpret scientific or engineering issues pertaining to the environmental restoration project and help the affected communities make informed decisions about the environmental restoration work being conducted. A RAB must apply for a TAG or TAPP.

a. Technical Assistance Grant.

(1) TAGs focus on providing technical assistance to eligible communities. TAGs are funded by EPA and are only available at National Priority List (NPL) sites.

(2) For a RAB to receive a TAG, its eligibility for EPA funding must be confirmed. For a RAB to be eligible, it must meet one of the following criteria:

- (a) Represent a group living near an NPL site;
- (b) Represent a group affected by a release or threatened release of contaminants;
- (c) Represent a group whose economic well-being, health, or enjoyment of the environment is threatened; and/or
- (d) Must be non-profit.

(3) When applying for a TAG, the RAB must demonstrate that it has the time, resources, and ability to manage the TAG. The RAB must explain how TAG funding will be used and establish an accounting system.

b. Technical assistance for Public Participation. A TAPP, which receives funding from DoD, focuses on providing technical assistance to a RAB. The TAPP is discussed in greater detail in the paragraphs below.

3-12. Technical Assistance for Public Participation Eligibility. The information presented in paragraphs 3-12 through 3-15 is derived, with modifications, from the RAB Handbook.

a. The TAPP program provides community members of RABs and TRCs access to independent technical support, if needed, through the use of government purchase orders. TAPP allows community members to obtain independent technical assistance in interpreting scientific and engineering issues with regard to the nature of environmental contamination, explosives safety hazards, and restoration activities at the MMRP or HTRW property. A minimum of three community members must sit on the RAB or TRC to qualify.

b. Eligible TAPP Projects. TAPP procurements are intended to increase the ability of RAB or TRC community members to participate more effectively in cleanup activities by helping them to understand technical details of project documents and issues. Typical projects eligible for TAPP funding include:

(1) Review of restoration documents. These include MMRP and HTRW project documents at each stage of investigation and decision making with technical reports that summarize data and support cleanup decisions. Technical assistance may be provided to review and interpret plans and technical documents, such as studies of the property, risk assessments, and health assessments.

(2) Review of proposed remedial technologies. TAPP may be used to explain the function and implications of those technologies elected to investigate or clean up a property (e.g., understand how vapor extraction works and under what conditions the technology is appropriate).

(3) Interpretation of health and environmental effects. Technical assistance may be provided to help RAB/TRC community members contribute to the relative risk evaluation process for a specific MMRP or HTRW project.

(4) Participation in relative risk evaluations. Technical assistance may be provided to interpret the potential health and safety implications of cleanup levels or response technologies or explain the health and safety implications of property contaminants, explosives safety hazards, and exposure scenarios.

(5) Certain types of technical training. Technical training on specific restoration issues may be appropriate in circumstances where RAB or TRC members need education or supplemental information on environmental restoration projects. (Note: TAPP may be used to obtain training to assist the community in understanding processes, health effects, and alternative technologies or to obtain 40-hour hazardous waste worker training certification to go into the "HOT" zones of cleanup areas. In most cases, Federal or state agency personnel can provide training.)

c. Ineligible TAPP Projects. The following types of technical assistance projects are not eligible for funding by USACE under the TAPP program:

(1) Generation of new data (e.g., the installation of new groundwater wells). (Note: USACE, in coordination with the regulatory agencies, is responsible for developing investigation strategies to ensure that potential contaminants and explosives safety hazards are adequately characterized. If the RAB or TRC members identify a circumstance where they feel that additional data collection may be necessary, these concerns should be communicated to the DoD Co-Chair of the RAB or TRC or to the appropriate regulatory agency for evaluation.)

(2) Litigation or underwriting legal actions such as paying attorney fees or paying for a technical assistance provider to assist an attorney in preparing a legal action or preparing for and serving as an expert witness at any legal proceeding regarding or affecting the property.

(3) Reopening final ROD decisions.

(4) Political activity and lobbying as defined by Office of Management and Budget (OMB) Circular A-122, "Cost Principles for Non-Profit Organizations."

(5) Epidemiological or health studies, such as blood or urine testing.

(6) Community outreach efforts, such as reproducing reports, conducting MMRP or HTRW property tours, renting meeting rooms, and distributing newsletters.

3-13. TAPP Process. The TAPP Process includes the following steps:

a. Step One — Identification of Need.

(1) When RAB/TRC community members initially determine a desire for independent technical assistance, they must demonstrate that the technical expertise necessary for the proposed project is not available through the Federal, state, or local agencies responsible for oversight of the restoration activities. In determining if the technical assistance may already be available, the RAB/TRC community members must first consider the following sources of assistance:

(a) Federal and state environmental regulatory agency personnel responsible for overseeing the cleanup activities at the property (e.g., EPA TAG or Technical Outreach Services to Communities [TOSC] support). If the property has been listed on the NPL, the public will be informed of the availability of TAGs, which are awarded and managed by EPA regional offices. If the property has not been listed on the NPL, the public will be made aware of the availability of TOSC support.

(b) Volunteer sources from within the community (e.g., local universities or local or state environmental organizations).

(c) Contractors already working at the property.

(2) Upon determining that other sources of assistance are unavailable or unlikely to contribute to the community acceptance of restoration activities at the property, the RAB/TRC must notify the Installation Commander or the District PM of its intention to pursue TAPP. The community members of the RAB/TRC then define the scope of the independent technical assistance needed and determine that it meets the genuine need of the RAB/TRC, meets the eligibility criteria, and is limited in scope to the available resources.

b. Step Two — Application. Once the scope of the proposed TAPP project has been defined, the RAB/TRC community members must prepare and submit a formal application form (DD Form 2749) to the DoD Co-Chair, provided in Appendix H. The DoD Co-Chair reviews the application to ensure that it is complete, describes an eligible project, and will likely be within the TAPP funding limit (see paragraph 3-15). The DoD Co-Chair, in coordination with the RAB/TRC prepares a draft Scope of Work (SOW). The draft SOW along with the TAPP application is then sent to the Installation Commander for approval.

For FUDS projects, the draft SOW and TAPP application are sent to the District PM for approval.

c. Step Three — Approval. As part of the approval process, the approving official (Installation Commander or District PM) will determine if the proposed project conforms to eligibility requirements, that the community has sought other avenues of assistance prior to applying for the TAPP, and that funding is available for the TAPP. The approving official must also assess whether providing assistance will enhance the restoration program and improve community support. After approval, the application and draft SOW is sent to the contracting office for procurement.

d. Step Four — Procurement. Procurements are generally conducted as purchase orders in accordance with the Federal Acquisition regulations (FAR) (48 CFR 13) and will comply with all requirements for full and open competition under the Competition in Contracting Act (CICA) (10 USC 2304). The contracting office will award and manage the contract to the selected assistance provider. The DoD RAB/TRC Co-Chair will serve as a liaison between the RAB/TRC community members and the procurements and contracting office.

e. Step Five — Assistance Provided. When the government purchase order is awarded, the selected independent contractor will work with the community members of the RAB/TRC through the Contracting Officer Representative (COR) to provide the requested assistance.

f. Step Six — Reporting. Each RAB/TRC that receives TAPP must submit a report to the installation/district procurement and contracting office at project completion. This report must indicate, by fiscal year, the amount of TAPP funds obligated and evaluate for each project whether or not the TAPP assisted the community in participating in the restoration program. The final report must document TAPP project activities over the entire period of support and must describe achievements with respect to stated TAPP project purposes and objectives. Additional reporting requirements for the District Commander are explained in paragraph 3-16.

g. Appeals.

(1) Disagreements may occur between the USACE staff and the RAB/TRC community members at several points during the TAPP process. For instance, the District Commander may deny an application for TAPP because the budget cannot accommodate the cost near the end of a fiscal year, or the proposed TAPP project may be ineligible because it does not meet the eligibility criteria, or the RAB/TRC community members may dispute the findings of the district Contracting Officer regarding the proposed provider. It is in the best interest of USACE and the community members of the RAB/TRC to avoid disputes and to work cooperatively to resolve potential differences of opinion. In the event that a dispute arises, the community members of the RAB/TRC may wish to appeal the District

Commander's decision. The following general operating principles apply when a RAB/TRC wishes to appeal a decision:

(a) Inherently governmental functions, such as the procurement process governed by the FAR, are not subject to appeal.

(b) Eliminating disagreements and roadblocks should be emphasized.

(c) Appeals should be resolved quickly.

(d) Appeals should be resolved at the lowest level possible.

(e) Appeals should be resolved within the Army.

(2) Typically, the appeals process begins with the District Commander (15-day review), then to the Division Commander (30-day review); then to the Director of Military Programs, HQUSACE (30-day review); and, finally, through the Office of the Assistant Secretary of the Army for Installations and Environment (ASA(I&E)) Director of Environmental Programs of the Army to the Deputy Assistant Secretary of the Army for Environment, Safety and Occupational Health (DASA(ESOH)) (30-day review) (see Figure 3-1). For all USACE RABs/TRCs, DASA(ESOH) is the last authority for any appeal concerning TAPP.

(3) Ground rules, as they relate to the appeals process, include:

(a) The majority of RAB/TRC community members must agree to the appeal.

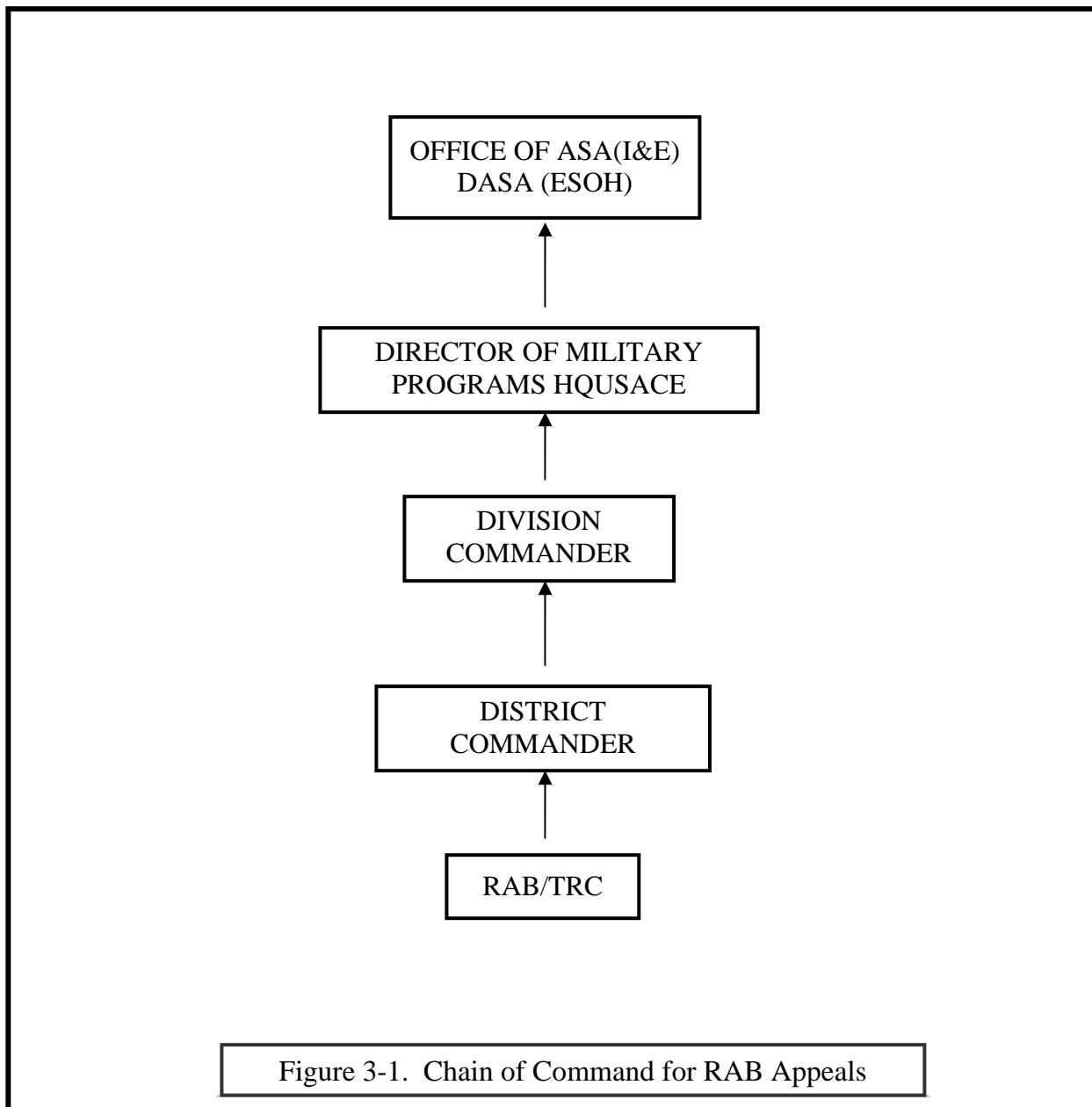
(b) The RAB/TRC must appoint a single spokesperson.

(c) Written justification, submitted to the District Commander, must accompany the appeal.

(d) If the District Commander chooses not to support the appeal, he or she must endorse the appeal to the next higher level of the chain of command, with rationale for denying the appeal.

(e) Appeals must follow the appeals process and cannot skip or circumvent command levels. At each command level, both the appeal and each Commander's endorsement must be considered.

(4) These ground rules are designed to speed the appeals process and to ensure that the appeal has the support of the majority of RAB community members.



3-14. Additional Technical Support. To ensure that RAB/TRC members clearly understand the issues involved in environmental cleanup activities, technical support is available from the district staff and via USACE contractual support. Examples of the types of technical support that could be provided include updates and status reports on ongoing environmental restoration efforts, explanation of technical and risk assessment data, explanation of the relative risk site evaluation procedures and results, planning and facilitating property visits, and preparation of briefing packages and handouts. Technical support is also available from Division Commands, USAEC, the U.S. Army Technical Center for Explosives Safety, the U.S. Naval Explosive Ordnance Disposal Technical Division, EPA (TAG and TOSC

support, for example), other Federal agencies, and state regulatory agencies. The following Army agencies are familiar with RABs/TRCs and the TAPP program and are able to provide assistance to the District Commander.

a. EM CX. Technical support is available to the RAB/TRC from the EM CX. This organization may provide in-house and contractual support to explain technical data and related issues to the RAB/TRC. In many cases, the restoration contractor already performing work at the property can provide technical support. The District Commander should determine the type and level of contractual support available from current contracts when providing technical support to the RAB/TRC.

b. U.S. Army Center for Health Promotion and Preventive Medicine (USACHPPM). USACHPPM also has a staff of environmental health professionals (including scientists, geologists, engineers, and physicians) to assist a RAB. The District Commander can directly contact USACHPPM to request support. This support can be provided by reimbursable funds, if needed. The USACHPPM's Environmental Health Risk Assessment and Risk Communication Program can provide support to RABs by providing assistance on technical issues regarding human health and environmental risk. The USACHPPM program can also provide risk communication support to RABs through their consultation and training services, which include advisory, technical, and logistical support of public meetings, public exhibits, and open dialogue sessions.

3-15. Funding. RABs may be eligible for TAGs from EPA to cover costs associated with NPL MMRP or HTRW properties. For non-NPL properties, RABs may be eligible for TOSC support from EPA. RAB members or other community groups may form an organization and apply for a TAG or TOSC to obtain funding for technical support. Costs associated with administrative support to RABs/TRCs and TAPP are eligible for funding from the Environmental Restoration Account. There is no separate centrally funded RAB/TRC and TAPP account. Division Commanders will program and budget RAB and TAPP support from their allocation of Program Objective Memorandum funds.

a. RAB/TRC Support. The District Commander will program funding to establish and operate RABs/TRCs and for the TAPP program. Costs incurred by the District Commander's staff to operate RAB/TRC and provide TAPP are considered RAB administrative support and are funded as project management funds. The contractual support and other authorized RAB/TRC and TAPP execution will be recorded by using the Army Management Structure Code, i.e., 493008.2A for RAB, 493008.2B for TRC, and 493008.2C for TAPP. The Project Execution and Accounting Report will be recorded under the MMRP Environmental Restoration Account. The District Commander's staff should review the definition of RAB/TRC and TAPP administrative funding when identifying RAB funding requirements and outlays. The following are the RAB/TRC eligible and ineligible expenditures:

- (1) Eligible RAB/TRC Expenditures.

(a) Activities directly related to the establishment and operation of a RAB will qualify as administrative expenses. Such expenses include member recruitment; meeting announcements; meeting logistics; development of mission statements and operating procedures; facilitators (including translators); preparation of meeting agendas, materials, and minutes; document reproduction for RAB members; maintenance of a RAB mailing list and mailing of relevant information; and orientation training.

(b) Contractor expenses specifically in administrative support of the RAB.

(2) Ineligible RAB/TRC Expenditures.

(a) RAB administrative expenses do not include community involvement expenses, such as preparation of fact sheets or other information materials for public distribution, costs of public meetings, mailings, responding to public comments on the restoration program, or repository costs. Also, expenditures to determine the interest of a community in establishing a RAB/TRC are considered to be project management expenses and are not to be charged to RAB/TRC accounts.

(b) Salaries for DoD personnel and temporary duty travel of DoD personnel in connection with RAB/TRC and TAPP activities. These expenditures must be captured as project management costs.

(c) Dedicated equipment, such as computers, software, facsimile machines, telephone lines or access, or electronic mail for RAB community members.

(d) Renting dedicated office space for and providing administrative support services to RAB community members.

(e) Printed stationary and personal business cards.

(f) Temporary duty travel, conference attendance, or conference fees for RAB community members.

(g) Compensation to RAB members for meeting attendance, work hours lost, time invested in reviewing and commenting on documents, travel to RAB meetings, or long distance telephone calls.

b. TAPP Support.

(1) Funding for independent technical assistance for RAB/TRC community members under the TAPP program may be necessary on a case-by-case basis. There is no separate appropriation for TAPP. TAPP projects will be funded from the Division Commander's allocation of funds. TAPP is not a grant or direct funding to the RAB/TRC, nor is it a blank check to use at the RAB or TRC's discretion. The final rule on TAPP may be found at http://www.access.gpo.gov/nara/cfr/waisidx_08/32cfr203_08.html.

(2) As described in DoD's Management Guidance for the Defense Environmental Restoration Program, current policy limits TAPP expenditures for each MMRP and HTRW property with a RAB/TRC to an annual maximum of \$25,000 or 1 percent of the cost to complete restoration activities (studies, design, cleanup, and operation and maintenance costs) for the property at the time TAPP is requested, whichever is less, with a lifetime maximum of \$100,000 per property.

(3) To obtain necessary funding, the District Commanders must program appropriate TAPP requirements. Each PM for a property with a RAB/TRC and TAPP must determine his or her funding requirements in the budget cycle and program accordingly in the database and/or work plans.

(4) Waivers to the \$100,000 lifetime maximum and \$25,000 annual maximum funding limits may be approved by DASA (ESOH). Waiver requests must follow the normal appeals process (see paragraph 3-13g). Requests for waivers are initiated by the RAB/TRC community members and forwarded by endorsement with recommendations by the District Commander through the chain of command to DASA (ESOH). The following considerations may affect the granting of a waiver:

- (a) The size or complexity of the restoration project.
- (b) The nature and extent of contamination or explosives safety hazards.
- (c) The level of restoration activity at the property.
- (d) The size and diversity of the affected community.
- (e) Funding received by the community from other Federal sources.

c. Public Participation. Public participation on the RAB/TRC and in the TAPP process will be strictly voluntary, with the exception that state representatives on the RAB may receive reimbursements authorized under the Defense and State Memorandum of Agreement process. USACE will not provide financial support to the public members for their services, nor will members be compensated for work hours lost or time invested in review and commentary on documents. The USACE RAB Co-Chair must ensure that the public clearly understands this fact during the member recruitment process and prior to any final commitment by a public representative to serve on the RAB/TRC or to participate in the TAPP process.

3-16. Reporting. DoD's Management Guidance for the Defense Environmental Restoration Program requires that USACE report on the RAB/TRC and TAPP activities through the Army to the Deputy Under Secretary of Defense for Environmental Security (DUSD(ES)). The District Commander will provide the following information and reports through the relevant Division Commander to HQUSACE (ATTN; CEMP-RF). Appendix I, Table I-1, provides the reporting requirements summary.

a. RAB Establishment and Activities.

(1) The National Defense Authorization Act for Fiscal Year (FY) 1996 requires that DoD provide an annual RAB report on funding and activities, including TAPP. To meet these reporting requirements, HQUSACE summarizes RAB and TAPP data at the Army's semiannual In-Process Reviews with DUSD(ES). Division Commands are required to summarize the status of RABs and TAPPs during the semiannual Program Execution Reviews and submit these summaries to HQUSACE in accordance with Appendix I, Table I-1.

(2) Army policy is that all properties with a restoration program determine community interest in establishing and participating in a RAB. The District Commander is, therefore, required either to establish a RAB at each property requiring cleanup or document why a RAB cannot be established. Exceptions to establishing a RAB at a property may be made in instances where the property owner objects to the establishment of a RAB, or the project duration is so short (less than 1 year from an investigation phase to a remedial/removal response completion phase) as to make RAB establishment infeasible, or the property is in a remote location with no community nearby, or all major environmental cleanup decisions for all projects for the entire property have already been made. If a RAB is not being established, the rationale for not doing so will be documented in an MFR which must be signed by the District Commander. A copy of this MFR will be forwarded to the relevant Division Commander and HQUSACE (ATTN: CEMP-RF).

(3) DUSD(ES) requires reporting on the RAB and the TAPP data. The data will be submitted to HQUSACE biannually by Division Commands per table H-1. The data will be provided in Appendix I, Tables I-1 through I-9.

b. TAPP.

(1) When the District Commander provides support to a RAB or TRC through the TAPP program, there are two distinct reporting requirements. The RAB/TRC is required to submit a report, and the District Commander will report on the results of the TAPP project. The District Commander's report must be based on the RAB/TRC report to the district Contracting Officer, and it must contain the following information:

- (a) Name of the property and its identification number.
- (b) Name of the assistance provider.
- (c) Cost of the project.
- (d) Duration of the project.
- (e) Short description of the scope of the project.
- (f) Short description of the results of the project.

(g) Discussion of any technical actions taken because project results conflicted with previous USACE views.

(h) RAB/TRC satisfaction with the project.

(i) Discussion of any problems/issues that came up during the TAPP process.

(j) Discussion of the resolution of any problems/issues that came up during the TAPP process.

(2) The District Commander will submit this report, along with the report submitted by the RAB/TRC, through the relevant Division Commander to HQUSACE (ATTN: CEMP-RF). HQUSACE will submit all TAPP reports to DUSD(ES) at semiannual In-Process Reviews. The results of a TAPP project should be shared with the community as a whole, and the TAPP report should be retained in the Administrative Record for the MMRP property restoration program.

3-17. RAB Adjournment and Dissolution. A RAB may stop its activities by either adjournment or dissolution.

a. RAB Adjournment.

(1) The District Commander may adjourn a RAB when there are no longer any environmental restoration activities at a site due to a remedy-in-place or response complete, or when community interest in the RAB declines sufficiently. Any of the following situations is an indication that it may be appropriate to adjourn the RAB:

(a) There is no longer a need for the level of community participation in the environmental restoration program that is usually provided by a RAB.

(b) The property no longer has an environmental restoration program, i.e., all known contaminants and explosives safety hazards at the property have been reduced to acceptable risk levels.

(c) A ROD/DD or an Action Memorandum has been signed for a project. When multiple projects are being conducted concurrently at a MMRP property, and the RAB was established for all projects being executed at the property, the RAB will not be adjourned until all projects have reached the decision point.

(d) Project(s) development is at the response complete stage, and no further environmental restoration decisions are required.

(e) All environmental restoration remedies are in place and are operating properly and successfully. The District Commander will establish a mechanism to inform the community, including former RAB members, about subsequent project actions, such as long-term management (LTM) and Five-Year Reviews and allow the community to address this

information as appropriate. At a minimum, the PM District will provide this information to the community through status report mailings, web sites, or local information repositories.

(f) The RAB has achieved its desired goal as defined in the RAB Operating Procedures.

(g) The land has transferred to a non-DoD entity; and

(h) There is no longer sufficient, sustained community interest, as documented by the PM District with RAB community members and community-at-large input, to sustain the RAB. The PM District will continue to monitor for any changes in community interest that could warrant reestablishing the RAB.

(2) The District Commander will consult with EPA, the state, involved tribes, RAB members, and the local community, as appropriate, regarding adjourning the RAB before making a final decision and will consider all responses when determining the appropriate action. If the District Commander decides to adjourn the RAB, the District Commander will document the rationale for adjournment in a memorandum for inclusion in the Administrative Record, notify the public of the decision through written notice to the RAB members and through publication of a notice in a local newspaper of general circulation, and describe other ongoing community relations opportunities that are available.

(3) A RAB is permanently adjourned unless new conditions arise at the MMRP or HTRW project site, such as a change in environmental restoration remedy. In this case, the RAB may choose to re-establish. However, a RAB may choose to continue to meet after environmental restoration activities are complete. For example, the RAB may convene to discuss long-term management strategies aligned with the environmental restoration remedy.

(4) If a RAB is adjourned and environmental restoration activities are still active, the District Commander must reassess community interests in the RAB every 24 months while the environmental restoration activities are ongoing.

b. RAB Dissolution.

(1) The District Commander may dissolve a RAB when the RAB is no longer fulfilling its intended purpose of advising and providing community input to the District Commander and decision makers on environmental restoration projects as described in this pamphlet. Although District Commanders are expected to make every reasonable effort to ensure that a RAB performs its intended role, circumstances may prevent the RAB from fulfilling this role.

(2) When this occurs, the District Commander will make a concerted effort to resolve the issues that are impairing the RAB's effectiveness. If this effort is unsuccessful, the District Commander may elect to dissolve the RAB. In making such a decision, if environmental restoration activities at the MMRP or HTRW property are not complete, the District Commander will ensure that the public involvement program detailed in the CRP

provides for continued, effective stakeholder participation in the environmental restoration decision-making process.

(a) To facilitate the District Commander's decision-making, the PM District will consult with EPA, state, tribal, and local government representatives, as appropriate, regarding dissolving the RAB. The PM District will notify the RAB community co-chair and members in writing of the intent to dissolve the RAB and the reasons for doing so, and provide the RAB members 30 days to respond in writing. The PM District will consider RAB member responses, and in consultation with EPA, state, tribal, and local government representatives, as appropriate, determine the appropriate action.

(b) If the District Commander decides to proceed with recommending the RAB for dissolution, the District Commander will notify the public of the proposal to dissolve the RAB and provide a 30-day public comment period on the proposal. At the conclusion of the public comment period, the District Commander will review the public comments, consult with EPA, state, tribal, and local government representatives, as appropriate, and render a recommendation.

(c) The recommendation, responsiveness summary, and all supporting documentation will be sent through the relevant Division Commander to HQUSACE (ATTN: CEMP—RF) for further chain-of-command coordination for approval or disapproval.

(d) Once HQUSACE informs the District Commander of the final decision, the District Commander will document the rationale for dissolution in a memorandum for inclusion in the Administrative Record, notify the public of the decision through written notice to the RAB members and through publication of a notice in a local newspaper of general circulation, and describe other ongoing public involvement opportunities that are available.

c. Reestablishing an Adjourned or Dissolved RAB.

(1) The District Commander may reestablish an adjourned or dissolved RAB if there is sufficient and sustained community interest in doing so and there are environmental restoration activities still ongoing at the property. Where a RAB is adjourned or dissolved and environmental restoration activities continue, the PM District will reassess community interest at least every 2 years. Reassessment will include, at a minimum, consultation with the chain-of-command, the EPA, the state, involved tribes, and the local community, as appropriate, and a 30-day public comment period. Where the reassessment finds sufficient and sustained community interest, the District Commander will reestablish a RAB. Where the reassessment does not find sufficient and sustained community interest in reestablishing the RAB, the District Commander will document (in an MFR) the procedures followed in the reassessment and the findings of the reassessment. This document will be included in the Administrative Record for the property.

(2) Operating Procedures.

(a) If a short period of time has passed since RAB adjournment or dissolution, then the RAB may contact its former members to resume their involvement. In this case, the RAB should keep its former operating procedures. However, if new members join the RAB, then new operating procedures should be developed.

(b) If the RAB is reestablished after a longer period of time and former members are not resuming their positions, the District Commander should following the operating procedures (described above in Paragraphs 3-10) and RAB Rule to establish new members. The RAB should also consider the development of new operating procedures.

(3) Public Comment. If a decision is made to dissolve a RAB or reconstitute a dissolved RAB, the District Commander will notify the public of the proposal to dissolve or reconstitute the RAB and provide a 30-day public comment period on the proposal. The District Commander will notify the public of the decision through publication of a notice in a local newspaper of general circulation and distribute the notice to community members. The District PAO will provide an updated mailing list. At the conclusion of the public comment period, the District Commander will review public comments; consult with the RAB, the EPA, and state, tribal, and local government representatives, as appropriate; prepare a responsiveness summary; and render a recommendation. The District Commander will notify the public of the decision.

3-18. Community Involvement. The RAB should encourage the public to participate in discussions throughout the environmental restoration process. Many communication techniques are available for use in encouraging public involvement. The RAB should work closely with the District PAO to ensure continued public involvement by means of the following:

a. A CRP should be in place to specify a plan of action for keeping the community involved and informed. (See paragraph 2-6 for a discussion of Community Relations Plan content.)

b. If a CRP already exists for a MMRP or HTRW project, that plan should be amended by inserting RAB information (such as meeting minutes, descriptions of public involvement activities, etc.) as addenda to the plan. The plan and addenda should be placed in the information repositories. When the project is nearing completion, the basic plan should be revised to incorporate these addenda.

c. A mailing list of RAB members, elected officials, the local media, community groups, members of the public, and USACE POCs (technical and public affairs) should be developed and maintained. Public notices, fact sheets, and other handout materials should be sent to all individuals on the mailing list. (Note that the Privacy Act prohibits release of names, addresses, and phone numbers without prior consent.)

d. Information repositories should be established in the local area (at or near the MMRP or HTRW property). These repositories, generally located at libraries or other

publicly accessible locations, should contain documents reflecting ongoing environmental restoration activities, e.g., EE/CA reports, the RI/FS, proposed plans, the CRP, RAB meeting minutes, Public Notices, public comments and responses to those comments.

e. The PM District will solicit and respond (in writing) to comments. Public comment periods will be provided as specified in law and applicable regulations. In general, all draft and final documents distributed to the RAB for review and comment should be made available to the general public for a minimum of 30 days before comments are due. For documents where a review period is shorter than 30 days for regulatory staff, this same shorter review period would also apply to the review by the RAB and community members. Every effort should be made to provide the RAB and community members with an adequate review period. Special-focus meetings of the RAB may be called to review and comment on key documents. Formal, written responses should be prepared to all substantive comments received from the RAB and the general public.

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CHAPTER 4

Establishing and Maintaining Administrative Records

4-1. Introduction.

a. This chapter presents the procedures for establishing and maintaining Administrative Records in accordance with CERCLA for all MMRP and HTRW response projects.

b. The Administrative Record, established under Section 113(k) of CERCLA, serves two primary purposes. First, the Record contains those documents which form the basis for selection of a response action and, under Section 113(j), judicial review of any issue concerning the adequacy of any response action is limited to the Record. Second, Section 113(k) requires that the Record act as a vehicle for public participation in selecting a response action. The procedures discussed in this chapter were developed to ensure that USACE Administrative Records meet these two purposes. Further guidance is provided in EPA OSWER Directive 9833.3A-1, Final Guidance on Administrative Records for Selecting CERCLA Response Actions.

c. The procedures presented in this chapter apply to all HQUSACE elements and all USACE Commands having responsibility for establishing and maintaining Administrative Records for response actions. These procedures apply to PRP projects only in those rare instances when, based on a formal PRP agreement, USACE serves as the lead for execution of the response actions and agrees to maintain the Administrative Record. In such instances, the PM District will work closely with the Office of Counsel to ensure that no project documentation that is subject to a legal privilege due to potential litigation is inappropriately released. (Additional information on this topic is presented in ER 200-3-1.)

4-2. Definition of Administrative Record.

a. The Administrative Record is the body of documents that "forms the basis" for the selection of a particular response during a response action. Documents which are included are relevant documents that were relied upon in selecting the response action, as well as relevant documents that were considered but ultimately rejected (i.e., documents "considered or relied on") (see Appendix J for Administrative Record documentation requirements).

b. This guidance uses the phrase "considered or relied on" in discussing which documents should be included in the Administrative Record to indicate that it is USACE's general policy to be inclusive with respect to including documents in the Administrative Record. However, drafts or internal documents are generally not included in the Administrative Record except in specific circumstances (see paragraph 4-10).

c. The following principles will be applied in establishing Administrative Records:

(1) The Record will be a compilation of documents generated or received by USACE that relate to the selection of the response action.

(2) The Record will include documents that form the basis for the decision, whether or not they support the response selection.

(3) The Record will be a contemporaneous explanation of the basis for the selection of a response action.

(4) With each type of document, apply the question, "Will this document be relied upon in selecting the response action?" Many documents that comprise the permanent Project File are support or housekeeping documents that are necessary, but do not contribute to the decision-making process. Documents such as correspondence and work and safety plans may contain information that would be appropriate to include. Some documents contain privileged government information, such as procurement negotiation memorandums or cost reports, or have a legal privilege, making it inappropriate to release them to the public.

d. The effort to establish adequate Administrative Records encompasses a vast array of people, including records managers, PMs, lawyers, PAO personnel, real estate office personnel, and personnel of other Federal agencies. The decision to include those documents labeled "Ω" in Appendix J will require strong coordination with those stakeholders that will play a role.

e. This procedure includes not only those documents which will comprise the Administrative Record, but will also include a description of a model file structure for an entire permanent Project File (see Appendix J). This model file structure will be used for all permanent Project Files to ensure uniformity and consistency throughout the MMRP and HTRW programs.

4-3. Judicial Review. The PM District will develop an internal procedure to channel those documents that are questionable for inclusion in the Administrative Record through the appropriate offices to ensure proper review and coordination. Appropriate offices may include Project Management, Records Management, and Real Estate in conjunction with the PM District Office of Counsel. Since judicial review of any issues concerning the adequacy of any response action is limited to the Administrative Record, based on Section 113(j)(1) of CERCLA, it is imperative that Office of Counsel have lead responsibility in making final determinations. Counsel will become involved in making decisions for inclusion of documents in the Administrative Record as the documents are being created. The Administrative Records Coordinator will send all questionable documents (see Appendix J - those items marked with a "Ω") to the appropriate offices for evaluation and recommendation as to their suitability for inclusion.

4-4. Public Participation.

a. Section 113(k)(2) of CERCLA requires that the public have the opportunity to participate in developing the Administrative Record for response selection. Sections 117 and 120(f) of CERCLA also include provisions for public participation, to include state and local officials, in the remedial/removal response action planning and selection process. These sections reflect a statutory emphasis on public participation. Therefore, the Administrative Record file will be developed with the involvement of the public as discussed in paragraphs 4-12 and 4-13. Participation by interested persons will ensure that the government has considered the concerns of the public during the response selection process. In addition, for purposes of administrative and judicial review, the Record will contain documents that reflect the participation of the public and the Army's consideration of the public concerns.

b. If the Army does not provide an opportunity for involvement of interested parties in the development of the Administrative Record, persons challenging a response action may argue that judicial review should not be limited to the Record. The Army must, therefore, make the information considered or relied on in selecting a response action available to the public; provide the appropriate opportunity for public comment on this information; place comments and information received from the public in the Record; and reflect in the Record the government's consideration of this information. Public availability of the Record is discussed in paragraph 4-13.

4-5. Administrative Record File Responsibilities.

a. The Administrative Record file should be distinguished from the Administrative Record. The Record file refers to the documents as they are being compiled and may be thought of as a holding file. Until a response action decision has been selected, there is no complete Administrative Record for that decision. Thus, to avoid creating the impression that an Administrative Record is complete at any time prior to the final decision, the set of documents compiled for the response action is referred to as the Administrative Record file or Record file, rather than the Administrative Record.

b. The PM District generally has the responsibility of ensuring that the Administrative Record files are compiled and maintained according to this guidance and in close coordination with the PM, who has overall responsibility for the Administrative Record. The PM District will be responsible for initially deciding which documents are included in a Record file. As stated in paragraph 4-3a, the Office of Counsel has the responsibility for making final determinations on which documents will be included in the Administrative Record. The PM District duties with respect to the Administrative Record files include:

- (1) Developing procedures for creating Record files.
- (2) Ensuring that the public is notified that the Administrative Record file is available for inspection.

(3) Ensuring that a copy of the Administrative Record file is available at or near the MMRP or HTRW project.

(4) Ensuring that the reading area is monitored during public viewing of the Administrative Record file to ensure safekeeping of the documents.

(5) Coordinating efforts to obtain the necessary documents.

(6) Indexing the Administrative Record file and preparing a table of contents.

(7) Updating the Administrative Record file and indices on a periodic basis.

(8) Ensuring availability of the Administrative Record file for copying.

(9) Ensuring that sampling and testing data, quality control and quality assurance documentation, and chain-of-custody forms are available for public inspection when these documents have been included by reference only.

(10) Coordinating with Office of Counsel on questions of relevance and privilege or confidentiality of documents submitted for the Record files.

(11) Arranging for presentation of the Administrative Record to the court when necessary for judicial review.

(12) Arranging for presentation of the Administrative Record for audit purposes.

(13) Maintaining the confidential portion of the Record files, if necessary.

c. The District PM is responsible for establishing manpower, space, and funding for maintenance of the Administrative Record files unless the tasks will be accomplished through contract support.

d. If the way the Administrative Record was compiled and maintained is questioned in litigation, the District PM may be called upon to prepare an affidavit or testify about those procedures.

4-6. Procedures for Establishing the Administrative Record.

a. In accordance with CERCLA, the NCP, and various referenced guidance documents, a simple and comprehensive system has been developed for establishing and maintaining the Administrative Record and Record files for all USACE districts performing MMRP or HTRW response projects. This system will also be used when a USACE district enters into an agreement with the lead agency to take responsibility for establishing and maintaining the Administrative Record for environmental restoration activities being executed. This system permits DoD to achieve the judicial review and public participation goals of the Administrative Record by the most efficient and practical means.

b. It is the responsibility of PM District to establish and maintain the Administrative Record for each MMRP or HTRW response project. A separate Administrative Record is

required for each ROD/DD that will be prepared for the site. When a removal or remedial response action is being executed under the Installation Restoration Program or the Base Realignment and Closure Program, the active installation on which the contaminant or explosives safety hazard is found is responsible for establishing and maintaining the Administrative Record unless a USACE district enters into an agreement to carry out this responsibility as stated in paragraph 4-6a.

c. The PM is responsible for ensuring that each Administrative Record has an index and a table of contents for ease of locating the desired documents. Refer to paragraph 4-8 and Appendices K and L for specific procedures.

d. In general, every decision document (i.e., ROD for a remedial response action at a property, DD for a remedial response action at a non-NPL, or Action Memorandum for any removal action) must be supported by an Administrative Record. MMRP property cleanups may be broken up into several different projects. A project may include several removal and/or remedial response actions for various areas within the property. Every removal and/or remedial response action will be supported by an Administrative Record.

e. Information relevant to more than one response decision, such as an SI report or a Determination of Eligibility report to include supporting historical evidence, may be placed in the Record file for an initial response action and incorporated by reference in the indexes of subsequent Record files for that property.

4-7. Compilation.

a. The Administrative Record file will be developed and maintained in both hard copy and, for ease of storage and distribution, electronic format. Contractors will be required to provide contract deliverables in both paper and electronic format.

b. The Administrative Record file should be compiled at project initiation as relevant documents on the response action are generated or received. Generally (see Appendix J for exceptions), only final versions of documents which form the basis for the selection of a response action which are clearly relevant and non-privileged will become part of the Administrative Record, as specified in paragraph 4-2. These documents will be entered into the index and made available to the public as soon as possible. For example, the RI/FS work plan, summaries of data, the RI/FS released for public comment, the Proposed Plan, any public comments received on the RI/FS and the Proposed Plan, the EE/CA and EE/CA-related documents, as well as USACE's comment responses should be placed in the Record file and made available to the public as soon as they are generated or received.

c. Only reproduced copies of the original documents will be placed in the Record file. The original documents will be maintained in the permanent Project File. When there are questions regarding whether particular documents should be included in the Administrative Record, such documents can be segregated and reviewed at regular intervals with Office of Counsel and other appropriate offices, as described in paragraph 4-2.

d. When documents that are relevant to the response selection are generated or received after the decision document for the selection of a response action has been signed, they should be placed in a post-decision document file and may be added to the Administrative Record file in certain circumstances, as explained in paragraph 4-12.

4-8. Index and Table of Contents.

a. Each Administrative Record must be indexed and have a table of contents (see Appendix K). The index plays a key role in enabling both the Army and members of the public to locate and retrieve documents included in the Record. In addition, the index can be used for public information purposes for identifying documents located elsewhere, such as related technical literature used for research purposes. A Data Element Definition Index is provided in Appendix L. The information listed in this appendix should be keyed into the database for indices on every document included in the Administrative Record. The table of contents also serves as an overview of the history of the response action during the project.

b. The Administrative Record index provides the Army with a degree of control over documents at the repository. The creation of an index will prevent persons from altering the Record simply by physically adding documents to or removing documents from the Record file.

c. Documents related to the selection of the response action will be received throughout the project phases. These documents should be placed in the Administrative Record file at regular intervals to facilitate public review and input. Concurrently, the table of contents and index should also be updated.

4-9. Maintaining the Record.

a. The official Administrative Record file will be maintained at the district which has PM responsibility for the response action. A duplicate copy of the file will be located at or near the project. The public should be provided access to the file at both locations. Procedures for a Document Reading Room, to be located at the district's office, will be established by each district to ensure that the integrity of the file is maintained and that public access to the file is orderly. It may be necessary to contract for space or seek an agreement with a local government, community center, or library to use their facility as a repository for public viewing of the duplicate copy (located at or near the project) of the Administrative Record file.

b. In establishing public access procedures for the Document Reading Room, the security and integrity of the Record files must be maintained to the greatest extent practicable. The District will maintain the reading room and periodically review the Record file to ensure the integrity of the documents. Visitors should be able to view the Record file during reasonable hours (e.g., Monday-Friday, 9:00 a.m. - 4:00 p.m. at a minimum, with expanded hours, wherever possible, to accommodate evening visitors). The public reading area should include, where feasible:

- (1) Administrative Record file.
- (2) Access to a copier.
- (3) Sign-in book.

c. Controlled access to the files is accomplished by use of a visitor sign-in book which may help to minimize instances in which documents are lost or damaged. (See Appendix M for a sample format for the visitor sign-in book.) The sign-in book provides documentation of the government's efforts to provide public access to the Record files. Pertinent information recorded in the book could include:

- (1) Date of visit.
- (2) Name.
- (3) Affiliation.
- (4) Address.
- (5) Phone number.
- (6) Project documents viewed.
- (7) Cost of copied materials (if applicable).

d. Since documents in the Record file should be complete, properly organized, and legible, the integrity of the Record file must be maintained. Storage and reading areas should be supervised by the District to maintain proper security. Documents should not leave the document room or be left unattended. The District should check the order of the documents after they are viewed by the public to be certain that all documents have been returned intact.

e. The Administrative Record file located at a local repository at or near the project should be handled with similar care. A cover letter should accompany the Administrative Record file when the Record is initially provided to the local repository. This letter should explain the purpose of the Administrative Record file, what it consists of, the public's right to review it, and information on how this Record should be maintained. A model transmittal cover letter is provided in Appendix N for this purpose. Appendix O contains a model document transmittal acknowledgment form which can be used to obtain a receipt-acknowledged response from the local repository receiving the Administrative Record file. If possible, the Administrative Record file should be treated as a non-circulating reference; it should not leave the local repository except under supervision. The phone number of the District PM should be provided to the Administrative Record file users and to the manager of the local repository so that problems can be identified and resolved. This information can be included in an information fact sheet accompanying the Administrative Record file (see Appendix P). In addition, the District PM should plan periodic reviews of the Administrative Record file at the local repository to ensure that it remains complete and intact.

4-10. Contents of the Administrative Record. See Appendix J for a comprehensive listing of documents to be considered for inclusion in the Administrative Record. Some of these documents, as the Appendix J guidance indicates, may not be included, depending on a review by the PM, the Office of Counsel, and other associated offices. The term "document" covers a variety of written material, such as pieces of correspondence, data reports, assessments, plans, newspaper articles, notices, and fact sheets. The two primary purposes for establishing the Administrative Record, as specified in paragraph 4-2, should be observed when selecting documents for inclusion.

4-11. Inclusion of Documents by Reference Only.

a. Certain documents which are included in the Administrative Record do not have to be maintained at the local repository because of the nature of the documents and the burden associated with maintaining such documents in multiple locations. These documents, however, must be incorporated into the Administrative Record by reference (i.e., in the index but not physically in the Record file), and the index must indicate where the documents are publicly accessible. Where a document is listed in the index but not located at or near the MMRP or HTRW project, the Army must, upon request, make the document available to the public by providing the document at the local repository. This guidance applies to verified sampling data, chain-of-custody forms, and additional guidance and policy documents. It does not apply to documents marked with a security classification, such as "confidential" or "secret," nor does it apply to documents marked with For Official Use Only (FOUO) or privileged documents.

b. Unless requested, the following types of documents do not have to be located in multiple locations:

(1) Verified sampling data may be left in its original storage location. Data summary sheets, however, must be located in the Record file. The index must list the data summary sheets, reference the underlying verified sampling data, and indicate where the sampling data can be found.

(2) Chain-of-custody forms may be left in the original storage location. The index must reference the chain-of-custody forms and indicate their location.

(3) When a confidential or FOUO document is included in the Record file, it should be maintained in accordance with the appropriate security regulations. The index should identify only the title and/or any other unclassified portions of the document. In some cases, historical records used in the research to determine property conditions may have been classified at one time. However, because of the length of time from the original classification, classifiers may decide to change the classification, or an individual may request a declassification when appropriate. Classified documents placed in the

Administrative Record will be maintained in accordance with Army Regulation (AR) 380-5, Department of the Army Information Security Program, and any associated supplements.

(4) Some documents in the Administrative Record may be protected from public disclosure on the basis of an applicable privilege. Applicable privileges may include, but are not limited to, attorney-client communications; attorney work products; trade secrets or confidential business or financial information; the deliberative process information, which includes pre-decisional communications expressing opinions, advice, analysis, and recommendations of staff or contractors to agency decision-making officials; Privacy Act information; procurement source selection or procurement integrity information; or national security classified information.

(5) Guidance and policy documents need not be physically included in the Record file, but those guidance or policy documents considered or relied on in selecting the response action must be listed in the index to the Administrative Record along with their location and availability.

(6) Publicly available technical literature that was not generated for the project at issue, such as engineering textbooks, articles from technical journals, etc., does not have to be located at or near the project. The document must be clearly referenced in the index unless it has been referenced in a document which is already included in the index.

4-12. Post-decision Information. In all cases, documents generated or received after the decision document has been signed should be kept in the permanent Project Files. In general, post-decision documents should not be added to the Administrative Record file. Since the Administrative Record contains the information which was considered or relied on in selecting the response action, documents generated or received after the decision document has been signed should not be included in the Record file. (Such documents may, however, be relevant to later response decisions and become part of a later Administrative Record.) There are some exceptions, however, to this general rule, as in the following situations where post-decision documents may be added to the Record:

- a. Where a decision document does not address, or reserves for consideration at a later date, a portion of the decision. For example, a decision document may not resolve the type of treatment technology. In such cases, the PM District should continue to add to the Record file documents which form the basis for the unaddressed or reserved portion of the decision.
 - b. Where there is a significant change in the selected response action. Changes that result in a significant difference to a basic feature of the selected response action with respect to scope, performance, or cost may be addressed in an explanation of significant differences.
 - c. Where the changes are so significant that they fundamentally alter the very nature or basis of the overall response action. Such changes will require an amended decision document.
- NOTE: The public participation requirements relative to the two methods, presented in a and

b above, for dealing with post-ROD/DD changes (i.e., changes after the ROD/DD has been signed) in the remedy selection (see Appendix A of EPA 540-k-01-003 for a detailed discussion of these requirements) mirror the public participation requirements relative to pre-ROD/DD changes (i.e., changes after publication of the Proposed Plan but before the ROD/DD is signed) in the remedy selection, with the exception that the question as to whether or not the changes could have been reasonably anticipated by the public is not a factor with respect to post-ROD/DD changes. For example, pre-ROD/DD changes that could have been reasonably anticipated by the public can be discussed in the ROD/DD and the Proposed Plan does not need revision, just as post-ROD/DD changes, given the circumstances indicated in a above, can be dealt with in an explanation of significant differences and the ROD/DD does not have to be amended. Likewise, just as pre-ROD/DD changes that could not have been reasonably anticipated by the public require that the Proposed Plan be revised and a second 30-day public comment period be provided, so post-ROD/DD changes, given the circumstances indicated in b above, require that the ROD/DD be amended and a 30-day public comment period be provided.

d. Where comments containing significant information are submitted by interested persons after the close of the public comment period. The PM District must consider such comments only to the extent that they contain significant information not contained elsewhere in the Record file which could not have been submitted during the public comment period and which substantially support the need to significantly alter the response action.

e. Where the Army holds public comment periods after the selection of the response action.

4-13. Public Availability.

a. Section 113(k) of CERCLA and NCP subpart I (40 CFR 300.800 et seq.) require that the Administrative Record be available to the public. In satisfying this provision, the government must comply with all relevant public participation procedures outlined in Sections 113(k) and 117 of CERCLA.

b. The availability of the Administrative Record will vary depending upon the nature of the response action. Different procedures are required for remedial and removal response actions. In all cases, the PM District, in coordination with the District PAO, should publish a notice of availability of the Administrative Record when the Record is first made available for public inspection at the agency office and in the vicinity of the MMRP or HTRW response project at issue. The notice should explain the purpose of the Administrative Record, its location and availability, and how the public may participate in its development.

c. The notice should be published in a major local newspaper of general circulation. The newspaper notice should be distributed to persons on a public affairs mailing list for the MMRP or HTRW project. Publication of the notice should be the responsibility of the District PAO and should be done in coordination with the PM District. While the NCP requires a public notice, public notices in newspapers are often subject to availability of

printing space. To ensure publication, a paid advertisement is recommended. A copy of the notice of availability and list of recipients should be included in the Record file. Appendix Q contains a model notice of availability.

d. This public notice may be combined with other notices for the same project, such as a notice of availability of the local information repository, if they occur at the same time. Additionally, the public can be informed through existing special notices, newsletters, and fact sheets. Information on security criteria that must be met in order to view the Administrative Record (e.g., criteria for entry into the agency office/Document Reading Room) will be provided to the public. See paragraphs 1-6h (16), 3-1b, 4-1c, and 4-3a for information on the central role the Office of Counsel will play with respect to determinations concerning the legal requirements for public participation, particularly so with respect to project documentation that will not be made available to the public due to a government/legal privilege.

4-14. Administrative Record Requirements for Remedial and Removal Response Actions. See ER 200-3-1, Tables 8-1 and 8-2, respectively, for information on Administrative Record requirements for remedial and removal response actions. See Chapter 8 of ER 200-3-1 for a discussion of the different Administrative Record requirements for time-critical removal response actions (i.e., actions for which, based on the property evaluation, the lead agency determines that a period of less than 6 months exists before the onsite removal response action must be initiated) and non-time-critical removal response actions (i.e., actions for which, based on the property evaluation, the lead agency determines that a planning period of at least 6 months exists before the onsite removal response action must be initiated).

4-15. Relationship to Army Records Information Management System.

a. Army Records Information Management System (ARIMS) classification standards relating to the Environmental Restoration Program have been developed to preserve all records necessary to protect the legal and financial interests of the Army. This action will facilitate the documentation of USACE efforts needed for future discussion with regulators, to respond appropriately to legal actions and cost recovery or contribution claims, and to initiate cost recovery or contribution claims against other parties.

b. All files for MMRP and HTRW response projects will have ARIMS numbers assigned to their documents in accordance with (IAW) AR 25-400-2. Documents for the Administrative Record, insofar as this procedure is concerned, will have ARIMS numbers but will be arranged IAW the recommended file structure as outlined in Appendix J. Documents can be found by ARIMS numbers in the index. This EP is in no way intended to supersede, circumvent, or in any other way misuse the established recordkeeping regulations. See ER 200-3-1, Chapter 7, for a detailed discussion of maintenance requirements for MMRP and HTRW permanent Project Files.

4-16. Filing and Binding.

a. Since the Administrative Record cannot be created until coordinated decisions are made concerning the appropriateness of particular documents, all potential Administrative Record documents will be maintained in the Administrative Record file by the PM District. The Administrative Record file, as described in paragraph 4-5, is the file containing potential Administrative Record documents as they are created. These documents will be contained in file folders marked in accordance with the file structure outlined in Appendix J. The documents that comprise the Administrative Record total about 30 percent of the entire permanent Project File.

b. Because the Administrative Record is a specialized subset of the entire permanent Project File and because it is intended for frequent public use, ease of filing and durable binding are imperative. Generally, documents filed in accordance with ARIMS are filed in file folders. To prevent loss and maintain file integrity, documents in the Administrative Record will be filed in binders or other fastening folders which secure all pages, with a table of contents in the front of each volume. A separate index volume will enable the searcher to locate specific documents through a variety of index entry arrangements.

c. The index will be maintained in a 1-inch or smaller binder. The binder will be labeled on the side and on the front with the project number, project location (area within the property if applicable), Administrative Record Index, and the date, as well as the name of the responsible USACE district. The index should include the following information for each document:

(1) Document Number - a unique sequential number (place this number on the document as well).

(2) Document Date - date of the document.

(3) Document Title - a thorough identification of the actual document with substantive information. Include sufficient information to ensure that the document cannot be confused with another (e.g., the title "report" would be insufficient).

(4) Author - name and affiliation.

(5) Recipient - name and affiliation.

(6) Document location.

(7) Document type.

(8) Number of pages.

(9) ARIMS number - Include ARIMS number as appropriate on all correspondence and maintain IAW disposition instructions.

d. The table of contents will be maintained in its entirety (covering all volumes of the Administrative Record file) in the index binder. A table of contents will also be maintained (covering only the contents of the volume in question) for each volume of the Administrative Record file. It will be arranged in an organized file structure of 11 major divisions (see Appendix J). Within each major division is a series of minor divisions. The records for each HTRW or MMRP project in the Army will be arranged according to this hierarchy of major and minor divisions. Numbers within each minor division will be mnemonic (depending on length and content of subdivision), that is, the same document type will bear the same minor division number throughout. For example: major division 2.0 is Removal Response, minor division 2.01 is Correspondence, minor division 2.02 is Sampling and Analysis Data and Plans, minor division 2.03 is Scopes of Work/Contractual Documents; major division 3.0 is Remedial Investigation, minor division 3.01 is Correspondence, minor division 3.02 is Sampling and Analysis Data and Plans, minor division 3.03 is Scopes of Work/Contractual Documents.

e. Correspondence, as a document type, will always appear as the "01" minor division. Some divisions will have fewer minor divisions or will have content that does not "fit" the same headings, thus disrupting the mnemonic quality. Where possible, though, the same structure will apply. Appendix J shows the 11 major divisions that make up this file structure. These 11 major divisions correspond to the 11 volumes that constitute the typical Administrative Record. The number of binders per volume will vary depending on the size and number of the documents contained therein.

4-17. Audit Procedures.

a. The documents comprising the Administrative Record file will be subject to audit and therefore will be maintained as outlined in this EP. The purpose of an internal management control review is to identify, report, and make appropriate recommendations regarding the elimination of deficiencies in the establishment and/or maintenance of the Administrative Record. The internal review will protect the interests of the Army in the event that the Administrative Record is subject to review or audit. Further, the audit is necessary to ensure that the Administrative Record is maintained in proper order when subject to judicial review. As stated in paragraph 4-3, since judicial review of issues concerning adequacy of any response action is limited to the Administrative Record, it is imperative that internal reviews be performed to ensure the quality and completeness of each Record. The review may be performed by the District when applicable or by an internal management control monitor for the MMRP and HTRW programs.

b. A system of internal controls will be established at each project to monitor the Administrative Record process. To aid in the review, the following internal management

control checklist should be used. Inadequate procedures or incomplete documentation will be detected by using the checklist, thereby preparing the project for an audit. This checklist can be used for routine internal examination or by an external auditor.

c. Internal Management Control Checklist

(1) Is EP 200-3-1 being used, for MMRP and HTRW response projects, in your organization?

(2) Are the documents created in the permanent Project File arranged according to the Model Permanent Project File Structure, Appendix J of EP 200-3-1?

(3) Are all required documents included in the Administrative Record, as described in Appendix J of EP 200-3-1?

(4) Does the Administrative Record have a Table of Contents?

(5) Does the Administrative Record have an Index? Does the Index indicate where the documents are publicly accessible?

(6) Is the Administrative Record contained in 3-ring binders or other fastening folder which secures all pages?

(7) Are the binders labeled on the side and on the front with the MMRP or HTRW project number, project location, and name of responsible USACE district? Is there a Table of Contents in each binder?

(8) Has an internal procedure been established to coordinate with the Office of Counsel and others to determine which documents will become part of the Administrative Record?

(9) Is there a public Document Reading Room at the district office? Are photocopy facilities available for the public? Is controlled access to the Record files accomplished by use of a visitor sign-in book?

(10) Are public reading areas monitored to ensure property security? To the extent feasible, does the District check the order of the documents after they have been viewed by the public to ensure that all documents were returned intact?

(11) Are documents relevant to the response selection which are generated or received after the ROD/DD or Action Memorandum has been signed placed in a post-decision file?

(12) Has an offsite local repository been established? Is the Administrative Record located at a local repository treated as a non-circulating reference?

(13) Has an individual been designated, in writing, as responsible for establishing and monitoring the Administrative Record at a local repository? Does the individual conduct periodic reviews of the Administrative Record at the local repository to ensure that it remains complete and intact?

(14) When sending the Administrative Record to the local repository, are the Transmittal Cover Letter and the Document Transmittal Acknowledgment form used?

(15) Have Fact Sheets been created for the local repository and the general public?

(16) Has a Notice of Public Availability been developed to inform the public about the availability and location of the Administrative Record?

(17) For time-critical removal response actions, is the Administrative Record available for public viewing no later than 60 days after the initiation of the onsite removal response action? Has a notice of availability been published in a major local newspaper and a copy of the notice included in the Administrative Record file?

(18) Are formal written responses to all significant comments included in the Administrative Record?

(19) For non-time-critical removal response actions, is the Administrative Record available for public review when the EE/CA is made available for public comment before initiation of the removal response action?

(20) If a public meeting has been held to discuss ongoing removal response actions or the EE/CA, has the official transcript of the meeting been placed in the Administrative Record?

(21) Is every ROD/DD or Action Memorandum supported by an Administrative Record?

(22) Are only reproduced or digitally scanned copies of the original documents placed in the Administrative Record file?

(23) Are documents which are included in the Administrative Record but not maintained at the local repository near the MMRP or HTRW response project (because of the nature of the documents and the burden associated with maintaining such documents in multiple locations) incorporated into the Administrative Record by reference (i.e., in the index but not physically in the Record file)?

(24) Are documents with a security classification properly marked and handled in accordance with AR 380-5?

(25) Are guidance and policy documents listed in the Index to the Administrative Record along with their location and availability?

(26) Has publicly available technical literature that was not generated for the project at issue been clearly referenced in the Index?

(27) Is post decision information maintained in accordance with paragraph 4-12 of EP 200-3-1?

(28) Are procedures established for the appropriate participation of interested persons in the development of the Administrative Record for the selection of a removal or remedial response action?

(29) Are ARIMS numbers assigned to all files for MMRP and HTRW response projects in accordance with AR 25-400-2?

d. The internal reviewer's examination is conducted for the principal purpose of certifying the completeness and integrity of the Administrative Record for the MMRP or HTRW response project. In so doing, the reviewer should place emphasis on significant management areas and operations to ensure that correct procedures are in place for the establishment and maintenance of the Administrative Record. The reviewer will identify, report, and make appropriate recommendations regarding conditions that cause or contribute to inefficient operations, deficiencies, and errors of omission or commission. Detailed examination of management operations will be limited to that deemed necessary based upon appraisal of the adequacy of procedures and internal controls.

e. The reviewer will review the documents that comprise the Administrative Record to ensure their inclusion. To accomplish this, the reviewer should check the contents of the Administrative Record against the Table of Contents and the Index. Random checks throughout the Index to find specific documents will reveal the adequacy and completeness of the Index and the presence of the indexed documents. Likewise, the reviewer should select documents and check their presence in the Index by the variety of entry points, i.e., key words in the title, author, receiver, etc. To determine if correct procedures are in place, the reviewer can use the Internal Management Control Checklist.

f. The Administrative Record file will be reviewed within one year of establishment and each succeeding year thereafter, while in public use. The implementation of sound internal controls for all projects will ensure the organization and orderliness of Administrative Record files, thereby facilitating the review process. It is the responsibility of the district to maintain its Administrative Record file in a condition for review; to prepare or reconstruct such files is not the responsibility of the reviewers. All sets of the Administrative Record file should be reviewed, those at a repository near the project and those at a public reading room at the district.

APPENDIX A
References

Section I

Required Publications

All references are cited in the text.

5 USC App.

Advisory Committee Act of 1972

5 USC 552a, as amended

Privacy Act of 1974.

10 USC 2304

Competition in Contracting Act of 1984

10 USC 2701-2710

Defense Environmental Restoration Program.

42 USC 9601-9675

Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended.

PL 104-112

National Defense Authorization Act for Fiscal Year 1996.

32 CFR Part 202

Restoration Advisory Boards.

32 CFR Part 203

Final Rule on Technical Assistance for Public Participation in Defense Environmental Restoration Activities.

40 CFR Part 300

National Oil and Hazardous Substances Pollution Contingency Plan.

48 CFR Part 13

Simplified Acquisition Procedures.

DoD Restoration Advisory Board Rule Handbook, Office of the Secretary of Defense, March 2007. This document is available on the Internet at:

http://www.hnd.usace.army.mil/oew/handbooks/RAB-Rule-Handbook_Final.pdf

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Management Guidance for the Defense Environmental Restoration Program, Office of the Deputy Under Secretary of Defense (Environmental Security), September 2001. This document is available on the Internet at <http://aec.army.mil/usaec/cleanup/derpmgtguid.pdf>.

OMB Circular A-122
Cost Principles for Non-Profit Organizations. This document is available on the Internet at <http://www.whitehouse.gov/omb/circulars/>.

AR 25-400-2
The Army Records Information Management System (ARIMS).

AR 380-5
Department of the Army Information Security Program.

Army Public Involvement Toolbox
<http://www.asaie.army.mil/Public/IE/Toolbox/default.html>

ER 200-3-1
Formerly Used Defense Sites (FUDS) Program Policy.

ER 1110-1-8153
Military Munitions Support Services.

EM 200-1-2
Technical Project Planning Process.

EM CX Interim Guidance Document IGD 01-02 “Implementation of Technical Project Planning (TPP) for Ordnance and Explosives (OE) Formerly Used Defense Sites (FUDS) Projects”. <http://www.hnd.usace.army.mil/oew/interimguid.aspx>

USACE Formerly Used Defense Sites (FUDS) Program Public Involvement Toolkit.
January 2008.

EPA 540-K-05-002
Superfund Community Involvement Toolkit, April 2005
<http://www.epa.gov/superfund/community/pdfs/contents.pdf>

EPA 540-K-05-003
Superfund Community Involvement Handbook, April 2005. This document is available on the Internet at www.epa.gov/superfund.

EPA Office of Solid Waste and Emergency Response (OSWER) Directive 9833.3A-1, Final Guidance on Administrative Records for Selecting CERCLA Response Actions, December 3, 1990. <http://www.adminrec.com/Files/Site-Documents/RT9833.pdf>

EPA Office of Solid Waste, RCRA Public Participation Manual, 1996.
<http://www.epa.gov/waste/hazard/tsd/permit/pubpart/manual.htm>

EPA Community Involvement Toolkit. It really says Superfund, not EPA
<http://www.epa.gov/superfund/community/toolkit.htm>

Robert's Rules of Order, August 2000. The current edition of this standard reference work is commercially available on the Internet at www.robertsrules.com.

Section II
Related Publications

None.

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APPENDIX B
Sample Community Interview Questions

Refer to Section 2-8a for applicability.

Name:
Address:

Telephone (H): _____ (W): _____

Wishes to join mailing list? Yes _____ No _____

1. A _____ study is being conducted at _____. Have you heard about this study?

If so, do you remember when and how you learned of it?

Answer:

2. Have you talked with any Corps of Engineers, state, or environmental officials about the ongoing _____ study?

Answer:

3. If you have, were they responsive to your concerns or questions?

Answer:

4. What special interests or concerns do you have about _____ or the _____ study and why is this of particular interest or concern?

Answer:

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5. Have any of your friends or neighbors talked with you to express interest or concern about the _____ study, and if so, what were their concerns and why is this information of particular interest or concern?

Answer:

6. If you had a question or concern, what would you do? Is there someone you would call or contact?

Answer:

7. Would you be interested in joining a mailing list to receive fact sheets and other general information about this study?

Answer. Yes _____ No _____

8. How does the community receive information about local events and news (i.e., radio, television, newspapers)?

Answer:

9. Other than the mailing list, in what other ways can the Corps of Engineers provide you with information and better involve you in the decision-making process at _____ ?

Answer:

Newspaper(s) _____

Radio/TV _____

Information Repository (suggested location) _____

Community Hotline _____

Community Meetings (suggested time and place) _____

Formal Briefings) _____

Property Visits _____

Web Site _____

Restoration Advisory Boards _____

Other _____

10. How frequently would you like to receive information?

Answer:

Monthly_____

Bi-monthly_____

Quarterly _____

Annually _____

Whenever events warrant _____

Other_____

11. Can you suggest anyone else (friend, neighbor, group, informal or formal leader) that we should contact or who might want to be included on the mailing list?

Answer:

12. Is there anything else you would like to mention that we have not talked about? If in answering this question you provide "historical" information, please identify the source of this information.

Answer:

Privacy Act Statement

Authority: 10 U.S. Code (USC) 2705.

Principal Purpose: To identify the attitudes and concerns of area residents concerning activities at the MMRP or HTRW project during the study phase. The requested information will be used to develop a Public Involvement Plan for the specific project in question. The information will also be used by the Army to develop a mailing list of individuals interested in receiving fact sheets and other general information about the study. Disclosure of the requested information is voluntary. Failure to provide all the requested information may lessen the effectiveness of the public involvement program for the project.

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APPENDIX C

Sample RAB Public Notice

Public Notice

(Name of U.S. Army Corps of Engineers (USACE) District)
Formation of Restoration Advisory Board (RAB)
Membership Solicitation

The Department of the Army recognizes the importance of stakeholder participation in the Defense Environmental Restoration Program. Therefore, *(name of district)* is announcing the establishment of a RAB. The RAB is being created in order to improve public participation by involving the community in the environmental restoration of the property at *(name of property)*.

The RAB will include community members who reflect the diverse interests of the local community. RAB members will be asked to review and comment on plans and technical documents relating to the ongoing environmental studies and restoration activities at *(name of property)*. RAB members will have the opportunity to provide comments that may accelerate the restoration. Members will also be expected to serve as voluntary liaison between the community and the USACE district and be available to meet with community members and/or groups. Community RAB members will receive no compensation for their service. RAB meetings will be open to the public.

Community interest forms can be obtained by contacting:
(List name(s), title, address, and telephone number of contact)

Members will be expected to serve a 1- to 2-year term and attend RAB meetings regularly. Forms will be reviewed by the selection panel. The selection panel will make recommendations to the district Commander for approval of RAB members. The selection panel members will be representatives from the *(name of district)*, the *(name of state environmental agency)*, the community, and the U.S. Environmental Protection Agency, as appropriate. To qualify, interested parties must be local residents of *(name of cities or counties)* who are affected by *(name of property)*.

The initial meeting to form the RAB will be held *(list location, date, and time)*. For additional information, please contact *(name, address, and telephone number of contact)*.

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APPENDIX D

Sample RAB Community Interest Form

Community Interest
(*Name of Property*) Restoration Advisory Board (RAB)

RAB members are volunteering to serve a 1-to 2-year term and to attend all RAB meetings. Duties and responsibilities will include reviewing and commenting on technical documents and activities associated with the Defense Environmental Restoration Program at (*name of property*). Technical experts will be made available to the RAB. Members will be expected to be available to community members and groups in order to facilitate the exchange of information and/or concerns between the community and the RAB. RAB community members can expect to devote approximately (*number of hours/days*) per year to the RAB. RAB members will receive no compensation for their service.

Priority for RAB membership will be given to local residents who are impacted/affected by the (*name of property*).

Name:

Address:

Street	Apt #	City	State	Zip
--------	-------	------	-------	-----

Phone:

() _____ () _____ () _____
Daytime Home Fax

1. Are you affiliated with any group related to environmental restoration activities? If yes, list the group and your position, if applicable.
2. Briefly state why you would like to participate on the RAB.
3. What experience have you had working as a member of a diverse group with common goals?

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4. The community co-chairperson will be selected by community members of the RAB. Please indicate whether or not you are interested in being considered for the community co-chairperson position on the RAB.

Yes, I would like to be considered.
 No, I would not like to be considered.

5. Are you willing to serve as a volunteer on the RAB?

Yes, I am willing to serve as a volunteer.
 No, I am not willing to serve as a volunteer.

6. By submitting this form, you are indicating that you are aware of the time commitment which this appointment will require of you.

Privacy Act Statement

Authority: 10 U.S. Code (USC) 2705.

Principal Purpose: To identify members of the local community who are interested in serving on the RAB. The requested information will be used to develop a list of interested persons from which the community members of the RAB will be selected. The information will also be used by the Army to contact the individuals who are selected. Disclosure of the requested information is voluntary. Failure to provide all the requested information may prevent selection to serve on the RAB.

Applicant Signature

Date

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APPENDIX E
Sample RAB Letter of Invitation

Dear (*Community Member*):

The Department of the Army recognizes the importance of stakeholder participation in the Defense Environmental Restoration Program. Therefore, (*name of district*) is announcing the establishment of a Restoration Advisory Board (RAB). The RAB is intended to improve public participation by involving the community in the restoration decision-making process.

The RAB will include community volunteer members who reflect the diverse interests of the local community. RAB members will have an opportunity to provide comments on restoration activities. RAB community members can expect to spend (*number of hours/days*) per year supporting the RAB.

RAB members will be asked to meet regularly to review and comment on technical documents and plans relating to the ongoing environmental studies and restoration activities at (*name of MMRP/HTRW property*). RAB members will be expected to serve as liaison with the community and be available to meet with community members and groups. Members will be expected to serve a (*state length of service*) term. All RAB meetings will be open to the public.

If you are interested in serving on the RAB for (*name of MMRP/HTRW property*), please complete the enclosed form and return it to the following address not later than (*deadline for applications*):

(*Name, address, and phone number of contact*)

Forms will be reviewed by the RAB selection panel. The selection panel will submit recommendations for RAB membership to the district Commander for approval. The RAB selection panel will be comprised of representatives from the (*name of district*), the community, the (*name of state agency*), and the U.S. Environmental Protection Agency, as appropriate.

Sincerely,

(*Name of Panel Member*)

Enclosure

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APPENDIX F

Sample RAB Fact Sheet

Fact Sheet

Restoration Advisory Board

(Name and Location of MMRP/HTRW Property)

Background

The U.S. Army Corps of Engineers (USACE), *(name of district)*, is pursuing environmental restoration activities at *(name of property)* as part of the Defense Environmental Restoration Program. *(Provide a brief description of the response actions projected at the MMRP/HTRW property.)*

What is a Restoration Advisory Board?

A Restoration Advisory Board (RAB) is an advisory body designed to act as a focal point for the exchange of information between *(name of district)* and the local community regarding environmental restoration activities. The RAB is intended to bring together community members who reflect the diverse interests within the local community, enabling the early and continued two-way flow of information, concerns, values, and needs between the affected community and the district.

RAB members will be asked to meet regularly to review and comment on technical documents and plans relating to the ongoing environmental studies and restoration activities at *(name of property)*. Members will be expected to serve as liaison with the community and be available to meet with community members and groups. Membership terms will be decided by the RAB. All RAB meetings will be open to the public. Technical support staff will be available to provide informational support and explanation to RAB members.

How to Become a RAB Member

Community members interested in finding out more about the RAB are invited and encouraged to attend a community meeting. *(Name of district)* will conduct this meeting on *(date and time)*. At the meeting, you will learn about the purpose of the RAB and RAB membership opportunities and responsibilities and will hear an update on the status of restoration activities and future plans. RAB membership applications will be available at the community meeting. The community meeting will be held at the following address:

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(Location, address, date, and time)

If you have questions about the RAB or are interested in applying for RAB membership, community interest forms may also be obtained by contacting:

(List name, title, address, and telephone number of contact)

All community interest forms must be received by *(deadline for forms)*. Forms will be reviewed by the selection panel which will make recommendations to the district Commander for approval. The selection panel will be organized by the Project Manager of *(name of district)*. The selection panel members will be representatives from the USACE district, the state, the community, and the U.S. Environmental Protection Agency, as appropriate.

Responsibilities

Community members are expected to serve as volunteers on the RAB and to provide individual advice to decision makers on environmental restoration plans for *(name of MMRP/HTRW property)*.

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APPENDIX G

Sample RAB Operating Procedures

Operating Procedures for *(name of MMRP/HTRW property)* Restoration Advisory Board

1. Mission Statement of *(name of MMRP/HTRW property)* Restoration Advisory Board (RAB). The mission of the *(name of MMRP/HTRW property)* RAB is to establish and maintain a forum with all stakeholders for the exchange of information in an open and interactive dialogue concerning the environmental restoration activities at *(name of MMRP/HTRW property)*. The RAB will review technical documents and provide comments and advice to the U.S. Army Corps of Engineers (USACE), *(name of district)*, on the proposed environmental restoration activities.
2. Responsibilities of the RAB. Responsibilities of the RAB are as follows:
 - a. Provide advice on environmental restoration issues to USACE and regulatory agencies.
 - b. Hold regularly scheduled meetings that are open to the public and held at convenient times and locations, normally after duty hours.
 - c. Prepare public notices to promote public participation in RAB meetings.
 - d. Review, evaluate, and provide comments to the *(name of district)*, USACE, on documents related to environmental restoration activities.
 - e. Identify applicable cleanup standards presented in the Comprehensive Environmental Response, Compensation, and Liability Act and other applicable city, county, state, and Federal law and recommend cleanup levels consistent with planned reuse.
 - f. Recommend priorities among MMRP/HTRW projects.
 - g. Record minutes of RAB meetings and make them available to interested parties.
 - h. Develop RAB mission statement and operating procedures.
 - i. Provide a representative on the project delivery team (PDT) during the technical project planning (TPP) process.

3. RAB membership will consist of members from USACE, other Federal, state, and local regulatory agencies, and the local community. RAB membership will reflect the diversity of the community.

a. Community members may be drawn from, but are not limited to, the local community (including residents; various local government agencies; businesses; school districts; local environmental groups (including activist groups); civic/public interest organizations; religious groups; local regulatory agencies; Homeowners Associations; the medical community; the economically disadvantaged; African-American, Native American, Hispanic, and other minority groups; other state and Federal governments; trustees; and local and tribal governments). Community members will provide information, seek independent technical advice when appropriate and feasible, communicate public concerns to the RAB, and provide information and progress reports to the public.

b. Other RAB members will be as follows:

(1) USACE Co-Chair. Responsibilities of the USACE Co-Chair (i.e., the project manager (PM) or some other, higher-level USACE manager) are listed in paragraph 7a below.

(2) State Regulatory Agencies. Responsibilities of the state regulatory agency member(s) are listed in paragraph 7d below.

(3) U.S. Environmental Protection Agency (EPA). Responsibilities of the EPA member(s) are listed in paragraph 7e below.

4. RAB Formation. General guidelines applicable to the formation of a RAB are as follows:

a. A RAB will consist of no more than 20 members.

b. A selection panel made up of community members will recommend RAB members to the USACE district Commander (*name of MMRP/HTRW property and name of district*) for approval.

c. RAB members will serve a (*stipulate 1- or 2-year*) term. RAB members may submit an application to serve another term (not to exceed 2 years) when their first term has been completed. Total service will not exceed 4 years.

d. A Community Co-Chair will be elected by the RAB members. The procedures for conducting this election are specified in paragraph 6 below. The Community Co-Chair will serve a 1-year term, with re-election limited to one additional term.

e. The PM or some other, higher-level USACE manager designated by the district Commander will serve as the USACE Co-Chair.

5. RAB Meetings. RAB members will comply with the following meeting procedures:

a. Each community member will have one vote on the RAB's operating procedures in RAB meetings. Minutes of each RAB meeting will be recorded for inclusion in the Administrative Record.

b. Each RAB member will act individually in discussions, in providing comments on documents, and in providing advice to USACE. The RAB is not an advisory committee, as that term is used in the Federal Advisory Committee Act. All advice will be offered by RAB members as individuals and is not to be construed as "consensus" advice.

c. Regular, on-time attendance is a requirement for continued RAB membership. The RAB will meet once a month or any other period specified in the RAB operating procedures. Members are expected to attend every meeting. After a member has missed two meetings without appropriate explanation, the USACE and Community Co-Chairs will send a 14-day written notice to the member requesting written explanation, within 14 days, of these absences and indicating that after three missed meetings, the RAB will assume that the member is no longer interested and will terminate his or her membership.

d. Member participation will follow a process similar to that presented in Robert's Rules of Order. An agenda will be followed at RAB meetings, with full and open discussions encouraged. A time for public comments or questions from the public on matters not included in the agenda will be held either at the beginning or near the end of the meeting. An effort should be made to complete the agenda, including public comments and questions, between (*state specific beginning and ending times*). A Co-Chair will ask the members for a motion to adjourn and approval of such motion in order to end each meeting.

e. The RAB will encourage public participation. Co-Chairs, or other designated representatives, will respond to questions raised by the public. If sufficient information is not available to provide an accurate response at the meeting, the issue will be recorded in the meeting transcript. A written response to all issues raised will be provided. The response provided will be an agenda item for discussion at the next regularly scheduled meeting. All public comments will be considered by the RAB and recorded in the meeting transcript.

f. RAB community members must have prior approval of the RAB before speaking for the RAB during press interviews or other public relations activities.

g. When a RAB member is unable to participate in RAB meetings, the member should submit a written resignation to a RAB co-chairperson. Resigning members may nominate new members to replace themselves. Replacement members will also be sought from those individuals who were notified of their non-selection when they

initially completed the community interest forms. New members must continue to reflect the diversity of the community.

h. A Procedures Committee will be established to resolve issues regarding compliance with the operating procedures and to accept proposals from RAB members to change the procedures. This committee will be composed of the two Co-Chairs and one RAB member appointed by the RAB.

i. A Nomination Committee will be established to accept nominations for election of the Community Co-Chair. The procedures for conducting the election are listed in paragraph 6 below.

j. Disputes within the RAB will be resolved by means of a three-step process. First, the RAB Co-Chairs will attempt to resolve the issue. When these efforts are not successful, an independent facilitator may be brought in to resolve the issue. Disputes which cannot be resolved by the Co-Chairs or a facilitator may be formally presented to the USACE district Commander for resolution.

k. A quorum of RAB members must be present in order to hold a RAB meeting. A quorum is defined as both Co-Chairs, one regulatory agency member, and 51 percent of the remaining RAB members.

6. Election of Community Co-Chair. An election will be held in (*specify month*) of each year to elect a Community Co-Chair. The Community Co-Chair will be elected by a majority vote of the community RAB members, by written ballot. A Nomination Committee consisting of three RAB members will be appointed in (*specify month*) by the existing Community Co-Chair to recommend a nominee for the Community Co-Chair position for the upcoming year. Other members may be nominated from the floor at the (*specify month*) RAB meeting. Write-in candidates and self-nomination are other avenues for election to the Community Co-Chair position. The Nomination Committee will count the written ballots and announce the results at the (*specify month*) RAB meeting. The Co-Chair elect will assume the position at the (*specify month*) RAB meeting.

7. RAB Member Responsibilities.

a. Responsibilities of the USACE Co-Chair are as follows:

(1) Coordinate with the Community Co-Chair to prepare and distribute an agenda prior to each RAB meeting.

(2) Communicate with all RAB members regarding environmental restoration activities at (*name of MMRP/HTRW property*).

- (3) Publicly announce RAB meetings at least 15 days prior to and on the day preceding the meeting dates.
- (4) Ensure that USACE participates in an open and constructive manner.
- (5) Ensure that RAB members are educated and trained regarding their responsibilities as a member of the RAB.
- (6) Ensure that the RAB is provided access to documents for its review and comment. Ensure that an adequate review period is allowed for the RAB members. Ensure that documents distributed to the RAB are also made available to the public in the information repository.
- (7) Maintain a mailing list of interested and affected parties in the environmental restoration activities at (*name of MMRP/HTRW property*).
- (8) Ensure that adequate administrative and technical support is provided to the RAB.
- (9) Ensure that community issues and concerns related to environmental restoration activities are addressed when raised.
- (10) Ensure that the RAB is fully informed during all phases of the environmental restoration process and that it has opportunities to participate in advising decision makers before final decisions are made.
- (11) Provide all relevant guidance documents to the RAB to enhance the operation of the RAB.
- (12) Report back to the USACE district and refer issues not related to environmental restoration to appropriate officials for action.
- (13) Ensure that the RAB is represented on the PDT during the TPP process.
- (14) Ensure that any significant documentation generated by the RAB meets the regulatory requirements set forth in the ER 200-3-1, chapter 9.
- (15) Ensure that RAB meeting minutes summarizing topics discussed are prepared and made available, at a minimum, in the information repository.
- (16) Ensure that information on activities related to the RAB is documented and made available in the information repository.
- (17) Ensure that, to the extent that RAB input is considered in a decision regarding response activities, information about the RAB is included in the Administrative Record.

(18) Ensure that all RAB meetings are open to the public and announced to the public via public notice.

b. Responsibilities of the Community Co-Chair are as follows:

(1) Coordinate with the USACE Co-Chair and the RAB members to prepare and distribute an agenda prior to each RAB meeting.

(2) Coordinate, as required, with the USACE Co-Chair to ensure that RAB questions and concerns are answered in an appropriate and timely manner.

(3) Encourage open and constructive community participation at RAB meetings.

(4) Ensure that RAB members are trained regarding their responsibilities as RAB members.

(5) Communicate with RAB members regarding environmental restoration activities.

(6) Ensure that community issues and concerns related to environmental restoration are adequately addressed and that relevant information is communicated back to the community.

(7) Assist in the dissemination of information to the general public.

(8) Serve without compensation.

c. Responsibilities of RAB community members are as follows:

(1) Attend RAB meetings as required by the RAB operating procedures.

(2) Provide advice on environmental restoration activities to decision makers.

(3) Communicate community interests and concerns to the RAB.

(4) Serve as a conduit for the flow of information among the community, the USACE district, and other involved Federal, state, and local agencies regarding the environmental restoration issues at (*name of MMRP/HTRW property*).

(5) Review, evaluate, and provide comments on documents related to environmental restoration activities.

(6) Serve without compensation.

d. Responsibilities of state regulatory agency member(s) are as follows:

(1) Attend RAB meetings as required by RAB operating procedures.

(2) Serve as an information, referral, and resource bank for the community, the USACE district, and other involved Federal, state, and local agencies regarding environmental restoration activities at (*name of MMRP/HTRW property*).

(3) Review and provide comments on documents and other materials related to environmental restoration activities.

(4) Ensure that state environmental standards and regulations are identified and addressed by USACE.

(5) Facilitate flexible and innovative resolutions of environmental issues and concerns.

(6) Assist in the training of RAB members.

e. Responsibilities of the EPA member(s) are as follows:

(1) Attend RAB meetings as required by RAB operating procedures.

(2) Serve as an information, referral, and resource bank for the community, the USACE district, and other involved Federal, state, and local agencies regarding environmental restoration activities at (*name of MMRP/HTRW property*).

(3) Facilitate flexible and innovative resolutions of environmental issues and concerns.

(4) Ensure that Federal environmental standards and regulations are identified and addressed by USACE.

(5) Assist in the training of RAB members.

8. Amendments to RAB Operating Procedures. Amendments to RAB operating procedures may be made with a three-fourths majority vote of a quorum of all RAB members. Proposed amendments will be referred to a Procedures Committee for evaluation and recommendations. Proposals will be voted on by all RAB members after they receive the Procedures Committee's written recommendations. These recommendations will be provided to the RAB members at least 20 days prior to the meeting in which the proposed amendments will be addressed.

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APPENDIX H
Technical Assistance for Public Participation (TAPP) Application
Form DD2749

TECHNICAL ASSISTANCE FOR PUBLIC PARTICIPATION (TAPP) APPLICATION		OMB No. 0704-0392 OMB approval expires Oct 31, 2006	
The public reporting burden for this collection of information is estimated to average 4 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Department of Defense, Executive Services Directorate (0704-0392). Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.			
PLEASE DO NOT RETURN YOUR FORM TO THE ABOVE ORGANIZATION. RETURN COMPLETED FORM TO INSTALLATION LISTED IN SECTION I, BLOCK 1.			
SECTION I - TAPP REQUEST SOURCE IDENTIFICATION DATA			
1. INSTALLATION			
2. SOURCE OF TAPP REQUEST (<i>Name of Restoration Advisory Board (RAB) or Technical Review Committee (TRC)</i>)			
3. CERTIFICATION OF MAJORITY REQUEST			4. DATE OF REQUEST (YYYYMMDD)
5. RAB POINT OF CONTACT			
a. NAME (<i>Last, First, Middle Initial</i>)		b. ADDRESS (<i>Street, Apt. or Suite Number, City, State, ZIP Code</i>)	
c. TELEPHONE NUMBER (<i>Include Area Code</i>)			
SECTION II - TAPP PROJECT DESCRIPTION			
6. PROJECT TITLE			
7. PROJECT TYPE (<i>Data Interpretation, Training, etc.</i>)			
8. PROJECT PURPOSE AND DESCRIPTION (<i>State anticipated goals of project and relate to increased understanding/participation in restoration process at the installation. Include descriptions, locations, and timetables of products or services requested.</i>)			
9. STATEMENT OF ELIGIBILITY (<i>Refer to eligibility criteria in S203.10 and S203.11 of TAPP rule. Note other sources that were considered for this support and state reasons why these sources are inadequate.</i>)			
10. ADDITIONAL QUALIFICATIONS OR CRITERIA TO BE CONSIDERED (<i>Additional qualifications (beyond those specified in S203.12) a provider should demonstrate to perform the project to the satisfaction of the RAB/TRC. Attach separate statement, if necessary.</i>)			
SECTION III - INSTALLATION COMMANDER/DESIGNATED DECISION AUTHORITY APPROVAL			
<input type="checkbox"/> APPROVED	11. SIGNATURE	12. TITLE	13. DATE (YYYYMMDD)
<input type="checkbox"/> NOT APPROVED			

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PREVIOUS EDITION IS OBSOLETE.

SECTION IV - PROPOSED PROVIDER DATA			
14. PROPOSED PROVIDER			
a. NAME		b. ADDRESS (Street, Apt. or Suite Number, City, State, ZIP Code)	
c. TELEPHONE NUMBER (Include Area Code)			
15. PROVIDER QUALIFICATIONS (Attach separate statement, if necessary. A statement of qualifications from the proposed technical assistance provider will be acceptable.)			
16. ALTERNATE PROPOSED PROVIDER (If known. Attach additional pages as required.)			
a. NAME		b. ADDRESS (Street, Apt. or Suite Number, City, State, ZIP Code)	
c. TELEPHONE NUMBER (Include Area Code)			
17. ALTERNATE PROVIDER QUALIFICATIONS (Attach separate statement, if necessary. A statement of qualifications from the proposed technical assistance provider will be acceptable.)			
SECTION V - CONTRACTING OFFICE APPROVAL			
<input type="checkbox"/>	APPROVED	18. SIGNATURE	19. TITLE
<input type="checkbox"/>	NOT APPROVED		20. DATE (YYYYMMDD)

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APPENDIX I

Reporting Matrix and Reporting Tables

Table I-1. RAB and TAPP Reporting Requirements Matrix

No.	Requirement	Status Date	Report Due Date	Status Date	Report Due Date
1	Property RAB Status – Table I-2	31 March	30 April	30 September	31 October
2	RAB Establishment and Expenditures – Table I-3	31 March	30 April	30 September	31 October
3	TAPP Expenditures – Table I-4	31 March	30 April	30 September	31 October
4	New RABs Established – Table I-5	31 March	30 April	30 September	31 October
5	RAB Adjournment – Table I-6	31 March	30 April	30 September	31 October
6	RAB Community Representation – Table I-7	None	None	30 September	31 October
7	RAB Activity – Table I-8	None	None	30 September	31 October
8	RAB Advice – Table I-9	None	None	30 September	31 October
9	TAPP Reports	None	None	30 September	31 October

Table I-2. Property RAB Status

Property Name	Property Number	Federal Facility I.D. Number	Date RAB Established (YYMMDD) (Note 1)	Reason RAB Not Established (Note 2)	Date RAB Adjourned (YYMMDD) (Note 3)	Reason RAB Adjourned (Note 4)

Note 1: Date (Year Month Day) the first RAB meeting was held and the community members selected the Community Co-Chair.

Note 2: Every MMRP/HTRW property with a restoration program must determine interest in a RAB. For every MMRP/HTRW property where a RAB has not been formed, provide a reason why a RAB has not been established. The following are standard reasons:

- A. Property located in remote area; therefore, no affected community.
- B. District Commander has determined that a RAB is not needed, or the property owner objects to the establishment of a RAB.
- C. The community has expressed no sufficient, sustained interest in a RAB.
- D. Establishment of a RAB is not warranted due to lack of outstanding cleanup issues or activities.
- E. Property is supported by another RAB.
- F. DoD does not have cleanup lead at the property (e.g., PRP projects).
- G. District Commander has not attempted to establish a RAB.
- H. District Commander is in the process of determining community interest in establishing a RAB.

Note 3: If the RAB was adjourned, indicate the date (Year Month Day) meeting was held to adjourn the RAB.

Note 4: Indicate the reason RAB was adjourned:

- A. The property no longer has an environmental restoration program.
- B. All environmental restoration remedies are in place and are operating properly and successfully.
- C. There is no longer sufficient, sustained community interest.

Date Prepared:

Table I-3. RAB Establishment and Expenditures

Property Name	Property Number	Federal Facility I.D. Number	Date RAB Established (YYMMDD)	FY (Current FY)		FY (Next FY)	
				Funds Expended Thru 31 Mar	Funds Expended Thru 30 Sep	Funds Projected Thru 31 Mar	Funds Projected Thru 30 Sep

Expenditures will be reported as Outlays (Actual Expenses, not Obligations).

Date Prepared:

Table I-4. TAPP Expenditures

Property Name	Property Number	Federal Facility I.D. Number	Date Initial TAPP Request (YYMMDD)	FY (Current FY)		FY (Next FY)		Total TAPP Expenditures
				Funds Expended Thru 31 Mar	Funds Expended Thru 30 Sep	Funds Projected Thru 31 Mar	Funds Projected Thru 30 Sep	

Expenditures will be reported as Outlays (Actual Expenses, not Obligations).

Date Prepared:

Table I-5. New RABs Established

Property Name	Property Number	Federal Facility I.D. Number	Date RAB Established (YYMMDD) (Note 1)

Note 1: Date (Year Month Day) the first RAB meeting was held and the community members selected the Community Co-Chair.

Date Prepared:

Table I-6. RAB Adjournment

Property Name	Property Number	Federal Facility I.D. Number	Date RAB Adjourned (YYMMDD) (Note 1)

Note 1: Date (Year Month Day) the last RAB meeting was held and the community members decided to adjourn the RAB.

Date Prepared:

Table I-7. RAB Community Representation

Property Name	Federal Facility I.D. Number	Date RAB Established (YYMMDD)	A	B	C	D	E	F	G

Mark XX in all columns that apply for each property.

- A – Local residents/community members.
- B – Property residents, if any.
- C – Local environmental groups/activists.
- D – Business community.
- E – Low income and minority.
- F – Local government officials.
- G – Other.

Date Prepared:

Table I-8. RAB Activity

Property Name	Federal Facility I.D. Number	Date RAB Established (YYMMDD)	A	B	C	D	E	F	G	H

Mark XX in all columns that apply for each property.

- A – Reviewed plans and technical documents.
- B – Provided comments or advice.
- C – Received training.
- D – Established operating procedures.
- E – Participated in or reviewed relative risk evaluations.
- F – Provided advice that affected scope or schedule of studies/cleanup.
- G – Improved Corps of Engineers credibility.
- H – Established partnerships among stakeholders.

Date Prepared:

Table I-9. RAB Advice

Property Name	Federal Facility I.D. Number	Date RAB Established (YYMMDD)	A	B	C	D	E	F	G	H

Mark XX in all columns that apply for each property.

- A – Scope of studies.
- B – Work plan priorities.
- C – Project priorities.
- D – Relative risk evaluations.
- E – Remedy selections.
- F – Study or cleanup schedule.
- G – Future land use.
- H – Other.

Date Prepared:

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APPENDIX J

Project Documents and the Administrative Record

This appendix indicates all the documents that may be generated at a FUDS HTRW or MMR project. Not all of them will be included in the final Administrative Record. This comprehensive listing is included not only to give the reader an understanding of the universe of documents that are available for inclusion in the final Record but also to provide a guide to selecting those documents that should be included in the final Record

The numbering system employed here may be used for a project file structure and is consistent with the arrangement of the Administrative Record Table of Contents (See paragraph 4-16). The 11 major divisions that make up this file structure correspond to the 11 volumes that constitute the typical Administrative Record. See Note 1 for additional information regarding documentation of legal issues.*

Where appropriate, documents may be retained by the Office of Counsel as the attorney's working file. All other documentation relating to legal issues that is not privileged or confidential will be retained in the permanent Project File within the major file subdivision to which it pertains. For example, documents generated by the legal office regarding rights-of- entry issues will be retained under 11.0 for Real Estate and, specifically, 11.02 for Rights-of- Entry Documents. Within the appropriate subdivisions, include all correspondence to and from agency counsel and other agency staff on the project team, all legal demands or claims and documents relating to processing them, all documents involving any litigation, all documents prepared to assist agency counsel or the Department of Justice in representing the agency on pending or potential legal disputes, and any other documents which are related to legal issues. Privileged or confidential documents will be maintained either in the Office of Counsel, or with the remainder of the permanent Project File in a privileged and confidential section of the file. Each document in this portion of the file, as well as the divider or file marker for this section, will be marked as privileged and confidential. These marked documents will not be released outside the agency or included in the Administrative Record without the approval of the Office of Counsel.

Key:

√ = Include in Administrative Record.

✳ = Exclude from Administrative Record.

Ω = Perhaps include. Some records may be appropriate for inclusion in the Administrative Record; requires a document-by-document review.

1.0 Site Management Records.

- Ω 1.01 Correspondence (see notes 1 and 8)
- √ 1.02 ASR (including factual supporting historical documents)
- Ω 1.03 Scopes of Work/Contractual Documents (see note 14)
- Ω 1.04 Site Photographs and Maps
- Ω 1.05 Site Descriptions and Chronologies (see note 13)
- Ω 1.06 Reference Documents
- Ω 1.07 Federal, State, Local Technical Records
- √ 1.08 INPR (include final INPRs that have been reviewed and concurred with by agency counsel and when applicable the Confirmation Report for FUDS HTRW projects - do not include government cost estimates which may be attached to the INPR)
- √ 1.09 PA Report (including any associated documents)
- √ 1.10 SI Documents
- Ω 1.11 Work Plans/Safety Plans and Progress Reports (see notes 3 and 4)
- ☼ 1.12 NDAI Documents at the INPR phase will be excluded since no Administrative Record is compiled for such actions. It should be noted, however, that NDAI decisions reflected in the Action Memorandum or ROD/DD will be included.

2.0 Removal Response.

- Ω 2.01 Correspondence (see note 1)
- √ 2.02 Sampling and Analysis Data and Plans (see note 2)
- Ω 2.03 Scopes of Work/Contractual Documents (see note 14)
- Ω 2.04 Work Plans/Safety Plans and Progress Reports (see notes 3 and 4)
- ☼ 2.05 Invoices/Contractor Payments/Cost Reports
- Ω 2.06 Interagency Agreements/Memoranda

*For instructions on the more detailed numbering system for documents to be placed on the FUDS Records Management Database, refer to <https://frmd.usace.army.mil>.

- Ω 2.07 ARAR Determinations (see note 5)

- ☀ 2.08 Interim Deliverables (see note 7)
- √ 2.09 Chain-of-Custody Forms
- ☀ 2.10 Daily Operations Summary/Situation Reports
- ☀ 2.11 Work Register and Logs
- √ 2.12 Anomaly Review Board Documents (Management Plan, Correspondence, Standing Operating Procedures (SOPs), Findings)
- Ω 2.13 Removal Response Reports (Emergency Evacuation Orders)
- Ω 2.14 EE/CA Approval Memorandum
- √ 2.15 EE/CA Report
- √ 2.16 Action Memoranda
- 3.0 Remedial Investigation (RI).
 - Ω 3.01 Correspondence (see note 1)
 - √ 3.02 Sampling and Analysis Data and Plans (see note 2)
 - Ω 3.03 Scopes of Work/Contractual Documents (see note 14)
 - Ω 3.04 Work Plans/Safety Plans and Progress Reports (see notes 3 and 4)
 - ☀ 3.05 Invoices/Contractor Payments/Cost Reports
 - Ω 3.06 Interagency Agreements/Memoranda
 - Ω 3.07 ARAR Determinations (see note 5)
 - ☀ 3.08 Interim Deliverables (see note 7)
 - √ 3.09 Chain-of-Custody Forms
 - √ 3.10 RI Reports
 - √ 3.11 Health and Endangerment Assessments (including human health and ecological risk assessments and lead-based paint and asbestos surveys)
- 4.0 Feasibility Study (FS).
 - Ω 4.01 Correspondence (see note 1)
 - √ 4.02 Sampling and Analysis Data and Plans (see note 2)
 - √ 4.03 Geophysical Investigation Data

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- Ω 4.04 Scopes of Work/Contractual Documents (see note 14)
- Ω 4.05 Work Plans/Safety Plans and Progress Reports (see notes 3 and 4)
- ☀ 4.06 Invoices/Contractor Payments/Cost Reports
- Ω 4.07 Interagency Agreements/Memoranda
- Ω 4.08 ARAR Determinations (see note 5)
- ☀ 4.09 Interim Deliverables (see note 7)
- √ 4.10 FS Reports (see note 7)
- √ 4.11 Proposed Plans for RA (see note 7)

5.0 Record of Decision (ROD) or Decision Document (DD).

- Ω 5.01 Correspondence (see notes 1 and 8)
- √ 5.02 Sampling and Analysis Data and Plans (see note 2)
- √ 5.03 Geophysical Investigation Data
- Ω 5.04 Scopes of Work/Contractual Documents (see note 14)
- Ω 5.05 Work Plans/Safety Plans and Progress Reports (see notes 3 and 4)
- ☀ 5.06 Invoices/Contractor Payments/Cost Reports
- Ω 5.07 Interagency Agreements/Memoranda
- Ω 5.08 ARAR Determinations (see note 5)
- √ 5.09 All Public Notices, Comments Received, and Responses to the Comments
- √ 5.10 ROD or DD (see note 7)
- √ 5.11 Amendments to ROD or DD
- √ 5.12 Explanation of Significant Differences

6.0 Remedial Design (RD). (From previous remedial or removal response actions) (see notes 8 and 9)

- ☀ 6.01 Correspondence
- ☀ 6.02 Sampling and Analysis Data and Plans
- ☀ 6.03 Scopes of Work/Contractual Documents (see note 14)

- ☀ 6.04 Invoices/Contractor Payments/Cost Reports
- ☀ 6.05 Interagency Agreements/Memoranda
- Ω 6.06 ARAR Determinations (see note 5)
- ☀ 6.07 Final RD Documents (No cost estimates should be included)
(see notes 8 and 9)
- 7.0 Remedial/Removal Action (RA)/Long-Term Management (LTM). (From previous remedial or removal response actions) (see notes 8 and 9)
 - ☀ 7.01 Correspondence
 - ☀ 7.02 Sampling and Analysis Data and Plans
 - ☀ 7.03 Scopes of Work/Contractual Documents (see note 14)
 - ☀ 7.04 Work Plans/Safety Plans and Progress Reports (see notes 3 and 4)
 - ☀ 7.05 Invoices/Contractor Payments/Cost Reports
 - ☀ 7.06 Interagency Agreements/Memoranda
 - ☀ 7.07 ARAR Determinations (see note 5)
 - ☀ 7.08 RA Documents
 - Ω 7.09 LTM Documents (see note 16)
- 8.0 Public Affairs/Community Relations.
 - √ 8.01 Correspondence (see notes 1 and 8)
 - ☀ 8.02 Mailing Lists
 - Ω 8.03 Scopes of Work/Contractual Documents (see note 14)
 - Ω 8.04 Work Plans/Safety Plans and Progress Reports (see notes 3 and 4)
 - ☀ 8.05 Invoices/Contractor Payments/Cost Reports
 - Ω 8.06 CRP (see note 7)
 - Ω 8.07 Briefing Papers (briefing papers may be statements of fact presented to the decision makers which form part of the basis for a decision, or they may be privileged deliberative process information which constitute staff analysis or recommendations, or they may have both types of information.)

- Ω 8.08 News Clippings and Press Releases (see note 11)
- ☼ 8.09 Work Logs
- √ 8.10 Public Meeting Minutes/Transcripts (including minutes of RAB/TRC meetings) (see note 15)
- Ω 8.11 Fact Sheets/Newsletters
- √ 8.12 Written Responses to Public Comments/Questions (include all public comments, or information obtained from the public relating to the response action decision, which may include summaries of interviews, correspondence with political subdivisions such as zoning boards, letters from the public, etc.)
- √ 8.13 Public Notices (Availability of Record, Public Comment)

9.0 Congressional Relations.

- Ω 9.01 Correspondence (to include formal Congressionals) (see notes 1, 8, and 12)
- Ω 9.02 Briefings
- Ω 9.03 Transcripts
- Ω 9.04 Testimonies
- Ω 9.05 Published Hearings

10.0 Freedom of Information Act (FOIA).

- ☼ 10.01 Correspondence
- ☼ 10.02 Requests
- ☼ 10.03 Responses

11.0 Real Estate.

- Ω 11.01 Correspondence (see notes 1 and 8)
- Ω 11.02 Rights-of-Entry Documents (may be appropriate for inclusion, e.g., when relevant information is considered in the response action decision process)
- Ω 11.03 Title Search Documents (see note 10)
- Ω 11.04 Land Grants/Deeds

- Ω 11.05 Interagency Agreements/Memoranda (may be appropriate for inclusion, e.g., when relevant information is considered in the response action decision process)
- √ 11.06 Final approved Findings and Determinations

Notes

The following notes are referenced in the previous sections on Project Documents and the Administrative Record. Only documents containing factual data relevant to the selection of the response action on the property should be included in the Administrative Record.

1. Internal correspondence should generally be excluded from the Administrative Record. However, if these records contain facts that are not available elsewhere, they should be included in the Administrative Record. Also, all government attorney correspondence should be excluded from the Administrative Record as well as privileged documents. This material includes formal letters, meeting notes, and telephone notes.
2. Sampling and analysis data must be included in the Administrative Record. When it is available, validated data should be used. In order to limit the physical size of Administrative Records, sampling and analysis data may be included in the Record by referencing the data in the Record's Index.
3. Only the final version of a work plan (including all subplans) and any subsequent revisions/modifications need to be included in the Administrative Record.
4. Only progress reports that provide factual information related to a selection of a response action must be included in the Administrative Record.
5. ARAR information which is directly related to decisions made at the MMRP/HTRW project must be included in the Administrative Record. This includes documentation of State Certification of ARARs, if received, or documentation of request(s) for State Certification of ARARs, if not received. Correspondence between attorneys and/or MMRP/HTRW project team members relating to ARARs should be excluded from the Administrative Record.
6. Certain documents may need to be added to the Administrative Record after the Action Memorandum is signed. These documents would be added to the Administrative Record if they are relevant to a follow-up action or if the Action Memorandum is amended.

7. All relevant draft documents (e, g., EE/CA, RI/FS, ROD, Public Involvement Plan) that are made available to the public and upon which the government received comments should be included in the Administrative Record. Draft documents which contain factual information that does not appear in the final document or is included in other documents, and upon which the government based a portion of its response action decision (even if the document was not released to the public) must be included in the Administrative Record.
8. Documents generated after the Action Memorandum, the ROD, or the DD are final are usually not included in the Administrative Record. However, if there are multiple areas within a property, some documents generated after one Action Memorandum, ROD, or DD may be included in the Administrative Record if it is related to how the government made a decision for another Action Memorandum, ROD, or DD at the property. These documents should be included in the permanent Project File at the district.
9. RD and RA documents are usually excluded from the Administrative Record. However, if there are multiple RDs and RAs, documents from previous RDs and RAs may be included in the Administrative Record to support follow-up response actions. In addition, if there is an amendment to a ROD, a DD, or an Action Memorandum, additional RD and RA documents may be added to the Administrative Record. These documents should be included in the permanent Project File at the district.
10. Title search records may be excluded from the Administrative Record if they do not contain information relevant to selection of a response action. Since title search records may be considered confidential, they may be cited in the Index and excluded from the physical Administrative Record, i.e., inclusion by reference only.
11. USACE press releases are included in the Administrative Record. General newspaper clippings are excluded from the Administrative Record (unless they served as the basis for a response action).
12. Comments received from members of Congress on draft documents that were relied upon in selection of a response action (e.g., EE/CA, RI, FS, Proposed Plan, ROD, Community Relations Plan) must be included in the Administrative Record.
13. Site descriptions and chronologies may be included in the Administrative Record if they reflect official agency positions. They are not to be included if they were prepared as the project team's working papers.
14. The final scopes of work, including any modifications, should be included. Most other contract file documents are not relevant. Official contract documents and financial records will be maintained IAW AR 25-400-2.

15. Include recommendations or significant information provided by any RAB or TRC which relates to a response action decision. Also include the documents that were developed to establish the RAB or TRC, correspondence reflecting any changes in the RAB or TRC membership, and the minutes of any meeting between the RAB or TRC and the agency decision-making official.

16. Post-decision information, including LTM documents, is generally excluded from the Administrative Record. See paragraph 4-12 of this pamphlet for a discussion of when it may be appropriate to include such information in the Administrative Record.

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APPENDIX K

Model Administrative Record Index

The Administrative Record Index will be divided into several indices arranged by the access points indicated below. By knowing only one piece of information about the document being sought, such as the author, a person will be able to find that document in its volume of the Record. Each Index should include on the top of each page the property name, date of the Index, and type of organizing identifier, e.g., author, date, etc., for that Index.

Key Words (found in the title of each document or piece of correspondence)

Authors (authors of documents sent and received)

Affiliation (of authors of sent documents)

Date (provides for a chronological listing of all documents)

ARIMS number

Volume number (volume of binder in which the document is maintained)

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APPENDIX L

Model Administrative Record Data Element Definition Index

Doc No.	Unique number assigned to each document based on file structure numbering system
Vol	Volume number of the binder in which the hard copy of the document is contained
Title	Title of the document
Date	The date the document was published by or released from the issuing office or agency
Author	Author of document sent or received
Affiliation	Agency, office, or corporate entity of author
Pages	Total number of printed pages of document, including any attachments
ARIMS No.	File number from AR 25-400-2
Doc Type	Indicates type of document, e.g., correspondence, report, plan, memorandum, etc.

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APPENDIX M
Sample Visitor Sign-In Book Format

Visitor Sign-In Book

Date of visit: _____

Name: _____

Affiliation: _____

Address: _____

Phone number: _____

Project documents viewed: ASR _____ INPR _____ ROD _____ Other _____

Cost of copied materials (if applicable): _____

Privacy Act Statement

Authority: 10 U.S. Code (USC) 2705.

Principal Purpose: To establish controlled access to the Administrative Record file and other project documents in order to minimize instances in which documents are lost or damaged. The requested information will be used to contact viewers of the Record file and other project documents to identify and resolve problems as necessary. The sign-in book will also be used to provide documentation of the government's effort to provide public access to the Record file and other project documents. Disclosure of the requested information is voluntary. Failure to provide all the requested information will not prevent viewing of the Record file or other project documents.

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APPENDIX N

Model Administrative Record Transmittal Cover Letter

(Name of Contact)
(Address)

Dear *(Name of Contact)*:

The U.S. Army Corps of Engineers is required by law to establish Administrative Records for certain environmental restoration projects and to maintain one copy of such Records " at or near" the environmental restoration project at issue. The attached Administrative Record consists of information upon which the government bases its selection of response action for the *(name of MMRP/HTRW property)*. By providing the public with greater access to these Records, it is our hope that the public will be better equipped to comment constructively on MMRP/HTRW project activities and to understand the issues relating to the selection of the response action at the property.

We appreciate having the *(name of local repository)* as the designated Administrative Record facility for the *(name of MMRP/HTRW property)*. The enclosed Record file, along with any future documents relating to technical activities at the \project, will be placed in the *(name of local repository)* and be available for public review. The Record file should be treated as a non-circulating reference - it should not be removed from your facility.

Also enclosed is a fact sheet to assist you and your staff in answering questions posed by the public concerning Administrative Records for selection of response actions at MMRP/HTRW projects. Please feel free to distribute this guide to the public. To ensure the receipt of the Administrative Record, I would appreciate your completion of the attached Document Transmittal Acknowledgment form. Please return this form in the enclosed self-addressed, stamped envelope.

Again, I would like to thank you for your cooperation with the U.S. Army Corps of Engineers in serving as a field repository. If you have any questions or comments, please contact *(name of contact)* at *(phone no.)*.

Sincerely,

(Name)
Administrative Record Coordinator
(Signature is subject to local procedures.)

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APPENDIX O

Model Administrative Record Document Transmittal Acknowledgment Form

FROM: (*Office Address*)

TO: (*Field Repository Address*)

I acknowledge that I have received the following documents from the U.S. Army Corps of Engineers, (*district office/field office*), pertaining to (*MMRP/HTRW property name*).

Administrative Record Name _____

Administrative Record Volume Numbers _____

Signed _____

Date _____

Please return this form to: (*District Office/Field Office Address*)

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APPENDIX P

Sample Administrative Record Fact Sheet

Administrative Records in Local Repositories

The Administrative Record is the collection of documents which forms the basis for the selection of a response action at an environmental restoration project. Under section 113 (k) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended by the Superfund Amendment and Reauthorization Act (SARA), 42 USC 9601 et seq., the U.S. Army Corps of Engineers is required to establish an Administrative Record for every remedial or removal response action and to make a copy of the Administrative Record file available at or near the project.

The Administrative Record file must be reasonably available for public review during normal business hours. The Record file should be treated as a non-circulating reference document. This will allow the public greater access to the volumes and minimize the risk of loss or damage. Individuals may photocopy any documents contained in the Record file, according to the photocopying procedures at the local information repository. The documents in the Administrative Record may become damaged or lost during use. If this occurs, the local repository manager should contact the Corps of Engineers district or field office for replacements. Documents may be added to the Record file as the project work progresses. Periodically, the Corps of Engineers may send supplemental volumes and indexes directly to the local repository. These supplements should be placed with the initial Record file materials. The Administrative Record file will be maintained at the local repository until further notice.

Questions regarding the maintenance of the Record file should be directed to the local Corps office. The Corps welcomes comments at any time on documents contained in the Administrative Record file. Please send any such comments to *(name of contact)*. The Corps will hold formal public comment periods at certain stages of the response process. The public is urged to use these formal review periods to submit their comments. The public will be advised through the local news media of these formal review periods.

For further information on the Administrative Record, contact *(name and phone number of District PM)*.

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APPENDIX Q

Model Administrative Record Notice of Public Availability

THE U.S. ARMY CORPS OF ENGINEERS
ANNOUNCES THE AVAILABILITY OF THE
ADMINISTRATIVE RECORD
(*NAME OF PROPERTY, LOCALITY, STATE*)

The U.S. Army Corps of Engineers announces the availability for public review of files comprising the Administrative Record for the selection of the (*remedial, removal*) response action at the (*name of property, locality, state*). The Corps seeks to inform the public of the availability of the Record at this repository and at the district office and to encourage the public to comment on documents as they are placed into the Record file.

The Administrative Record includes documents which form the basis for the selection of a (*remedial, removal*) response action at this project. Documents now in the Record files include (*determination of eligibility/PA and SI reports, validated sampling data, RI/FS or EE/CA work plan, and the Public Involvement Plan*). Other documents will be added to the Record files as the project work progresses. These additional documents may include, but are not limited to, the RI/FS report, the Proposed Plan, the EE/CA report, other technical reports, additional validated sampling data, comments and new data submitted by interested persons, and Corps responses to significant comments.

The Administrative Record is available for review during normal business hours at:
(*information repository name, address, and phone number and Corps of Engineers district office name, address, and phone number and the room number for its public access reading room*)

Additional information is available at the following location(s):
(*name, address, phone number*)

Written comments on the Administrative Record should be sent to:
(*name, address, phone number*)

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GLOSSARY

Abbreviations

AR	Army Regulation
ASA(I&E)	Office of the Assistant Secretary of the Army for Installations and Environment
ASR	Archives Search Report
ARIMS	Army Records Information Management System
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CICA	Competition in Contracting Act
CFR	Code of Federal Regulations
COR	Contracting Officer's Representative
CRP	Community Relations Plan
CX	Center of Expertise
CWM	Chemical Warfare Materials
DASA(ESOH)	Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health)
DD	Decision Document
DERP	Defense Environmental Restoration Program
DMM	Discarded Military Munitions
DoD	Department of Defense
DUSD(ES)	Deputy Under Secretary of Defense (Environmental Security)
EE/CA	Engineering Evaluation/Cost Analysis
EM CX	Environmental and Munitions Center of Expertise
EP	Engineer Pamphlet
EPA	Environmental Protection Agency
ER	Engineer Regulation
FACA	Federal Advisory Committee Act
FAR	Federal Acquisition Regulation
FOIA	Freedom of Information Act
FOUO	For Official Use Only
FS	Feasibility Study
FUDS	Formerly Used Defense Sites
FY	Fiscal Year
HQDA	Headquarters, Department of the Army
HQUSACE	Headquarters, U.S. Army Corps of Engineers
HTRW	Hazardous, Toxic, and Radioactive Waste
IAW	In Accordance With
INPR	Inventory Project Report

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LTM	Long Term Management
MAP	Management Action Plan
MC	Munitions Constituents
MFR	Memorandum for Record
MMRP	Military Munitions Response Program
MRS	Munitions Response Site
MRSPP	Munitions Response Site Prioritization Protocol
MSC	Major Subordinate Command
NCP	National Oil and Hazardous Substances Pollution Contingency Plan
NDAI	No DoD Action Indicated
NPL	National Priorities List
OE	Ordnance and Explosives
OMB	Office of Management and Budget
PA	Preliminary Assessment
PAO	Public Affairs Office
PDT	Project Delivery Team
PM	Project Manager
POC	Point of Contact
PRP	Potentially Responsible Party
RAB	Restoration Advisory Board
RCRA	Resource Conservation and Recovery Act
RI	Remedial Investigation
RI/FS	Remedial Investigation/Feasibility Study
ROD	Record of Decision
ROE	Right-of -Entry
SARA	Superfund Amendment and Reauthorization Act
SI	Site Inspection
SOW	Scope of Work
TAG	Technical Assistance Grant
TAPP	Technical Assistance for Public Participation
TOSC	Technical Outreach Services to Communities
TPP	Technical Project Planning
TRC	Technical Review Committee
USACE	U.S. Army Corps of Engineers
USACHPPM	U.S. Army Center for Health Promotion and Preventive Medicine
USAEC	U.S. Army Environmental Center
USAESCH	U.S. Army Engineering and Support Center, Huntsville
USC	United States Code
UXO	Unexploded Ordnance

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