



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1
5 POST OFFICE SQUARE – SUITE 100
BOSTON, MASSACHUSETTS 02109-3912

MEMORANDUM

DATE: January 24, 2023

SUBJ: Request for a Removal Action at the Lewis Chemical Site
Hyde Park, Suffolk County, Massachusetts - **Action Memorandum**

FROM: Athanasios Hatzopoulos, On-Scene Coordinator
Emergency Response and Removal Section II

THRU: Edward Bzenas, Chief
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TO: Bryan Olson, Director
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I. PURPOSE

The purpose of this Action Memorandum is to request and document a \$2 million exemption to conduct a time-critical removal action at the Lewis Chemical Site (the Site), which is comprised of three properties located at Fairmount Court, 12-24 Fairmount Court, and Fairmount Avenue in Hyde Park, Suffolk County, Massachusetts. The city of Boston (the city) owns two parcels, and the other is owned by the Commonwealth of Massachusetts and managed as environmental preservation land by the Department of Conservation and Recreation (DCR); collectively these parcels are approximately 0.9 acres. Hazardous substances present in Site soil, if not addressed by implementing the response actions selected in this Action Memorandum, will continue to pose a threat to human health and the environment.

There are no nationally significant or precedent-setting issues associated with this Site, and there has been no use of the On-Scene Coordinator's (OSC's) \$200,000 warrant authority.

II. SITE CONDITIONS AND BACKGROUND

CERCLIS ID#: MAD053455911
SITE ID#: 01NE
CATEGORY: Time-Critical

A. Site Description

1. Removal site evaluation

On June 21, 2022, the city requested EPA's assistance to address the inorganic and organic contaminants, found on the two city-owned parcels. The contaminants of concern (COC) were most notably polychlorinated biphenyls (PCBs), trichlorethylene, and tetrachloroethylene. The sampling results were summarized in an April 2015 Final Phase II Comprehensive Site Assessment, by a licensed site professional (LSP), hired by the city to find a cleanup strategy for the Site. This report addresses sampling conducted from 2003 to 2015.

On November 9, 2022, the Massachusetts Department of Environmental Protection (MassDEP) requested EPA's assistance to evaluate the need for a removal action at the Site. The Commonwealth also submitted a Draft Toxic Substances Control Act (TSCA) Risk Based Cleanup Plan for the excavation, handling, and disposal of PCB contaminated soils on its parcel of the Site. This report addresses sampling conducted from 2013 to 2021.

In October 2022, EPA initiated a Preliminary Assessment/Site Investigation (PA/SI) to evaluate if the COC and other collocated contamination remaining in Site soil pose a risk to public health or the environment. Sampling data collected by DCR shows that PCBs were detected in 373 of 540 soil samples collected between June 2020 and March 2021 as part of investigations to characterize the extent of PCBs in soil. Concentrations of PCBs in 234 of the 373 soil samples where PCBs were detected contained concentrations above the Massachusetts Contingency Plan (MCP) Method 1, S-1 Standard of 1 mg/kg, and 87 of 373 samples contained PCBs at 50 mg/kg or above. Based on the collection of 334 samples, the city's report also reveals that soil on the city-owned parcels is contaminated with PCBs, at levels similar to the contamination existing on the Commonwealth-owned parcel. Additionally, both reports reveal that soil areas where PCBs have been detected are also contaminated with elevated levels of volatile organic compounds (VOCs) and metals (see table below). The levels of PCBs, VOCs, and metals are also above EPA's Removal Management Levels¹ (RMLs).

On October 26, 2022, EPA, and its Superfund Technical Assessment and Response Team (START) contractor visited the Site. Present for the site walk were representatives from the city, MassDEP, DCR and DCR's LSP.

¹ U.S. Environmental Protection Agency. <https://www.epa.gov/risk/regional-removal-management-levels-chemicals-rmls>. November 2018

The highest city and DCR results are as follows:

Hazardous Substance	City/DCR Highest Sample Concentration	EPA RML	MassDEP MCP Standards for S1-Soil Remediation
PCBs	15,500 mg/kg (DCR 0-2ft bgs) 13,000 mg/kg (City at 2.5 ft bgs)	23 mg/kg	1 mg/kg
VOCs Tetrachloroethylene	8,000 mg/kg (City) 1,600 mg/kg (DCR)	2,400 mg/kg	1 mg/kg
Trichloroethylene	1,900 mg/kg (City) 3,000 mg/kg (DCR)	94 mg/kg	.3mg/kg
METALS (lead)	4,800 mg/kg (City) 710 mg/kg (DCR)	400 mg/kg	200 mg/kg

The MassDEP Release Tracking Number (RTN) associated with the lots owned by the City of Boston are RTNs: 3-0033111 and 3-0001616, and the RTNs associated with the land owned by DCR are: RTNs: 3-0031548 and 3-0031697.

Based on review of the reports and the Site visit, it is evident that the potential for further release of contaminants from the Site exists. The evaluation was concluded, and a time-critical removal action was recommended in the Site Investigation Closure Memorandum dated December 21, 2022. Since PCBs are located throughout the entire Site, this time-critical removal action will focus on their removal as the primary COC. However, as a consequence of removing PCBs, the other collocated contaminants will also be removed due to their proximity to the PCBs.

2. Physical location

The 0.9-acre Site is comprised of three separate abutting parcels, two of which are owned by the city and the third is owned by the Commonwealth of Massachusetts.

The city properties are located at Fairmount Court and at 12-24 Fairmount Court and are further identified by the City of Boston Assessor's Office as Parcels # 18-10601-000 and 18-10598-000,

respectively. The city acquired Fairmount Court in 1990 through a tax foreclosure and in 2001 became owner of 12-24 Fairmount Court, the larger of the two parcels and the location of former industrial facilities, also through a tax foreclosure. The square footage of the two parcels is approximately 30,120 square feet.

The Commonwealth owns the third parcel comprising the Site which is approximately 8,500 square feet, running along the Neponset River; the City of Boston Assessor's Office identifies it as Parcel #18-10602-000.

The entire Site abuts the Neponset River to the south, with approximately 580 feet of frontage. The elevated Fairmount Massachusetts Bay Transportation Authority (MBTA) train station and railroad tracks are adjacent and located to the north and northwest of the Site with approximately 520 feet of common boundary. Fairmount Court dead ends at the northeast entrance of the Site. The Site is located at latitude 42° 15' 10.368" N, and longitude 71° 07' 11.136" W.

3. Site characteristics

Located in a densely populated residential/commercial neighborhood, approximately 20,858 people reside within one mile of the Site. Also, within one-mile radius there are 15 schools, three nursing homes and six childcare centers.

It is currently vacant of buildings or improvements and is secured with a chain link fence. At the time of the EPA visit, several openings were observed in the fence bordering the Neponset River and, signs of trespass were observed in graffiti and empty liquor containers strewn throughout.

The Site is wooded due to abandonment, unpaved, and fairly level, except where it slopes rather steeply down to the Neponset River. The riverbank frontage is reinforced with a rip-rap stone embankment.

Historically both city-owned properties were occupied by several businesses in the late 1800s and early 1900s. The historical uses of the Fairmount Court property included small businesses, such as a plumber, tailor, laundry, dressmaker, barber, as well as residential apartments. Whereas the larger parcel located at 12-24 Fairmount Court was occupied by the Royal Remedy Co. Laboratory, a mason and picture painting company, a quilted brush factory, mill stone manufacturing, a carpenter, dental tool manufacturing, a knitting business, and a chemical and dye company. From 1940 until the early 1960s, the Leather Manufacturing Co., Inc. operated on the property. Following leather manufacturing, the Lewis Chemical Corp. operated from 1963 to 1983, collecting, transporting, storing, and processing hazardous wastes. The former Lewis Chemical industrial facility was razed in 2013 by the city. To limit the exposure to the underlying soil/ groundwater impacts, the concrete slabs and certain slope-stabilizing retaining walls along the western extent of the building were left intact.

Historically and to this day, this state-owned parcel is undeveloped and DCR manages it as environmental preservation land.

Based on information in EPA's EJSCREEN environmental justice screening tool, 11 of 12 Environmental Justice Indexes for the area within a one-mile radius of the site exceed the 80th percentile on a state basis and 5 of 12 exceed the 80th percentile on a national basis.

4. Release or threatened release into the environment of a hazardous substance, or pollutant or contaminant

As previously mentioned, based on EPA's review of existing LSP data and reports prepared by DCR and the city, and by its Site visit, EPA determined the presence of hazardous substances, as defined by Section 101(14) of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), 42 U.S.C. §9601(14), and 40 CFR § 302.4. Multiple surveys conducted by city and DCR LSPs on all three parcels of the Site reveal that the soils are contaminated by hazardous substances, primarily PCBs, VOCs, heavy metals with PCBs being the COC. For highest contaminant levels detected at the Site, see the table in Section A.1. above. These hazardous substances are collocated throughout the properties and have been detected in the Site's surface and subsurface soils. The Site soils are exposed to the elements and currently pose an environmental threat to the adjacent Neponset River as well as a health threat to anyone walking on, traveling by, or living near the Site.

5. NPL status

The Site is not currently on the National Priorities List, nor has it been proposed. It has not received a Hazardous Ranking System rating, and referral to the National Priorities List site assessment program is not anticipated. The Site is adjacent to the Lower Neponset River Superfund Site.

6. Maps, pictures and other graphic representations



B. Other Actions to Date

1. Previous actions

EPA has been involved with the city-owned parcels since early 2000 with a Brownfields Program investment of over \$400,000. This includes \$100,000 in assessment funds through the city's community-wide assessment program, \$112,000 in assessment services provided directly through the targeted brownfields assessment program, and \$200,000 in a direct cleanup grant to the city in 2008.

In 2016, at the request of Mayor Walsh, the EPA Superfund Removal Program, working with MassDEP, conducted a site assessment to determine if a federal response was warranted. The 2016 effort included document reviews, a site visit/walk, and discussions with environmental consultants and representatives from the state, city, and the EPA Brownfields Program. Based on the information available and other site-specific conditions, it was determined that a Superfund removal action was not warranted at the time. This decision was documented in a November 7, 2016, Closure Memorandum and was based in part on limited contact threats and soil migration pathways, restricted property access, and contaminated soil covered by cement, asphalt, and overgrowth.

DCR undertook sampling of the state-owned parcel and collected 540 soil samples collected between June 2020 and March 2021 as part of investigations to characterize the extent of PCBs in soil which confirmed elevated levels of hazardous substances, specifically PCBs.

2. Current actions

The Site remains closed to the public while EPA assesses the existing reports and considers cleanup options. This proposed Action Memorandum will help address the Site's environmental issues. EPA has been discussing and coordinating impending cleanup activities with the city, MassDEP, and DCR.

C. State and Local Authorities' Roles

1. State and local actions to date

Assessment and remediation activities have been conducted by the city and the Commonwealth of Massachusetts since 1986. MassDEP has two RTN's for the parcel owned by the city (RTN's 3-0001616 and 3-0033111), and two RTN's for the parcel owned by the Commonwealth of Massachusetts (3-0031548 and 3-0031697). The assessment activities have been documented in numerous reports, letters, and memorandums. Many of these documents are available for public review on the MassDEP Waste Site / Reportable Release (<https://eeaonline.eea.state.ma.us/portal/#!/home>) and the City of Boston's Department of

Neighborhood Development website (<https://www.boston.gov/information-former-lewis-chemical-corporation>).

2. Potential for continued State/local response

As previously mentioned in Section A.1.above, both the city and MassDEP requested EPA assistance stating that they do not have the resources to undertake the removal action proposed in this Action Memorandum. Therefore, EPA does not anticipate that either party will be able to assist in the remediation of the Site. The city and DCR will, however, assist EPA by providing the following:

- staging area for the excavated soil for disposal,
- area for office trailers and generator,
- water for dust suppression,
- police details for traffic control during the transportation and disposal and other major soil transportation activities, and
- snow removal of Fairmount Court when needed.

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

The presence of contaminants not limited to PCBs, VOCs, and metals and current conditions at the Site constitute a release or threat of release of a hazardous substance into the environment that may present an imminent and substantial endangerment to public health or welfare. As described below, Site conditions meet the general criteria for a removal action, as set forth in 40 C.F.R. §300.415(b)(1), in that “there is a threat to public health or welfare of the United States or the environment,” and in consideration of the factors set forth in 40 C.F.R. §300.415(b)(2) as described below.

The following substances are hazardous substances as defined by Section 101(14) of CERCLA, 42 U.S.C. 9601 (14). For information on the adverse health effects related to PCBs, tetrachloroethylene, trichloroethylene and lead, please refer to the Agency for Toxic Substances and Disease Registry (ATSDR), U.S. Department of Health and Human Services, Public Health Service.

Toxicity fact sheets for the contaminants can be reviewed by using the following URL links:

PCBs-<https://wwwn.cdc.gov/TSP/ToxFAQs/ToxFAQsDetails.aspx?faqid=140&toxid=26>
Tetrachloroethylene-
<https://wwwn.cdc.gov/TSP/ToxFAQs/ToxFAQsDetails.aspx?faqid=264&toxid=48>

Trichlorethylene-

<https://wwwn.cdc.gov/TSP/ToxFAQs/ToxFAQsDetails.aspx?faqid=172&toxid=30>

Lead-<https://wwwn.cdc.gov/TSP/ToxFAQs/ToxFAQsDetails.aspx?faqid=93&toxid=22>

Actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances or pollutants or contaminants; [§300.415(b)(2)(i)];

As documented in this Action Memorandum, PCBs, VOCs and lead exist in surface soils at this Site at elevated levels of concern (see Table in Section A.1.). These contaminants present a hazard to public health and the environment, and are hazardous substances as defined by Section 101(14) of CERCLA, 42 U.S.C. §9601(14) and 40 C.F.R. § 302.4. Because the Site is not secured with a protective cover, contaminant-laden dust can become airborne with air gusts or migrate into the river from inclement weather. As discussed earlier, the Site is adjacent to the Neponset River, the MBTA train station and very close to residential and commercial properties, as well as nearby schools, nursing homes and childcare centers. Currently the recreation activities in the lower Neponset River include boating, rowing, and kayaking.

Actual or potential contamination of drinking water supplies or sensitive ecosystems [§300.415(b)(2)(ii)];

The Site is adjacent to the Neponset River which is a sensitive ecosystem. The site soils are not secured by a protective cover; therefore, elements can cause contaminants from the Site soils to migrate in the river by snowfall and/or rain. The known toxic effects of PCBs on aquatic species and wildlife include mortality, compromises in immune system function, and various adverse effects on reproduction, development, and endocrine function, in addition to a number of equally serious effects on other body systems.

High levels of hazardous substances or pollutants or contaminants in soil largely at or near the surface, that may migrate [§300.415(b)(2)(iv)]; and weather conditions that may cause hazardous substances or pollutants or contaminants to migrate or be released [§300.415(b)(2)(v)];

Laboratory analysis of the Site soil indicates that the soils are contaminated with elevated levels PCBs and other collocated contaminants. The Site is temporarily fenced, but the soils are not secured by a protective cover. Therefore, high winds or inclement weather may cause the contaminants of the Site to migrate in the environment. Moreover, there is a potential for changed site conditions resulting from an increase in surface water velocity, consistent inundation, and other effects from rising sea levels and from increased intensity and prevalence of storms (including hurricanes and 500-year flow).

The availability of other appropriate Federal or State response mechanisms to respond to the release [§300.415(b)(2)(vii)];

In letters requesting EPA's assistance (MassDEP on November 9, 2022 and the City of Boston on June 21, 2022), the State and the City both indicate their lack of resources to address the contamination at the Site.

IV. ENDANGERMENT DETERMINATION

During the PA/SI, EPA reviewed the extensive data submitted by MassDEP and the city and determined that there was an actual or threatened releases of hazardous substances or pollutants or contaminants from the Site, if not addressed by implementing the response action selected in this Action Memorandum, may present an imminent and substantial endangerment to public health, welfare, or the environment. In accordance with OSWER Directive 9360.0-34 (August 19, 1993), an endangerment determination is made based on "appropriate Superfund policy or guidance, or on collaboration with a trained risk assessor," which is outlined and discussed in Section III above. Appropriate sources include, but are not limited to, relevant action level or clean-up standards, Agency for Toxic Substances and Disease Registry documents or personnel, or staff toxicologists.

In this case, EPA relied on the following, in making an endangerment determination for this Site. Extensive sampling data has been collected by the city and DCR's LSPs documenting elevated levels of hazardous substances. More specifically, the existing soil sampling data confirmed that high concentrations of PCBs, VOCs and metals are above EPA's Removal Management Levels (RMLs), TSCA standards, and the MassDEP's Standards for Soil Remediation (See table in Section II.A.1). The Site has been designated a disposal site under the Massachusetts Oil and Hazardous Material Release Prevention Act, M.G.L. c. 21E, section 1 (Chapter 21E). Site soils contain concentrations of PCBs, metals and VOCs above EPA and MCP Method 1 S-1 standards. In addition to the exceedance of state and federal standards as described above, the ATSDR ToxFAQs for PCBs, tetrachloroethylene, trichloroethylene, and lead (Section III of this Action Memorandum) support EPA's endangerment determination.

Since PCBs are the COC, EPA will use the EPA RML (23mg/kg for residential soil) to initiate cleanup, and the MassDEP standard for S-1 soil remediation (1 mg/kg for residential soil) as the target cleanup. Decisions for the hot spot depth excavations will be made, based on in-situ data and regulatory limits at the time of excavation.

V. EXEMPTION FROM STATUTORY LIMITS

CERCLA Section 104(c) states that removal actions can exceed the \$2 million statutory limits if conditions meet either the emergency exemption criteria or the consistency exemption criteria. As described below, conditions at the Site meet the criteria for the emergency exemption, as follows:

A. Emergency Exemption

Under CERCLA § 104(c)(1)(A), removal actions may exceed the \$2 million statutory exemption if:

1. There is an immediate risk to public health or welfare or the environment.

PCBs and other contaminants in site soils, pose an immediate direct threat and/or potential exposure. Access to the Site had to be restricted as soon as hazardous substances were identified on the property. Further, under adverse weather conditions, exposed contaminated soil could potentially migrate off-site via wind, soil erosion and surface water runoff pose a risk to the Neponset River and those who live, work, or walk near the Site.

As stated earlier, the Site is in a densely populated residential/commercial neighborhood with approximately 20,858 residents, 14 schools, 3 nursing homes and 5 childcare centers. The Site abuts the Neponset River and the Fairmount MBTA train station.

2. Continued response actions are immediately required to prevent, limit, or mitigate an emergency.

Elevated levels of PCBs in the soils have been detected high as 15,500 mg/kg. The scope of the action memorandum is to excavate/dispose soil contaminated with PCBs and other collocated contaminants using the PCB EPA RML of 23 mg/kg and the MassDEP S-1 standard of 1mg/kg as the target cleanup levels. If these measures are not implemented, there will be a continued threat to public health, welfare and the environment posed by conditions at the Site.

3. Assistance will not otherwise be provided on a timely basis.

MassDEP and the city do not have adequate available resources to address the contamination and both the city and MassDEP have requested EPA's assistance with the Site with the evaluation and removal of contaminated soils. However, the state and the city will provide assistance to the extent possible, as specified above.

VI. PROPOSED ACTIONS AND ESTIMATED COSTS

A. Proposed Actions

1. Proposed action description

The proposed action will protect public health, welfare, and the environment. The goal of the removal action is to eliminate the direct contact threat and remove the source contamination by excavating and disposing of soils contaminated with PCBs and other hazardous substances. The excavated areas will be resampled, delineated with geotechnical fabric, and backfilled with clean soil. Once EPA has completed its work, any post removal site controls, such as deed restrictions, will be implemented by the city on the parcels it owns, and by DCR on the parcel it owns, under MassDEP oversight.

Specific removal activities will include the following:

- Conducting a site walk with environmental remediation contractor to assess layout of the Site and determining required equipment, personnel, and utilities.
- Developing and implementing a site-specific Health and Safety Plan.
- Developing and implementing a Community Involvement Plan
- Developing a site-specific work plan providing estimate of materials, time and costs.
- Establishing site security as necessary based on conditions.
- Mobilizing personnel and equipment.
- Delineating work zones and decontamination area.
- Performing air monitoring and implementing dust control and suppression for worker protection and public health, as needed.
- Excavating soil contaminated with PCBs and other collocated contaminants.
- Treating and disposing surface/ground water accumulated in excavated areas if necessary.
- Conducting onsite decontamination of larger debris, and segregating hazard-free debris.
- Developing a traffic management plan for the disposal of hazardous wastes and incoming clean soil.
- Conducting post-excavation soil characterization to verify that remaining soil meets the MassDEP Standards for Soil Remediation and the EPA RMLs.
- Providing and placing geotextile fabric and warning barrier across excavation areas.
- Transporting and disposing of contaminated soil at EPA approved disposal facilities. Removing and disposing other hazardous substances discovered during this removal action.
- Backfilling excavated areas and capping the excavated footprint of the Site.
- Repairing response related damages; and
- Demobilizing resources.

2. Community relations

The EPA Community Involvement Coordinator will maintain communications with the local community by sharing information through press releases, fact sheets, and public meetings, as necessary. EPA will continue to coordinate communication activities with MassDEP, DCR and the city.

3. Contribution to remedial performance

The cleanup proposed in this Action Memorandum is designed to mitigate the threats to human health and the environment posed by the Site. Based upon available information, the actions taken will be consistent with, and not impede, any future responses.

4. Description of innovative technologies and sustainable approaches

In accordance with the December 23, 2013, Memorandum, updated August 2, 2016, issued by Office of Land and Emergency Management as well as the Region 1 Clean and Greener Policy for Contaminated Sites, greener cleanup practices should be considered for all cleanup projects. Greener cleanup is the practice of incorporating practices that minimize the environmental impacts of cleanup actions and maximize environmental and human benefit. Alternative technologies and sustainable approaches will be considered and incorporated, as appropriate, throughout the implementation of the removal action. For instance, EPA will implement recycling practices including recycling of paper, plastic, metal debris, etc.

The use of alternative technologies regarding disposal options will be further examined as the site work progresses. For instance, the contaminated soil may be pre-treated to reduce landfill costs. On-site field screening and analytical techniques may be utilized during the removal action.

5. Applicable or relevant and appropriate requirements (ARARs)

The federal cleanup standards, standards of control, and other substantive requirements that have been identified to are listed below. They are applicable if noted, but otherwise relevant and appropriate.

Federal ARARs:

Clean Water Act, National Pollutant Discharge Elimination System (NPDES), 40 C.F.R. Parts 122 – 125; 122.26: Establishes the specifications for discharging pollutants from any point source into the waters of the U.S. Also, includes storm water standards for construction sites over one acre. Removal activities will be managed to prevent stormwater discharge from the Site. To

the extent water generated from the removal action needs to be discharged to the river, applicable discharge standards will be met.

Clean Water Act, 40 C.F.R. Sections 122.26(c)(ii)(C) and 122.44(k): NPDES regulations for storm water control and management will be met if the removal action triggers this ARAR.

Clean Water Act Section 404(b), (40 C.F.R. Parts 230 and 231, 33 C.F.R. Parts 320-323, and 33 C.F.R. Part 332): No activity that adversely affects a wetland shall be permitted if a practicable alternative with lesser impacts is available. Controls discharge of dredged or fill material to protect aquatic ecosystems. Any wetlands altered by the cleanup will be restored as required by regulatory standards.

Clean Water Act Federal Water Quality Criteria, Section 304(a), (40 C.F.R. 131.11): National Recommended Water Quality Criteria for chemicals for both the protection of human health and the protection of aquatic life; to be used as water quality monitoring standards for any work in or adjacent to wetlands or water bodies.

Floodplain Management and Protection of Wetlands, 44 C.F.R. Part 9: Regulations that set forth the policy, procedure and responsibilities to implement and enforce Executive Order 11988 (Floodplain Management) and Executive Order 11990 (Protection of Wetlands). Prohibits activities that adversely affect a federally-regulated wetland unless there is no practicable alternative, and the proposed action includes all practicable measures to minimize harm to wetlands that may result from such use. Requires the avoidance of impacts associated with the occupancy and modification of federally-designated 100-year and 500-year floodplain.

Clean Air Act, 40 CFR Part 61, 42 U.S.C. Section 112(b)(1): The Clean Air Act regulates 188 air toxics, also known as “hazardous air pollutants.” These regulations include the National Emission Standards for controlling dust. If the removal of soil generates regulated air pollutants, then measures will be implemented to meet these standards.

40 CFR Part 761 Subpart D: TSCA requirements for cleanup and disposal of PCBs.

40 C.F.R. 761.61(a): Requirements for off-site disposal of bulk PCB remediation wastes and porous and non-porous PCB remediation waste – bulk remediation waste will be managed and disposed of off-site in accordance with these standards.

40 C.F.R. 761.65: Requirements for temporary TSCA regulated waste storage, including design requirements. Proper design considerations will be implemented to ensure that all temporary storage of TSCA-regulated waste satisfies the requirements of the regulations.

40 C.F.R. Section 761.79: TSCA Decontamination of Equipment Used. TSCA decontamination standards and procedures for remediation.

State ARARs:

40 C.F.R. Parts 260-262 and 264 Resource Conservation and Recovery Act, Subtitle C: Hazardous Waste Identification and Listing Regulations; Generator and Handler Requirements, Closure and Post-Closure. Massachusetts has been delegated the authority to administer these RCRA standards through its state hazardous waste management regulations. Waste generated will be tested to determine whether it exceeds hazardous waste thresholds, and, if so, the hazardous waste will be managed on-site and until such time as it is shipped to an EPA-approved off-site disposal location.

310 CMR 6.00: Ambient Air Quality Standards Massachusetts Ambient Air Quality Standards sets primary and secondary standards for emissions of certain contaminants including particulate matter. Removal activities, including excavation and management of soil will be implemented in accordance with these rules.

310 CMR 7.00: Massachusetts Air Pollution Regulations stipulate that during construction and/or demolition activities, air emissions (i.e., dust, particulates, etc.) must be controlled to prevent air pollution. Construction activities will be managed to meet standards for visible emission (310 CMR Section 7.06): dust, odor, construction, and demolition. During the removal action, appropriate measures would need to be taken to comply with these regulations.

310 CMR 10.00: Wetlands Protection Regulations – standards for work within state wetland resource areas (including vegetated wetlands and 100-year floodplain) or buffer zone (200 feet from a waterway and 100 feet from a wetland). Under this requirement, available alternatives must be considered that minimize the extent of adverse impacts, and mitigation including restoration and/or replication is required.

314 CMR 4.05: Massachusetts Surface Water Quality Standards: These regulations limit or prohibit discharges of pollutants to surface waters to assure that surface water quality standards of the receiving waters are protected and maintained or attained. This may pertain to both discharges to surface water as a result of removal activities and any on-site waters affected by site conditions. On-site discharges to surface waters and adjacent wetlands, shall meet these substantive discharge standards.

The OSC will coordinate with state officials to identify additional state ARARs, if any. In accordance with the National Contingency Plan and EPA Guidance Documents, the OSC will determine the applicability and practicability of complying with each ARAR that is identified in a timely manner.

6. Project schedule

Upon approval of the proposed removal action, EPA expects to initiate the time-critical removal action in winter/spring of 2023 and estimates that the removal will be complete within six months.

B. Estimated Costs

COST CATEGORY		CEILING
<i>REGIONAL REMOVAL ALLOWANCE COSTS:</i>		
ERRS Contractor		\$3,080,000.00
Interagency Agreement		\$0,000.00
<i>OTHER EXTRAMURAL COSTS NOT FUNDED FROM THE REGIONAL ALLOWANCE:</i>		
START Contractor		\$185,000.00
Extramural Subtotal		\$3,265,000.00
Extramural Contingency	20%	\$653,000.00
TOTAL, REMOVAL ACTION CEILING		\$3,918,000.00

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

A delayed removal action or the absence of a removal action described herein will cause conditions to remain unaddressed. The Site will continue to release or threaten to release hazardous substances into the environment, which poses a threat to human health and the environment.

VIII. OUTSTANDING POLICY ISSUES

There are no precedent-setting policy issues.

IX. ENFORCEMENT ... For Internal Distribution Only

See attached Confidential Enforcement Strategy.

The total EPA costs for this removal action that will be eligible for cost recovery are estimated to be \$3,918,000 (extramural costs) + \$200,000 (EPA intramural costs) = \$4,118,000 X 1.4009 (regional indirect rate) = \$ 5,768,906²

X. RECOMMENDATION

This decision document represents the selected removal action for the Lewis Chemical Site in Hyde Park, Massachusetts, developed in accordance with CERCLA, as amended, and is not inconsistent with the National Contingency Plan. The basis for this decision will be documented in the administrative record to be established for the Site.

Conditions at the Site meet the National Contingency Plan Section 300.415 (b) (2) criteria for a removal action due to the following:

Actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances or pollutants or contaminants [§300.415(b)(2)(i)];

Actual or potential contamination of drinking water supplies or sensitive ecosystems [§300.415(b)(2)(ii)];

High levels of hazardous substances or pollutants or contaminants in soils largely at or near the surface, that may migrate [§300.415(b)(2)(iv)];

Weather conditions that may cause hazardous substances or pollutants or contaminants to migrate or be released [§300.415(b)(2)(v)];

The availability of other appropriate Federal or State response mechanisms to respond to the release [§300.415(b)(2)(vii)];

Other situations or factors that may pose threats to public health or welfare of the United States or the environment [§300.415(b)(2)(viii)].

² Direct Costs include direct extramural costs \$ 3,918,000 and direct intramural costs \$200,000. Indirect costs are calculated by using regional indirect rate in effect at time cost estimate is prepared and is expressed as a percentage of the direct costs, 40.09% (effective February 8, 2022) x \$4,118,000 consistent with EPA's full cost accounting methodology. These estimates do not include pre-judgment interest, do not take into account other enforcement costs, including Department of Justice costs, and may be adjusted during the course of a removal action. The estimates are for illustrative purposes only and their use is not intended to create any rights for responsible parties. Neither the lack of a total cost estimate nor deviation of actual total costs from this estimate will affect the United States' right to cost recovery.

I recommend that you approve the proposed removal action. The total extramural removal action project ceiling, if approved, will be \$3,918,000.

APPROVAL:_____

DATE:_____