



## REGION 4

ATLANTA, GA 30303

### **ACTION MEMORANDUM**

**SUBJECT:** Ceiling Increase and \$2,000,000 Exemption for the Time-Critical Removal Action at the Techtrix Site in Gadsden, Etowah County, Alabama

**FROM:** Charles L. Berry, On-Scene Coordinator  
Emergency Response and Removal Branch

**THRU:** James W. Webster, Chief  
Emergency Response and Removal Branch

**TO:** Caroline Freeman, Director  
Superfund and Emergency Management Division

#### **I. PURPOSE**

The purpose of this Action Memorandum is to request and document the approval of a change in the scope of work, a ceiling increase, and approval of a \$2,000,000 exemption for the time-critical removal action at the Techtrix Site (the Site) in Gadsden, Etowah County, Alabama. An emergency response Action Memorandum dated August 21, 2024, and issued by the On-Scene Coordinator under his warrant authority, identified the need for an emergency response action to stabilize leaking and unstable containers on site. A time-critical removal Action Memorandum was signed by the Deputy Division Director on October 4, 2024, and set a project budget of \$1,980,000. This amendment requests additional funding to cover ongoing operations and an exemption to the \$2,000,000 statutory limitation on removal actions. The total project ceiling for this time-critical removal action, if approved, will be \$3,600,000.

#### **II. SITE CONDITIONS AND BACKGROUND**

<b>Site Name</b>	Techtrix, Inc.
<b>Superfund Site ID (SSID)</b>	C4W1
<b>NRC Case Number</b>	1408591
<b>CERCLIS ID</b>	ALN000421075
<b>Removal Category</b>	Time-Critical Removal
<b>Site Location</b>	525 Plainview Street, Gadsden, Alabama, 35901
<b>Lat/Long</b>	34.025980, -86.019840
<b>Potentially Responsible Party (PRP)</b>	See Enforcement Addendum (Enforcement Sensitive)
<b>NPL Status</b>	Not listed
<b>Removal Start Date</b>	August 21, 2024

All information pertaining to site conditions and background information that were identified in the original time-critical Action Memorandum of October 4, 2024, remain the same in this amended Action Memorandum.

Removal activities began on October 14, 2024. Dust samples collected by the Superfund Technical Assessment and Response Team (START) prior to removal activities indicated that the copious dust in the building was a risk to workers. To eliminate the need for mandatory, full-time respiratory protection inside the building, the entire facility was vacuumed and cleaned, bringing dust levels down to acceptable levels. Dust monitoring and control remain a major factor in site operations, with START maintaining dust monitors throughout the building. Considerable time has been spent remediating the dust and has been complicated by occasional rains. The building roof leaks, and water covers the floor of the facility, washing material out from under the vats, which upon drying, becomes more dust. An estimated 10 days of site work has been dedicated to dust control so far, none of which was considered in the original site timeline.

All double-stacked totes were unstacked, with several requiring transfer before moving due to container instability. All vats were pumped into totes, and crews then sampled each container of plating waste, with the samples being used for field characterization and disposal profiling.

A disposal bid for the cyanides was awarded to Republic Services and off-site transportation is pending as of this memorandum. One of the drivers for additional funding was the increased disposal costs for the cyanide-bearing wastes along with an original underestimation of the total cyanide volume. An original volume of 25,000 gallons was used to generate the initial cost estimate, but after consolidating all the cyanide-bearing waste, there is approximately 37,000 gallons of this material on site, a roughly 50% increase.

Analytical results for the other waste streams were sent out in disposal bids to several vendors and those bids are awaiting award. Crews have consolidated and bulked much of the products from the storage area with the waste streams in the totes. Concerning future disposal costs, vendors have provided a warning that transportation and disposal costs for all materials are increasing, and the original estimates generated for the site need to be adjusted upwards.

In addition to shipping and loading waste for transport, remaining actions include breaking down and emptying the above-ground storage tanks, coalescing the solid wastes from the vats, and decontaminating the vats prior to off-site shipment as either waste or salvage. Now that the vats are empty, they can be fully assessed. Several dozen have enough solids to require physical cleaning with heavy equipment. This was not included in the original cost estimate and is reflected in this action memorandum amendment request. Additionally, the volume of F-listed waste that will be generated was also not included in the original cost estimate for this project.

It should be noted that while there is known soil contamination, this action memorandum does not include funding for either residential surface soil removal or sub-surface buried waste removal. Additional investigations are necessary to properly scope out the level of effort required. An additional action memorandum will be submitted to fund those activities and expand the scope of work, if necessary.

Public and local government outreach and communication began with a public meeting on October 15, attended by over 100 local citizens. Feedback and concerns were heard, and the community involvement coordinator continues to communicate with local citizens about the project status. Meetings with the Gadsden Mayor's office representatives and the local City Council representative have been held every 2 weeks since time-critical site activities began.

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

All information pertaining to threats to public health or welfare or the environment, and statutory or regulatory authorities described in the time-critical Action Memorandum of October 4, 2024, still apply to this Action Memorandum.

### **IV. ENDANGERMENT DETERMINATION**

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

### **V. EXEMPTION FROM STATUTORY LIMITATIONS**

#### **A. Emergency Exemption**

1. There is an immediate risk to public health or welfare from approximately 95,000 gallons of plating waste stored at the site, of which approximately 37,000 gallons contain cyanide. The material is stored in a dilapidated warehouse in a neighborhood, with residences directly across the street from the facility.
2. Response actions are immediately required to prevent, limit, or mitigate an emergency. Hydrogen cyanide gas can be released from improper mixing of the cyanide-bearing wastes and the tens of thousands of gallons of acid also stored at the facility. The HCN poses an immediate and on-going threat to the public safety of the neighborhood. The Etowah County Emergency Management Agency and the Gadsden Fire Department have enacted a standing ½-mile evacuation order for any incident or fire that occurs at the site, highlighting the seriousness of the situation.
3. Unless the EPA conducts a removal action, assistance will not otherwise be provided on a timely basis. Neither the State nor local governments have the funding to accomplish this proposed removal action. Investigations into viable PRPs are ongoing but will take additional time and require negotiations if found. The Site is not being evaluated by the Site Assessment Program, and it is not anticipated to be listed on the National Priorities list.

### **VI. PROPOSED ACTIONS AND ESTIMATED COSTS**

#### **A. Proposed Actions**

## **1. Proposed action description**

Potential removal activities for the Site may include, but will not be limited to the following:

- a. Prepare work and safety plans as necessary to ensure safe and efficient operations;
- b. Perform any necessary modifications to the property to further Site operational efficiency and safety, such as restoring ventilation and operable doors;
- c. Properly characterize all individual containers, and transfer or bulk package material into new containers adequate for shipping;
- d. Remove all waste and bulk chemicals from the facility and properly dispose at an approved disposal facility in compliance with the CERCLA off-site rule;
- e. Remove all sludge and residue from the production vats and piping and properly dispose of the waste and chemicals at an approved disposal facility in compliance with the CERCLA off-site rule, and either properly dispose of, stage, or recycle the container material, as appropriate;
- f. Conduct a sub-surface/sub-slab investigation to identify any contamination in subsurface soil below the slab;
- g. Decontaminate any areas of the building deemed necessary by the OSC;
- h. Further delineate surface soils impacted by improper material handling and remediate as necessary;
- i. Maintain adequate site security until waste and chemicals have been removed from the Site; and
- j. Prepare and implement a community involvement strategy and hold public meetings to convey information to interested stakeholders.

## **2. Contribution to remedial performance**

The proposed removal action is warranted to address the threats discussed in Section III, which meet the NCP Section 300.415 (b) (2) removal criteria. The removal action contemplated in this Action Memorandum will be consistent with any remedial action.

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

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

## **4. Applicable or Relevant and Appropriate Requirements (ARARs)**

In accordance with the NCP at 40 CFR § 300.415(j), on-site removal actions conducted under CERCLA, are required to attain all legally applicable, or relevant and appropriate

requirements (ARARs) to the extent practicable, considering the exigencies of the situation or provide grounds for invoking a CERCLA waiver under § 121(d)(4). In determining whether compliance with ARARs is practicable, the lead agency may consider appropriate factors, including (1) the urgency of the situation; and (2) scope of the removal action to be conducted. Off-site removal activities need only comply with all applicable federal and state laws unless there is an emergency.

Applicable requirements, as defined in 40 C.F.R. § 300.5, mean those cleanup standards, standards of control, and other substantive requirements, criteria, or limitations promulgated under federal environmental or state environmental or facility siting laws that specifically address a hazardous substance, pollutant, or contaminant, remedial action, location, or other circumstance at a CERCLA site.

Relevant and appropriate requirements, as defined in 40 C.F.R. § 300.5, mean those cleanup standards, standards of control, and other substantive requirements, criteria, or limitations promulgated under federal environmental or state environmental or facility siting laws that, while not “applicable” to a hazardous substance, pollutant, or contaminant, remedial action, location, or other circumstance at a CERCLA site, address problems or situations sufficiently similar to those encountered at a CERCLA site that their use is well suited to the particular site. Additionally, under 40 CFR § 300.400(g)(3), other advisories, criteria or guidance may also be considered (“To-Be-Considered,” or TBC), when conducting the removal action.

On September 9, 2024, the EPA requested ADEM identify any potential state ARARs. A response was received on September 13, 2024. Per 40 C.F.R. § 300.400(g), only those state standards that are promulgated, that are identified in a timely manner, and that are more stringent than federal requirements may be applicable or relevant and appropriate. For purposes of identification and notification of promulgated state standards, the term promulgated means that the standards are of general applicability and are legally enforceable. State ARARs are considered more stringent where there is no corresponding federal ARAR, where the state ARAR provides a more stringent concentration of a contaminant, or where a state ARAR is broader in scope than a federal requirement.

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

Potential Federal and Alabama Action-specific ARARs identified for the response action include but may not be limited to the following regulations related to generation,

characterization, and temporary staging/storage of RCRA hazardous wastes for off-site treatment and disposal:

- a. RCRA Solid and Hazardous Waste Characterization – includes requirements to characterize solid waste and determine if hazardous waste (Listed or Characteristic) and whether wastes meet land disposal restrictions (LDR) treatment standards. 40 CFR § 262.11 (ADEM 335-14-3-.01) and part 261 (ADEM 335-14-2),
- b. RCRA Hazardous Waste Storage – includes requirements for temporary on-site storage of hazardous waste in containers. 40 CFR §§262.17 (ADEM 335-14-3-.01(7))),
- c. RCRA Hazardous Waste Treatment/Disposal – includes RCRA LDR treatment standards for wastes, soil and hazardous debris. 40 CFR §§ 268.40 (ADEM 335-14-9-.04(1)), 268.45 (ADEM 335-14-9-.04(6)), 268.7 (ADEM 335-14-9-.01(7)), and 268.9 (ADEM 335-14-9-.01(9)), 268.49(c) (ADEM 335-14-9-.04(9))),
- d. RCRA Hazardous Waste Pre-transportation – includes requirements for generator to prepare wastes for transport to off-site treatment/disposal facility. 40 CFR §262.10(h) (ADEM 335-14-3-.01(h)), 262.20(f) (ADEM 335-14-3-.02(1)(f), and 263.10(a) (ADEM 335-14-4-.01(1)(a))
- e. DOT Hazardous Materials Regulations – 49 CFR §171.1(c).

Depending upon results of further investigation of the Site, additional ARARs may be identified. The EPA OSC will remain in communication with the State to develop an approach consistent with all ARARs to the extent practicable considering the exigencies of the situation.

## 5. Project schedule

Removal activities are ongoing. Based on the current progress and the number of identified properties, it is expected to take at least an additional 3 months to complete. However, additional soil removal and sub-surface sampling has yet to be done, and soil removal is not accounted for in this current Action Memo. If site activities continue beyond the 12-month limit, and additional exemption request will be submitted.

## B. Estimated Costs

<u><b>Extramural Costs:</b></u>	<u><b>Current Ceiling</b></u>	<u><b>Proposed Ceiling</b></u>
<u>Regional Allowance Costs:</u>		
ERRS	\$ 1,465,000	2,700,000
START	\$ 175,000	290,000
ERT	\$ 10,000	10,000
<u>Subtotal, Extramural Costs:</u>	\$ 1,650,000	3,000,000
20% Contingency	\$ 330,000	600,000
<b>TOTAL EXTRAMURAL COSTS:</b>	<b>\$ 1,980,000</b>	<b>3,600,000</b>

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

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

## VIII. OUTSTANDING POLICY ISSUES

No outstanding policy issues have been determined at this time.

## IX. ENFORCEMENT

Enforcement activities have been initiated and are ongoing. The executor of the deceased owner's estate has signed an access agreement for this removal action. See Attachment, "Enforcement Sensitive," for more detailed information.

The total EPA costs for this removal action based on full-cost accounting practices that will be eligible for cost recovery are estimated to be **\$6,505,220** using the following formula<sup>1</sup>:

Direct Costs	Total Extramural Costs	\$ 3,600,000
	+ Total Intramural Costs	\$ 200,000
	Total Direct Costs	\$ 3,800,000
+ Indirect Costs	+ 71.19%	\$ 2,705,220
	<b>Total EPA Costs</b>	<b>\$ 6,505,220</b>

## X. RECOMMENDATION

This decision document represents the selected removal action for the Techtrix Site in Gadsden, Etowah County, Alabama, developed in accordance with CERCLA as amended, and not inconsistent with the NCP. The document is based on the administrative record for the Site.

Conditions at the Site meet the NCP Section 300.415 (b)(2) criteria for the CERCLA section 104(c) consistency exemption, and I recommend that you approve an exemption from the \$2,000,000 limit to allow a continued removal response. This time-critical removal action is anticipated to be fund-lead with a total project ceiling of **\$3,600,000** funded through the Regional Removal Allowance.

---

<sup>1</sup> Direct costs include direct extramural costs and direct intramural costs. Indirect costs are calculated based on an estimated indirect cost rate expressed as a percentage of site-specific direct costs, consistent with the full cost accounting methodology effective October 2, 2000. These estimates do not include pre-judgment interest, do not 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.

APPROVED: \_\_\_\_\_  
Caroline Freeman, Director  
Superfund and Emergency Management Division

DATE: \_\_\_\_\_

DISAPPROVED: \_\_\_\_\_  
Caroline Freeman, Director  
Superfund and Emergency Management Division

DATE: \_\_\_\_\_



## **ATTACHMENTS**

**ATTACHMENT 1**  
**ENFORCEMENT CONFIDENTIAL ADDENDUM**