



# Ready for Reuse Determinations: Supporting the Protective Reuse of Superfund Sites



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*Superfund RfR Determinations*

Title/Cover slide



## Overview

- Provide a brief description of Superfund Ready for Reuse (RfR) Determinations
- Describe the historical use of RfR Determinations
- Introduce three Superfund RfR Determination success stories
  - H.O.D. Landfill
  - Arlington Blending and Packaging
  - Sharon Steel

*Superfund RfR Determinations*





## What is an RfR Determination?

- A technical determination
- An environmental status report
- A supplement to Superfund cleanup decisions
- A communication tool that identifies protective types of uses and any use limitations



*Superfund RfR Determinations*

**Pictured:** the covers of RfR Determinations from H.O.D. Landfill in Illinois, and the Sharon Steel site in Utah.

**IMPORTANT NOTE:** Several Regions use comfort letters to offer information about site status, liability, liens, etc. An RfR Determination is not necessarily the appropriate tool all the time, and the Agency wouldn't have resources to issue RfR Determinations for all sites. Anecdotally, RfR Determinations have been most effective when dealing with stigma or protectiveness issues at issue.

- **In general**, a Ready for Reuse (RfR) Determination is a new tool that documents that a contaminated site has been characterized and cleaned up to the extent necessary for specified current or future types of uses. An RfR Determination provides leader, communities, and potential users of a site with clear information about the environmental status of the property and the actions needed to maintain the integrity of the remedy. This information makes it easier for potential users of Superfund sites to decide whether their proposed uses are protective for the site.
- **Officially an RfR Determination is a technical determination that** states that a site is "ready for reuse" and will remain protective of human health and the environment as long as the use limitations identified in a site's response decision documents (e.g., ROD) and land title documents continue to be met. This is based upon the exposure scenarios evaluated for the site.
- An RfR Determination serves as an **environmental status report**, describing the conditions at a site as of an effective date. RfR Determinations are intended to provide helpful information in plain English about the environmental status of Superfund sites to facilitate their reuse.
- RfR Determinations **supplement Superfund cleanup decisions**, work within existing regulations, and are based upon existing decision documents. They do not affect CERCLA's requirements that remedies must be protective of human health and the environment and must comply with ARARs (applicable or relevant and appropriate requirements).
- Finally, RfR Determinations serve as **communications tools** to future users of sites, providing current information EPA has about a site in one document, including institutional controls, use limitations, and Operations & Maintenance requirements. RfR Determinations identify and clarify that the specific types of protective uses are based on current information and may not be appropriate if a site's conditions change, uses change, or new information is obtained.



## RfR Determination Limitations

- Not a legal document
- Creates no rights or obligations
- Site must meet CERCLA standards of protectiveness
- Not a certificate



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### **General**

- RfR Determinations should complement Superfund cleanup decisions (e.g., deletion, construction completion).
- The scope of RfR Determinations is limited to technical matters, focusing on the protective reuse(s) of a site after a response is in place.

### **Not a legal document**

- RfR Determinations do not address CERCLA enforcement, liability, or other legal matters.
  - An RfR Determination states only that “the site remedy is protective for these types of uses.”
- RfR Determinations do not provide any legal rights or legally enforceable commitments, and do not include any statements about EPA’s enforcement intentions or any party’s potential liability regarding a specific site.
- RfR Determinations should not be used as, nor combined in one document with, a comfort letter.

**Pictured:** an aerial photo of the H.O.D. Landfill site in Illinois.

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## **NOTES CONTINUATION**

### **Sites must meet CERCLA standards of protectiveness**

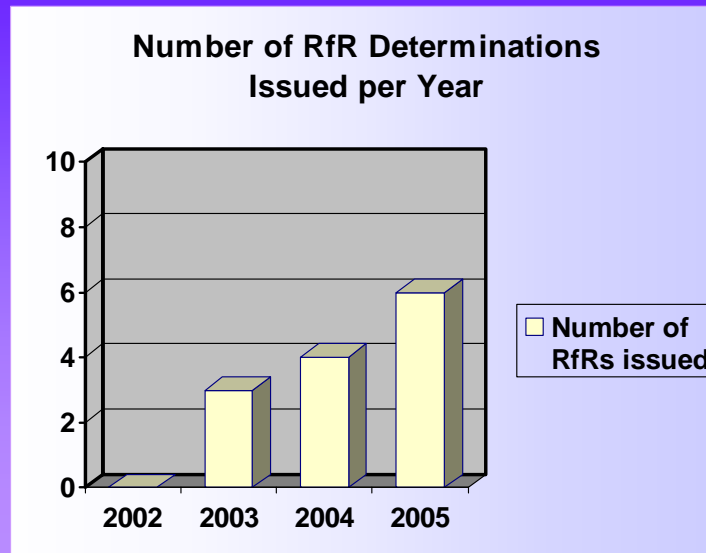
- An RfR Determination may be issued when a site meets CERCLA standards of protectiveness and EPA is not aware of potential circumstances that would make site conditions not protective for specified types of uses.
  - The Region should also be aware of state or local government environmental restrictions that would make site conditions not protective for specified types of uses.
- RfR Determinations are tied to underlying decision documents (e.g., ROD).
- RfR Determinations state that site conditions will be protective of specified types of future uses only as long as institutional control and O&M requirements have been implemented and continue to be met for the site.
  - All requirements or conditions discussed in RfR Determinations should refer to requirements or conditions created in other EPA documents (e.g., a ROD, Consent Decree).
- All RfR Determinations are subject to local land use regulations.
- Because an RfR Determination is limited to identifying types of property uses that would be protective, the RfR Determination is not an actual local land use decision document and does not substitute for compliance with local government land use requirements.

### **Not a certificate**

- The term “certificate” connotes a warranty and could imply that the RfR Determination is extending legal rights to the recipient.
- In addition, the term “certificate” could easily be confused in the real estate marketplace with a State voluntary cleanup program “certificate.” These State program certificates typically include a release from liability under State law.



## Superfund RfR Determinations Issued to Date



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- The number of RfR Determinations issued per year has almost doubled in the past two years. They are becoming an increasingly popular tool for facilitating site reuse.
- Thirteen RfR Determinations have been written to date and OSRE is aware of an additional eight that may be in the works.



## Superfund RfR Determinations: Anecdotal Benefits

- Addresses stigma associated with sites
- Improves local economic opportunities
- May increase property values
- Protects human health, the environment, and the remedy

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**•Addresses stigma:** The RfR Determination has proven to be valuable for dealing with issues of Superfund site stigma and confusion about appropriate future uses. Documenting EPA’s position on the reuse potential for a site can provide the additional assurance communities and local governments need to reuse a site that has been labeled “hazardous.” For example, the RfR Determination at the HOD Landfill site, which I will talk about in more detail later, alleviated local parents’ concern about the use of the site for school athletic fields.

**•Improves local economic opportunities:** Local officials and developers have relied on RfR Determinations to improve local economic conditions by encouraging redevelopment. Christine Richman, the former director of the Department of Community and Economic Development in Midvale City, Utah, said that the Sharon Steel RfR Determination was helpful primarily because EPA issued it. When developers, lenders, and community members considered participating in the development at the site, they asked her, “Is EPA okay with this?” The RfR Determination was something she shows them to address their concerns.

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## NOTES CONTINUATION

### **•Protects Human Health, the Environment, and the Remedy: RfR**

Determinations have the ability to support reuse and simultaneously play a critical role in ensuring the long-term protectiveness of the remedy. RfR Determinations describe the development history of the site and the steps that communities can take to reuse the site in a responsible manner.

- Once a site is in reuse, the groups who regularly use the site can continue to protect the remedy by identifying any problems and alerting the appropriate authorities.
- RfR Determinations also clearly articulate the limitations associated with the remedy and the future uses it can support. As a result, some site users may even be able to help enforce site limitations by prohibiting or discouraging activities that would damage the remedy. In this way, RfR Determinations educate future users about how to ensure long-term protection.
- At restricted use sites, an RfR Determination reaffirms the importance of establishing and implementing appropriate and effective institutional controls for a site. The RfR Determination not only lays out what institutional controls are required at the site, but also provides information on the entities responsible for enforcing them.

**•May increase property values:** EPA Regional Offices have found that RfR Determinations are useful in communicating information about a site to interested local parties. The lenders involved with the Southern Maryland Wood Treating Site in Hollywood, Maryland, believed that the RfR Determination helped make the property more valuable by alleviating the fears of site owners, thereby increasing opportunities at the site. The Town Superintendent for the Arlington Blending & Packaging Superfund site also felt that the RfR Determination would improve surrounding property values by addressing the stigma at the adjacent Superfund site.





## RfR Determination Success Story: H.O.D. Landfill Antioch, IL



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- The H.O.D. Landfill Superfund site occupies 121 acres in Antioch, Illinois, 51 of which are the landfill itself. After its closing in 1984, the landfill was covered with a second clay cap and clean fill. Subsequent remedial action addressed leachate and gas extraction, waste cap improvements, and monitored natural attenuation of ground water.
- Before the RfR Determination was issued, the cleaned-up landfill existed as 121 acres of grass-covered land near Antioch Community High School.
- The RfR Determination was issued in 2003. The site will become home to athletic fields and restored wetlands.
- Currently, methane generated by the landfill serves as a power supply for the high school. In addition, the athletic fields are under construction for use this spring and tennis courts have been built on the site.

***Pictured:*** An illustration of future land uses over the remediated landfill cap.



## H.O.D. Landfill: Why Issue an RfR Determination?

- Assured local community members that it was safe to reuse the site for recreational uses
- Supported the local school system that wanted to reuse the site to provide badly needed athletic fields
- Provided EPA with an opportunity to clearly lay out the opportunities and limitations associated with the site to ensure that the remedy remained protective

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## H.O.D. Landfill: Important Considerations

- RfR Determination cited a post-cleanup risk assessment paid for by the PRPs that demonstrated that the remedy could accommodate recreational reuse
- Required an Explanation of Significant Differences to change the reasonably anticipated future land use and refine institutional controls that would ensure that the remedy remained protective



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### **ESD:**

•“Based on the exposure pathway analysis and risk assessment, the following significant differences to the H.O.D. Landfill ROD are proposed:

- Modifying access restrictions such that the existing fence will be removed from the 120-acre site, but that a fence restricting access to the operation and maintenance areas (including two maintenance buildings, and a leachate collection pad and tank) will be constructed and maintained around the operation and maintenance areas. In addition, warning signs will be placed around the fenced operation and maintenance areas, and locking gates will be installed in the fencing surrounding the areas. The gates will be kept locked when the areas are not being subject to maintenance or inspection activities.
- Securing any equipment outside of the fenced-in operation and maintenance area which is necessary to maintain the integrity of the existing landfill (flush-mounted gas/leachate collection vaults). In addition, locking mechanisms will be installed on the vault covers and will be kept locked when not being inspected or subject to maintenance activities.
- Refining the restrictive covenants for the deeds to the Site to reflect uses that can be safely supported without affecting the integrity of the remedy, as documented in the Exposure Pathway Analysis and Risk Assessment for the HOD Landfill End Use Plan, February, 2003.”



## H.O.D. Landfill Today: Ready for Recreational Use

- Methane generated by the landfill serving as a power supply for the school
- Paving underway for new school tennis courts
- Construction of athletic fields underway with expected completion date of Spring 2006



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**Pictured:** presentation of RfR Determination cover sheet in 2003.



## RfR Determination Success Story: Arlington Blending & Packaging Arlington, TN



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**Pictured:** Arlington Blending & Packaging as it looks today and plans for its future uses, which include walking trails and basketball courts.

- The 2.3-acre Arlington Blending & Packaging Superfund site in the town of Arlington, Tennessee was once home to a pesticide formulation and packaging facility. During its seven-year operation, pesticide spills and leaks at the facility gradually led to soil, sediment, and groundwater contamination. In 1996, cleanup activities included excavation, stockpiling, treatment, and backfilling of over 41,000 tons of contaminated soil over most of the site; today the site is revegetated and ready for recreational use. Groundwater monitoring continues to ensure that any lingering contaminants do not pose a threat to human health and the environment.
- Before the RfR Determination was issued, the site was a cleaned-up 2.3-acre vacant grass field.
- After the RfR Determination was issued in 2004, plans were begun to put the site into use as a park, accessible to all the surrounding residential communities. The park will include a playground, field space, walking and biking trails, exercise stations, and a half-court basketball court.

**Pictured:** a picture of the cleaned-up site in Arlington, TN, and a drawing of plans for a park at the site.



## Arlington Blending & Packaging: Why Issue an RfR Determination?

- Provided local government officials with the support and confidence they needed to move forward with acquisition and subsequent reuse of the site
- Assured local residents that the site could be reused for recreational purposes



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**Pictured:** The Arlington site in TN after it was cleaned up.



## Arlington Blending & Packaging Important Considerations

- Written with minimal resources by making use of a recently completed Five Year Review
- Included a County groundwater restriction as part of RfR Determination to reinforce the institutional control
- Used in conjunction with a comfort letter, which addressed liability concerns of the local government

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- Five year reviews serve as excellent sources of information for RfR Determinations. They tend to contain most of the information needed to write the RfR Determination, including (when applicable) affirmative statements that indicate that the remedy remains protective for the reasonably anticipated future land use, which is an important component of RfR Determinations.
- A well-written five year review can reduce the level of effort needed to write an RfR Determination: anecdotal evidence suggests as much as 50%.



## Arlington Blending & Packaging Today: Ready for Recreational Reuse

- Town has acquired the site and, with a \$300,000 grant, is in the process of building the new park
- Reuse planning activities documented appropriate reuse to ensure remedy remains protective
- Indications that the RfR Determination may also benefit adjacent properties and Town tax revenue

### ***Town Superintendent***

*“Without the Ready for Reuse Determination, there is no way that we could have ever convinced the board and people that here’s a property that was once a Superfund site, and we’re going to put it to use.”*

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### **General**

•The work done at the Arlington Blending & Packaging site is illustrative of a new trend in Superfund Redevelopment – the use of multiple tools to support reuse activities. The site not only received an RfR Determination, but also a comfort letter (written by Kat West). The Region funded reuse planning activities to ensure that the community maintained realistic expectations about appropriate future use and reused the site in a way that remained protective of human health and the environment.

**Pictured:** an aerial photo of the site in Arlington, TN.





## RfR Determination Success Story: Sharon Steel



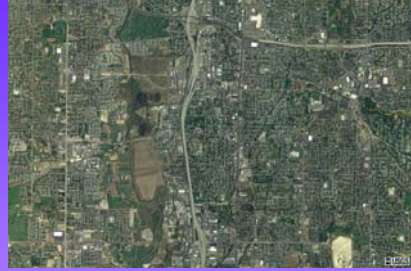
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- The 470-acre Sharon Steel Superfund site in Midvale, Utah consists of two Operable Units (OUs). OU1 is considered to be the source of the contamination; OU2 comprises the residential and commercial properties to which contamination spread by blowing wind. While the properties in OU2 returned to use immediately after cleanup, the capped and vegetated 260 acres of OU1 has remained vacant since the cleanup of the former smelting and milling facility.
- Before the RfR Determination was issued, the site was a cleaned-up and vacant 260 acres of land that was capped in 1996. The property loomed over Midvale City like a large, flat-topped hill.
- After the RfR Determination was issued in 2004, developers were able to continue moving forward with creative redevelopment plans and collaborate with federal, state, and local agencies.



## Sharon Steel: Why Issue an RfR Determination?

- Give the local government a tool and resource for supporting the appropriate future use of the site
- Reduce the stigma for future users of the site
- Support the reuse of the site, one of two sites comprising 20% of the City's remaining developable land area

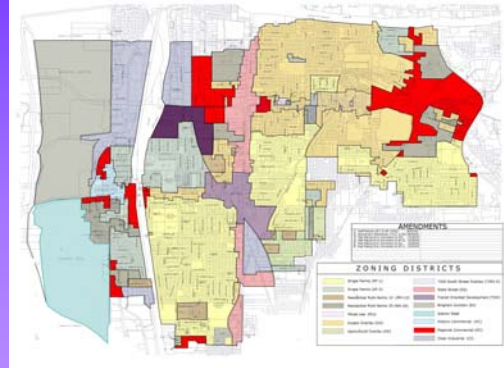


•**Pictured:** aerial shots of the Sharon Steel site in Midvale, Utah.



## Sharon Steel: Important Considerations

- RfR Determination cites the existing Site Management Plan and Institutional Control Process Plan to clearly delineate what uses were appropriate over what portions of the site
- Requested by current owners despite the deletion of the site from the National Priorities List, indicating deletion may not address all stigma
- Was the first RfR Determination in the nation accommodating multiple reuses



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•**Pictured:** a map shows the different zoning districts in the city of Midvale, Utah.

•**ICPP:** The ICPP establishes requirements to maintain protectiveness after redevelopment is completed. With redevelopment the Site will require cooperation between the City of Midvale, U.S. EPA and UDEQ, and landowners or Property Owners Association (POA) in order to comply with institutional controls. Institutional control responsibilities for three different entities were included in the ICPP.

•According to the former Local Economic Development Director, the RfR Determination was **the** key document that kept the reuse planning process moving forward.



## Sharon Steel Today: Ready for Multiple Uses

- Will become Jordan Bluffs
  - A Master Planned community of 2500 new homes, open space, a town center, and an office park
  - Construction to begin Spring 2006
- Prompted a request for a sister site to the north to also receive an RfR Determination



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**Pictured:** Post-remediation at the Sharon Steel site.

•Local officials and developers have relied on RfR Determinations to improve local economic conditions by encouraging redevelopment. This proved especially true at the Sharon Steel site in Midvale Utah. The Sharon Steel RfR Determination was the first RfR Determination issued in Region 8. It was also the first RfR Determination in the nation issued for mixed use. The RfR Determination is something officials can show to developers, lenders, and community members who are considering participating in the planned mixed use development at the site. The document eases concerns they might have about the safety of the site.

•In fact, Christine Richman, the former director of the Department of Community and Economic Development in Midvale City, Utah, has used the RfR Determination to show developers wondering if “EPA is OK with this,” and it has satisfied them.



## RfR Determination Training Take-Home Lessons

- RfR Determinations may facilitate the reuse of sites
- RfR Determinations can help protect a site's remedy and future site users
- RfR Determinations are not mandatory
- RfR Determinations should use existing EPA documents and be relatively easy to write

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### **Facilitate reuse of sites**

- There is a belief that a significant portion of the stigma associated with Superfund sites stems from a lack of information about a site's availability for use and the types of uses it can support. Potential users (owners, prospective purchasers, developers) do not have adequate, easy-to-understand information about sites.
- RfR Determinations can help address these concerns by stating that a site is "ready for reuse" and that the remedy will remain protective of human health and the environment as long as all of the use limitations identified in a site's response decision documents continue to be met.
  - This information can be used to support and facilitate public (e.g., ecological, recreational, governmental) and private (e.g., industrial, commercial, residential) reuse of sites.

### **NOTES CONTINUATION**



## For More Information

<http://www.epa.gov/superfund/programs/recycle>

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- For more information, including actual RfR Determinations, Ready for Reuse Determination Guidance, and an RfR Determination fact sheet, see the SRI website.