

# EPA Region 9 Perspective on Removals at NPL Federal Facilities

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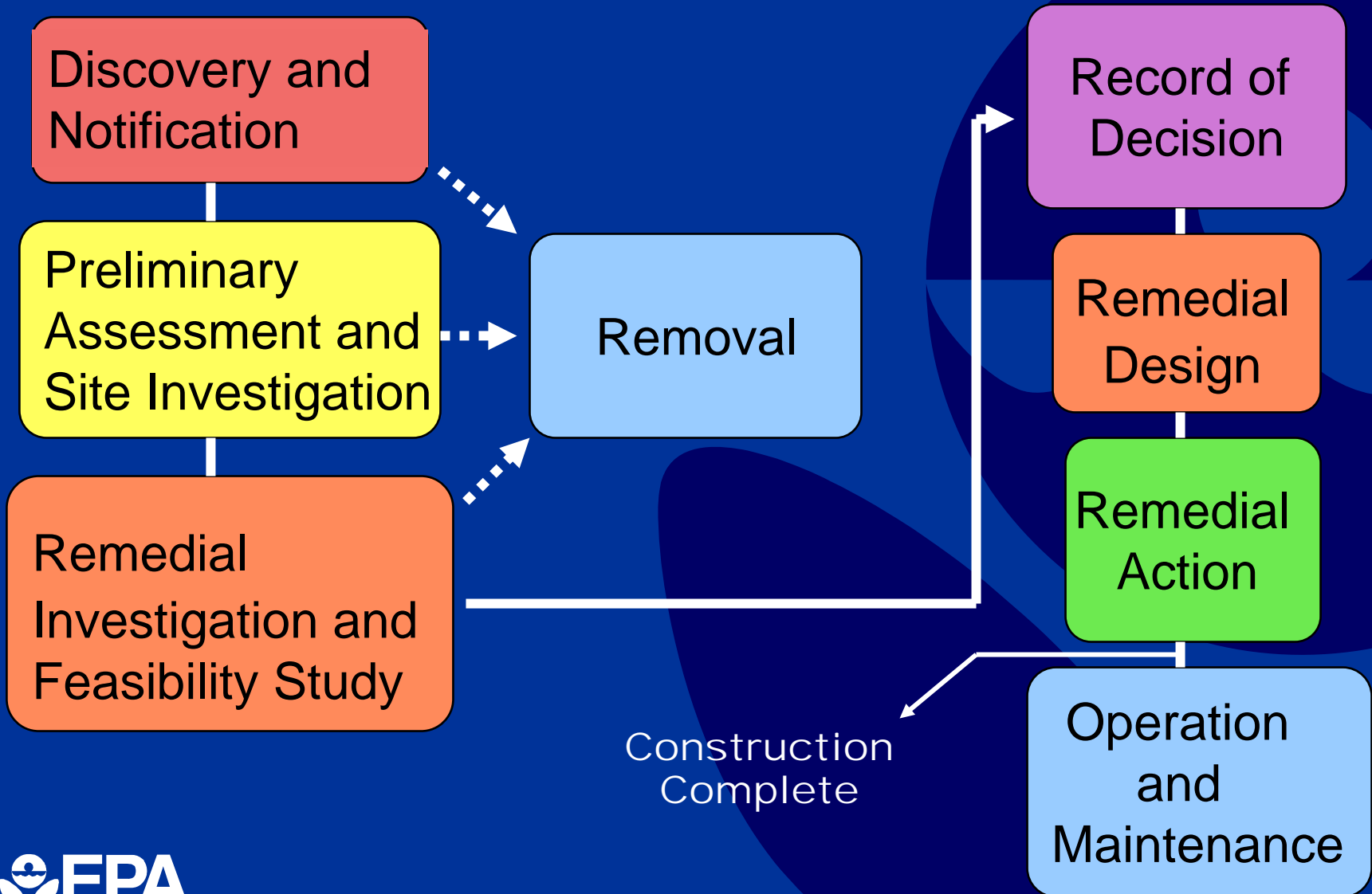
# Overview

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- ◆ Removal Basics
- ◆ Removal vs. Remedial
- ◆ EPA Region 9 issues wrt DoD's application of removals at FF NPL sites

# Removal Action Basics

# Remedial Process



# Removal Response for Release of Hazardous Substances

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- ◆ Removals are generally short-term actions designed to prevent, minimize, or mitigate damage to human health and welfare or the environment



# Types of Removal Actions Under CERCLA

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- ◆ There are three types of removal actions authorized for the release of hazardous substances:
  - » Emergency – action is required within hours
  - » Time-critical – action is required within six months
  - » Non-time-critical – 6 months planning period available, 12 months to complete, < \$2 mil
- ◆ On-Scene Coordinator determines urgency

# Common Aspects of Emergency Removal Situations

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- ◆ Pose immediate and easily discernible threats
- ◆ Often involve quickly changing circumstances
- ◆ Catastrophic discharges or very large releases



# Common Aspects of Time-Critical Removal Situations

- ◆ Threats are imminent, but less urgent and often are potential situations that may require response within days
- ◆ May be large or small scale, depending on the nature of the problem
- ◆ Time-critical situations are the most common type of removal





# Common Aspects of Non-Time-Critical Situations

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- ◆ Threats are the least urgent of all removal situations
- ◆ Planning period of at least six months is available
- ◆ Remedial program is addressing most non-time-critical removal actions



# Determining Whether a Removal Action Is Warranted

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- ◆ A Removal Site Evaluation (RSE) is performed
- ◆ Several factors are used to determine the appropriateness of a removal action
  - » Actual or potential exposure
  - » Threat of fire or explosion
  - » Availability of other response mechanisms
  - » Other circumstances



# Action Memorandum

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- ◆ The primary decision document substantiating need for action
- ◆ Can be written after a removal
- ◆ Reserves funds for a response
- ◆ Documents the selected action
- ◆ Supports cost recovery actions
- ◆ Justifies exemption to statutory limits, if appropriate



# Engineering Evaluation/ Cost Analysis (EE/CA)

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- ◆ Required for non-time-critical removal actions
- ◆ Provides a basis for evaluating and selecting appropriate response
  - » Describes site conditions
  - » Identifies scope and objectives of the removal action
  - » Analyzes alternatives
  - » Identifies selected action
- ◆ Approval memorandum must be obtained

# Removal vs. Remedial at FF NPL Sites

# Removals

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- ◆ Address imminent threats ASAP
- ◆ Get job done with minimal process, analysis
- ◆ Timely use of available funds
- ◆ DoD unilaterally selects action, although consults with EPA/State

# Remedial Actions

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- ◆ Sites prioritized based on risk plus other factors (site use/reuse, cost, EJ)
- ◆ Similar sites grouped together (OUs) – economy of scale
- ◆ Thorough evaluation of risk and alternatives
- ◆ Preference for treatment, permanent solutions
- ◆ Public, state involvement
- ◆ Decisions selected jointly by EPA

# When Do Removals?

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- ◆ Not a bright line
- ◆ Look to NCP, EPA guidance
- ◆ At FF, DoD is President so decides -- EPA/State concurrence not needed on removals. EPA involved with remedial decisions
- ◆ Consider stakeholder concerns





# EPA Region 9 Experience w/Removals at FF NPL Sites

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- ◆ DoD more liberal in removal application
- ◆ TC and NTC rationale often not justified
- ◆ Poor EE/CAs, Action Memos
- ◆ Often Very Expensive/Long Durations
- ◆ Often address controversial issues with minimal stakeholder involvement
- ◆ Avoiding risk assessment
- ◆ Avoiding regulator approval



# EPA Issues

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- ◆ Is the right action being done ?
  - » Protective of HH and Environment
  - » Getting right the first time – consistent with LT action
  - » Comply with ARARs
  - » Preference for treatment, permanence
  - » Agency, Community acceptance



# EPA Issues

- ◆ Circumvent remedial process
  - » Less stakeholder involvement
  - » 3 vs. 9 evaluation criteria
  - » Less risk evaluation
  - » Avoids regulatory approval
- ◆ When done with removal, are you actually done ?
- ◆ Does it satisfy requirements for CC ?
- ◆ For BRAC, may not satisfy requirements for property transfer



# EPA Issues

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## ◆ Enforceability

- » DoD issues Action Memo – not jointly selected by EPA
- » Removals not disputable under FFA
- » If schedules slip:
  - Agency approval not required
  - Cannot assess stipulated penalties

# EPA Issues

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- ◆ Liberal application creates vulnerabilities
  - » Often doesn't fit w/i EPA removal framework
  - » Avoiding remedial decisions
  - » Utilizing age-old EE/CAs, Action Memos
  - » Using removals to address long-standing threats
  - » Removals that last years, cost millions



# Conclusion

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- ◆ Removals play critical role
- ◆ Easy when stakeholders agree
- ◆ Challenge DoD on appropriate use of removals
- ◆ NTC not always faster than FS/ROD, esp. when follow-on ROD required
- ◆ Show flexibility