

<http://www.epa.gov/region1/superfund/sites/newbedford/38206.pdf>). Since that time EPA has gathered additional site information and refined the cleanup approach for the upper and lower harbor areas. Two prior ESDs, issued in September 2001 and August 2002, refined five elements of the cleanup process and increased the estimated volume of contaminated sediments to approximately 800,000 cy (the 2001 ESD) and eliminated CDF "D" in favor of off-site disposal of the sediments that would have been disposed in it (the 2002 ESD). A third ESD was issued in March 2010 to address temporary storage of dredged material in a lined sediment storage cell at EPA's Sawyer Street facility in New Bedford.

This fourth ESD for ROD 2 modifies the upper and lower harbor remedy to include the construction and use of a confined aquatic disposal (CAD) cell in the lower harbor for disposal of approximately 300,000 cy of mechanically dredged sediments with PCB levels above the ROD 2 action levels.<sup>1</sup> The volume of *in situ* sediments to be placed in this lower harbor CAD cell (LHCC) shall not be greater than the volume of *in situ* sediments slated for CDF D (approximately 725,000 cy) minus the volume of *in situ* sediments disposed or to be disposed offsite pursuant to the 2002 ESD (approximately 176,000 cy as of 3/1/11). See further discussion in Section II.C below. This ESD also notes that, based on an assessment of sediment volume performed in 2003, and including an allowance for over-dredging (i.e., allowing for the fact that dredging equipment/operation is not precise to the inch), the total *in situ* sediment volume above the ROD 2 action levels is currently estimated to be approximately 900,000 cy.

As described in more detail in section III.B below, the time and cost to complete the ROD 2 remedy, as modified by the subsequent ESDs, depends entirely on annual funding rates. See Table 1. Nevertheless, based on current estimates use of the LHCC is expected to significantly decrease both the time and cost to complete the ROD 2 remedy. For example, at a funding rate of \$15 million per year the time and cost to complete the remedy pursuant to this fourth ESD is estimated to be 40 years and \$1.2 billion, compared to 46 years and \$1.7 billion under the previous version of the ROD 2 remedy as modified by the three previous ESDs. At a funding rate of \$80 million per year, the time and cost to complete would be 6 years and \$422 million with an LHCC, compared to 7 years and \$464 million without an LHCC.

#### E. Public Comment Period

A draft of this ESD was issued publicly on June 25, 2010. A formal public comment period regarding the draft ESD was held from June 25, 2010 to September 24, 2010. EPA accepted written and e-mailed comments on this ESD which are included in the administrative record.

EPA specifically sought public comment on EPA's finding under the federal Clean Water Act (CWA) that mechanical dredging; passive dewatering; and the siting, construction, filling, and long-term operation and maintenance (O&M) of the LHCC represents the least

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<sup>1</sup> The mechanically dredged sediments would be placed into the LHCC without going through the hydraulic dredging, desanding and dewatering process described in the 2001 ESD.

**March 2011 FINAL - FOURTH EXPLANATION OF SIGNIFICANT DIFFERENCES  
FOR USE OF A LOWER HARBOR CAD CELL (LHCC)  
NEW BEDFORD HARBOR SUPERFUND SITE  
OPERABLE UNIT #1  
NEW BEDFORD, MASSACHUSETTS**

**I. Introduction**

**A. Site Name and Location**

Site Name: New Bedford Harbor, Upper and Lower Harbor Operable Unit #1 (OU1)  
Site Location: Bristol County, Massachusetts

**B. Lead and Support Agencies**

Lead Agency: United States Environmental Protection Agency (EPA) - Region I  
Contacts: Elaine Stanley, Co Remedial Project Manager (617) 918-1332  
David Dickerson (617) 918-1329

Support Agency: Massachusetts Department of Environmental Protection (MassDEP)  
Contact: Joseph Coyne, Project Manager (617) 348-4066

**C. Legal Authority for Explanation of Significant Differences**

Section 117(c) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and Section 300.435(c)(2)(1) of the National Contingency Plan (NCP) requires that, if any remedial or enforcement action is taken under Section 106 of CERCLA after adoption of a final remedial action plan, and such action differs in any significant respect from the final plan, the EPA shall publish an explanation of the significant differences (ESD) and the reasons such changes were made. While not required by Section 300.435(c), EPA held a public comment period on this proposal from June 25 to September 24, 2010 to ensure that all interested parties had an opportunity to provide input to EPA before its final decision on this modification to the remedy.

**D. Summary of ESD**

The Record of Decision (ROD or ROD 2) for OU1 was issued on September 25, 1998. The ROD's cleanup plan called for approximately 450,000 cubic yards (cy) of PCB-laden *in situ* sediment to be dredged from the harbor bottom and surrounding wetlands, and to be disposed in perpetuity in four shoreline confined disposal facilities (CDFs). The CDFs were to be located in contaminated areas to avoid the need for dredging an additional approximately 126,000 cy of PCB-contaminated sediment; thus the total volume of sediments above the ROD 2 action levels was estimated in 1996 to be 576,000 cy. See ROD 2, Figure 12 (available at

