

APPENDIX D

**SAMPLE LAND USE CONTROL LANGUAGE FOR INCLUSION IN DECISION
DOCUMENTS**

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The following language is intended as sample language to be considered for inclusion in decision documents (e.g., proposed plans, records of decision) that have land use controls as part of the final selected remedy. This language may be modified as necessary for waste unit specific requirements.

This language should be considered for inclusion in the Executive Summary, The Preferred Alternative, and the Post-ROD Document Schedule sections of proposed plans and in the Declaration (Description of the Selected Remedy), The Selected Remedy, and the Post-ROD Document Schedule sections of records of decision, as indicated below.

Proposed Plan Executive Summary and The Preferred Alternative and Record of Decision Declaration (Description of the Selected Remedy)

Based upon the investigation, the remedial action objectives are to (*note: this list is just for sample purposes only and should be modified to meet waste unit specific requirements*):

- reduce the risk to human health and the environment and
- achieve remedial goals for soil

The LUC objective(s) necessary to ensure the protectiveness of the preferred alternative is (*note: this list is just for sample purposes only and should be modified to meet waste unit specific requirements*):

- prevent contact, removal, or excavation of buried waste in the area;
- preclude residential use of the area; and
- prevent unauthorized access to contaminated groundwater in the area.

Record of Decision The Selected Remedy Section Language

The (insert waste unit name) is in an (industrial or residential – choose one) zone as identified on the Proposed SRS Future Land Use Map of the *SRS FFA Implementation Plan* (FFA, 1993) for both current and anticipated future land use. However, USDOE has recommended that residential use of SRS land in the vicinity of the (insert area name (i.e., A Area, P Area, etc.) be controlled; therefore, future residential use, potential residential water usage, and other controls will be taken to ensure long-term protectiveness. Institutional controls will restrict the (insert waste unit name) to future industrial use and will prohibit residential use of the area. Unauthorized excavation will also be prohibited and the waste unit will remain undisturbed. Institutional Controls will be maintained until such time that they are deemed unnecessary.

In accordance with the USEPA Region-4 Land Use Controls (LUCs) Policy, a LUC Assurance Plan (LUCAP) for the SRS has been developed and approved by the USEPA and the SCDHEC. Based upon the results of the (insert waste unit name) [baseline risk assessment, or the presence of buried source material that constitutes a leachability threat, or to prevent the excavation of buried source material – choose as applicable] the selected remedial alternative for this operable unit incorporates LUCs and therefore, a LUC Implementation Plan (LUCIP) for the (insert waste unit name) will be developed and submitted to the regulators for approval. The unit-specific LUCIP will be submitted with the (insert the name of the post-ROD document that the LUCIP will be submitted with) in accordance with the post-ROD document schedule provided in Figure (insert the post-ROD

schedule figure number). The LUCIP details how SRS will implement, maintain, and monitor the land use control elements of the (insert waste unit name) ROD to ensure that the remedy remains protective of human health and the environment. Upon regulatory approval, the (insert waste unit name) LUCIP will be appended to the SRS LUCAP.

The LUC objective(s) necessary to ensure the protectiveness of the preferred alternative is *(note: this list is just for sample purposes only and will be modified to meet waste unit specific requirements)*:

- prevent contact, removal, or excavation of buried waste in the area;
- preclude residential use of the area; and
- prevent unauthorized access to contaminated groundwater in the area.

The institutional controls required to prevent unauthorized exposure to the contaminated media at the (insert waste unit name) include the following *(note: this list is just for sample purposes only and will be modified to meet waste unit specific requirements)*:

- controlled access to the (insert waste unit name) through existing SRS security gates and perimeter fences and the site use/site clearance program;
- installation of warning signs at the most probable access points to contact the waste unit custodian prior to entry;
- general maintenance of the waste unit, including signs and visible markers, to identify the waste unit; and
- evaluation of the need for deed notifications/restrictions if the property is ever transferred to non-federal ownership, as required under CERCLA Section 120(h).

In addition, a survey plat of the area under LUCs will be prepared, certified by a professional land surveyor, and included with the post-ROD documents. In the case of LUCs and groundwater, an appropriate survey will be provided to delineate the groundwater under LUCs.

Other actions to be performed if the property is ever transferred to non-Federal ownership include a deed notification disclosing former waste management and disposal activities, as well as any remedial actions taken at the waste unit, and any continuing groundwater monitoring commitments. The deed notification will, in perpetuity, notify any potential purchaser that the property has been used for the management and disposal of (list what items were disposed at the unit – e.g., construction debris, etc.), including hazardous substances. These requirements are also consistent with the intent of the RCRA deed notification required at final closure of the RCRA facility, if contamination would remain at the unit. *(If the unit is a CERCLA only unit, then the previous sentence should be replaced with the following: RCRA deed notification requirements are not required for this waste unit since it does not require a RCRA permit modification per the SRS FFA, Appendix C.)* The deed will also include restrictions precluding residential use of the property. However, the need for these deed restrictions may be reevaluated at the time of transfer in the event that exposure assumptions differ and/or contamination no longer poses an unacceptable risk under residential use. Any reevaluation of the need for deed restrictions would be done through an amended ROD with the USEPA and the SCDHEC

approval. In addition, the survey plat will be reviewed and updated, as necessary, at the time the site is transferred and will be recorded with the appropriate county recording agency.

The post-ROD document, (list the post-ROD document(s) that will be submitted for the waste unit), will be submitted to the USEPA and the SCDHEC within approximately (insert time period for issuance – e.g. 180 days, one month, four months, etc.) after the issuance of the ROD. The (insert name of post-ROD document) will describe (insert words that detail what the post-ROD document will do). The regulatory review period, SRS revision period, and final regulatory review and approval period will be X days, Y days, and Z days, respectively.

Record of Decision – Section II Site and Operable Unit Compliance History, SRS Compliance History Subsection

(Note: The following paragraphs should be added after the second paragraph in this subsection.)

By separate Memorandum of Agreement (MOA) dated (insert date), the USEPA, the SCDHEC, and the USDOE agreed to implement facility-wide, certain periodic site inspection, certification, and notification procedures set forth in a LUCAP, developed pursuant to the USEPA Region 4 LUCs Policy. These procedures are designed to ensure the maintenance by USDOE-SRS personnel of any site-specific LUCs, set forth in a response action decision document, deemed necessary for future protection of human health and the environment. A fundamental premise underlying execution of that MOA was that through USDOE-SRS's substantial good-faith compliance with the procedures called for in the LUCAP, reasonable assurances would be provided to USEPA and SCDHEC as to the permanency of those remedies, which included the use of specific LUCS.

Although the terms and conditions of the LUCAP MOA are not specifically incorporated or made enforceable herein by reference, it is understood and agreed upon by USDOE-SRS, USEPA, and SCDHEC that the contemplated permanence of the remedy reflected herein is in part dependent upon USDOE's substantial good-faith compliance with the

specific LUC maintenance commitments reflected therein. Should such compliance not occur or should the MOA be terminated, it is understood that the protectiveness of the remedy concurred in may be reconsidered and that additional measures may need to be taken to adequately ensure necessary future protection of human health and the environment.

Statement of Basis/Proposed Plan and Record of Decision Post-ROD Schedule Language

A (list the post-ROD document(s) that will be submitted for the waste unit), will be submitted to the USEPA and the SCDHEC after the issuance of the ROD. The (insert name of post-ROD document) will describe (insert words that detail what the post-ROD document will do).

The post-ROD document schedule is illustrated in Figure XX. Key components of the schedule include the following (*note: this list is just for sample purposes only and will be modified to meet waste unit specific requirements*):

1. The (insert post-ROD document name) for the (insert waste unit name) will be submitted for USEPA and SCDHEC review (insert time period) after issuance of the ROD. This report will contain the LUCIP as part of the submittal.
 2. USEPA and SCDHEC review of the Revision 0 (insert post-ROD document name) will be completed X days after submittal of the document.
 3. SRS revision of the (insert post-ROD document name) will be completed Y days after receipt of all regulatory comments.
 4. USEPA and SCDHEC final review and approval of the Revision 1 (insert post-ROD document name) will be completed Z days after submittal of the document.
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