

Model RD/RA Consent Decree: Technical Fixes
July 16, 2025

- Para. 3 (notification to State about RDRA negotiations): deleted “and section 121(f)(1)(F) of CERCLA” as the requirement to notify the State does not come from that section.
- Former footnote 3: Deleted this footnote regarding bookmarking function as that function is no longer used.
- Former footnote 4: Deleted sentence regarding the bookmarking function.
- Para. 13 (Jurisdiction of Court): Added reference to CERCLA Section 106, as that section also addresses jurisdiction of court.
- Former footnote 10: Deleted this footnote regarding the bookmarking function.
- “Record of Decision” definition: Added “[Option: As of the date of lodging of this Decree, the ROD can be found at [insert link].]”
- Footnote 23: Deleted “...the “further response action” phrase throughout...”.
- Footnote 24: Deleted “...selected a...”.
- Paragraph 37.a (Indemnification): Deleted “or causes of action” after “claims,” to streamline this redundant use of terms.
- Para 72.i (NRD general reservation): moved this to be after the reservation regarding failure to achieve performance standards.
- Former footnote 64 to Para. 74.a (Settling Defendants’ Covenants): Simplified. (“If this is an OU covenant CD that resolves the State’s claims for future response costs (e.g., oversight costs) add “State Future Response Costs.”)
- Former footnote 65 to Para. 74.b (Settling Defendants’ Covenant Re the Fund): Simplified. (“Make this paragraph consistent with the preceding paragraph.”).
- Paragraph 75 (Settling Defendants’ Reservation): Conforming correction of cross-reference.
- Paragraphs 76, 77, and 78.b.: Deleted “or causes of action” after “claims,” to streamline this redundant use of terms.
- Para. 86 (Settling Defendant Certification): Added “relating to the Site” after “requests for information” in (b) for clarity.
- Para. 88 (Heading for Retention of Records Section): Deleted “and Information” since this paragraph only addresses retention of “Records.”

- Para 89 (Providing of Records to EPA): Conforming correction. (“...upon request, copies of all Records ~~and information~~ required...”)
- Para. 90.a (Assertion of Privilege): For clarity, added after “requested by” the clause “Plaintiffs under this Section.”
- Paras 90.a and 90.b (Privileged Claims): Capitalize “Records” throughout.
- Footnote 80 to Para. 90.a (Assertion of Privilege): Deleted footnote about use of term “records” as they are now only referred to as “Records.”