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ACQUISITION,
TECHNOLOGY
AND LOGISTICS

JUL 18 2011

MEMORANDUM FOR ASSISTANT SECRETARY OF THE ARMY (INSTALLATIONS, ENERGY, AND ENVIRONMENT)
ASSISTANT SECRETARY OF THE NAVY (ENERGY, INSTALLATIONS, AND ENVIRONMENT)
ASSISTANT SECRETARY OF THE AIR FORCE (INSTALLATIONS, ENVIRONMENT, AND LOGISTICS)
DIRECTOR, DEFENSE LOGISTICS AGENCY

SUBJECT: New Goals for the Defense Environmental Restoration Program (DERP)

The Office of the Secretary of Defense (OSD) is establishing Response Complete (RC) goals for Installation Restoration Program (IRP) (which include the newly eligible sites) and Military Munitions Response Program (MMRP) sites at active installations, and for IRP sites at Formerly Used Defense Site (FUDS) properties. The timing for establishing these new goals is important because a large portion of the DERP is advancing into the final phases of the cleanup process. These RC goals will enable the Department of Defense (DoD) Components to advance sites through the final cleanup phases to site closeout. The goals will also augment OSD's oversight of program progress.

The RC goals are:

- 90% of IRP and MMRP sites at active installations, and IRP sites at FUDS properties will achieve RC by the end of Fiscal Year (FY) 2018, and
- 95% of IRP and MMRP sites at active installations, and IRP sites at FUDS properties will achieve RC by the end of FY2021.

The RC goals are effective beginning in FY2012. The DoD Components shall continue to plan, program, and budget accordingly during future budget submission cycles to meet the new RC goals. The goals, while not legal requirements in themselves, are required to facilitate the DoD Components' efforts to meet their legal requirements. The goals impose no new cost requirements as they are based on current program implementation and cost projections to meet legal obligations.

When declaring a site RC, the DoD Components shall use the definition at Attachment 1. The DoD Components shall also use the RC message included at Attachment 1 to enhance understanding and transparency when communicating what RC means to stakeholders.

The DoD Components shall seek environmental regulatory agreement on RC determinations. If a DoD Component is unable to obtain regulatory agreement for any reason, the DoD Component shall document that it sought regulatory agreement on RC determinations. Guidance for RC documentation is included at Attachment 2. A cost impact analysis addressing goal implementation is provided at Attachment 3.

My point of contact on this matter is Vic Wieszek, available at 703-571-9061 or Victor.Wieszek@osd.mil.

John Conger
Acting Deputy Under Secretary of Defense
(Installations and Environment)

Attachments:
As stated

Attachment 1: Response Complete (RC) Definition and RC Message

RC Definition:

The RC milestone signifies that the Department of Defense (DoD) has met the remedial action objectives for a site, documented the determination, and sought regulatory agreement. RC signifies that DoD has 1) determined at the end of the Preliminary Assessment/Site Inspection, or Remedial Investigation that no additional response action is required, 2) achieved Remedy-in-Place (RIP) and the required Remedial Action Operation (RA-O) has achieved the remedial action objectives, or 3) where there is no RA-O phase, then the Remedial Action Construction (RA-C) has achieved the remedial action objectives. Long-term management may occur after RC is achieved.

RC Message:

DoD achieves RC when no contaminants pose a threat to human health and the environment for the current land use. DoD may establish land use restrictions and conduct long-term periodic reviews, monitoring, and maintenance at a site once it has achieved RC. These activities may last either for a specified period or indefinitely to ensure protection of human health and the environment.

Attachment 2: Guidance for Documenting Response Complete (RC) Determinations

The Office of the Secretary of Defense (OSD) requires the Department of Defense (DoD) Components to seek regulatory agreement on RC determinations. Beginning in Fiscal Year 2012, if a DoD Component is unable to obtain regulatory agreement for any reason, the DoD Component shall document that it sought regulatory agreement on RC determinations. The DoD Components will begin the process to obtain and document regulatory agreement once a site achieves RC. Documentation of regulatory agreement includes written agreement in the form of a dated, official letter or email from the regulator of appropriate authority reflecting agreement and official sanction of the RC determination. If, within one year of making a reasonable number of attempts to obtain regulatory agreement, a DoD Component is unsuccessful, the DoD Component shall develop a memorandum for the record (MFR) to document the RC determination. The MFR shall include this information:

- The steps the DoD Component followed to seek regulatory agreement;
- The reason(s) why the DoD Component believes it did not obtain agreement;
- The reason(s) why the DoD Component believes the site is at RC, and any necessary documentation to support the RC determination; and
- The signature by a DoD official of appropriate authority, and signature date.

The MFR should be detailed enough to enable a reasonable person to draw the same conclusion about the RC determination as the individual who makes the original determination. The DoD Components should provide a copy of the MFR to the appropriate regulator(s) for reference.

OSD encourages, but will not require, retroactive regulatory agreement documentation on RC determinations.

Attachment 3: Cost Analysis of Proposed New Response Complete Goals

The Deputy Under Secretary of Defense (Installations and Environment) (DUSD(I&E)) considered the costs of establishing and implementing new goals in support of the Defense Environmental Restoration Program (DERP) and determined that these new goals will not increase program costs.

DUSD(I&E) establishes DERP goals because DoD must prioritize use of its limited DERP funds. These new goals will serve to focus the DoD Components and keep them "on track" to meet the commitments they have planned, programmed, and budgeted for. Effective execution of the planning, programming, and budgeting process is essential for the DoD Components to prioritize funding to meet legal requirements and ultimately sequence the work. If the DoD Components do not meet their legal obligations, Federal and state environmental regulators may impose monetary fines and penalties, thereby increasing the overall cost of the DERP. Additionally, these goals will better enable the DoD Components to justify and defend their budgets in times of financial austerity.

If DUSD(I&E) does not establish new DERP goals, each DoD Component would establish its own goals to support the Planning, Programming, Budget, and Execution (PPBE) process. Individual program goals could negatively impact the DERP and increase costs. For example, tracking DoD Component-specific goals would increase program management costs for DoD. It would also lead to inconsistent program planning and confusion among stakeholders.

DUSD(I&E) predicated the new goals on execution commitments made by the DoD Components based on their current programmed budgets. The new goals do not require the DoD Components to conduct additional or new PPBE actions. The new DERP goals will formalize and give visibility to the DoD Components' execution commitments without imposing new requirements, which equates to no additional costs for DoD. In effect, the cost estimate equals the DoD Components' programmed budgets.