

## DOE EM CLEANUP AND COMPLIANCE AGREEMENT FACT SHEET

### SUMMARY

Data Element	Data
Site	Rocky Flats Environmental Technology Site
Agreement Name	Rocky Flats Cleanup Agreement
State	Colorado
Agreement Type	Federal Facility Agreement
Legal Driver(s)	CERCLA/RCRA
Scope Summary	Establish the regulatory framework for achieving the ultimate cleanup of the Rocky Flats Site.
Parties	DOE; US EPA; The State of Colorado
Date	7/19/1996

### SCOPE

- Establish the regulatory framework for achieving the ultimate cleanup of the Rocky Flats Site.
- Ensure that the environmental impacts associated with activities at the Site will continue to be investigated and that appropriate response actions are taken.
- Establish a procedural framework and schedule for developing, implementing, and monitoring appropriate response actions at the site.
- Coordinate all of DOE's cleanup obligations under CERCLA, RCRA, and the Colorado Hazardous Waste Act in a single agreement to streamline compliance.
- Disposition weapons usable fissile materials and transuranic wastes, with a target of ultimate removal of these materials no later than 2015.
- Conduct cleanup activities in a manner that will reduce risk, be cost effective, protect public health, protect reasonably foreseeable land and water uses, prevent adverse impacts to ecological resources, surface water and groundwater; and be consistent with a streamlined regulatory approach.

- Decontaminate and/or demolish all contaminated buildings.

## **ESTABLISHING MILESTONES**

- EPA and the state will, in consultation with DOE, set the regulatory milestones, including completion dates for specific activities.
- The Agreement is designed to provide DOE significant flexibility in managing projects to meet regulatory milestones; therefore, changes in the baseline do not necessarily constitute good cause for changes to regulatory milestone completion dates.
- The parties will review the regulatory milestones annually and either re-establish or revise them.
- EPA and the state shall establish no more than 12 milestones per fiscal year. Review of the regulatory milestones for the upcoming FY and FY+1, shall occur between July and October of each year. Factors to be considered while establishing milestones are outlined in Part 11 of the Agreement.
- Once final determination of the FY and FY+1 milestones has been made, DOE, EPA, and the state will propose tentative milestones for FY+2, which must be finalized within 60 days. If DOE, EPA, and the state can not reach a consensus on the FY+2 milestones, then EPA and the state can unilaterally establish the FY+2 milestones.
- Changes to established regulatory milestones can be requested, if the request is submitted before 30 days prior to the date of the milestone for which the change is being sought.
- The lead regulatory agency (either EPA or the Colorado Department of Public Health & Environment) must grant, grant in part, or deny the request within 14 days.

## **FUNDING**

- DOE must take all necessary steps to obtain timely funding to meet its obligations under the Agreement.
- Within 45 days after Congressional appropriation of the FY budget, DOE shall brief EPA, and the State on the appropriation and tentative funding allocations.
- If appropriated funds are not allocated, the state must be notified in accordance with the agreement notification procedures.

- Project managers will meet as part of the baseline and milestone review to determine if adjustments to approved schedule and milestones are warranted.
- The dispute resolution procedures will be used if the project managers can not agree to modifications.
- The State of Colorado explicitly states that it does not believe any legitimate Anti-Deficiency Act defense exists.

## **PENALTIES**

- Penalties for missed regulatory milestones will accrue at \$20,000 per week for each regulatory milestone designated as “first tier.” First tier regulatory milestones reflect end-points for major projects and are limited to no more than six per fiscal year.
- Penalties for missed regulatory milestones designated as “second tier” (those that reflect beginning points for multi-year projects or end points in addition to those designated as “first tier” regulatory milestones) will be at a rate of \$5,000 per week.
- Violations of regulatory milestones that run for part of a week shall be prorated for the number of days of violations.
- In the event that DOE's failure to meet any regulatory milestones under this Agreement was due to a lack of funding, the state will not seek or assess any penalties (stipulated or otherwise) for such violations