



ACQUISITION,
TECHNOLOGY
AND LOGISTICS

OFFICE OF THE UNDER SECRETARY OF DEFENSE

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WASHINGTON, DC 20301-3000

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

SUBJECT: Management Guidance for the Defense Environmental Restoration Program
(DERP)–September 2001

Attached is the revised Management Guidance for the DERP, September 2001. This Guidance supercedes all previous versions of the DERP Management Guidance and is effective today. The revised Guidance contains many new provisions due to changes in law, regulations, and Departmental policy.

The first major change establishes detailed requirements for response actions to address military munitions (i.e., unexploded ordnance and waste military munitions) and the chemical residues of munitions at locations that are not operational ranges. In this important and emerging program area, the Guidance:

- Establishes a requirement to identify through an inventory, to be completed by September 30, 2002, all locations other than operational ranges that require a military munitions response.
- Defines how to use the new Program Element (PE) established for military munitions response.
- Defines the data elements necessary to develop credible cost estimates and support the military munitions response program.
- Establishes the requirement to identify, characterize, and track and provide data on military munitions and military munitions responses in a manner that is compatible with the Installation Restoration program and, which supports inclusion in the Restoration Management Information System database.

The second major change clarifies reporting of environmental liabilities. All actions taken under the DERP are reportable as environmental restoration liabilities in the annual Department-wide financial statement. A number of recent audits by General Accounting Office, the DoD Inspector General, and Service audit agencies identified serious deficiencies with the preparation and documentation of these liability disclosures. I wish



to emphasize that Component cost-to-complete estimates and the corresponding disclosure of environmental restoration liabilities in the Components' annual financial statements must be:

- Submitted in a timely manner to meet Defense Finance Accounting Service requirements for the November 2, Joint Review required by the DoD-Financial Management Regulations, and Office of Management and Budget (OMB) requirements for the submission of the final financial statement;
- Consistent with each other;
- Developed using rigorous and well documented methodologies; and,
- Able to withstand external audit.

The DERP Management Guidance provides specific guidance for Components to meet these requirements, including the requirement to submit essential site level data that supports the financial liability statements to my office by October 15.

Finally, there was a change in how funds for environmental restoration projects are classified for accounting purposes. In response to the requirements of 10 USC §2810, certain environmental restoration projects over \$500,000 (or, in the case of a project intended solely to correct a deficiency that is life-threatening, health-threatening or safety-threatening, \$1,000,000) that involve construction or improvement of a real property facility on a military installation will require Components to transfer funding to the appropriate MILCON account and provide Congress with a twenty-one day notification.

These three improvements in the Guidance were the source of many serious concerns, but must be accomplished to comply with fiscal and legal requirements. Other issues you raised in your comments were resolved through the combined efforts of our staffs. We restructured the Guidance to clearly explain the requirements of the DERP. It was updated to reflect other changes in applicable laws, regulations, and policies since the last revision in 1998.

I look forward to working with you in the implementation of the Management Guidance for the DERP. My point of contact is Ms. Patricia Ferrebee at (703) 695-6107.



Raymond F. DuBois, Jr.
Deputy Under Secretary of Defense
(Installations and Environment)

Attachment:
As stated

MANAGEMENT GUIDANCE
for the
DEFENSE ENVIRONMENTAL
RESTORATION PROGRAM



Office of the Deputy Under Secretary of Defense
(Installations and Environment)
ODUSD(I&E)
September 2001

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MANAGEMENT GUIDANCE FOR THE DEFENSE ENVIRONMENTAL RESTORATION PROGRAM

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MANAGEMENT GUIDANCE FOR THE DEFENSE ENVIRONMENTAL RESTORATION PROGRAM

1. INTRODUCTION

- 1.1. This document is a companion to Department of Defense (DoD) Directive (DoDD) 4715.1, *Environmental Security*, February 24, 1996, and DoD Instruction (DoDI) 4715.7, *Environmental Restoration Program*, April 22, 1996.
- 1.2. This document provides additional and new guidance on implementation of the Defense Environmental Restoration Program (DERP), consistent with the DoDD and DoDI. This guidance supercedes all previously issued versions of the *Management Guidance for the Defense Environmental Restoration Program*.
- 1.3. A list of the references, definitions, and acronyms used in this guidance are provided in Appendices 1, 2, and 3.

2. BACKGROUND

2.1. The Defense Environmental Restoration Program (DERP) was established by Section 211 of the Superfund Amendments and Reauthorization Act (SARA) of 1986.¹ SARA §211 was codified in Title 10 of the United States Code (USC) §2701. Related sections in Title 10 of the United States Code, 10 USC §§2702-2706 and §§2810-2811, further define the program.

2.1.1. 10 USC §2701(a) states that the: “Secretary of Defense shall carry out a program of environmental restoration at facilities under the jurisdiction of the Secretary.”

2.1.2. The scope of the DERP is defined in 10 USC §2701(b), which states that the: “Goals of the program shall include the following: (1) The identification, investigation, research and development, and cleanup of contamination from hazardous substances, and pollutants and contaminants. (2) Correction of other environmental damage (such as detection and disposal of unexploded ordnance) which creates an imminent and substantial endangerment to the public health or welfare or to the environment. (3) Demolition and removal of unsafe buildings and structures, including buildings and structures of the Department of Defense at sites formerly used by or under the jurisdiction of the Secretary.”

2.1.3. The phrase “under the jurisdiction of the Secretary” is further described by 10 USC §2701(c), which states: “The Secretary shall carry out (in accordance with the provisions of this chapter and CERCLA) all response actions with respect to releases of hazardous substances from each of the following: (A) Each facility or site owned by, leased to, or otherwise possessed by the United States and under the jurisdiction of the Secretary. (B) Each facility or site which was under the jurisdiction of the Secretary and owned by, leased to, or otherwise possessed by the United States at the time of actions leading to contamination by hazardous substances. (C) Each vessel owned or operated by the Department of Defense.”

2.2. The Office of the Secretary of Defense (OSD) formulates policy and provides oversight for the DERP. The OSD, the Military Departments,² the Chairman of the Joint Chiefs of Staff, the Inspector

¹ SARA was signed into law on October 17, 1986, and amended the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, 42 USC §9601 *et seq.*

² The Departments of the Army, Navy, and Air Force.

General of DoD, Defense Agencies with land management responsibilities, and DoD Field Activities (including any other integral DoD organizational entity or instrumentality established to perform a governmental function) (hereinafter referred to collectively as the “Components”) execute the program, consistent with this guidance and other applicable statutes, regulations, and guidance, at installations or properties within their jurisdiction.

2.2.1. Under 10 USC §2701(a)(2), response actions (i.e., site identification, investigation, removal actions, remedial actions, or a combination of removal and remedial actions) taken under the DERP to address releases of hazardous substances and pollutants and contaminants (as defined under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) as amended) must be conducted in accordance with the provisions of CERCLA §120 (42 USC §9620). As such, these actions are conducted in accordance with the delegation of certain Presidential authorities under CERCLA (delegated via Executive Order (EO) 12580, *Superfund Implementation* (January 23, 1986) and EO 13016 *Superfund Amendments* (August 28, 1996)), and the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) (40 CFR Part 300).

2.2.2. As a matter of DoD policy, response actions (i.e., site identification, investigation, removal actions, remedial actions, or a combination of removal and remedial actions) to correct other environmental damage (such as the detection and disposal of unexploded ordnance) that poses an imminent and substantial endangerment to the public health or welfare or to the environment, are conducted in accordance with the provisions of CERCLA, EOs 12580 and 13016, and the NCP.

2.2.3. The demolition and removal of unsafe buildings and structures is not subject to CERCLA unless it involves the need for, or is an integral part of, a response action to address a CERCLA hazardous substance, or a CERCLA pollutant and contaminant that poses an imminent threat to public health or welfare or the environment.

3. APPLICABILITY AND SCOPE

3.1. Based on the provisions of 10 USC §2701, this *Management Guidance for the Defense Environmental Restoration Program* applies to all environmental restoration response activities and actions:

3.1.1. Undertaken by a Component, and

3.1.2. That are conducted at:

3.1.2.1. A facility or site owned by, leased to, or otherwise possessed by the United States and under the jurisdiction of the Secretary of Defense, or

3.1.2.2. A facility or site that was formerly owned by, leased by, possessed by, or otherwise under the jurisdiction of the Secretary of Defense or the Components, including governmental entities that are the legal predecessors of DoD or the Components; or property where accountability rested with DoD but where the activities at the property were conducted by contractors (i.e., government-owned, contractor-operated (GOCO) properties), or

3.1.2.3. Areas where materials released at a facility or site covered under sections 3.1.2.1 or 3.1.2.2 have migrated or come to be placed; and

3.1.3. Which address:

3.1.3.1. A release of CERCLA hazardous substances or CERCLA pollutants and contaminants, or

3.1.3.2. A release of petroleum, oil, or lubricants (POL); or

3.1.3.3. A release of hazardous wastes or hazardous waste constituents; or

- 3.1.3.4. A release of low-level radioactive materials or low-level radioactive wastes, or
- 3.1.3.5. Military munitions (i.e., unexploded ordnance (UXO) or waste military munitions (WMM)) or the chemical residues of munitions; or
- 3.1.3.6. The correction of other environmental damage which creates an imminent and substantial endangerment to the public health or welfare or to the environment; or
- 3.1.3.7. The demolition and removal of unsafe buildings and structures, including DoD buildings and structures at sites formerly used by or under the jurisdiction of the Secretary of Defense.

3.2. This guidance does not apply to:

- 3.2.1. Responses to address releases at facilities or sites outside of the United States, its territories, and possessions; or
- 3.2.2. Responses to address releases at facilities or sites that are not on real property that is or was owned, controlled, or otherwise under the jurisdiction of DoD (i.e., a third-party site),³ or
- 3.2.3. Responses to address releases caused by the non-military activities of the U.S. Army Corps of Engineers (USACE) or that are on Department of the Army Civil Works properties; or
- 3.2.4. Responses to releases that occur solely as a result of an act of war; or
- 3.2.5. Any routine operation, management, or maintenance at an operating DoD facility or site that is not part of an environmental restoration activity, including routine range maintenance and sustainment activities at operational ranges.

³ A third-party site (TPS) is a facility or site:

- That is not currently owned by, leased to, or otherwise possessed by the United States and under the jurisdiction of the Secretary of Defense, or was not previously under the jurisdiction of the Secretary and owned by, leased to, or otherwise possessed by the United States, and
- Where DoD is a potentially responsible party (PRP) under CERCLA.

A Component notified that hazardous substances (as defined in CERCLA) attributable to DoD are present at a TPS shall notify the Defense Logistics Agency (DLA) Defense Reutilization and Marketing Service (DRMS). DRMS will assume responsibility for the original DoD generator if: (1) the hazardous substances were identified correctly by the generator; and (2) documentation establishes that the hazardous property was processed through DRMS. Otherwise, the Component is responsible for funding the activities at the TPS.

Certain activities at a TPS may be conducted with funds requested for environmental restoration purposes and that are appropriated to the Component ER or BRAC accounts, or the ER-FUDS account, provided the activities meet the other eligibility requirements for funding (e.g., in the case of activities under the Installation Restoration program category, the release occurred prior to October 17, 1986). Examples of such expenses include funding the administrative costs for a TPS program or legal office (e.g., salaries, training, travel, equipment, record searches, and determining allocation of liability). Where DoD is the sole PRP and where costs for investigations, removal actions, or remedial actions at a TPS are anticipated, Components shall request funding from the appropriate Component ER or BRAC accounts, or in the case of FUDS, the ER-FUDS account.

Funds from the Component ER or BRAC accounts, or in the case of FUDS, the ER-FUDS account, are not available to pay the DoD share of a court judgment or compromise settlements. Such expenses shall be provided through compromise settlements executed by the Department of Justice (DOJ) pursuant to DOJ's compromise settlement authority. Components must request that DOJ submit litigative awards or compromise settlements to the Department of Treasury for payment from the Judgment Fund.

Occasionally, the Environmental Protection Agency (EPA) may seek reimbursement of the Superfund for past response costs where the Judgment Fund is not available and EPA had expended funds. In this case, site-specific legislation must be prepared and submitted for Congressional approval and funding. As a matter of policy Components will not pay future EPA administrative costs at third-party sites.

4. PROGRAM GOALS

4.1. The statutory goals of the DERP are:

4.1.1. Taking appropriate response actions to investigate, and where necessary, address releases of hazardous substances or pollutants and contaminants, and correcting other environmental damage which creates an imminent and substantial endangerment to the public health or welfare or to the environment.

4.1.2. Protecting public safety through the demolition and removal of unsafe DoD buildings and structures, including those at sites formerly used by or under the jurisdiction of the Secretary of Defense.

4.2. The OSD establishes specific goals and objectives for the DERP in the Defense Planning Guidance (DPG). The current DPG goals for the DERP are provided in Appendix 4 and include:

4.2.1. Reducing risk to human health and the environment through implementation of effective, legally compliant, and cost-effective response actions;

4.2.2. Making property at installations closing or realigning under the Base Realignment and Closure (BRAC) program environmentally suitable for transfer;

4.2.3. Having final remedies in place and completing response actions; and

4.2.4. Requirements for certain percentages of sites in the program to progress to specific stages of the response process by specific dates (i.e., milestones).

5. RISK MANAGEMENT APPROACH

5.1. DoD employs a risk management approach in the environmental restoration program. This approach protects human health, safety, and the environment by focusing on actions that reduce risks in the short-term and then addressing longer-term risk management actions. Components must effectively communicate to stakeholders DoD's use of risk management in the sequencing, planning, and implementation of environmental restoration activities.

5.2. In risk management, several sources of information are used collectively to make decisions about the need for, and the timing of, response actions. These information sources include, but are not limited to: the findings of a preliminary assessment (PA), site inspection (SI), or remedial investigation/feasibility study (RI/FS); health or ecological risk assessments; public health assessments; public and regulatory agency input; and assessments of the capabilities and effectiveness of remediation technologies.

5.3. The Components shall apply the following considerations in identifying environmental restoration requirements and establishing priorities:

5.3.1. The relative-risk posed among sites (e.g., as evaluated using the DoD Relative-Risk Site Evaluation (RRSE) or the Risk Assessment Code (RAC));

5.3.2. The findings of health, safety, or ecological risk assessments or evaluations based on site-specific data;

5.3.3. Concerns expressed by stakeholders;

5.3.4. The reasonably anticipated future land use (especially when planning response actions, conducting evaluations of response alternatives, or establishing specific response action objectives);

5.3.5. Implementation and execution considerations (e.g., the availability of the necessary systems to implement a particular action; examination of alternatives to responses that entail significant capital investments, a lengthy period of operation, or costly maintenance; considering alternatives to removal

or treatment of contamination when existing technology cannot achieve established standards (e.g., Maximum Contaminant Levels (MCLs)); and

5.3.6. Economic considerations, including evaluation of the total lifecycle cost of a remedy and evaluation of other long-term liabilities. This includes assessment of whether the implementation of a particular response alternative will itself cause additional natural resource injury.

6. PROGRAM CATEGORIES

6.1. As discussed in section 2, the scope of the DERP is established in 10 USC §2701. The following program categories have been established to describe the types of environmental restoration activities that occur under the DERP:

6.1.1. The *Installation Restoration* program category is defined as the conduct of response actions (i.e., the identification, investigation, and removal actions, remedial actions, or a combination of removal and remedial actions) to address releases of:

6.1.1.1. Hazardous substances or pollutants and contaminants (as defined in CERCLA),

6.1.1.2. Petroleum, oil, or lubricants (POL);

6.1.1.3. DoD-unique materials;

6.1.1.4. Hazardous wastes or hazardous waste constituents;

6.1.1.5. Low-level radioactive materials or low-level radioactive wastes;

6.1.1.6. Certain activities related to the implementation of the ODUSD(I&E) memorandum *Lead-Based Paint Policy for Disposal of Residential Real Property*, January 7, 2000.

6.1.1.7. Explosive compounds released to soil, surface water, sediments, or groundwater as a result of ammunition or explosives production or manufacturing at ammunition plants; or

6.1.1.8. Military munitions (i.e., UXO or WMM) or the chemical residues of munitions where the following three conditions exist:⁴

6.1.1.8.1. The release occurred prior to September 30, 2000, and

6.1.1.8.2. The release is at a site that is not an operational range, an active munitions demilitarization facility, an active WMM treatment or disposal unit, or a formerly used defense site (FUDS), and

6.1.1.8.3. The site was identified and included in the Restoration Management Information System (RMIS) prior to September 30, 2000, and was not classified as “response complete.”

6.1.2. The *Military Munitions Response* program category is defined as response actions (i.e., the identification, investigation, and removal actions, remedial actions, or a combination of removal and remedial actions) to address military munitions (i.e., UXO or WMM) or the chemical residues of munitions.⁵

6.1.3. The *Building Demolition/Debris Removal (BD/DR)* program category is defined as the demolition and removal of unsafe buildings and structures at facilities or sites that are or were owned

⁴ This provision was included in the August 2001 revision of the *Management Guidance for the Defense Environmental Restoration Program* to avoid interrupting any responses addressing munitions that were ongoing or that had already been planned under the Installation Restoration program category.

⁵ Addressing foreign military munitions is allowable if it is incidental to a response addressing military munitions belonging to the United States.

by, leased to, or otherwise possessed by the United States and under the jurisdiction of the Secretary of Defense.

7. FUNDING ELIGIBILITY

7.1. The Defense Environmental Restoration Account (DERA) was established by 10 USC §2703-*Environmental Restoration Transfer Account* as a “transfer account.” Under 10 USC §2703, all funds appropriated to carry out the functions of the Secretary of Defense relating to environmental restoration are appropriated to the transfer account and are subsequently transferred to other appropriate accounts (e.g., O&M, MILCON) for use in conducting environmental restoration activities. In 1997, Public Law 105-56 *Department of Defense Appropriations Act, 1998*, changed DERA to a direct appropriation to the Components through the establishment of the Component Environmental Restoration (ER) accounts (i.e., ER-Army, ER-Navy, ER-Air Force, ER-Defense-wide), and the ER account for the Formerly Used Defense Sites (FUDS) program (ER-FUDS)). In a similar manner, funding for environmental restoration activities at installations closing or realigning under the various base realignment and closure statutes were moved to the Component BRAC accounts.⁶

7.2. Subsections 7.2 and 7.3 define (and Tables 1, 2, and 3 show) the appropriate use of environmental restoration funds appropriated to the Component ER accounts, the Component BRAC accounts, and the ER- FUDS account, by: (1) program category; (2) the operational status of the facility (e.g., active, BRAC, or FUDS); (3) specific dates for eligibility; and (4) other factors.

7.2.1. Activities under the Installation Restoration program category are conducted with those funds requested for environmental restoration purposes that were appropriated to the Component ER or BRAC accounts where:

7.2.1.1. The release occurred prior to October 17, 1986.⁷

7.2.1.2. The release occurred between October 17, 1986, and September 30, 2000, and where the site was identified and included in the RMIS prior to September 30, 2000,⁸

7.2.1.3. The release is of military munitions (i.e., UXO or WMM) or the chemical residues of munitions and the following four conditions exist:⁹

7.2.1.3.1. The release occurred prior to September 30, 2000, and

⁶ There is an exception. When the property is not being transferred from the Component, per a September 25, 1995, memorandum from the OSD Office of the General Counsel (OGC), funds for environmental restoration activities at such sites are to be requested in, and appropriated to, the Component's ER account.

⁷ This includes response actions under the Resource Conservation Recovery Act (RCRA) corrective action process that address a release of hazardous waste or a hazardous waste constituent at a solid waste management unit (SWMU) where the release at the SWMU occurred prior to October 17, 1986, and the SWMU was inactive or closed prior to October 17, 1986. On a site-specific basis, based on documented extenuating circumstances, Components may request a waiver from the DUSD (I&E).

⁸ This includes response actions under the RCRA corrective action process that address a release of hazardous waste or a hazardous waste constituent at a SWMU where the SWMU closed between October 17, 1986, and September 30, 2000, provided the site was included in RMIS on September 30, 2000. Any response to a release identified after September 30, 2000, shall not be conducted with funds requested for environmental restoration purposes that were appropriated to the Component ER or BRAC accounts.

⁹ This provision was included in the August 2001 revision of the *Management Guidance for the Defense Environmental Restoration Program* to avoid interrupting any responses addressing munitions that were ongoing or that had already been planned under the Installation Restoration program category.

7.2.1.3.2. The release is at a site that is not an operational range, an active munitions demilitarization facility, an active WMM treatment or disposal unit, or a formerly used defense site (FUDS), and

7.2.1.3.3. The site was identified and included in the RMIS prior to September 30, 2000, and was not classified as “response complete” in the RMIS.

7.2.2. Activities under the Installation Restoration program category¹⁰ are conducted with those funds requested for environmental restoration purposes that were appropriated to the ER-FUDS account where:

7.2.2.1. The site is a FUDS; and

7.2.2.2. The release occurred prior to October 17, 1986; and

7.2.2.3. The property was transferred from DoD’s control prior to October 17, 1986; and

7.2.2.4. The property or project meets other ER-FUDS funding eligibility criteria.

7.2.3. Activities under the Military Munitions Response program category are conducted with those funds requested for environmental restoration purposes that were appropriated to the Component ER or BRAC accounts (and are assigned program element code 0708003A), where:

7.2.3.1. The release occurred prior to September 30, 2002; and

7.2.3.2. The release is at a site that is not a FUDS, an operational range, an active munitions demilitarization facility, or an active WMM treatment or disposal unit that operated after September 30, 2002; and

7.2.3.3. The site was not identified or included in the RMIS prior to September 30, 2000.

7.2.4. Activities under the Military Munitions Response program category are conducted with those funds requested for environmental restoration purposes that were appropriated to the ER-FUDS account (and are assigned program element code 0708003A), where:

7.2.4.1. The release occurred prior to October 17, 1986; and

7.2.4.2. The property was transferred from DoD’s control prior to October 17, 1986; and

7.2.4.3. The property or project meets other ER-FUDS funding eligibility criteria.

7.2.5. Activities under the Building Demolition/Debris Removal program category are conducted with those funds requested for environmental restoration purposes that were appropriated to the Component ER or BRAC accounts where these activities address:

7.2.5.1. Unsafe buildings or structures unused since October 17, 1986, and where the requirement to demolish the building or structure is an integral part of activities under the Installation Restoration or Military Munitions Response program categories.

7.2.5.2. Unsafe buildings or other structures unused since October 17, 1986, and where the requirement to demolish the building or structure is not an integral part of activities under the Installation Restoration or Military Munitions Response program categories, and where Office of the Deputy Under Secretary of Defense (Installations and Environment) (ODUSD (I&E)) has formally authorized the use of such funds for this purpose. Components must request, and be granted approval to use funds in this manner before funds may be programmed.

¹⁰ Except for responses involving military munitions (i.e., UXO or WMM) or the chemical residues of munitions.

7.2.6. Activities under the Building Demolition/Debris Removal program category are conducted with those funds requested for environmental restoration purposes that were appropriated to the ER-FUDES account where these activities address:

7.2.6.1. Unsafe buildings or structures unused since October 17, 1986, where:

7.2.6.1.1. The property was transferred from DoD's control prior to October 17, 1986; and

7.2.6.1.2. The property or project meets other ER-FUDES funding eligibility criteria; and

7.2.6.1.3. The requirement to demolish the building or structure is an integral part of activities under the Installation Restoration or Military Munitions Response program categories.

7.2.6.2. Unsafe buildings or structures unused since October 17, 1986, where:

7.2.6.2.1. The property was transferred from DoD's control prior to October 17, 1986; and

7.2.6.2.2. The property or project meets other ER-FUDES funding eligibility criteria; and

7.2.6.2.3. The unsafe condition was present when the property was transferred from DoD control; and

7.2.6.2.4. No subsequent owner of the property has made beneficial use of the building or structure.

**SECTION 7.2 -TABLE 1
ACTIVE INSTALLATIONS
AND LOCATIONS NOT ELIGIBLE UNDER THE FUDS PROGRAM
OR TRANSFERRING UNDER THE BRAC PROGRAM**

Activity	Component ER Funds		
	Installation Restoration	Munitions Response	BD/DR
Installation Restoration program category activities at sites where the release occurred prior to October 17, 1986. ¹¹	E	NE	NE
Installation Restoration program category activities at sites where the release occurred between October 17, 1986, and September 30, 2000, and where the site was identified and included in the RMIS prior to September 30, 2000.	E	NE	NE
Installation Restoration program category activities where the release occurred after October 17, 1986, and where the site was not identified and included in the RMIS prior to September 30, 2000.	NE	NE	NE
Installation Restoration program category activities involving military munitions (i.e., UXO or WMM) or the chemical residues of munitions activities where: <ul style="list-style-type: none"> • The release occurred prior to September 30, 2000; and • The site release is not at a FUDS, operational range, active munitions demilitarization facility, or active WMM treatment or disposal unit; and • The site was identified and included in the RMIS prior to September 30, 2000, and was not classified as “response complete.” 	E	NE	NE
Military Munitions Response program category activities where: the release occurred prior to September 30, 2002; the release is not at a FUDS, operational range, active munitions demilitarization facility, or active WMM treatment or disposal unit that operated after September 30, 2002, and the site was not identified or included in the RMIS prior to September 30, 2000.	NE	E	NE
Military Munitions Response program category activities at operational ranges, active munitions demilitarization facilities, active WMM treatment or disposal units, or at non-range locations where the release occurs after September 30, 2002.	NE	NE	NE
Building Demolition/Debris Removal program category activities to address unsafe buildings or structures unused since October 17, 1986, where the activities are an integral part of actions under the Installation Restoration or Military Munitions Response program categories	NE	NE	E
Building Demolition/Debris Removal program category activities to address unsafe buildings or structures unused since October 17, 1986, where the activities are not an integral part of actions under the Installation Restoration or Military Munitions Response program categories. Components must be granted approval by ODUSD(I&E) to before funds may be programmed.	NE	NE	E¹²
Building Demolition/Debris Removal program category activities to address unsafe buildings or structures used since October 17, 1986.	NE	NE	NE

KEY: E = Eligible NE = Ineligible

¹¹ October 17, 1986, is the effective date of SARA, the law that amended CERCLA and established DERP.

¹² Components must first request from and be granted approval by ODUSD(I&E) to use ER funds for BD/DR at active installations. Approval must be obtained before funds may be programmed.

**SECTION 7.2-TABLE 2
INSTALLATIONS AND OTHER LOCATIONS CLOSING OR REALIGNING
UNDER BRAC**

Activity	Component BRAC ER Funds		
	Installation Restoration	Munitions Response	BD/DR
Installation Restoration program category activities at sites where the release occurred prior to October 17, 1986.	E	NE	NE
Installation Restoration program category activities at sites where the release occurred between October 17, 1986, and September 30, 2000, and where the site was identified and included in the RMIS prior to September 30, 2000.	E	NE	NE
Installation Restoration program category activities where the release occurred after October 17, 1986, and where the site was not identified and included in the RMIS prior to September 30, 2000.	NE	NE	NE
Installation Restoration program category activities involving military munitions (i.e., UXO or WMM) or the chemical residues of munitions activities where: <ul style="list-style-type: none"> • The release occurred prior to September 30, 2000; and • The release is not at a FUDS, operational range, active munitions demilitarization facility, or active WMM treatment or disposal unit; and • The site was identified and included in the RMIS prior to September 30, 2000, and was not classified as “response complete.” 	E	NE	NE
Military Munitions Response program category activities where: the release occurred prior to September 30, 2002; the release is not at a FUDS, operational range, active munitions demilitarization facility, or active WMM treatment or disposal unit that operated after September 30, 2002, and the site was not identified or included in the RMIS prior to September 30, 2000.	NE	E	NE
Military Munitions Response program category activities at operational ranges, active munitions demilitarization facilities, or active WMM treatment or disposal units or at non-range locations where the release occurs after September 30, 2002.	NE	NE	NE
Building Demolition/Debris Removal program category activities to address unsafe buildings or structures unused since October 17, 1986, where the activities are an integral part of actions under the Installation Restoration or Military Munitions Response program categories	NE	NE	E
Building Demolition/Debris Removal program category activities to address unsafe buildings or structures unused since October 17, 1986, where the activities are not an integral part of actions under the Installation Restoration or Military Munitions Response program categories. Components must be granted approval by ODUSD(I&E) to before funds may be programmed.	NE	NE	E¹³
Building Demolition/Debris Removal program category activities to address unsafe buildings or structures used since October 17, 1986.	NE	NE	NE

KEY: E = Eligible NE = Ineligible

¹³ Components must first request from and be granted approval by ODUSD(I&E) to use ER funds for BD/DR at BRAC installations. Approval must be obtained before funds may be programmed.

SECTION 7.2-TABLE 3 INSTALLATIONS AND OTHER LOCATIONS ELIGIBLE UNDER THE FORMERLY USED DEFENSE SITES PROGRAM			
	Environmental Restoration-FUDES Funds		
	Installation Restoration	Munitions Response	BD/DR
Installation Restoration program category activities at sites where: <ul style="list-style-type: none"> • The release occurred prior to October 17, 1986; and • The property was transferred from DoD control prior to October 17, 1986; and • The property or project meets other ER-FUDES eligibility criteria. 	E	NE	NE
Military Munitions Response program category activities where: <ul style="list-style-type: none"> • The release occurred prior to October 17, 1986; and • The property was transferred from DoD control prior to October 17, 1986; and • The property or project meets other ER-FUDES eligibility criteria. 	NE	E	NE
Building Demolition/Debris Removal program category activities to address unsafe buildings or other structures: <ul style="list-style-type: none"> • Unsafe buildings or structures unused since October 17, 1986, where: • The property was transferred from DoD's control prior to October 17, 1986; and • The property or project meets other ER-FUDES funding eligibility criteria; and • The requirement to demolish the building or structure is an integral part of activities under the Installation Restoration or Military Munitions Response program categories. 	NE	NE	E
Building Demolition/Debris Removal program category activities to address unsafe buildings or other structures: <ul style="list-style-type: none"> • Unused since October 17, 1986, and • The property was transferred from DoD control prior to October 17, 1986; and • The property or project meets other ER- FUDES eligibility criteria; and • The unsafe condition was present when the property was transferred from DoD control; and • No subsequent owner of the property has made beneficial use of the building or structure. 	NE	NE	E

KEY: E = Eligible NE = Ineligible

7.3. The following activities shall not be conducted with those funds requested for environmental restoration purposes that were appropriated to the Component ER or BRAC accounts or the ER-FUDES account:

7.3.1. Installation Restoration program category activities to address releases or spills that occurred after October 17, 1986, unless that release or spill occurred between October 17, 1986, and September 30, 2000, and the site was identified and included in the RMIS prior to September 30, 2000.

7.3.2. Installation Restoration program category activities at solid or hazardous waste treatment, storage, or disposal units located on a DoD installation, where the installation sought (or should have sought) interim status or an operating permit under RCRA.

- 7.3.3. Military Munitions Response program category activities at operational ranges.
- 7.3.4. Military Munitions Response program category activities at munitions demilitarization units or WMM treatment or disposal units that operate after September 30, 2002.
- 7.3.5. Military Munitions Response program category activities to address releases that occur after September 30, 2002, at locations that are not on or associated with operational ranges, active munitions demilitarization units, or active WMM treatment or disposal units.
- 7.3.6. Installation Restoration or Military Munitions Response program category activities to address releases that are a result of an act of war.
- 7.3.7. Building Demolition/Debris Removal program category activities to address unsafe buildings or other structures at non-FUDES where the building or structure has been unused since October 17, 1986, and where the requirement to demolish the building and remove the debris is not integral to activities under the Installation Restoration or Military Munitions Response program categories, and ODUSD(I&E) has not formally approved the use of ER funds for this activity.
- 7.3.8. The payment of environmental fines or other penalties without specific congressional approval to do so.
- 7.3.9. The upgrade or improvement of the condition of buildings, structures, or other infrastructure (e.g., installation of electrical service) at facilities slated for transfer from DoD control.
- 7.3.10. Any routine management and maintenance that is not a part of an environmental restoration activity at operating DoD facilities and sites, including range maintenance, clearance, and sustainment activities at operational ranges.
- 7.3.11. Activities under the Installation Restoration, Military Munitions Response, or Building Demolition/Debris Removal program categories at State National Guard properties not formerly owned by, leased by, possessed by, or otherwise under the jurisdiction of the Secretary of Defense or the Components, including governmental entities that are the legal predecessors of DoD or the Components.
- 7.3.12. Activities under the Installation Restoration, Military Munitions Response, or Building Demolition/Debris Removal program categories at properties outside the United States or outside those districts, territories, commonwealths and possessions over which the United States has jurisdiction.
- 7.3.13. Activities under the Installation Restoration, Military Munitions Response, or Building Demolition/Debris Removal program categories at Defense Plant Corporation (DPC) and similar properties for which successor agencies and departments other than Defense are responsible for environmental restoration activities.
- 7.3.14. Activities under the Installation Restoration, Military Munitions Response, or Building Demolition/Debris Removal program categories where a release was caused by the non-military activities of the U.S. Army Corps of Engineers (USACE), unless previously under military control.
- 7.3.15. Activities under the Installation Restoration, Military Munitions Response, or Building Demolition/Debris Removal program categories at all Department of the Army Civil Works properties.
- 7.3.16. Activities under the Installation Restoration, Military Munitions Response, or Building Demolition/Debris Removal program categories at properties for which there are no records showing that the property was formerly owned by, leased by, possessed by, or otherwise under the jurisdiction of the Secretary of Defense or the Components, including governmental entities that are the legal predecessors of DoD or the Components or where there is no documentation showing that accountability rested with DoD.

7.3.17. Activities under the Installation Restoration program category involving underground storage tanks or other structures at FUDS that have been beneficially used by any owner subsequent to DoD.

7.3.18. The following activities under the Building Demolition/Debris Removal program category at FUDS:

7.3.18.1. Projects where the hazard is a result of neglect by an owner/grantee subsequent to DoD use, regardless of whether the deed or disposal document required the owner/grantee to maintain the property improvements.

7.3.18.2. Projects undertaken by one or more private interests (i.e., any entity other than a state or local government entity or Native corporation¹⁴) or federal government agency, unless the lease, permit, deed or other title transfer document that conveyed the property from DoD or GSA specifically requires DoD to restore the property.

7.3.18.3. Projects where the restoration of the property would primarily benefit private interests. A private interest is considered any entity other than state and local government entities or Native corporations.

7.3.18.4. Projects for which an owner subsequent to DoD usage has been compensated by the government in lieu of property restoration (by a payment or offset in the purchase price).

7.3.18.5. Projects involving partial demolition of a structure (i.e., the demolition must be of the entire building or structure to be allowed).

7.3.18.6. Projects involving structures or debris that were altered or beneficially used by owners subsequent to DoD usage.

7.3.18.7. Projects that would eliminate potential hazards (i.e., conditions that may become hazardous through deliberate and/or careless acts are ineligible).

7.3.18.8. Projects for which the lease, permit, deed, or other title transfer document absolves the government from the obligation for property restoration.

8. ENVIRONMENTAL RESTORATION AT FACILITIES SUBJECT TO BASE REALIGNMENT AND CLOSURE

8.1. Environmental restoration activities at installations being closed or realigned pursuant to BRAC statutes are analogous to those at active installations. Similar to active installations, the goals for environmental restoration at BRAC installations are established by the DPG. Five performance metrics, commonly called “Measures of Merit (MOMs)” have been established to gauge progress toward these goals.

8.2. Within the budget process, funds for environmental activities at BRAC installations are separated into four categories: environmental restoration, environmental compliance, planning, and management and support.¹⁵ The funding requested in these categories is aggregated into what is commonly called the “BRAC environmental line” in the budget. With respect to the environmental restoration category, the same types of environmental restoration activities that can be conducted with funds requested for environmental restoration purposes and that are appropriated to the Component ER accounts can be

¹⁴ “Native” is defined by the Alaska Native Claims Settlement Act, Public Law, 92-302, as amended by Public Law 100-241.

¹⁵ There is an exception. When the property is not being transferred from the Component, per a September 25, 1995, memorandum from the OSD Office of the General Counsel (OGC), funds for environmental restoration activities at such sites are to be requested in, and appropriated to, the Component's ER account.

conducted with funds requested for environmental restoration purposes that are appropriated to the Component BRAC accounts.

8.3. Land use assumptions in BRAC environmental restoration activities shall be based on an assumed “reasonably anticipated future land use” based on the Local Redevelopment Authority (LRA) reuse plan, if complete and available when the documentation for the proposed action is prepared. If an LRA reuse plan is not complete, input and discussions with local land use planning authorities, local officials, and the public, as appropriate, shall be conducted as early as possible in the response process to determine the reasonably anticipated future land use. These discussions shall be used to scope efforts to characterize the site, conduct risk assessments, and select the appropriate response(s). In some cases, implementability, short-term effectiveness, cost, and/or technical limitations may limit the ability to conduct a response and thereby limit the reasonably anticipated future land use. Where such factors come into play, they shall be discussed with appropriate federal, state or tribal agencies, local officials, and the public, and an adequate opportunity for timely review and comment shall be provided within the remedy selection process. Where these factors affect a proposed response action, they shall be adequately addressed in any response decision document.

8.4. Fast-Track Cleanup.

8.4.1. Fast-Track Cleanup is a policy adopted to expedite completion of environmental restoration and integrate reuse needs and priorities with environmental restoration authorities and transfer at closing and realigning installations. The May 18, 1996, memorandum, *Fast Track Cleanup at Closing Installations*, should be reviewed for specific details. The Fast-Track Cleanup principles, as follows, are applicable at all BRAC installations:

8.4.1.1. Protect human health and the environment.

8.4.1.2. Make property available for reuse and transfer as soon as possible.

8.4.1.3. Provide effective community involvement.

8.5. Major BRAC installations where property is to be transferred are required to establish BRAC Cleanup Teams (BCTs). For these installations:

8.5.1. The Commander or the responsible authority will appoint a BRAC environmental coordinator (BEC) who will have responsibility for execution of all the DERP requirements in support of base closure.

8.5.2. The BCT, consisting of the BEC, a representative of the state environmental regulatory agency, and a representative of EPA, is responsible for carrying out the DERP requirements at the installation and is charged with identifying and implementing techniques to improve the efficiency and pace of the response process.

8.6. The BRAC Cleanup Plan (BCP) is the functional equivalent of a management action plan (MAP) for an active installation; however, in addition to the MAP requirements, the BCP also integrates reuse priorities into the planning and implementation of environmental restoration activities. A BCP abstract, reflecting the contents of the current BCP, is submitted annually as part of the Components' data submission to ODUSD(I&E).

8.7. Closing Out BRAC Environmental Restoration Activities.

8.7.1. Components shall plan and complete all environmental restoration activities at BRAC installations in accordance with the DPG goals. As environmental restoration activities are completed and the environmental restoration workload decreases, BCTs may be scaled back or adjourned rather than continuing as a dedicated full-time team.

8.7.2. The following factors will be considered in evaluating if a scaling back or adjourning the BCT is appropriate:

- 8.7.2.1. A reuse has been determined for all properties identified for transfer.
- 8.7.2.2. The last remedial action for the installation is in place.
- 8.7.2.3. All required demonstrations that remedial systems are operating properly and successfully are complete.
- 8.7.3. The BCT will take the following actions before it is adjourned.
 - 8.7.3.1. To preserve institutional knowledge and to provide an accurate historical perspective for future reference the BCT shall prepare and submit to the Component Headquarters a final “Closeout BCP” that:
 - 8.7.3.1.1. Summarizes the environmental restoration activities that have occurred, including summaries of individual site histories describing the type and concentration of the contamination that was present (and if appropriate, that remains) at the site, the remedy used, and any required future management activities.
 - 8.7.3.1.2. Identifies responsibilities for environmental restoration conditions and activities continuing after property transfer.
 - 8.7.3.2. Formally notify the Restoration Advisory Board (RAB) and LRA of the BCT adjournment. This notification shall include a complete list of points of contact for environmental restoration and support of reuse responsibilities with DoD and other federal, state or tribal, or local agencies.
 - 8.7.3.3. Submit a final BCP abstract to the Service Environmental Deputy Assistant Secretary and ODUSD(I&E) that includes a statement that this is the final BCP Abstract submission, the date of the BCT adjournment, and the notification provided to the RAB and LRA (with the accompanying point of contact documentation).
- 8.7.4. Changes in Data Reporting. After BCT adjournment, a BCP Abstract submission will no longer be required. Environmental restoration and environmental condition of property information will continue to be provided through the regular data submissions.

9. FORMERLY USED DEFENSE SITES

- 9.1. The Formerly Used Defense Sites (FUDS) program was established to address those locations described under 10 USC §2701(c) as: “Each facility or site which was under the jurisdiction of the Secretary and owned by, leased to, or otherwise possessed by the United States...” As such, response actions (i.e., site identification, investigation, removal actions, remedial actions, or a combination of removal and remedial actions) at FUDS are conducted under the DERP and are subject to this guidance.
- 9.2. FUDS are defined as real property that was formerly owned by, leased by, possessed by, or otherwise under the jurisdiction of the Secretary of Defense or the Components (including governmental entities that are the legal predecessors of DoD or the Components) and those real properties where accountability rested with DoD but where the activities at the property were conducted by contractors (i.e., government-owned, contractor-operated (GOCO) properties) that were transferred from DoD control prior to October 17, 1986. The status of a site as a FUDS is irrespective of current ownership or current responsibility within the federal government.
- 9.3. Pursuant to DoDI 4715.7-*Environmental Restoration Program*, the Secretary of the Army is designated as DoD Executive Agent for the FUDS program. This includes identifying to the OSD the funding required for the FUDS program, conducting environmental restoration activities at eligible

properties on behalf of the Components, and reporting on program progress.¹⁶ The responsibilities of the DoD Executive Agent for the FUDS program include:

- 9.3.1. Maintaining an inventory of all FUDS, tracking activities at FUDS, and reporting progress.
- 9.3.2. Determining eligibility of property and projects for action under the FUDS program.
- 9.3.3. Identifying required DoD response actions, programming appropriate resources to meet DPG goals, and executing the program.
- 9.3.4. Providing guidance and oversight, including reviewing program execution.

9.4. Goals and Direction for the FUDS Program

- 9.4.1. FUDS execution shall meet the goals specified in the DPG for reducing risk to human health, safety, and the environment, and having final remedies in place.
- 9.4.2. The FUDS program manager shall complete relative-risk evaluations at all eligible FUDS properties where Installation Restoration program category activities are required, and risk assessment code (RAC) assessments at all eligible FUDS properties where Military Munitions Response program category activities are required. Where activities under both program categories are required, the FUDS program manager shall complete both a relative-risk and a RAC evaluation.
- 9.4.3. The FUDS program manager shall identify expeditiously those FUDS properties where no significant threat to human health or safety or the environment has resulted from DoD activities and shall classify those sites as "No Defense Action Indicated (NDAI)."

9.5. Property¹⁷ Eligibility for Inclusion in the FUDS Program

9.5.1. FUDS are defined as real property for which accountability rested with DoD prior to October 17, 1986, irrespective of current ownership or current responsibility within the federal government. All property transferred from DoD control prior to October 17, 1986, that was formerly owned by, leased by, possessed by, or otherwise under the jurisdiction of the Secretary of Defense or the Components, including governmental entities that are the legal predecessors of DoD or the Components and all properties where accountability rested with DoD but where the activities at the property were conducted by contractors (i.e., GOCO properties) are FUDS. Only properties transferred from DoD control prior to October 17, 1986, are FUDS, unless:

- 9.5.1.1. The property had already undergone a preliminary assessment of eligibility (PAE); and
- 9.5.1.2. The final Inventory Project Report (INPR) stating that the property was FUDS-eligible was signed prior to September 30, 2000, and
- 9.5.1.3. The property was listed in the RMIS as a FUDS property prior to September 30, 2000.

9.5.2. Properties that are determined to be ineligible for action under the program shall be formally referred to an appropriate Component, other federal agency, or state agency for action. Properties that are ineligible for action under the program include:

- 9.5.2.1. Property currently controlled by a Component, including properties that are excess to a DoD holding agency's requirements that have not been formally transferred to another federal agency or disposed of by the General Services Administration (GSA).

¹⁶ The Secretary of the Army has delegated day-to-day program management and execution responsibilities to the U.S. Army Corps of Engineers (USACE). At FUDS, a designated USACE military district commander is responsible for environmental restoration activities and executes the installation commander's responsibilities.

¹⁷ In the FUDS program, a "property" is defined as equivalent to an "installation."

9.5.2.2. Properties that were not formerly owned by, leased by, possessed by, or otherwise under the jurisdiction of the Secretary of Defense or the Components, including governmental entities that are the legal predecessors of DoD or the Components including all properties where accountability did not rest with DoD.

9.5.2.3. State National Guard properties not formerly owned by, leased by, possessed by, or otherwise under the jurisdiction of the Secretary of Defense or the Components, including governmental entities that are the legal predecessors of DoD or the Components.

9.5.2.4. Properties outside the United States or outside those districts, territories, commonwealths and possessions over which the United States has jurisdiction.

9.5.2.5. Defense Plant Corporation and similar properties for which successor agencies and departments other than Defense are responsible for environmental restoration activities.

9.5.2.6. Properties where a release was caused by the non-military activities of the U.S. Army Corps of Engineers (USACE), unless previously under military control.

9.5.2.7. All Department of the Army Civil Works properties.

9.5.2.8. Properties where a release occurred solely as a result of an act of war.

9.5.2.9. Properties where military munitions (i.e., UXO or WMM) are more than 100 yards seaward of the mean high-tide point.¹⁸

9.5.2.10. Properties for which no records showing that the property was formerly owned by, leased by, possessed by, or otherwise under the jurisdiction of the Secretary of Defense or the Components, including governmental entities that are the legal predecessors of DoD or the Components or where there is no documentation showing that accountability rested with DoD.

9.5.2.11. A FUDS at which a Component has already initiated environmental restoration activities.

9.5.2.12. Categorically excluded properties at which, because of the nature of the operation or control that occurred, environmental restoration activities are not required, including:

9.5.2.12.1. United Services Organization (USO) properties,

9.5.2.12.2. Recruiting centers, and

9.5.2.12.3. Cemeteries.

9.6. Project¹⁹ Eligibility Funding under the Environmental Restoration-FUDS Account

9.6.1. The determination that a project is eligible for funding under the ER-FUDS account has two elements. The first requirement for project eligibility is that the property must be eligible for action under the FUDS program. The second requirement for project eligibility is that there is known or potential contamination on the eligible property attributable to DoD activities that requires actions described under the:

9.6.1.1. Installation Restoration program category, including projects to address underground storage tanks, aboveground storage tanks, transformers, hydraulic systems, investigative derived wastes, abandoned or inactive monitoring wells,²⁰ or

¹⁸ This is strictly a factor influencing FUDS eligibility, not a statement of DoD's responsibility for conducting responses at water ranges.

¹⁹ In the FUDS program, a "project" is equivalent to a "site."

9.6.1.2. Military Munitions Response program category; or

9.6.1.3. Building Demolition/Debris Removal program category.

9.6.2. Ineligible Projects. Projects that are determined to be ineligible for action under the program shall be formally referred to an appropriate Component, other federal agency, or state agency for action. The following projects are not eligible for funding under the ER-FUDS account:

9.6.2.1. Projects on properties where the current owner refuses right of entry.

9.6.2.1.1. In these cases, appropriate authorities, such as EPA, state environmental regulatory agencies, and local government agencies involved with public safety shall be notified.

9.6.2.1.2. For projects or properties where military munitions (i.e., UXO or WMM) are reasonably believed to be present and access is denied, the Army will notify ODUSD(I&E) of the circumstances surrounding the denial of right of entry. The Army shall make appropriate referral to the Attorney General of the United States per CERCLA §104(e)(5)(B).

9.6.2.2. Projects to remedy hazards that resulted from civil works activities rather than military activities.

9.6.2.3. Projects initiated or completed by past or current owners. Property owners cannot be reimbursed using funds from the ER-FUDS account for any response activities that the owner conducted.

9.6.2.4. Projects involving asbestos-containing materials or lead-based paint in surveys, containment, removal, and /or disposal projects, except as required to safely complete an approved project within Occupational Safety and Health Administration (OSHA) guidelines and DoD policy.

9.6.2.5. Projects involving underground storage tanks or other structures that have been beneficially used by any owner subsequent to DoD.

9.6.3. The following activities under the Building Demolition/Debris Removal program category at FUDS:

9.6.3.1. Projects where the hazard is a result of neglect by an owner/grantee subsequent to DoD use, regardless of whether the deed or disposal document required the owner/grantee to maintain the property improvements.

9.6.3.2. Projects undertaken by one or more private interests (i.e., any entity other than a state or local government entity or Native corporation²¹) or federal government agency, unless the lease, permit, deed or other title transfer document that conveyed the property from DoD or GSA specifically requires DoD to restore the property.

9.6.3.3. Projects where the restoration of the property would primarily benefit private interests. A private interest is considered any entity other than state and local government entities or Native corporations.

9.6.3.4. Projects for which an owner subsequent to DoD usage has been compensated by the government in lieu of property restoration (by a payment or offset in the purchase price).

²⁰ These latter projects are referred to in the FUDS program as "containerized hazardous, toxic, and radioactive wastes (CON/HTRW) projects." Short-term removal actions to address soil contaminated by leaking containers and remediation of containers that were not beneficially used or partially removed by owners subsequent to DoD usage are also considered CON/HTRW projects by the FUDS program.

²¹ "Native" is defined by the Alaska Native Claims Settlement Act, Public Law, 92-302, as amended by Public Law 100-241.

9.6.3.5. Projects involving partial demolition of a structure (i.e., the demolition must be of the entire building or structure to be allowed).

9.6.3.6. Projects involving structures or debris that were altered or beneficially used by owners subsequent to DoD usage.

9.6.3.7. Projects that would eliminate potential hazards (i.e., conditions that may become hazardous through deliberate and/or careless acts are ineligible).

9.6.3.8. Projects for which the lease, permit, deed, or other title transfer document absolves the government from the obligation for property restoration.

9.7. The eligibility of a property and the eligibility of a project under the FUDS program are determined upon completion of the preliminary assessment of eligibility (PAE) phase. An Inventory Project Report (INPR) is prepared at completion of the PAE phase to document the findings of the property and project eligibility determination.

9.8. The following activities at eligible properties and projects are conducted with funds requested for environmental restoration purposes and that were appropriated to the ER-FUDS account:

9.8.1. Activities under the Installation Restoration program category²² where:

9.8.1.1. The site is a FUDS; and

9.8.1.2. The release occurred prior to October 17, 1986; and

9.8.1.3. The property was transferred from DoD control prior to October 17, 1986; and

9.8.1.4. The property or project meets other ER-FUDS funding eligibility criteria.

9.8.2. Activities under the Military Munitions Response program category where:

9.8.2.1. The release occurred prior to October 17, 1986; and

9.8.2.2. The property was transferred from DoD control prior to October 17, 1986; and

9.8.2.3. The property or project meets other ER-FUDS funding eligibility criteria.

9.8.3. Activities under the Building Demolition/Debris Removal program category are conducted with those funds requested for environmental restoration purposes that were appropriated to the ER-FUDS account where these activities address:

9.8.3.1. Unsafe buildings or structures unused since October 17, 1986, where:

9.8.3.1.1. The property was transferred from DoD's control prior to October 17, 1986; and

9.8.3.1.2. The property or project meets other ER-FUDS funding eligibility criteria; and

9.8.3.1.3. The requirement to demolish the building or structure is an integral part of activities under the Installation Restoration or Military Munitions Response program categories.

9.8.3.2. Unsafe buildings or structures unused since October 17, 1986, where:

9.8.3.2.1. The property was transferred from DoD's control prior to October 17, 1986; and

9.8.3.2.2. The property or project meets other ER-FUDS funding eligibility criteria; and

²² Except for responses involving military munitions (i.e., UXO or WMM) or the chemical residues of munitions.

9.8.3.2.3. The unsafe condition was present when the property was transferred from DoD control; and

9.8.3.2.4. No subsequent owner of the property has made beneficial use of the building or structure.

9.9. The following activities shall not be conducted with those funds requested for environmental restoration purposes that were appropriated to the ER-FUDS account:

9.9.1. Installation Restoration, Military Munitions Response, or Building Demolition/Debris Removal program category activities at ineligible properties.

9.9.2. Installation Restoration, Military Munitions Response, or Building Demolition/Debris Removal program category activities for ineligible projects.

9.9.3. Installation Restoration, Military Munitions Response, or Building Demolition/Debris Removal program category activities to address releases that are solely a result of an act of war.

9.9.4. The payment of environmental fines or other penalties without specific congressional approval to do so.

9.10. Property or project closeout at a FUDS occurs when all removal or remedial responses are complete and no subsequent removal or remedial responses are required, or the FUDS was classified as “No Defense Action Indicated.” USACE shall consult with ODUSD(I&E), Headquarters Department of the Army, appropriate federal, state, or tribal regulators, and the local community on FUDS closeouts.

9.11. Restoration Advisory Boards (RABs) at FUDS.

9.11.1. In general, the criteria for determining community interest in establishing a RAB at an operating installation also apply to FUDS. It is, however, recognized that there may be circumstances when the establishment of a RAB at a FUDS is impractical, including when:

9.11.1.1. The FUDS property owner objects to the establishment of a RAB;

9.11.1.2. The project duration is so short so as to make RAB establishment infeasible;

9.11.1.3. The property is in a remote location where there is no community nearby; or

9.11.1.4. All major environmental decisions for all properties have already been made.

9.11.2. When a RAB is not established, a memorandum for the record signed by the USACE military district commander will document the rationale. This memorandum for the record shall be included in the Administrative Record.

9.12. At a FUDS property, the level of environmental restoration will be consistent with statutory and regulatory requirements. It is subject to restrictions placed on land use at the time of transfer from DoD control and may consider any land uses reasonably anticipated at the time of the remedy selection. DoD would not anticipate conducting further environmental restoration activities based solely on changes in land use initiated by current property owners that would be inconsistent with the previous remediation conducted by DoD or land use restrictions attached to the property.

10. COMMUNITY INVOLVEMENT

10.1. It is DoD policy to involve the local community in the environmental restoration process as early as possible and to seek continued community involvement throughout the environmental restoration process.

10.2. Each installation or FUDS will develop a Community Relations Plan defining the comprehensive stakeholder involvement program that will be implemented during the course of environmental restoration activities. A Community Relations Plan will also address the applicable requirements of EO 12898,

Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (February 11, 1994). The installation shall ensure the scope of, and level of detail contained in, the Community Relations Plan is commensurate with the extent and duration of the environmental restoration activities. In this assessment, the installation shall ensure the CRP:

- 10.2.1. Meets the specific requirements for community involvement under the NCP;
- 10.2.2. Reflects input gained through interviews with a sufficient number of persons to represent the diversity of the community;
- 10.2.3. Provides analysis of the impacts of the environmental restoration activities on the community;
- 10.2.4. Evaluates the degree and nature of community concerns or interest in the restoration activities;
- 10.2.5. Identifies and considers environmental justice issues (i.e., issues associated with minority and economically disadvantaged populations) in the community surrounding the installation or FUDS;
- 10.2.6. Identifies appropriate and required mechanisms for disseminating information to the public (e.g., local media, public meetings, websites); and
- 10.2.7. Contains strategies for providing opportunities for community participation in the program.

10.3. Each installation or FUDS shall designate a point of contact (POC) for environmental restoration activities. The POC shall be identified to the local community through appropriate means (e.g., a newspaper notice) and will serve as the entry point for community inquiries or comments. Installations shall also provide the community the name of a POC at the installation's or FUDS' Headquarters organization.

10.4. As required by CERCLA and the NCP, each installation or FUDS shall establish an Information Repository. The Information Repository provides the public with a single reference source for information about environmental restoration activities at an installation or FUDS. Because it is intended for use by the public, the Information Repository shall be at a location near the site, a location that is easily accessible to the public, and that will make the information available for inspection at times convenient to the public. The Information Repository shall, at a minimum, include a copy of the Administrative Record (the documents that form the basis or the selection of a response action) for the installation or FUDS as required under the NCP.²³ The Information Repository may also contain other documents pertinent to the activities at the installation or FUDS.

10.5. Information on environmental restoration activities shall be made available to the public in a timely manner using appropriate mechanisms for disseminating information to the public (e.g., local media, public meetings, websites). Such mechanisms shall be identified in the Community Relations Plan and used in a consistent manner. Draft Final versions of documents that are considered the equivalent of primary documents as defined in Federal Facility Agreements (FFAs) or other regulatory instruments shall be placed in Information Repositories at the same time that these documents are provided to regulatory agencies for review. The availability of these documents shall be announced to the public.²⁴

²³ Some contents of the centrally maintained Administrative Record need not be included in the Information Repository. Sampling and testing data, quality control and quality assurance documentation, chain of custody forms, guidance documents not generated specifically for the site, and publicly available technical literature not generated for the site are examples of the types of documents that an installation or FUDS need not include in the Information Repository, provided that the index to the Administrative Record indicates the location and availability of this information. Documents included in the confidential portion of the administrative record also need not be included in the Information Repository.

²⁴ Where there is litigation addressing environmental restoration activities, Component legal staff shall be consulted on the appropriate or required means for providing documents to the other party.

10.6. Stakeholders shall be given opportunity for involvement in updating the installation or FUDS Management Action Plan (MAP) or equivalent, except for updates to elements that include government cost estimates for future procurement actions.

10.7. Each installation or FUDS shall establish a Restoration Advisory Board (RAB) where there is sufficient and sustained community interest. A RAB fulfills the requirements of 10 USC §2705(c), which directs DoD to establish Technical Review Committees (TRC). Where TRCs or similar advisory groups already exist, the TRC or similar advisory group shall be considered for conversion to a RAB, provided there is sufficient and sustained interest within the community. Only one RAB or TRC will be recognized per installation. Where RABs are not formed initially, installations shall reassess community interest at least every 24 months. Where the reassessment finds sufficient and sustained community interest, the installation or FUDS shall establish a RAB. Where the reassessment does not find sufficient and sustained community interest in a RAB, the installation or FUDS shall document, in a memorandum for the record, the procedures followed in the reassessment and the findings of the reassessment. This document shall be included in the Administrative Record for the installation or FUDS.

10.7.1. The purpose of the RAB is to:

10.7.1.1. Act as a forum for the discussion and exchange of restoration program information between agencies and the community.

10.7.1.2. Provide an opportunity for RAB members to review progress and participate in a dialogue with the installation's decision makers. Installations shall consider the recommendations provided by the RAB, including advice given that represents the minority view of members. Because DoD does not intend for Federal Advisory Committee Act (FACA) requirements to apply to RABs, consensus is not a prerequisite for RAB recommendations. Each individual provides advice as an individual, not as a group.

10.7.2. Each RAB shall develop and formally document its operating procedures. These procedures shall include, at a minimum:

10.7.2.1. Clearly defined goals and objectives for the RAB;

10.7.2.2. Attendance requirements;

10.7.2.3. Development and approval procedures for the minutes of RAB meetings;

10.7.2.4. The meeting frequency and location;

10.7.2.5. Rules of Order;

10.7.2.6. The frequency and procedures for conducting training;

10.7.2.7. Procedures for selecting or replacing co-chairs and selecting, replacing, or adding other members;

10.7.2.8. Specifics on the size of the RAB membership and the periods for membership and co-chair length of service;

10.7.2.9. Methods for resolving disputes;

10.7.2.10. The process for reviewing and responding to public comments on issues being addressed by the RAB; and

10.7.2.11. Procedures for public participation in RAB activities.

10.7.3. In developing these operating procedures, the RAB must consider and incorporate the following:

10.7.3.1. The RAB must be comprised of representatives of the Component, members of the local community, and representatives from EPA, state regulatory agencies, tribal, or local governments, as appropriate. DoD shall ensure that members reflect the diverse interests within the community.

10.7.3.2. The RAB must be chaired jointly by a representative of the Component and the local community. The community co-chair will be selected by the community members serving on the RAB.

10.7.3.3. A RAB is not subject to the requirements of the FACA; however, all RAB meetings, correspondence, discussions and proceedings shall be conducted in public, and no member of the public will be denied access (unless there is cause for concern for the safety of those involved with the RAB meetings). Documents related to RAB proceedings or communications will be included in the Information Repository and the Administrative Record.

10.7.3.4. A RAB may only address issues associated with environmental restoration activities under the DERP. Environmental groups or advisory boards that address issues other than environmental restoration activities are not RABs.

10.7.3.5. Subject to the availability of funds, funds requested for environmental restoration activities that were appropriated to Components' ER or BRAC accounts or the ER-FUDS account may be used to provide administrative support to RABs. Such funds shall not be used to support the activities of environmental groups or advisory boards in addressing issues other than environmental restoration activities. The activities of the RAB and expenditures of such funds for administrative expenses shall be reported to ODUSD(I&E), at a minimum, on an annual basis. Appendix 5 provides examples of eligible and ineligible RAB expenses.

10.7.3.6. Each installation is required to report regularly on the status and impact of the RAB to the installation's or FUDS' environmental restoration program. The RAB should consider means to assist the installation with this reporting requirement.

10.7.4. An installation commander may adjourn a RAB when there is no longer a need for a RAB or when community interest in the RAB declines. In making such a decision, if environmental restoration activities are not complete, the installation commander shall ensure that the community involvement program detailed in the Community Relations Plan provides for continued effective stakeholder input.

10.7.4.1. RAB adjournment shall not be an independent, unilateral evaluation on the part of DoD. The installation commander shall discuss adjournment with regulators and the community as a whole before making a final decision.

10.7.4.1.1. If a decision to adjourn the RAB is made, the rationale for adjournment shall be formally documented and the community as a whole notified of the decision.

10.7.4.1.2. An installation may reestablish an adjourned RAB if there is sufficient and sustained community interest in doing so and there are environmental restoration activities still ongoing at the installation.

10.7.4.2. Where a RAB is adjourned and environmental restoration activities continue, the installation or FUDS shall reassess community interest at least every 24 months. Where the reassessment finds sufficient and sustained community interest, the installation or FUDS shall reestablish a RAB. Where the reassessment does not find sufficient and sustained community interest in reestablishing the RAB, the installation or FUDS shall document (in a memorandum for the record) the procedures followed in the reassessment and the findings of the reassessment. This document shall be included in the Administrative Record for the installation or FUDS.

10.7.5. Although installation commanders are expected to make every reasonable effort to ensure that a RAB performs its role as efficiently as possible, circumstances may prevent a RAB from operating

efficiently or fulfilling its intended purpose. When this occurs, the installation commander will make a concerted attempt to resolve the issues that impact the RAB's effectiveness. If unsuccessful, the installation commander may elect to dissolve the RAB. Where an installation commander elects to dissolve a RAB, the installation commander shall:

10.7.5.1. Ensure that the comprehensive stakeholder involvement program is providing sufficient opportunities for the community to provide input on environmental restoration activities.

10.7.5.2. Notify, through the command chain, the Component's Environmental Deputy Assistant Secretary (or equivalent) and ODUSD(I&E) of the status of the RAB, the specifics of the irreconcilable issues, and the intent to dissolve the RAB.

10.7.5.3. In consultation with EPA, state, tribal, or local government representatives, as appropriate, notify the RAB community co-chair and members in writing of the intent to dissolve the RAB and the reasons for doing so, and provide RAB members 30 days to respond in writing.

10.7.5.4. Consider RAB member responses, and in consultation with EPA, state, tribal, or local government representatives, as appropriate, determine the appropriate action.

10.7.5.4.1. If a decision is made to proceed with dissolution, notify the public of the proposal to dissolve the RAB and provide a 30-day public comment period on the proposal.

10.7.5.4.2. If the dissolved RAB will be reconstituted, provide details to the public of the process by which that will happen and provide a 30-day public comment period on the proposal.

10.7.5.5. At the conclusion of the public comment period, review public comments, consult with EPA, state, tribal, or local government representatives, as appropriate, and render a recommendation.

10.7.5.6. Notify the public of the recommendation, and forward all documentation to the Component's Environmental Deputy Assistant Secretary (or equivalent) for approval or disapproval.

10.7.5.7. The Component's Environmental Deputy Assistant Secretary (or equivalent) shall notify ODUSD(I&E) of the decision to approve or disapprove the request to dissolve the RAB, and the rationale for that decision.

10.7.5.8. The installation commander shall notify the public of the approval or disapproval of the dissolution of a RAB through written notice to the RAB members and through publication of a notice in a local newspaper of general circulation.

10.8. Information on the activities of a RAB including, but not limited to, documenting the installation's efforts to survey community interest in forming a RAB, steps taken to establish a RAB where there is sustained community interest, how the RAB relates to the overall community involvement program, and steps taken to adjourn the RAB, shall be included in the Information Repository. To the extent that RAB input is considered in a decision regarding response activities, information about the RAB shall be included in the Administrative Record.

10.9. Technical Assistance for Public Participation (TAPP).

10.9.1. Opportunities for technical assistance through DoD's TAPP program shall be made available to community members of RABs or TRCs in accordance with 10 USC §2705(e) and the TAPP regulations found at 32 CFR Part 203. Community members of a RAB may request from an installation's commanding officer, or appropriate DoD official, technical assistance from private-sector sources. (See Appendix 6 for a list of eligible and ineligible TAPP activities.)

10.9.2. Only community members (not government members) of RABs and TRCs may ask for TAPP support on behalf of the community members of the RAB. Any request for TAPP must represent the wishes of the majority of the community members of the RAB/TRC, and the RAB/TRC must certify this to be true on the TAPP application (see Appendix 7). The RAB/TRC requesting assistance must be recognized by the Component.

10.9.3. TAPP Funding.

10.9.3.1. A TAPP will be funded from the appropriate Component ER or BRAC accounts or the ER-FUDS account. TAPP is categorized as a program administration cost. There is no guaranteed or automatic TAPP funding allocation per installation and no separate account.

10.9.3.2. TAPP funding may not exceed \$100,000 over the life of the restoration program at the installation. The limit for a single fiscal year is \$25,000, or 1 percent of the installation's total projected environmental restoration cost-to-complete, whichever is less.

10.9.3.3. Waivers to the \$100,000 total and \$25,000 annual funding limits may be approved by the Component's Environmental Deputy Assistant Secretary (or equivalent). Requests for waivers are initiated by the RAB/TRC community members and forwarded by endorsement with recommendations by the installation commander through the chain-of-command to the Component's Environmental Deputy Assistant Secretary (or equivalent).

10.9.4. In the event that a dispute arises concerning the approval of a TAPP request, the RAB/TRC community members may appeal DoD's decision. Appeals will be considered within the chain-of-command, and in general, will be resolved at the lowest possible level. The highest level of appeal will be at the Component's Environmental Deputy Assistant Secretary (or equivalent).

10.9.5. The fact that a community has received Technical Assistance Grants (TAG) or Technical Outreach Services to Communities (TOSC) from EPA does not preclude them from getting a TAPP award. These other sources of funds are, however, relevant considerations during the decision process.

10.9.6. Each RAB/TRC that receives a TAPP award must submit an annual TAPP Results Report to the installation. The installation will forward this report to the installation's Headquarters. This report will indicate:

10.9.6.1. The amount of TAPP funds obligated by fiscal year.

10.9.6.2. An evaluation for each project concerning whether the TAPP assisted the community in participating in the restoration program.

11. RELATIONSHIPS WITH OTHER GOVERNMENT AGENCIES

11.1. DoD is fully committed to the substantive involvement of EPA, appropriate current and prospective federal land managers, other appropriate federal agencies, states, and tribes, and the public throughout the environmental restoration process. Components responsible for environmental restoration activities shall take proactive steps to identify and address issues of concern to all stakeholders. These efforts have the overall goal of ensuring that decisions regarding environmental restoration activities reflect a broad spectrum of stakeholder input.

11.2. Pursuant to the delegation of certain Presidential authorities under CERCLA to the Secretary of Defense (delegated via EO 12580, *Superfund Implementation* (January 23, 1986) and EO 13016 *Superfund Amendments* (August 28, 1996)), DoD is the lead agency for environmental restoration activities under the DERP. Per DoDI 4715.7, the Secretaries of the Military Services have been further delegated these authorities (subject to the concurrent authority of the Under Secretary of Defense, Acquisition, Technology, and Logistics (USD(AT&L)) and the DUSD(I&E)) to execute the DERP. In the exercise of this authority and responsibility, Components shall:

11.2.1. Identify points of contact in regulatory agencies, determine and establish communication channels, and establish cooperative relationships.

11.2.2. Provide regulators with access to information (with due consideration of issues related to accuracy, national security, other established forms of confidentiality or privilege (e.g., attorney-client, Privacy Act, doctor-patient), and releasability under the Freedom of Information Act (FOIA)), including draft data and documents that have been reviewed and approved by the Component.

11.2.3. Establish procedures for obtaining pertinent information from regulators in a timely manner.

11.2.4. Involve regulatory agencies in:

11.2.4.1. Relative-risk site evaluations and risk assessment code determinations.

11.2.4.2. Project planning, budgeting, and implementation (including the development and updating of MAPs or MAP-equivalents).

11.2.4.3. Work plan development and site and project prioritization.

11.2.4.4. Completion of response action activities.

11.2.4.5. RABs and other community involvement initiatives.

11.2.4.6. At installations closing or realigning pursuant to BRAC statutes:

11.2.4.6.1.1. BRAC Cleanup Teams (BCTs).

11.2.4.6.1.2. Finding of Suitability for Transfer or Lease (FOST/FOSL) documents.

11.2.4.6.1.3. Other appropriate issues.

11.2.5. Encourage and coordinate with regulators to identify a single regulatory framework to guide the environmental restoration process at an installation. This framework should remain consistent throughout the environmental restoration process. Because of the linkages between the DERP and CERCLA, and the delegation of certain Presidential authorities under CERCLA to DoD, CERCLA is DoD's preferred framework for environmental restoration. Where a regulatory agency seeks to use another framework (e.g., the Safe Drinking Water Act), the Component shall ensure that the actions undertaken also comply with all applicable CERCLA requirements, especially in the areas of the content of decision documents and the maintenance of an Administrative Record. Where a decision not to follow the CERCLA framework is considered, the facts related to the decision are to be documented (with written regulatory agency concurrence), approved by the Component's Deputy Assistant Secretary for Environment (or equivalent) and forwarded to ODUSD(I&E) for approval prior to entering into discussions with the regulatory agency. Once the discussions are complete, other Components and ODUSD(I&E) are to have a minimum of three (3) full working days to review the draft agreement.²⁵ Components can only sign such an agreement if no objections are raised during this review.

11.2.6. Consult with ODUSD(I&E) and other Components in cases where a Component seeks to:

11.2.6.1. Revise or deviate from a pre-existing interagency agreement; or

11.2.6.2. Revise or deviate from the model Federal Facility Agreement (FFA) developed to assist in the implementation of CERCLA §120(e); or

11.2.6.3. Develop an innovative agreement for working with regulatory agencies.

²⁵ If a Component requires more than three (3) full working days to complete the review, the reviewing Component is responsible for formally seeking an extension of the review period.

Once discussions are complete, other Components and ODUSD(I&E) are to have a minimum of three (3) full working days to review the draft agreement. Components can only sign such an agreement if no objections are raised during this review period.²⁶

11.2.7. Promote efficiency in the regulatory process by:

11.2.7.1. Encouraging regulators to adopt an oversight approach where sites posing a greater risk receive more regulatory oversight than sites posing a lesser risk.

11.2.7.2. Encouraging regulators to designate a lead regulatory agency where both federal and state regulatory agencies have jurisdiction.

11.2.7.3. Negotiating and signing agreements with regulatory agencies, as appropriate, regarding environmental restoration activities that:

11.2.7.3.1. Use performance standards as opposed to administrative requirements;

11.2.7.3.2. Reflect the timing of the federal budget process;

11.2.7.3.3. Consider fiscal constraints;

11.2.7.3.4. Have flexible and regularly updated (at least annually) milestones;

11.2.7.3.5. Reflect the results of the assessment of the relative-risk posed by sites, and

11.2.7.3.6. Consider other management factors.

11.2.7.4. Working cooperatively with regulatory agencies to identify the most effective response strategy, taking full advantage of options to increase the pace of risk reduction such as the use of removal actions and interim remedial actions.

11.2.7.5. Supporting the Defense and State Memoranda of Agreement (DSMOA) program by reviewing state Cooperative Agreement (CA) applications and progress reports, and by providing funds in accordance with work plans for eligible DSMOA services agreed to between the installation or FUDS and the regulators.

11.2.7.6. Supporting the EPA Memorandum of Understanding for BRAC installations.

11.2.8. Where required, coordinate environmental restoration activities with Native American tribes. This coordination should occur on a government-to-government basis in recognition of tribal sovereign status and the unique relationship of federally recognized Indian Tribes to the United States government.

11.3. Expectations of Regulatory Agencies. Components should encourage EPA and state regulators to work cooperatively with DoD to:

11.3.1. Use the installation's MAP (or equivalent) to define performance measures, environmental restoration strategies, specific remedial action objectives (and the means to evaluate progress towards those objectives), and resolve disagreements at the lowest level.

11.3.2. Identify a single regulatory framework for each installation that remains consistent throughout the environmental restoration process.

11.3.2.1. Work cooperatively to identify the most effective response strategy, taking full advantage of options to increase the pace of risk reduction such as the use of removal actions and interim remedial actions.

²⁶ If a Component requires more than three (3) full working days to complete the review, the reviewing Component is responsible for formally seeking an extension of the review period.

11.4. Defense-State Memorandum of Agreement (DSMOA) Program.

11.4.1. States and territories can be reimbursed for certain technical services in support of environmental restoration efforts at the DoD installations within their boundaries. The DSMOA provides a mechanism for state or territory involvement in environmental restoration activities and establishes the terms and conditions required to reimburse a state or territory for technical support. The level and type of reimbursable services requested from the state by DoD are based on the scope of the effort underway at an installation or site and the complexity of the environmental restoration activities.

11.4.2. DoDI 4715.7-*Environmental Restoration Program* designates the Secretary of the Army as the lead agency for the DSMOA program. The Secretary of the Army has, in turn, charged USACE with executing this responsibility. In this role, USACE interacts with the state and territorial regulatory community on overall management of CAs and funding under DSMOA. As the as DoD lead agency for DSMOA, the Army is responsible for:

11.4.2.1. Reviewing applications for CAs.

11.4.2.2. Negotiating DSMOAs, for DUSD(I&E) signature, with interested states and territories to facilitate their participation and technical support in restoration activities.

11.4.2.3. Notifying the Components of the costs of each CA in a timely manner, so as to enable the Components to plan, program, and budget accordingly.

11.4.2.4. Facilitating resolutions of issues forwarded by Components.

11.4.2.5. Validating billing statements and reimbursing states for work performed pursuant to the CA.

11.4.2.6. Ensuring that the Components have measurable performance objectives for the states and tracking progress to ensure that objectives are met.

11.4.2.7. Providing state progress reports submitted in accordance with the CA to the Components in a timely manner, including information on the expenditure rate for obligated funds.

11.4.2.8. Providing oversight that ensures all obligated funds are expended by states or returned to the Components a minimum of 60 days before the date such funds can no longer be reprogrammed.

11.4.2.9. Providing Components with copies of CAs and posting CAs on DENIX.

11.4.3. In the DSMOA program, OSD is responsible for:

11.4.3.1. Signing the memorandum of agreement with the states on behalf of DoD and the Components.

11.4.3.2. Providing oversight and guidance to ensure program effectiveness.

11.4.3.3. Ensuring appropriate funding is available through the DoD budgetary process.

11.4.3.4. Negotiating voluntary agreements to address specific state issues not otherwise covered in a DSMOA. Funding for such agreements shall be through the DSMOA/CA process.

11.4.4. In the DSMOA program Components are responsible for:

11.4.4.1. Funding CAs based on agreements between the regulators and the responsible Component Headquarters or field component representative and providing timely annual funding to USACE.

11.4.4.2. Implementing the CA Guide.

- 11.4.4.3. Involving states and territories in the prioritization of environmental restoration activities.
 - 11.4.4.4. Resolving disputes with states and territories.
 - 11.4.4.5. Establishing funding and execution requirements through the Program Objectives Memorandum (POM) and Budget Estimate Submission (BES).
 - 11.4.4.6. Reviewing reports of expenditures approved by USACE.
 - 11.4.4.7. Forwarding unresolved issues to the Army for resolution.
 - 11.4.4.8. Reviewing CAs for accuracy.
- 11.5. States are responsible for:
- 11.5.1. Projecting work requirements with the installations and accurately determining the costs of performing such work.
 - 11.5.2. Notifying the Army when cost increases will occur. This notice shall be by installation and shall include submitting appropriate justification.
 - 11.5.3. Documenting costs using accounting procedures and practices that reasonably identify:
 - 11.5.3.1. The nature of the costs involved.
 - 11.5.3.2. The amount of funds obligated and expended.
 - 11.5.3.3. The date the costs were incurred.
 - 11.5.3.4. That the costs were entirely attributable to activities at an installation covered by the agreement.
 - 11.5.4. Submitting requests for reimbursement in a timely manner.
 - 11.5.5. Notifying the Army, as the lead agency for DSMOA, and all affected Components, when executed activities are significantly different than activities planned.
- 11.6. EPA Memorandum of Understanding for BRAC Installations.
- 11.6.1. DoD and EPA initially entered into a Memorandum of Understanding in 1993 to facilitate environmental restoration at BRAC installations.
 - 11.6.2. OSD is responsible for:
 - 11.6.2.1. Providing oversight to the Components and EPA on EPA's involvement at BRAC installations.
 - 11.6.2.2. Providing final determination of appropriate funding levels.
 - 11.6.2.3. Working with EPA to align definitions and terms within the environmental restoration process.
 - 11.6.3. Army is the lead agency for transferring and managing funds for EPA.
 - 11.6.4. Components are responsible for:
 - 11.6.4.1. Working consistently across the Components within a DoD-wide framework.
 - 11.6.4.2. Working with EPA at the installation level to set reasonable goals and timeframes for response activities.
 - 11.6.4.3. Validating EPA's resource/funding request.
 - 11.6.4.4. Identifying funds in the POM/BES.

11.6.5. EPA is responsible for:

11.6.5.1. Providing sufficient personnel and resources dedicated solely to work at BRAC installations.

11.6.5.2. Ensuring consistency across EPA regions.

11.6.5.3. Working with DoD to align definitions and terms within the environmental restoration process.

11.6.5.4. Supporting the expediting and streamlining of the environmental restoration process to achieve goals.

11.6.5.5. Providing quarterly progress reports, in a timely fashion, including financial reports.

11.6.5.6. Developing (in conjunction with DoD) and reporting on, performance indicators.

12. AGENCY FOR TOXIC SUBSTANCES AND DISEASE REGISTRY

12.1. The Agency for Toxic Substances and Disease Registry (ATSDR) is an agency of the U.S. Public Health Service, and falls under the Department of Health and Human Services. Under CERCLA §104(i)(6), the ATSDR is responsible for conducting public health assessments at all sites on or proposed for the National Priorities List (NPL). Accordingly, the ATSDR has a significant role in the environmental restoration activities at many (but not all) DoD installations. DoD's objective is to complete all required public health assessments as expeditiously as possible.

12.2. DoDI 4715.7-*Environmental Restoration Program* designates the Secretary of the Army as having the “lead agency” responsibility for carrying out DoD responsibilities under the *Memorandum of Understanding between the Agency for Toxic Substances and Disease Registry, U.S. Public Health Service and the U.S. Department of Defense on the Development of Toxicological Profiles for Hazardous Substances and Public Health Assessments and Related Activities at DoD Facilities*. The Secretary of the Army has, in turn, charged the U.S. Army Center for Health Promotion and Preventative Medicine (USACHPPM) with executing this responsibility. In this role, USACHPPM is the primary contact point with the ATSDR. In addition to carrying out the Memorandum of Understanding, as the DoD lead agency for working with the ATSDR, the Army is responsible for notifying the Components of related costs in a timely manner to enable the them to plan, program, and budget accordingly, and reporting on program progress. As the lead agency the Army shall:

12.2.1. Coordinate requirements for work performed by the ATSDR with the Components' liaison officers.

12.2.2. In conjunction with the other Components, develop measures of merit (MOMs) and program management indicators (PMIs), and track and report on work performed and progress made by the ATSDR.

12.2.3. Negotiate the Annual Plan of Work (and any subsequent modification) with the ATSDR as coordinated and agreed with the Components. No funding shall be provided to the ATSDR without an Annual Plan of Work.

12.2.4. Provide funding to the ATSDR for work in accordance with the approved Annual Plan of Work.

12.2.5. Track and report to the Components the expenditure rate of obligated funds and the products generated.

12.2.6. Work with the ATSDR to align definitions and terms within the environmental restoration program.

- 12.2.7. Provide guidance and oversight for the ATSDR work at DoD sites.
- 12.2.8. Chair a Component Liaison Working Group.
- 12.2.9. Coordinate changes to the Annual Plan of Work for the ATSDR.
- 12.2.10. Report on the progress of the ATSDR program to ODUSD(I&E).
- 12.2.11. Coordinate execution and review of toxicological profiles, as recommended by the Components.
- 12.3. OSD Responsibilities Regarding the ATSDR.
 - 12.3.1. Ensure ATSDR accountability for the proper use of funding provided by the Component.
 - 12.3.2. Provide oversight to lead agent and Components on ATSDR involvement at Components' installations.
 - 12.3.3. Provide final determination of appropriate funding levels.
- 12.4. Component Responsibilities Regarding ATSDR. In support of the lead agency and the program goal to complete all required public health assessments as expeditiously as possible, Components shall:
 - 12.4.1. Program funds to support the ATSDR and provide those funds to the Army as coordinated through the Annual Plan of Work.
 - 12.4.2. Support the ATSDR program by reviewing the Annual Plan of Work, and provide timely responses to ATSDR program documents.
 - 12.4.3. Appoint representatives to the Component Liaison Working Group.
 - 12.4.4. Submit fiscal requirements for the ATSDR program in accordance with the established goals.
- 12.5. The ATSDR is not authorized to conduct assessments of the explosive hazards associated with military munitions.

13. SITE INVENTORY MANAGEMENT, PERFORMANCE MEASURES, AND REPORTING

- 13.1. Components (including the FUDS program) shall adopt an inventory approach to program management under the DERP that has the following characteristics:
 - 13.1.1. The inventory of sites is to be managed as a permanent record. Identified sites will remain in the database regardless of how they are managed or their status.
 - 13.1.2. The assignment of a permanent, unique identifier to each site subject to the DERP. This identifier shall remain consistent throughout the life of the program.
 - 13.1.3. The ability to track actions at individual sites, determine the current status of each site, and track fiscal information related to the site over time.
 - 13.1.4. The ability to conduct analyses of site information and produce consistent, logical reports over time, and forward changes in site information in a timely fashion.
 - 13.1.5. The ability to ensure these data are complete, up-to-date, and fully and formally documented in a manner that will withstand an audit.
- 13.2. The Restoration Management Information System (RMIS) is a tool for implementing the required inventory management approach. Components provide information to ODUSD(I&E) for inclusion into the RMIS, and are responsible for the accuracy and completeness of the data provided to ODUSD(I&E). The RMIS serves as the primary data repository and source for site and programmatic information used by the

Components and ODUSD(I&E) in program oversight, policy development, and reporting (see Appendix 8 for the RMIS data element structure).²⁷

13.2.1. Data in the RMIS are used by Components and OSD for such diverse activities as:

13.2.1.1. Evaluation of program progress through analysis of Measures of Merit (MOMs) and performance measure indicators (PMIs) (see the discussion of performance measures elsewhere in this section).

13.2.1.2. Preparing the DERP Annual Report to Congress.

13.2.1.3. Preparing the Annual BRAC Cleanup Plan (BCP) Abstract Analysis.

13.2.1.4. Responding to questions and inquiries from Congress and other stakeholders.

13.2.1.5. Supporting Program Objectives Memorandum (POM) and budget submittals.

13.2.1.6. Supporting adjustment of Defense Planning Guidance (DPG) goals.

13.2.1.7. Supporting development of cost-to-complete estimates and financial liability reports.

13.2.2. Data on each site in the RMIS include (but are not limited to) the following:

13.2.2.1. Installation (or FUDS) and site identifiers.

13.2.2.2. Site status.

13.2.2.3. Expenditures and future estimated costs.

13.2.2.4. Data supporting the relative-risk site and risk assessment code evaluations.

13.2.2.5. Whether there is a Restoration Advisory Board (RAB).

13.2.2.6. Existence of legal agreements or other legal requirements.

13.2.2.7. Milestone dates and an estimated final completion date.

13.2.2.8. Information on the BRAC round, closure date, Base Cleanup Team (BCT), BCP, transfer acres, environmental condition of property, and support of reuse.

13.2.2.9. The status of remedies.

13.2.2.10. Five-year review and remedy effectiveness information.

13.2.3. A comprehensive technical data dictionary for the RMIS is available on the Internet at: <http://www.dtic.mil/envirodod/re/risk/appendb.html>. Additional data elements are added to the RMIS as circumstances warrant. Components are encouraged to regularly review the data elements in the RMIS.

13.3. Requirements for identification of sites requiring activities under the Military Munitions Response program category.

13.3.1. Components shall, by September 30, 2001, develop a list of, and preliminary information on, all known or newly identified sites where activities under the Military Munitions Response program category are required. Components shall submit that list to ODUSD(I&E) by October 15, 2001. Specific data will be required for each site. Following submittal, the list of sites will be made publicly available. The March 18, 1998, DEPSECDEF memorandum, *Funding for DoD Range Rule Requirements*, directed the Components to program and budget for responses to address military munitions (i.e., UXO or WMM) or the chemical residues from military munitions in the appropriate environmental restoration accounts. Components are expected to add funds to their environmental

²⁷ This data requirement is authorized by Reports Control Symbol DD-A&T(A&AR) 2001.

restoration programs and budgets, in the year a requirement for a response at a site is identified, so as not to impact existing DPG goals.

13.3.1.1. In prioritizing which sites shall be the subject of data collection, the Components are directed to undertake data collection at the following sites first:

13.3.1.1.1. Sites over known or potential drinking water supplies, especially sole source aquifers.

13.3.1.1.2. Sites where there have been reports of public exposure to military munitions (i.e., UXO or WMM) or the chemical residues from military munitions.

13.3.1.1.3. Sites where stakeholders are expressing a high degree of concern.

13.3.1.1.4. Sites subject to enforceable orders or agreements.

13.3.2. Components shall, by September 30, 2002, develop an updated list of, and detailed data concerning, all known and newly identified sites where activities under the Military Munitions Response program category are required. Components shall submit this list and data to ODUSD(I&E) by October 15, 2002. Specific data will be required for each site. Following submittal, the list of sites will be made publicly available.

13.4. Performance Measures.

13.4.1. For OSD to fulfill its responsibility for oversight, it must review progress toward goals established in the DPG. MOMs and PMIs are the primary tools used to measure and report progress toward established goals. Each MOM is intended to provide both status to date and the Component's projection of future progress. (Additional information on MOMs is available in Appendix 9.) The following MOMs for the Installation Restoration program category have been established by ODUSD(I&E):

13.4.1.1. MOM R1 (ER funded) and B1 (BRAC funded)—Relative-Risk Reduction. Tracks and projects relative-risk reduction by year. The categories are: high, medium, low, not evaluated, and not required.

13.4.1.2. MOM R2 (ER funded) and B2 (BRAC funded)—Phase Progress. Tracks and projects progress through program phases by year. The categories are: investigation, response action, and response complete.

13.4.1.3. MOM R3 (ER funded) and B3 (BRAC funded)—Milestones Accomplished. Tracks and projects site progress through program milestones by year. The categories are: underway (investigation only), work accomplished (completed interim action), remedy in place (RIP), and response complete (RC). Appendix 10 provides additional information on the terms used for activities following remedial design.²⁸

13.4.1.4. MOM R4 (ER funded) and B4 (BRAC funded)—Installations Achieving Final RIP/RC. This tracks and projects progress of installations achieving final RIP/RC by year.

13.4.1.5. MOM B5 (BRAC funded only)—BRAC Acres Environmentally Suitable for Transfer Under CERCLA. This tracks and projects progress towards acres that are, from a restoration perspective, suitable for transfer by year. There are multiple categories describing acreage status.

13.4.2. PMIs are measurement tools that complement the MOMs. PMIs are necessary to evaluate progress in more detail for certain aspects of the program. A set of PMIs is listed in Appendix 11. Other measures of program performance are developed when required.

²⁸ This MOM is not currently used.

13.5. Reporting.

13.5.1. Components will report program status semi-annually to ODUSD(I&E) as a data set for input to the RMIS. Reporting typically occurs in the first and third quarters of the fiscal year. A reporting and data collection schedule is summarized in Appendix 12.

13.5.1.1. The first quarter report shall be submitted in two parts. The first part of this report is the data required for the preparation of the DoD-wide annual financial statement. These data shall be submitted to ODUSD(I&E) no later than October 15.

13.5.1.2. The second part of the first quarter report will cover the following information:

13.5.1.2.1. Program progress made during the previous fiscal year and other information required to support preparation of the DERP Annual Report to Congress.

13.5.1.2.2. The budget estimate submittal.

13.5.1.2.3. Program completion projections for the current and upcoming fiscal year.

13.5.1.3. The report submitted in the third quarter of the fiscal year will cover the POM, mid-year review, and program completion projections.

13.5.2. ODUSD(I&E) will prepare the DERP Annual Report to Congress in accordance with 10 USC §2706. This report, typically published in the spring, records activities during the previous fiscal year and provides information on the activities planned for the current fiscal year. Several types of input from the Components are required, including updates to the RMIS through the end of the previous fiscal year (including budget numbers by installation), accomplishments, and success stories.

13.6. In-Progress Reviews (IPRs).

13.6.1. ODUSD(I&E) will conduct IPRs of Components' program status using MOMs and PMIs and evaluation of other current factors and issues. ODUSD(I&E) will report the results to the Under Secretary of Defense, Acquisition, Technology, and Logistics (USD(AT&L)). IPRs will typically be held twice each fiscal year, once in the first quarter and once in the third quarter.

13.6.1.1. The first quarter IPR will cover progress made during the previous fiscal year and a projection of activities for the upcoming fiscal year.

13.6.1.2. The third quarter IPR will amplify information provided in the POM and serve as a mid-year review. ODUSD(I&E) will issue specific reporting requirements for each IPR.

14. PLANNING, PROGRAMMING, BUDGETING, AND EXECUTION

14.1. The establishment of the DPG goals and OSD guidance is the start of a regular, iterative process that culminates with program implementation by the Components at installations and the Army at FUDS. The Components plan, program, and budget resources to meet DPG goals, then execute the program.²⁹ OSD provides policy development and oversight for the process. Mechanisms have been established for gauging progress toward the DPG goals through data collection and evaluation of MOMs. This process allows for adjustments in goals and planning based on congressional direction, Component performance, and new program initiatives. Appendix 13 diagrams the essential elements of the planning, programming, budgeting and execution process.

²⁹ The March 18, 1998, DEPSECDEF memorandum, *Funding for DoD Range Rule Requirements*, directed the Components to program and budget for responses to address military munitions (i.e., UXO or WMM) or the chemical residues from military munitions in the appropriate environmental restoration accounts. Components are expected to add funds to their environmental restoration programs and budgets, in the year a requirement for a response at a site is identified, so as not to impact existing DPG goals.

14.2. The Components have the following responsibilities in planning, programming, budgeting, and execution of DERP activities:

14.2.1. Identifying environmental restoration requirements, ensuring that there is site-level supporting data, and assessing the effectiveness and costs of these activities.

14.2.2. Executing environmental restoration activities per applicable statutory and regulatory requirements and guidance.

14.2.3. Tracking expenditures and ensuring that projects do not extend beyond the timeframe for disbursement of obligated funds.

14.2.4. Preparing and submitting program and budget documents in accordance with the Program Objective Memorandum (POM), POM Preparation Instructions (PPI), and DoD Financial Management Regulation (DoD-FMR) instructions and exhibits.³⁰

14.2.4.1. At active installations (including those properties transferred from DoD control by non-BRAC processes and which are not eligible under the FUDS program), the Components shall prepare and submit their POM consistent with the DPG and MAP by completing the environmental restoration formats in accordance with the PPI. The budget exhibits for the Budget Estimate Submission (BES) and the President's Budget are prepared and submitted in accordance with the current DoD-FMR, published under the authority of DoDI 7000.14R. At other active DoD facilities, the responsible Component submits requirements to ODUSD(I&E) for incorporation into the Defense-Wide Environmental Restoration POM and budget submissions.

14.2.4.2. At BRAC installations, the Components shall prepare and submit POM environmental restoration formats in accordance with the PPI. The process is similar to that for active installations, described above. The budget exhibit for the BES and President's budget shall be submitted in accordance with the DoD-FMR. The POM and BES exhibits shall be based on BCPs and be consistent with the DPG.

14.2.4.3. At FUDS, the Army, as FUDS Executive Agent, provides POM and BES input to ODUSD(I&E) for review and incorporation into the appropriate POM and budget submissions.

14.2.5. Ensuring that the underlying site-specific data are complete, up-to-date, and fully and formally documented in a manner that will withstand an audit.

14.2.6. Identifying to ODUSD(I&E), as part of the annual DoD budget review, any unfunded environmental restoration requirements necessary to meet legal agreements for the upcoming budget year. The amount of these unfunded requirements shall be identified separately, for each installation, by site or category of work.

14.2.7. Requesting specific congressional approval to use monies requested for environmental restoration purposes that were appropriated to the Component ER or BRAC accounts or the ER-FUDS account to pay environmental fines or other penalties imposed for a violation of a regulation or enforceable agreement during the execution of activities under the DERP.

14.3. The DoD Comptroller provides funds, as directed by Congress and as detailed in the Components' financial plan, to the appropriate Component ER or BRAC accounts (or for FUDS to the ER-FUDS account). This occurs upon receipt, from the Military Departments (or ODUSD(I&E) for the Defense-Wide and ER-FUDS accounts) of an allocation request memorandum accompanied by a Reprogramming

³⁰ The environmental restoration formats, budget documents, and DoD-FMR are updated on a regular basis. When the revisions are complete, the documents are forwarded to the Components. When updated, these documents will be added in Appendix 14.

Action DD Form 1415 (Appendix 15). The Comptroller issues funds to the appropriate Component accounts (typically Operations & Maintenance (O&M), Research & Development (R&D), Procurement, or Military Construction (MILCON)) as requested by the Military Departments and ODUSD(I&E). With respect to funds issued to the ER-FUDS account, the Army is responsible for ensuring that ER-FUDS funds are used only for environmental restoration activities at FUDS. The Army has no authority to shift, realign, or reprogram funds between any other Army account and the ER-FUDS account without prior ODUSD(I&E) approval and specific congressional authorization.

14.4. Classification of Funds Appropriated for Environmental Restoration Actions.

14.4.1. Funds appropriated to the Component ER accounts or the ER-FUDS account are appropriated to a transfer account. Funds in this transfer account are subsequently transferred to the appropriate operating account(s) of the Components. Components can request transfers at any time during the year. When this occurs, the funds take on the characteristics and limitations of the accounts to which they are transferred. Therefore, funds appropriated to the Component ER accounts and the ER-FUDS account for environmental restoration activities must conform to the laws, regulations, and limitations of the accounts to which funds are transferred.

14.4.2. Most funds appropriated to the Component ER accounts or the ER-FUDS account are transferred to an O&M account. Several types of environmental restoration activities are appropriate for funding from an O&M account, and include:

14.4.2.1. Program management and administration.

14.4.2.2. Site investigation activities, such as occur in preliminary assessment through the remedial investigation/feasibility study (RI/FS) phases of the NCP (including the installation of groundwater testing wells or borings).

14.4.2.3. Environmental response actions contracted as a service wherein the contractor constructs or provides the systems and equipment only for the duration of the response action and will remove such facilities or fixtures upon completion of the response action.

14.4.2.4. Operations, maintenance and repair, and monitoring of existing treatment systems or facilities.

14.4.2.5. Environmental response actions on a military installation (including a FUDS) that require unspecified minor military construction projects under \$500,000 or, in the case of an unspecified minor military construction project intended solely to correct a deficiency that is life-threatening, health-threatening, or safety-threatening, \$1,000,000 (these maximum amounts are established in 10 USC §2805). Projects that are projected to exceed \$500,000 require the congressional notification specified in 10 USC §2805(b)(2).

14.4.3. Environmental response actions that involve construction of a real property facility owned by the Government on a military installation are classified as military construction. Funding shall be programmed as military construction in the Component's ER account (or for FUDS, the ER-FUDS account) or transferred to a military construction account using the authority of 10 USC §2810. A military construction project that meets the requirements of 10 USC §2805(c) shall be carried out under that subsection. Any other military construction project shall be carried out under 10 USC §2810. Response actions involving ownership of real property facilities by a contractor may be classified as service contracts, not military construction, in accordance with 14.4.2.3.

14.4.4. For design and construction activities for a military construction project for environmental response actions, Components may seek funding for military construction in the specified line item of the Component's ER account (or the ER-FUDS account) to fully fund large, multi-year projects or for projects when the execution year is known sufficiently in advance (provided a Record of Decision (ROD) is in place). In those circumstances, projects will be highlighted in the budget request per the

requirements under Volume 3, Chapter 17, DoD 7000.14, the DoD Financial Management Regulation (DoD-FMR).

14.4.5. Components shall establish specific guidance and procedures for accomplishing the required congressional notification. The reporting procedure may include a requirement to use DD Form 1391, but must require the notification provide: justification for the project, the current estimate of the cost of the project, and justification for carrying out the project under the provisions of 10 USC §§2805 or 2810. Pursuant to 10 USC §2810, the OSD or office of the Military Department Secretary will forward the notification to Congress. A minimum of 21 days must pass before obligating funds where notification is required, unless specific authorization to expend the funds is received within the 21-day period or unless the request is denied.

15. COST-TO-COMPLETE ESTIMATES AND FINANCIAL REPORTING OF ENVIRONMENTAL RESTORATION LIABILITIES

15.1. The cost-to-complete estimate for environmental restoration is an important planning tool in the budget process. These estimates, developed by the Components for each site, are used by the Components to support POM submissions, in the annual development of the President's budget, in updating the DPG, to track cost avoidance measures implemented by the Components, and in other ways.

15.2. The 1990 Chief Financial Officers (CFO) Act added new requirements for the Components (individually) and the Department of Defense (collectively) to report liabilities, including environmental liabilities. These requirements were expanded through subsequent legislation including the Government Performance and Results Act (GPRA), the Government Management Reform Act (GMRA), and the Federal Financial Management Improvement Act (FFMIA).

15.2.1. The purpose of the CFO Act is to improve general and financial management practices in the federal government by requiring the development of an integrated financial management system, including financial reporting and internal controls.

15.2.2. GPRA seeks to shift the focus of government decision making and accountability away from a preoccupation with the activities that are undertaken — such as grants dispensed or inspections made — to a focus on the results of those activities, such as real gains in employability, safety, responsiveness, or program quality. Under GPRA, agencies are to develop multiyear strategic plans, annual performance plans, and annual performance reports.

15.2.3. GMRA builds on the CFO Act and requires all 24 major federal agencies to produce annual audited financial statements and accurate cost and performance information, as well as to integrate budget, accounting, and program data. GMRA also requires the preparation and audit of government-wide financial statement.

15.2.4. FFMIA requires that all federal agencies implement and maintain financial management systems that will allow them to prepare financial statements that comply with federal financial management systems requirements, applicable federal accounting standards, and the United States Government Standard General Ledger (USGSGL). In addition, full costs of federal government programs and activities must be consistently and accurately reported. FFMIA also requires that each federal agency head report to Congress on the implementation of actions needed to bring its agency's financial management system into compliance.

15.3. These statutes require DoD and the Components to develop auditable financial statements that reports both assets and liabilities. The Statement of Federal Financial Accounting Standards (SFFAS) Number 5: *Accounting for Liabilities of the Federal Government* generally defines a liability as a probable and estimable future outflow of resources due to a past government transaction or event. The test for “probable” is when an outflow is more likely to occur than not occur based on current facts and

circumstances. Within the environmental arena, liabilities are divided into two distinct categories: “environmental restoration” and “environmental disposal.” In the case of environmental restoration, all actions that can be taken under the DERP are reportable as environmental restoration liabilities.³¹

15.4. For the Components, a complete disclosure of environmental restoration liabilities in the annual financial statements has two main elements, including:

15.4.1. Complete disclosure of all environmental restoration liabilities (funded and unfunded), per the requirements of SFFAS 5 and 6, the DoD Financial Management Regulation (FMR) 7000.14, and this guidance and other applicable guidance. This disclosure includes having complete, formal, and auditable documentation of all data, models, and other information used to develop the estimate of the environmental restoration liability.

15.4.2. Documentation that all models were assessed per the requirements of DoDI 5000.61 - *DoD Modeling and Simulation Verification, Validation, and Accreditation*.

15.5. Several recent audits of Component annual financial statements have identified serious deficiencies with the preparation and documentation of cost-to-complete estimates. At the Component and Departmental levels, cost-to-complete estimates and the values in the annual financial statements for environmental restoration must be consistent with each other and able to withstand an audit. Further, these values must be consistent in any reports provided to outside entities, such as in the DERP Annual Report to Congress. To meet these standards Components shall undertake actions in the following areas:

15.5.1. Each Component shall use their cost-to-complete estimate for each DERP program category (i.e., Installation Restoration, Military Munitions Response, and Building Demolition/Debris Removal) as the basis for the environmental restoration liability portion of the Component's annual financial statement. Each program category must also show the distribution of the liability by funding source (e.g., ER-Army, ER-Navy, ER-Air Force, ER-Defense-wide, ER-FUDS, Component BRAC accounts, or other accounts).

15.5.2. Components shall prepare the annual cost-to-complete estimates for each site in the program in accordance with this guidance and DoD-FMR 7000.14. These estimates shall reflect the environmental restoration strategy and sequence as presented in the MAP/BCP for the site, any changes that occurred in the fiscal year the statement addresses, and must reflect all activities and changes that occurred in the current fiscal year (i.e., any change that occurs between the submission of data and the submission of the final report).

15.5.3. For each site, Components shall prepare a cost-to-complete estimate for the financial liability statement only when there is sufficient site-specific data to make a “probable” estimate without making unsubstantiated assumptions. If a site-specific cost-to-complete estimate or financial liability statement disclosure is not prepared, Components shall document the rationale for not doing so, describe their plan of action and milestones for gathering sufficient site-specific information to develop an estimate, and shall forward that information with the rest of the Component's cost-to-complete or financial liability statement disclosure information.

³¹ Environmental restoration activities not funded under the Component ER or BRAC accounts or the ER-FUDS account, such as those taken under the RCRA corrective action program to address a release of a hazardous waste at a currently operating SWMU, are also reported in the Annual Financial Statement. The DoD-FMR requires that the Annual Financial Statement shall also include all environmental liabilities not included elsewhere on the statement and will include, in the narrative disclosure, information on the components and amounts that are included in the Other National Defense Weapon Systems line item and provide other information necessary for understanding environmental restoration liabilities. In addition, Components must disclose, in a narrative appended to the disclosure, (as directed by the *Form and Content* section of the DoD-FMR, Volume 6B, Chapter 10), other asset disposal information that specifically identifies both a description of similar groups of items included and the liability amount for each grouping.

15.5.4. Each Component shall ensure the reliability and completeness of the data used to calculate their cost-to-complete estimates. Site inventory and estimated cost data prepared for the DERP Annual Report to Congress shall be used by the Components as the baseline for the environmental restoration liability estimate. Components are required to ensure that these data sets are complete, up-to-date, and fully and formally documented in a manner that will withstand an audit. Components are also required to ensure that reporting systems will forward changes in site information in a timely fashion (i.e., if there is a change in the site information that was used to develop the estimate after the date the Component's estimate is submitted, the new information must be forwarded in a time frame that will allow the final Department-wide report to be updated before its submission).

15.5.5. Cost-to-complete estimates prepared for this purpose shall include, on a current cost basis,³² all anticipated costs required to effect the restoration of the site, as well as the costs of complying with applicable legal and regulatory requirements.³³ This requires that cost-to-complete estimates:

15.5.5.1. Be site-specific, consider the reasonably anticipated future land use of the site, be based on technologies that are currently available, and include the cost of completing all remaining studies, restoration, removal or remedial action (including O&M of remedial systems).³⁴

15.5.5.2. Include costs in the long-term management phase prior to completion of response action requirements (long-term cost-to-complete estimates shall be adjusted annually, through indexing, to maintain them on a current cost basis).

15.5.5.3. Include costs associated with deletion from the National Priorities List (NPL), where appropriate.

15.5.6. Cost-to-complete estimates shall document environmental restoration cost information in accordance with SFFAS No. 5 and SFFAS No. 6. The requirements of SFFAS No. 5 and No. 6 include identifying:

15.5.6.1. The sources of requirements (e.g., applicable laws and regulations).

15.5.6.2. Methods for assigning estimated total environmental restoration costs to current operating periods.

15.5.6.3. Material changes (i.e., when there is evidence that a change of more than 10 percent of the prior year ending balance (up or down) will occur) in the total estimated costs of environmental restoration activities (e.g., due to changes in laws, technology, plans) and the portion of the change in estimate that relates to prior period operations.

15.5.6.4. Nature of estimates and the disclosure of information regarding possible changes due to inflation, deflation, technology, or applicable laws and regulations.

15.5.7. Components shall also identify and report the subset of the liabilities covered by budgetary resources that represent obligations (i.e., liabilities for which contracts have been awarded and for which invoices for payment have not been received) for environmental liabilities. This requires tracking and reporting current and prior year funds obligated and expended, and current and prior year funds that are obligated but not expended.

³² Unadjusted for inflation.

³³ Program management costs not directly attributable to a site are to be included in the statement as separate entry.

³⁴ In interim planning of, and in developing interim cost-to-complete estimates for, responses to address military munitions (i.e., UXO or WMM), use of the assessment depths in the table in Chapter 12 of DoD 6055.9-STD is acceptable until such time as site-specific data become available. Under no circumstances is this table to be used for any other purposes (e.g., selection of response actions). This section of DoD 6055.9-STD is currently under revision by the Department of Defense Explosives Safety Board (DDESB).

15.5.8. Cost-to-complete estimates for a site shall be revised when there is evidence that a change of more than 10 percent of the prior year ending balance (up or down) will occur (this is the definition of a “material change”). Such a change must be fully documented and the MAP/BCP for the site revised to reflect this change. The revised estimate shall be forwarded through the Component to ODUSD(I&E) for incorporation into the DoD-wide annual financial statements. In the event of a material change in the liability from year to year, the nature of the change must be disclosed. Reasons for such a change may include level-of-effort, inflation, and new regulatory requirements. Other reasons may include delays in implementation due to events such as legal action, natural disaster, or adverse weather. The following is an example of such a disclosure: “The estimated FUDS liability for site Z is \$XXX and \$YYY for FY 2000 and 2001, respectively. The current estimate is a significant increase (14.75 percent) from the liability reported in the most recent prior fiscal year. Major factors contributing to the change include a change in the technology from A to B and imposition of more stringent monitoring requirements.”

15.5.9. Cost-to-complete estimates for environmental restoration activities under the DERP and environmental restoration liability disclosures in annual financial statements shall be reported as specific amounts (i.e., a point estimate).

15.6. Cost-to-complete estimates shall not include the costs of environmental compliance, pollution prevention, conservation activities, contamination or spills associated with current operations, or treaty obligations, all of which are accounted for as part of ongoing operations. Similarly, expenses associated with the operation, management, or sustainment of operational ranges are not included as environmental restoration liabilities.³⁵

15.7. The Components often use computerized models to calculate cost-to-complete estimates. Components shall ensure that computer models used for this purpose are verified, validated, and accredited per DoD Instruction 5000.61 - *DoD Modeling and Simulation Verification, Validation, and Accreditation (VV&A)*. It is recognized that some estimates cannot be developed using a computer model because some environmental restoration actions are truly site-specific and unique to a particular set of contaminants for which no computer model may exist. In these instances, estimates must, by necessity, be developed based on engineering studies or estimates instead of relying on computer models. Estimates developed based on engineering studies or estimates, other methods, or computer models not validated per DoDI 5000.61 shall be fully documented. The information submitted to ODUSD(I&E) for inclusion in the annual financial statement shall be appropriately annotated to provide information on these facts. In addition, the Components are required to document any systems used to transfer data from Component-maintained data sets (e.g., DSERTS) to the RMIS.

15.7.1. Components shall establish formal VV&A policies and procedures for any cost modeling tools used to develop environmental liability reports or cost-to-complete estimates. In this area, each Component is responsible for:

15.7.1.1. Planning and providing resources, as needed, to carry out functional VV&A responsibilities according to Component priorities.

15.7.1.2. Reviewing and coordinating DoD VV&A policies and procedures, and integrating DoD publications into the Component’s program.

15.7.1.3. Developing implementation or supplementation documents for DoDI 5000.61.

³⁵ Any environmental restoration action on an operational range—beyond what is necessary to keep the range in operation—that is probable, and for which the costs of such a response is measurable, shall be accrued as an environmental restoration liability. An explanation of the liability shall be provided as a footnote to the Component’s annual financial statement input. For example, if EPA issued an Administrative Order directing remediation on an operational range, the Component shall record that liability.

15.7.1.4. Including appropriate VV&A activities and resources in Component Modeling and Simulation (M&S) Master Plan and Investment Plans.

15.7.1.5. Establishing VV&A policies, procedures, and guidelines for M&S applications when required by DoD policy.

15.7.1.6. Preparing VV&A reports, as appropriate, for each M&S application.

15.7.1.7. Documenting the results of VV&A activities and making information and data on Component VV&A policies and procedures, validation and verification results, and accreditation documentation, as a minimum, accessible to the other Components through the M&S Resource Repository.

15.7.1.8. Designating a VV&A focal point for Component VV&A activities, policies, procedures, and VV&A results and documentation to interface with the DoD VV&A focal point.

15.8. Environmental restoration estimates for both the cost-to-complete and environmental liability reporting in an annual financial statement are subject to audit. The FMR emphasizes that financial records, to include cost-to-complete estimates, must have audit trails to allow transactions to be traced from the point of initiation to the final report. A fundamental requirement of a good audit trail is that all transactions must be adequately supported with pertinent documents and source records. The source document shall include a narrative providing sufficient explanation for the basis of the estimate, the date prepared, the preparer's name, and evidence of supervisory approval. Original estimates and changes in those estimates shall be documented and available for review. Documentation must exist at the time of an audit.

15.8.1. Components are directed to develop and implement formal training programs (e.g., introductory training, recurring "refresher" training) for staff engaged in the development of cost-to-complete estimates or preparation of environmental restoration liability reports. Documentation that staff received this training shall be maintained as a part of the audit trail for the annual financial statement.

15.8.2. Component organizations that prepare either cost-to-complete estimates or environmental line liability reports are required to develop and implement a formal document tracking process. This process must allow for the identification and tracking of all changes made to a document, from the point of its creation through the use of its information in the final report. In addition, there shall be a formal process for tracking the documentation retained by a Component to identify data resources, estimating method accreditation and rationale used. Documentation of management review also must be retained in accordance with records management directives.

15.8.3. Each Component shall disclose instances where the reporting entity does not meet accounting standards and shall review its financial processes, systems and data and modify or expand, as necessary, the sample disclosure statements so that each statement is a complete and accurate representation of the issue being addressed. The specific language shown below is a sample disclosure and may not be applicable to all Components. The review of this language by each reporting entity is critical to ensure that only the language applicable to the particular reporting entity is included. The following is a sample of such disclosure language: For FYs 2000 and 2001, the [Reporting Entity] has estimated and reported its environmental liabilities. In those instances when the [Reporting Entity's] financial systems could not be used to estimate the liability, the [Reporting Entity] based the reported amount on estimates prepared for other purposes.

15.8.4. Components shall include an evaluation of environmental liability disclosure practices as a part of any Component-specific environmental self-auditing programs, such as the Army's Environmental Compliance Assessment System (ECAS).

16. PRIORITY SETTING AND SEQUENCING

16.1. As discussed previously, DoD employs a risk management approach in the environmental restoration program. This approach protects human health, safety, and the environment through focusing on actions to reduce risks in the short-term and then focusing on longer-term risk management actions. Components must effectively communicate to stakeholders DoD's use of risk management in the sequencing, planning, and implementation of environmental restoration activities.

16.2. Prioritization and sequencing of environmental restoration activities will be accomplished using the frameworks described in the *DoD Relative-Risk Site Evaluation (RRSE) Primer* and the *Risk Assessment Code (RAC)*, other risk information, and other management factors. In prioritizing and sequencing environmental restoration activities, some considerations that may have an impact include, but are not limited to:³⁶

16.2.1. The relative-risk posed among sites (as described in the *DoD Relative-Risk Site Evaluation (RRSE) Primer* and the *Risk Assessment Code*). Generally sites that present a greater relative-risk to human health, safety, or the environment will be addressed before sites that present a lesser risk.

16.2.2. The findings of health, safety, or ecological risk assessments or evaluations based on site-specific data.

16.2.3. Concerns expressed by stakeholders.

16.2.4. The reasonably anticipated future land use, especially when planning response actions, conducting evaluations of response alternatives, or establishing specific response action objectives.

16.2.5. Implementation and execution considerations (e.g., the availability of the necessary systems to implement a particular action; examination of alternatives to responses that entail significant capital investments, a lengthy period of operation, or costly maintenance; considering alternatives to removal or treatment of contamination when existing technology cannot achieve established standards (e.g., Maximum Contaminant Levels (MCLs)).

16.2.6. For responses to address military munitions (i.e., UXO or WMM), the availability of technology to detect, discriminate, recover, and destroy the military munitions.

16.2.7. Economic considerations, including economies of scale, evaluation of total lifecycle costs, and estimated valuations of long-term liabilities.

16.2.8. Implementing standing commitments including those in formal agreements with regulatory agencies, requirements for continuation of remedial action operations until response objectives are met, other long-term management activities, and program administration.

16.2.9. Considering community reuse requirements at BRAC installations and other reuse requirements at active installations and FUDS.

16.2.10. Established program goals and initiatives.

16.2.11. Cultural, social and economic factors, including environmental justice considerations.

16.2.12. Short-term and long-term ecological effects and environmental impacts in general, including injuries to natural resources.

16.3. Relative-Risk Site Evaluation (RRSE) Framework.

³⁶ These factors do not influence the “high,” “medium,” or “low” RRSE or RAC score, or risk assessment results, but may influence the site's priority for funding. Components shall be able to justify funding for sites that are categorized as other than high relative-risk or a RAC 1 or 2.

16.3.1. The Defense Planning Guidance (DPG) establishes risk reduction as a program goal. Environmental restoration planning, programming, budgeting, and execution by all Components are expected to support this goal. A measure of merit (i.e., MOM 1) has been established to measure progress in actual risk reduction (see the section of this guidance *Inventory Management, Performance Measures, and Reporting*). To accomplish the goal of risk reduction, DoD adopted a risk management strategy in which sites with a higher relative-risk receive priority over sites with a lower relative-risk. The RRSE framework is the foundation of that strategy.

16.3.2. DPG risk reduction goals do not apply at BRAC installations; however, relative-risk has to be considered in conjunction with making property available for reuse when making decisions on the sequencing of environmental restoration activities.

16.3.3. The RRSE framework, described in the *Relative-Risk Site Evaluation Primer (Summer 1997, Revised Edition)* provides a single, consistent DoD-wide approach for evaluating the relative-risk to human health and the environment posed by the chemical contamination present at a site. Evaluation of contaminants present, environmental migration pathways, and receptors results in the placement of sites into relative-risk categories of “high,” “medium,” or “low.” These categories are used in prioritizing sites and sequencing the implementation of environmental restoration activities.

16.3.4. Components shall use the RRSE framework to evaluate the relative-risk posed by each site where there are environmental restoration requirements. This includes sites at active installations, closing/realigning bases, and FUDS. Components shall ensure that regulators and public stakeholders are offered opportunities to participate in the RRSE process.

16.3.5. Each Component will implement the quality assurance procedures described in the *Relative-Risk Site Evaluation Primer* to ensure that RRSEs are performed in accordance with that guidance and that evaluations are consistent across all sites.

16.3.6. Components will develop and maintain records on the RRSE for each site. At a minimum, the records will contain references to all information and documents used for the evaluation (e.g., field logs, data from preliminary assessments, site inspections, or remedial investigations/feasibility studies, risk assessments), RRSE worksheets, and database records. These records shall be included in the Administrative Record for the site.

16.3.7. Relative-risk data will be updated and provided to ODUSD(I&E) at mid-year and at the end of the fiscal year.

16.4. Risk assessment procedures for military munitions (i.e., UXO or WMM).

16.4.1. The Risk Assessment Code (RAC) framework described in Appendix 16 is being adopted as an interim DoD-wide approach for providing a single, consistent tool for preliminary evaluation of explosives hazards posed by military munitions (i.e., UXO or WMM). It has been adopted as an interim approach because of its longstanding use in the FUDS program.

16.4.2. The RAC is composed of two factors, hazard severity and hazard probability. Evaluation of hazard severity and hazard probability is based on the best information available concerning potential hazards related to military munitions (i.e., UXO or WMM) at the site. Following evaluation, sites will be assigned a RAC score that will be used, along with the “other management factors,” for prioritizing sites and sequencing responses. Components shall use the RAC framework to evaluate the explosive safety risk posed at each site where a response action to address military munitions (i.e., UXO or WMM), is required, irrespective of whether the site is in the Installation Restoration or Military Munitions Response program categories. Components shall ensure that regulators and public stakeholders are offered opportunities to participate in the RAC process.

16.4.3. Each site where a response to address military munitions (i.e., UXO or WMM) is required (including sites where a response has already been implemented) shall be assigned a RAC as soon as

possible, but not later than September 30, 2003. Sites lacking information for assessing a RAC shall be programmed for additional study and shall be evaluated as soon as sufficient data are available. Until the RAC is assigned, sites will be classified as "not yet evaluated." Sites newly identified after September 30, 2002, shall be evaluated and a RAC assigned within 12 months of identification. When assigned, the RAC will be included in the record for each site in the inventory. RACs shall be reviewed at least annually and updated as necessary to reflect new information that has become available. A RAC reevaluation is necessary under the following circumstances:

- 16.4.3.1. Upon completion of a response action that could change the hazard probability.
- 16.4.3.2. To update or validate a previous RAC at a site based on new or confirmed data.
- 16.4.3.3. To categorize sites previously classified as "not yet evaluated."

17. MANAGEMENT ACTION PLANS (MAPs)

17.1. The Management Action Plan (MAP) or its equivalent³⁷ is a key document for managing the environmental restoration program at an installation or FUDS. The MAP is used to identify and monitor environmental restoration requirements, schedules, and estimates of cost. The MAP also serves as the basis for an installation's input to overall program planning, budget development and execution decisions. Further, the MAP serves as the basis for identifying regulatory agency support requirements that fall under the Defense-State Memorandum of Agreement (DSMOA) program. In sum, the MAP shall describe an integrated, coordinated approach for conducting all environmental restoration activities required at an installation or FUDS. As these activities usually require several years to complete, the MAP shall address all required actions by year to the date when the environmental restoration requirements are expected to be complete.

17.2. A MAP shall be prepared for each installation or FUDS where activities under the DERP have yet to be completed. Sites that are geographically separate from the installation that is responsible for the administration of the environmental restoration program shall be addressed in a MAP.

17.3. The MAP is intended to be a living document, and shall be kept current by all installations and FUDS with environmental restoration requirements. At a minimum, MAPs shall be updated annually. Stakeholders, such as the regulatory and community members of an installation's Restoration Advisory Board (RAB), shall be given opportunity for involvement in updating the MAP or equivalent, except for updates to elements that include government cost estimates for future procurement actions. The MAP shall be made available in information repositories and shall be included in the Administrative Record. The MAP may also be made available through other means such as posting on installation websites, where applicable, as a source of information.

17.4. In addition to providing a general overview of the installation (e.g., location, installation history, types of operations at the installation, general environmental setting), the MAP shall contain the following information for each site:

- 17.4.1. The environmental restoration history (i.e., a list and description of all response actions taken).
- 17.4.2. Current site status, based on the current data in the Restoration Management Information System (RMIS).

³⁷ For example, at active installations the Navy uses the term "Site Management Plan." Similarly, at installations closing or realigning under BRAC, the "BRAC Cleanup Plan (BCP)" is analogous to a MAP.

- 17.4.3. RRSE status and category and/or a RAC status or RAC category.³⁸
- 17.4.4. A list of contaminants of concern and military munitions (i.e., UXO or WMM) known or suspected of being present.
- 17.4.5. A list of all identified environmental restoration requirements.
- 17.4.6. An outline of the technical approach being taken for site characterization and removal or remedial activities.
- 17.4.7. Prior year funding and current year funding.
- 17.4.8. Estimates of future costs, by fiscal year, for the remainder of the response process (the requirements that appear in the POM and budget submittals shall match those that are identified and sequenced in the MAP). While the MAP must contain information on estimated future costs, installations may need to restrict the distribution of such information at the site level, especially when it is based on or includes elements of the government cost estimate for an as yet incomplete procurement action.
- 17.4.9. Past and future milestones, goals and schedules.
- 17.4.10. Justification for funding sites that are categorized as medium or low relative-risk or RAC 3, 4, or 5 ahead of sites that are categorized as high relative-risk or that are RAC 1 or 2.

18. HEALTH AND ECOLOGICAL RISK ASSESSMENTS, PUBLIC HEALTH ASSESSMENTS, AND ASSESSMENT OF EXPLOSIVES HAZARDS

18.1. Risk assessments play an important role in protecting human health and the environment by facilitating evaluation of the need for environmental response activities, and by providing information useful in evaluating response alternatives. In addition, the conduct of a risk assessment is a requirement under some environmental regulations. Components shall conduct appropriate assessments to identify the risks to human health, safety (particularly explosives safety), and the environment at each DERP site. Risk assessments for releases of chemicals (e.g., CERCLA hazardous substances) shall be conducted in accordance with generally accepted procedures (e.g., the EPA's *Risk Assessment Guidance for Superfund*). Most likely scenarios for exposure and the reasonably anticipated future land use shall be employed when conducting these assessments. Decisions about response actions at a site usually are driven, at least in part, by the results of the risk assessment.³⁹

18.2. Under CERCLA §104(i)(6), the ATSDR is responsible for conducting public health assessments at all sites on or proposed for the National Priorities List (NPL). Most likely scenarios for exposure pathways and reasonably anticipated future land use shall be employed and the results of a completed public health assessment shall be considered in the decision process. DoD's objective is to complete all required public health assessments as expeditiously as possible.

18.3. Due to the potential for a single military munition to cause serious injury or death, where the presence of military munitions (i.e., UXO or WMM) is known or suspected, DoD will evaluate the explosives hazards posed and conduct an appropriate response action.

³⁸ Sites with response requirements for chemical releases shall have an RRSE evaluation. Sites with response requirements for military munitions (i.e., UXO or WMM) shall have a RAC evaluation. Sites with response activities for both shall have an RRSE and a RAC evaluation.

³⁹ In some instances, established regulatory standards rather than the results of a risk assessment are used to set the objectives of a response action.

18.3.1. DoD has the expertise and the responsibility for protecting its personnel and the public from explosives hazards. The basic risk management tenet of DoD's overall explosives safety policy is that response actions must be structured and conducted to expose the minimum number of people to the minimum amount of explosives for the minimum amount of time. DoD explosives safety requirements are contained in DoD 6055.9-STD-*Ammunition and Explosives Safety Standards* and in other Component guidance.

18.3.2. Prior to implementing a response involving military munitions (i.e., UXO or WMM), an Explosives Safety Submission (ESS) shall be submitted and approved per DoD and Component guidance. If the appropriate DoD explosives safety organization determines this response action cannot be safely implemented, the response action will be modified to address the explosive safety concern. If modification of the response cannot address the explosive safety concern, another response that can be safely implemented shall be selected.

19. RECORDS MANAGEMENT

19.1. DoD policy requires Components to collect and retain environmental restoration records in accordance with applicable statutes and regulations and Component records management directives, and also consistent with EPA guidelines. Environmental restoration records shall be collected as they are generated or received in the course of the decision-making process. Specific Component directives shall also be reviewed for procedures on how records should be retained, classified, and stored.

19.2. Administrative Record.

19.2.1. Pursuant to, and in compliance with, 42 USC §9613(k) and 40 CFR §300 Subpart I-*Administrative Record for Selection of Response Action*, a Component shall establish an Administrative Record that contains the documents that form the basis for the selection of a response action. The Component shall compile and maintain the Administrative Record in accordance with CERCLA and 40 CFR §300, Subpart I. The content, format, and retention of the Administrative Record shall be consistent with EPA guidance on the Administrative Record (e.g., Office of Solid Waste and Emergency Response (OSWER) Directive 9833-3A-1, *Final Guidance on Administrative Records for Selecting CERCLA Response Actions* (December 3, 1990)).

19.2.2. The Administrative Record serves two purposes. First, CERCLA §113(k) requires that the Administrative Record act as a vehicle for public participation in selecting a response action. Second, under CERCLA §113(j), judicial review of any issue concerning the adequacy of any response action is limited to the contents of the Administrative Record. Under this provision of CERCLA the Administrative Record is the sole source of documentation that can be used by a party challenging a response action. It is also the sole source of documents available for the defense of a response action by a Component. It is critical that the Component take great care in compiling the Administrative Record. If the Component fails to compile a complete and accurate Administrative Record, it may significantly impact DoD's ability to defend, and the court's ability to review, a challenged decision. A permanent record of the data gathered to characterize a site and a clear audit trail of pertinent data analysis and resulting decisions and actions are required.

19.2.3. The Administrative Record shall include, but is not limited to including:

19.2.3.1. Documents and materials containing information that may form a basis for the Component's selection of a response action.

19.2.3.2. Documents and materials available to the Component at the time the decision was made.

19.2.3.3. Documents and materials that were considered by or relied upon by the Component.

19.2.3.4. Documents and materials that were available to the Component at the time of a decision, even if the decision maker did not specifically consider those documents.

19.2.3.5. Privileged and non-privileged confidential documents and materials.⁴⁰

19.2.3.6. Documents received, published, or made available to the public as required by CERCLA for removal or remedial site assessments or actions.

19.3. For responses to address military munitions (i.e., UXO or WMM), Components shall have a permanent record of the data gathered to characterize a site and a clear audit trail of pertinent data analysis and resulting decisions and actions. To the maximum extent practicable, the permanent record shall include sensor data that is digitally recorded and geo-referenced. Exceptions where digitally recording and geo-referencing are impractical shall be approved by an appropriately designated member of the Senior Executive Service, a General Officer, or a Flag Officer. These data shall be included in the Administrative Record.

20. OPTIMIZING REMEDIAL ACTIONS

20.1. All response alternatives considered at a given site must meet the threshold requirement of protectiveness of human health and the environment. In addition, alternatives considered must be evaluated using the other NCP evaluation factors. In conducting this evaluation, Components shall, to the maximum extent possible, identify specific remedial action objectives (e.g., specific residual concentrations for each contaminant of concern).

20.2. Once a response action is implemented, the evaluation does not end. Components shall develop ways to continually evaluate the remedies. Such an evaluation can be a part of required reviews, such as the statutorily required five-year review. This continued evaluation of implemented remedies shall examine factors including:

20.2.1. Means for optimizing the overall performance and effectiveness of the remedy;

20.2.2. Means for controlling the operational and maintenance cost of remedies in the remedial action-operation phase;

20.2.3. Assessing if the remedial action objectives specified in the Record of Decision for the site are achieved and whether the treatment system is still needed; and

20.2.4. Determining if a different remediation goal is needed or if an alternative technology or approach is more appropriate.

20.3. Components should support technology development efforts aimed at increasing the overall effectiveness of response activities. Components also should support efforts to validate and certify emerging response technologies through regulatory and interagency partnership such as the Interstate Technology and Regulatory Cooperation (ITRC) Work Group and the Federal Remediation Technologies Roundtable. As technology evolves and becomes available, Components should evaluate and consider appropriately inserting that technology into the alternatives evaluation process.

21. LAND USE CONTROLS

⁴⁰ Confidential or privileged documents must be kept in a separate portion of the Administrative Record not accessible to the public. Whenever feasible, Components shall summarize or redact (with legal counsel assistance) those portions of the privileged document that pertain to the response selection so that a summary or redacted version can be included in the publicly accessible portion of the Administrative Record.

21.1. Land use controls (LUCs) include any type of physical, legal, or administrative mechanism that restricts the use of, or limits access to, real property to prevent or reduce risks to human health, safety, and the environment.⁴¹ The objective of LUCs is to ensure that future land use remains compatible with the land use that was the basis for the evaluation, selection, and implementation of the response action. As such, LUCs are a common component of any response action that does not allow for unrestricted land use following the completion of the response action or when the response action allows for unrestricted use, but there is a need to protect the integrity of the remedy. For example, in the case of a response to address military munitions (i.e., UXO or WMM), LUCs will likely be necessary to ensure protection of human health, public safety, and the environment, since technical limitations suggest that complete removal of the military munitions may not be possible.

21.2. There are instances where restrictions on the use of a property pre-date the conditions that gave rise to the need for environmental restoration activities. Where there is a pre-existing restriction, it shall be used to establish the “reasonably anticipated future land use;” however, since it is not being instituted as a part of the environmental restoration activities, that pre-existing restriction need not be evaluated as a response alternative.

21.3. At all sites where a use restriction is part of environmental restoration activities, the LUC must be clearly defined, established in coordination with affected parties (e.g., in the case of FUDS, the current owner; in the case of BRAC property, the prospective transferee), and enforceable. Implementing LUCs through established real estate and land use management mechanisms provides a means to assure that LUCs remain effective. Use of a system of mutually reinforcing controls is often a necessary component in a LUC strategy.

21.4. LUCs should be managed and maintained at the local level whenever possible. In the case of an active installation, this responsibility will fall within the installation's command structure. In the case of properties transferring or transferred from federal control, state or local government agencies with appropriate authorities (e.g. zoning boards) are often ideal organizations for LUC management and enforcement. In the case of a transferred property, the property owner is often the best candidate for LUC management and enforcement.

21.4.1. At properties transferring from federal control, Components should use state LUC registries where available. If possible, Components should grant a property interest to the relevant state or local agency that will allow the state or local agency to maintain and enforce the LUC. As most LUCs are memorialized in the deed as deed restrictions or in other publicly available legal instruments that would be discovered during a real estate transaction, it is essential that the Component consult state property law and state environmental law when drafting the restriction because state law may require the use of a particular type of instrument or operative language.

21.5. In implementing LUCs, Components shall:

21.5.1. Put appropriate mechanisms in place to manage LUCs and shall incorporate LUCs into the existing land use management processes of the locality or the installation. For example, a LUC can be included on an installation's master plan or in a voluntary agreement with a local government.

21.5.2. Develop a LUC strategy that defines the responsibilities of all parties involved in implementing the LUCs.

21.5.3. Plan, program, and budget for the necessary funding in appropriate accounts to implement and maintain LUCs.

⁴¹ For purposes of this guidance, the term "land use controls" (LUCs) includes institutional controls (ICs) as discussed in the NCP.

21.5.4. Maintain a central database of properties restricted by LUCs. The database shall include information on the types of LUCs established and any DoD land use monitoring and management responsibilities.

21.5.5. Modify or terminate LUCs through the same process used to establish the LUC. If the LUC is terminated, the Component shall ensure that the LUC is removed from the mechanisms that recorded its existence (e.g., deeds, real estate records, master planning maps).

21.5.6. For any evaluation of response alternatives commencing after October 31, 2000, where a use restriction will be imposed through the environmental restoration process, either as a stand-alone response alternative or as one component of a more complex action, Components shall ensure that the evaluation of response alternatives includes an analysis of an alternate with an use restriction, as well as an analysis at the level of detail appropriate to the size and scope of a response not requiring an use restriction (e.g., implementation of a response that allows unrestricted use). This will allow consideration of restricted and unrestricted use alternatives in selecting the response action.

21.5.7. Provide timely notice to the appropriate regulatory agencies and prospective federal land managers of the intent to use LUCs. Regulatory comments received during the development of draft documents will be incorporated into the final LUCs, as appropriate.

21.5.8. Include a description and rationale for the reasonably anticipated future land use or other exposure scenario used to select the remedy in the environmental restoration decision documents (e.g., RODs) for all responses that include LUCs.

21.5.9. For federal-to-federal agency property transfers, secure a written commitment that the receiving agency will accept all responsibility for the management of any LUCs, or document any other agreement before property transfer.

21.5.10. Institute a process to review and evaluate the effect on human health and the environment of any proposed land use changes for areas covered by LUCs. Where performed as part of the environmental restoration process and as required by CERCLA, five-year reviews and long-term management of environmental restoration sites may provide convenient opportunities for the Component to concurrently review LUCs. At that time, the integrity of the LUCs or layering mechanism shall also be reviewed for their continued effectiveness (e.g., assessment of whether zoning and land use is still consistent with the use restrictions).

22. ENVIRONMENTAL RESTORATION ISSUES IN PROPERTY TRANSFER

22.1. Components engage in property transfers other than those under the BRAC program. Some examples include when public lands are withdrawn for military use, when a withdrawal is terminated and the land reverts to the public domain, or when DoD exchanges lands with other federal land management agencies to assist in the preservation of sensitive habitats. Components engaged in such transfers are responsible for all related environmental activities, and property transfers by federal agencies are subject to a number of requirements, especially for properties where environmental restoration activities have been conducted. This section addresses some of the issues associated with transfer of such properties.

22.2. Prior to transferring or leasing any property where environmental restoration activities have occurred, formal documentation concluding the suitability to lease or transfer property must be prepared and approved. These documents (e.g., at BRAC installations referred to as a Finding of Suitability for

Lease (FOSL) or a Finding of Suitability for Transfer (FOST)) provide the environmental information and requirements that must be incorporated in real estate transactions.⁴²

22.3. Authority to Transfer Property before Completing All Necessary Environmental Restoration Actions.

22.3.1. The Early Transfer Authority (ETA) provided by CERCLA §120(h)(3)(C) allows federal property to be transferred to a non-federal entity before completion of all necessary remedial actions. It is DoD's policy that ETA be used whenever doing so is beneficial both to DoD and the transferee. It is also DoD policy to encourage the transferee to undertake any required response actions. ETA is not a conveyance authority, nor is it necessary for transfer of property to other federal agencies. The required environmental determination for the use of ETA is documented in a Finding of Suitability for Early Transfer (FOSET).

22.3.2. For non-NPL property, the Governor of the state where the property is located must approve the request for an early transfer.⁴³

22.3.3. For NPL property, the EPA Regional Administrator, with the concurrence of the Governor of the state, must approve the early transfer.

22.3.4. Upon transfer of any property using ETA, the Component must submit a written notice to ODUSD(I&E) that:

- 22.3.4.1. Lists the date the property was transferred,
- 22.3.4.2. Describes the property that was transferred using ETA, including a statement of the size of the transferred parcel in acres,
- 22.3.4.3. Lists all environmental restoration sites on the transferred parcel, and
- 22.3.4.4. States that the Component has requested adequate funding and provided the required response action assurances.

22.4. Deed Covenants.

22.4.1. CERCLA §120(h) has specific requirements for covenants that must be given when transferring property outside the federal government. Legal counsel should be consulted to determine when the covenants are required.

22.4.1.1. When conveying by deed to a non-federal entity, a property where a CERCLA hazardous substance was stored for one year or more, known to have been released, or known to have been disposed on the property, CERCLA §120(h)(3) requires two covenants in the deed (unless the property recipient is a PRP for contamination on the property). As a matter of policy, DoD Components shall also give the CERCLA §120(h)(3) covenants when a petroleum product or petroleum product derivative is known to have been released or known to have been disposed on the property.

22.4.1.1.1. The first covenant, under CERCLA §120(h)(3)(i), states that all necessary remedial action with respect to any such substance remaining on the property will be taken before the date of transfer.

⁴² This documentation does not necessarily satisfy the purchaser's or lessee's environmental due diligence requirements. It provides only for DoD documentation and disclosure of the condition of the property at the time of lease or transfer.

⁴³ For specific details, see the April 24, 1998, ODUSD(I&E) memorandum and guidance on *Environmental Review Process to Obtain the Finding of Suitability Required for Use of Early Transfer Authority for Property not on the National Priorities List for Non-NPL sites*.

22.4.1.1.2. The second covenant, under CERCLA §120(h)(3)(ii), warrants that any additional remedial action found to be necessary after the date of the transfer will be conducted by the United States.

22.4.1.1.3. In addition, the deed must contain a clause reserving to the United States the right to enter the property for any future remedial activities.

22.4.1.2. When conveying by deed to a non-federal entity, property that has been identified as “uncontaminated” (i.e., where no CERCLA hazardous substance, petroleum product, or petroleum product derivative was released or disposed) and where no remedial action has been necessary, the deed shall contain a covenant required by CERCLA §120(h)(4)(D)(i) warranting that any remedial action found to be necessary after the date of the transfer will be conducted by the United States. In addition, the deed must contain a clause reserving to the United States the right to enter the property for any future remedial activities.

22.5. Post-Transfer Restoration Activities.

22.5.1. Components shall disclose all environmental restoration activities that were required at a given property to the communities and the transferee. This shall include the basis for the decision to consider a particular reasonably anticipated future land use in evaluating the need for a response action or in formulating remedial alternatives for evaluation, any reasonably anticipated future land use relied upon to support the selected remedy, and the finality of the remedy selection decision. Components shall also provide the transferee a copy of the current DoD policy on additional restoration after transfer (currently the USD(AT&L) memorandum, *Responsibility for Additional Environmental Cleanup after Transfer of Real Property* (July 25, 1997)).

22.5.2. Additional environmental restoration activities necessary to address contamination attributable to DoD activities will be performed consistent with the reasonably anticipated future land use assumptions used to evaluate the original remedy and CERCLA §120(h).

22.5.2.1. The Component that disposed of the property will be responsible for additional environmental restoration if:

22.5.2.1.1. Additional contamination attributable to DoD activities that occur prior to transfer and that is inconsistent with the established remedy is discovered after transfer.⁴⁴

22.5.2.1.2. A determination is made that a remedy is no longer protective of human health and the environment due to a failure of the remedy or a change in the applicable health or environmental standard that applies.

22.5.3. DoD will not conduct additional environmental restoration activities to accommodate changes in land use after transfer where the:

22.5.3.1. Reasonably anticipated future land use assumptions used for remedy selection were based on the Local Reuse Authority (LRA) reuse or other appropriate planning agency input.

22.5.3.2. Remedy selection process included local community input.

22.5.3.3. LRA and/or community request additional environmental restoration activities solely to facilitate a use prohibited by deed restriction or other appropriate LUC.

22.5.3.4. In cases where there is a need for any environmental restoration activities such as monitoring, operation and maintenance of remedial systems, or five-year reviews, to continue after

⁴⁴ The Component responsible for the remediation retains responsibility for conducting any further response activities. Neither the requirements for further action nor the property itself becomes a responsibility of the FUDS program.

transfer to non-DoD entities, Components will be expected to fund such activities in the most efficient, cost-effective manner. Options for conducting these activities may include:

22.5.3.4.1. Transferring the responsibility to the new owner, if the new owner agrees to accept the responsibility.

22.5.3.4.2. Reimbursing another DoD entity (e.g., USACE, Naval Facilities Engineering Command, or the Air Force Center for Environmental Excellence) to conduct the required work.

22.5.3.4.3. Performing the required work. This option is not preferred and shall be chosen only when it is the most reliable and cost effective way to ensure that work will be completed.

22.6. Property Transfer within the Federal Government.

22.6.1. Any property transfers within the federal government must clearly assign continuing responsibility for environmental restoration after the transfer. In all cases, the transferring Component is responsible for providing the gaining Department or Agency with an environmental baseline survey (EBS), other reports, and a history of restoration actions taken prior to the transfer of the property.

22.6.2. A Component that accepts real property from another Component shall be responsible for managing environmental restoration actions at the property. The responsibility will be transferred at a time agreed upon by both Components. The transferring Component shall be responsible for transferring the funding for environmental restoration activities as planned for the property in the Future Years Defense Program (FYDP). The total obligational authority (TOA) will be transferred at a time agreed upon by both Components. Components are not precluded from making other agreements, provided the agreements are formalized in a written agreement between the Service Environmental Deputy Assistant Secretaries (or equivalent), and a copy of the signed agreement is submitted to ODUSD(I&E).

22.6.3. Components will not accept property from another federal department or agency unless the other federal Department or agency provides certifications (with the supporting documentation) that:

22.6.3.1. All requirements of the Federal Property Management Regulations have been met;

22.6.3.2. All necessary remedial action with respect to any hazardous substance, pollutant or contaminant, hazardous waste or hazardous waste constituent, petroleum, oil or lubricants (POL), radioactive materials or wastes, or munitions or explosives, remaining on the property has been taken prior to the transfer; and

22.6.3.3. That any additional remedial action found to be necessary to address contamination caused by the transferring department or agency after the date of the transfer will be fully funded by the transferring department or agency.

22.6.4. Components shall retain ownership or control of sites where military munitions (i.e., UXO or WMM) are known or suspected to be present but where there has not been an assessment of and a response (where required) to address potential explosives hazards.

23. ADDITIONAL ENVIRONMENTAL RESTORATION ACTIVITIES AND DOCUMENTATION

23.1. Records of Decision (RODs) and Decision Documents.⁴⁵

23.1.1. Under CERCLA, a response action is selected and documented in a ROD or a Decision Document. These documents are subject to requirements to provide the public opportunity for comment. The ROD or Decision Document serves, in part, as certification that the response action was selected in accordance with the requirements of CERCLA and the NCP.

23.1.2. The ROD or Decision Document must clearly state the objectives of the selected response action and document all applicable and relevant and appropriate requirements (ARARs) that apply to the action at the time of signature. This will permit future evaluation of the effectiveness of the response and whether the action is complete.

23.1.3. Prior to implementing an action, a ROD or Decision Document shall be signed by a Component official formally authorized to sign these documents. A signed ROD or Decision Document may be re-evaluated at any point during the response action process (i.e., during remedial design, before or after operations are in place, when the selected remedy is found to be ineffective or if recently developed technology may be more effective). If, after re-evaluation, changes are needed for the selected response, the ROD or Decision Document will have to be modified before the changes can be implemented.

23.2. Five-Year Reviews.

23.2.1. If activities under the Installation Restoration or Military Munitions Response program categories do not allow for unrestricted use of the property following the end of the response action, the Component shall review the action to ensure that the remedy continues to protect human health and the environment. Sites where activities under the Installation Restoration or Military Munitions Response program categories allow for unrestricted use upon completion of the action do not require such reviews.⁴⁶

23.2.1.1. This review will be made at least every 5 years, or, if the ROD or Decision Document requires a review at intervals less than 5 years, in accordance with the ROD or Decision Document. The first review will be conducted 5 years after the initiation of the remedial action for the first site requiring a 5-year review, pursuant to CERCLA §121(c).

23.2.1.2. Reviews will continue until unrestricted use can be allowed at the property.

23.2.1.3. Components shall formally designate a 5-year review executor.

23.3. Host Responsibility for Environmental Restoration Requirements.

23.3.1. In general, the installation is responsible for all tenant environmental restoration requirements that are eligible for environmental restoration funding through the Component Environmental Restoration (ER) or BRAC accounts. This does not preclude Components from making separate

⁴⁵ A Record of Decision (ROD) is the formal documentation for the selection of a remedial action at sites on the National Priorities List (NPL). DoD has adopted the term "decision document" for the documentation of removal or interim remedial action (IRA) and remedial action (RA) decisions at non-NPL installations, and sites at NPL installations at which removal or IRA decisions have been made. The decision document shall address the following: Purpose, Site Risk, Remedial Alternatives, Public/Community Involvement, Declaration, Approval, and Signature. A Decision Document for sites not covered by an interagency agreement (IAG) or federal facility agreement (FFA) is required prior to implementing a response action. All Decision Documents will be maintained in the installation Administrative Record and the installation's permanent environmental restoration files.

⁴⁶ At a FUDS where a response to address releases caused by DoD activities allows for unrestricted use, but responses to address contamination caused by non-DoD parties does not, the FUDS program is not required by this policy to conduct 5-year reviews.

agreements for specific situations where there is another funding authority. In all cases, the responsibility for environmental restoration requirements shall be specified in host-tenant agreements.

23.4. Requirements under the National Environmental Policy Act (NEPA).

23.4.1. EPA considers those response actions that are fully compliant with CERCLA and the NCP to be the functional equivalent of NEPA. The Department of Justice (DOJ) position, as noted in a January 23, 1995, memorandum from DOJ, is that NEPA does not apply to those response actions that are fully compliant with CERCLA and the NCP. Therefore, the Components are not required to comply with NEPA's procedural requirements when undertaking a response action that complies with CERCLA and the NCP. The overall NEPA mandate for a fully-informed and well-considered decision will be achieved through adherence to the DERP, CERCLA, and the NCP.

24. COMPLETING ENVIRONMENTAL RESTORATION ACTIONS

24.1. Sites remain in the DERP until all required response actions have been completed. Requirements at these sites shall continue to be programmed and budgeted in the appropriate environmental restoration account.

24.1.1. Consistent with CERCLA, DERP, and applicable Executive Orders and regulations, environmental response activities under the Installation Restoration or Military Munitions Response program categories shall be considered "response complete" when all the response objectives identified in an appropriately signed ROD or other formal decision document have been achieved and documented.

24.1.1.1. If environmental restoration activities allow for unrestricted use of the property, response complete is when there is verification of the achievement of the response objectives detailed in the ROD or other formal decision document.

24.1.1.2. If environmental restoration activities do not allow for unrestricted use of the property, response complete occurs when:

24.1.1.2.1. There is verification of the achievement of the response objectives detailed in the ROD or other formal decision document; and

24.1.1.2.2. At least one subsequent review to ensure that the response action has remained effective and continues to be protective of human health and the environment as defined by the response objectives detailed in the ROD or other formal decision document has occurred; and

24.1.1.2.3. At least five years have elapsed.

24.1.2. At sites on active installations with completed remedies, any additional requirements at these sites shall be considered compliance requirements and shall be programmed and budgeted in the appropriate Component account for environmental compliance requirements. At FUDS, additional requirements at a site with completed response objectives shall continue to be programmed and budgeted in the ER-FUDS account.

24.2. Any site previously determined to have completed all required response actions that is determined, by the results of subsequent long-term management actions, to require additional response actions to achieve the response objectives identified in the ROD or other formal Decision Document shall be considered a "re-opened environmental restoration site." Additional response action requirements at such sites shall be programmed and budgeted in the Component's Environmental Restoration (ER) or BRAC accounts or, in the case of a FUDS, in the ER-FUDS account.

25. NATURAL RESOURCES INJURIES

25.1. As stated in the ODUSD(I&E) memorandum, *Interim Policy on Integration of Natural Resource Injury Responsibilities and Environmental Restoration Activities* (May 2, 2000), the Secretary of Defense has delegated the authority as a CERCLA natural resource trustee to the head of each Component, with authority to redelegate as appropriate in DoDI 4715.7 *Environmental Restoration Program*.

25.2. Whenever practicable, at sites where a Component is both a Trustee and a potentially responsible party (PRP), Components shall identify natural resource injuries attributable to DoD activities as they perform site characterizations and evaluate risk to ecosystems caused by a hazardous substance release. This evaluation is intended to provide relevant information regarding the current condition of the natural resources. Such data are then used to assist the Component in the assessment of the threshold criteria of “overall protection of human health and the environment” that is part of the evaluation of response alternatives. As part of the evaluation of response alternatives, Components shall assess:

25.2.1. How each response alternative considered addresses the natural resource injuries caused by DoD activities; and

25.2.2. Whether implementation of that particular response alternative will itself cause additional natural resource injury.

25.3. Components shall notify all appropriate Trustees, which may include federal agencies, states and tribes, of actual or potential injury to natural resources and shall coordinate documents and proposed environmental restoration activities with these Trustees. This coordination does not, however, grant the other Trustees a role in selection of a response. Components shall also coordinate with their own natural resource professionals to obtain relevant ecosystem information. Components are encouraged, when feasible and cost-effective, to select a response that will result in the least amount of residual natural resource injury.

26. RECOVERY OF RESPONSE COSTS

26.1. Pursuant to 10 USC §2703(d)(1) and (2), Components are authorized to credit their Environmental Restoration (ER) account (or in the case of FUDS, the ER-FUDS account) or environmental restoration portion of their BRAC account, amounts recovered pursuant to CERCLA for response costs at DERP sites attributable to other potentially responsible parties (PRPs) or the negligence of DoD contractors. Components may also credit any other amounts recovered from a contractor, insurer, surety, or other person to reimburse DoD or a Component for any expenditure for response activities.

26.2. Components shall establish processes to identify other CERCLA PRPs and to pursue them to either take responsibility for environmental restoration or to contribute to the cost of response actions, on a total cost recovery or contribution basis, as appropriate. This shall occur as early as possible in the environmental restoration process. The Component's legal staff is responsible for coordinating with the Department of Justice (DoJ) to pursue claims against such parties. When cost recovery or contribution claims appear to be possible, Components shall promptly establish, in coordination with DOJ, a system to retain record, document, and maintain all cost and project documentation necessary to support cost recovery claims against the PRPs.

26.3. Seeking to have a PRP either take responsibility for environmental restoration or contribute to the cost of response actions, on a total cost recovery or contribution basis, is preferred over expending any ER funds to pay for response costs that are the liability and responsibility of other parties.

26.4. As a matter of policy (See USD(AT&L) memorandum, February 2, 1998), Components shall pursue recovery of response costs of \$50,000 or more whenever a response action on DoD property is required because of legal requirements or an imminent and substantial threat to human health or the environment, and the cooperation of the other PRP could not be negotiated in advance of the work performance. The

Components will inform ODUSD(I&E) of all attempts to recover response costs. The Components will report the following information, which will be included in the DERP Annual Report to Congress.

26.4.1. Full installation name.

26.4.2. City (or county if appropriate) and state where the installation is located.

26.4.3. Status of cost recovery actions (i.e. Under Way, Complete, Not Feasible, No Cost to be Recovered). Actions that are inactive in a given fiscal year but are continuing shall be categorized as Under Way.

26.4.4. Components shall report the status of a recovery action when the Component believes it has sufficient cause to pursue an action that will benefit the government.

26.4.5. If a Component has reported a cost recovery in a previous annual report and has since determined that the cost recovery does not benefit the government, the Component shall report that the status as Not Feasible or No Cost to be Recovered and provide a brief but complete explanation for the decision.

26.4.6. Total amount recovered or shared with another PRP or amount recovered from a negligent DoD contractor, as of the end of the reported fiscal year.

26.4.7. If recovery actions are under way and some costs have been recovered, Components shall report the total amount recovered as of the end of the reported fiscal year.

26.4.8. If recovery actions are under way and no costs have been recovered as of the end of the reported fiscal year. Components shall report that the amount is \$0. Components shall not report estimated future costs.

26.4.9. Total costs spent in legal and management costs to pursue recovery, as of the end of the reported fiscal year.

26.4.10. If recovery actions are under way or complete, Components shall report the cost to pursue the action as of the end of the reported fiscal year.

26.4.11. If the cost to pursue the action has not been determined but will be determined later, Components shall report this amount as TBD.

26.4.12. If the cost to pursue is unknown and is not determinable, Components shall report the amount as Amount Unknown.

26.4.13. If a Component decides that it is not in the best interest of the government to pursue such a recovery, the Component will inform ODUSD(I&E) of its rationale.

26.5. Processing Recovery Costs. OSD will process recovery actions for the Defense agencies to credit into the ER, Defense-wide account. Each Military Department will process its own recovery actions for credit to its ER account. Recovery actions are not limited to recovery of current year appropriations.

26.5.1. The recovery check shall be made payable to the "Environmental Restoration, Defense-Wide Account," (or ER Account, Military Department). Alternatively, a court settlement should restrict deposit to the appropriate ER account by noting the restriction in the remarks area of the check. This will ensure that the check is recovered into an ER Account, and not collected as general deposit to the U.S. Treasury.

26.5.2. The check should be provided to ODUSD(I&E) or the appropriate Component's environmental restoration program management office for tracking and monitoring. ODUSD(I&E) or the Component office will then forward the check to the financial management counterpart that handles reimbursable accounts for processing.

27. DEFENSE ENVIRONMENTAL CLEANUP COMMITTEE

27.1. The ADUSD(E) shall appoint a member of the ADUSD(E) staff to serve as the chair the Defense Environmental Cleanup Committee (DECC).

27.2. Responsibilities. The DECC will have the following responsibilities:

27.2.1. Develop and recommend policy, management guidance, goals and metrics.

27.2.2. Develop, review and recommend legislation and regulations.

27.2.3. Exchange and coordinate information.

27.2.4. Resolve conflicts.

27.2.5. Provide technical analysis and guidance.

27.2.6. Charter subcommittees and work groups to work on specific issues.

27.3. Membership. The DECC will have representatives of the following offices appointed as members of the DECC. Those appointed to DECC membership will represent the consensus position of their respective Components. The names of those appointed shall be forwarded to ODUSD(I&E).

27.3.1. The Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health).

27.3.2. The Army staff.

27.3.3. Deputy Assistant Secretary of the Navy (Environment and Safety).

27.3.4. Marine Corps staff.

27.3.5. Navy staff.

27.3.6. Deputy Assistant Secretary of the Air Force (Installations, Environment, and Logistics/ Environment, Safety, and Health).

27.3.7. Air staff.

27.3.8. Air Force Base Conversion Agency.

27.3.9. Defense Logistics Agency.

APPENDIX 1

REFERENCES

Statutes

Alaska Native Claims Settlement Act, Pub. L.92-392, as amended by Pub. L.100-241

Chief Financial Officers Act of 1990, Pub. L. 101-576

Community Environmental Response Facilitation Act, Pub. L. 102-425, amending 42 USC §9620(h)

Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 USC §§9601-9657

Defense Authorization Amendments and Base Closure and Realignment Act of 1988, Pub. L. 100-526, 10 USC §2687

Defense Base Closure and Realignment Act of 1990, Pub. L. 101-510, 10 USC §2687

Defense Environmental Restoration Program, 10 USC §§2701-2708, §2805, §2810

Federal Financial Management Improvement Act of 1996, Pub. L. 104-208, 31 USC §3512

Government Management Reform Act of 1994, Pub. L. 103-356

Government Performance and Results Act of 1993, Pub. L. 103-62, 3 August 1993

National Environmental Policy Act of 1969, 42 USC §§4321-4370d

Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 USC §4852d (Title X of the Housing and Community Development Act of 1992, Pub. L. 102-550)

Resource Conservation and Recovery Act of 1976 (RCRA), 42 USC §§6901-6992

Executive Orders

Executive Order 12580, Superfund Implementation, 23 January 1987

Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 11 February 1994

Executive Order 13016, CERCLA Amendments (Amends 12580), 28 August 1996

Federal Regulations

Military Munitions Rule, 40 CFR Part 266 Subpart M, 12 February 1997

National Oil and Hazardous Substances Pollution Contingency Plan, 40 CFR Part 300

Technical Assistance for Public Participation Rule, 32 CFR 203, 2 February 1998

DoD Directives, Instructions, Regulations and Standards

DoD Directive 4715.1, Environmental Security, 24 February 1996

DoD Instruction 4715.7, Environmental Restoration Program, 22 April 1996

DoD Instruction 5000.61, DoD Modeling and Simulation (M&S) Verification, Validation, and Accreditation (VV&A), 29 April 1996

DoD Directive 6055.9, DoD Explosives Safety Board (DDESB) and DoD Component Explosives Safety Responsibilities, 29 July 1996

DoD 6055.9-STD, DoD Ammunition and Explosives Safety Standards, July 1997

DoD Instruction 7000.14R, DoD Financial Management Policy and Procedures, 15 November 1992

DoD Financial Management Regulations (FMR) 7000.14, Volume 3, Chapter 17, December 1996; Volume 4, Chapter 14, October 1999; Volume 6B, Draft Chapter 4, May 2001; Volume 6B, Draft Chapter 10, June 2001

Non-DoD Standards and Guidance

Department of Justice Memorandum, 23 January 1995 addressing NEPA equivalency of CERCLA actions
Statements of Federal Financial Accounting Standards (SFFAS) No. 5, Accounting for Liabilities of the Federal Government

Statements of Federal Financial Accounting Standards (SFFAS) No. 6, Accounting for Property, Plant, and Equipment

Federal Financial Accounting and Auditing Technical Release No. 2., Determining Probable and Reasonably Estimable for Environmental Liabilities in the Federal Government

U.S. Environmental Protection Agency (EPA) Office of Solid Waste and Emergency Response (OSWER) Directive 9833.3A-1, Final Guidance on Administrative Records for Selecting CERCLA Response Actions (December 3, 1990).

DoD Policy and Guidance

DoD and EPA Memorandum of Understanding for Fast Track Cleanup, 1993

DoD and EPA Management Principles for Implementing Response Actions at Closed, Transferring, and Transferred (CTT) Ranges, Interim Final, 7 March 2000

DoD Relative-Risk Site Evaluation Primer, Summer 1997, Revised Edition

Environmental Review Process to Obtain the Finding of Suitability Required for Use of Early Transfer Authority for Property Not on the National Priorities List for Non-NPL Sites, DUSD(ES) Memorandum, 24 April 1998

Fast Track Cleanup at Closing Installations, DoD Memorandum, 18 May 1996

Funding for Department of Defense Range Rule Requirements, Deputy Secretary of Defense Memorandum, 19 March 1998

FYDP Structure Changes (2000-07) for PB 2002-2007, Deputy Director Program Analysis and Evaluation Memorandum, 30 December 2000 (The UXO Program Element)

Guidance on Land Use Control Agreements with Environmental Regulatory Agencies, PADUSD(ES) Memorandum, 2 May 2001

Management Guidance for the Defense Environmental Restoration Program

Interim Policy on Integration of Natural Resource Injury Responsibilities and Environmental Restoration Activities, DUSD(ES) Memorandum, 2 May 2000

Lead-Based Paint Guidelines for Disposal of Department of Defense Residential Real Property – A Field Guide, Interim Final, December 1999

Lead Based Paint Policy for Disposal of Residential Real Property, DUSD(ES) Memorandum, 7 January 2000

Memorandum of Understanding Between the Agency for Toxic Substances and Disease Registry and the U.S. Department of Defense on the Development of Toxicological Profiles for Hazardous Substances and Public Health Assessments and Related Activities at DoD Facilities

Policy Covering Cost Recovery/Cost Sharing Under the Defense Environmental Restoration Program (DERP), USD(AT&L) Memorandum, 27 February 1998

Policy on Land Use Controls Associated with Environmental Restoration Activities, DUSD(ES)/CL Memorandum, 17 January 2001

Responsibility for Additional Environmental Cleanup after Transfer of Real Property, USD(AT&L) Memorandum, 25 July 1997

APPENDIX 2 DEFINITIONS

Accrued Environmental Restoration Liability – Cost to conduct environmental restoration activities to correct past contamination problems at active installations, base realignment and closure installations, Formerly Used Defense Sites properties, and closed, transferring, or transferred ranges. Expenses paid in the current fiscal year that are associated with the preservation and management of active and inactive ranges at active installations are current period expenses and are not included as environmental liabilities.

Additions – The dollar value of increases associated with the addition of new sites to the estimate of environmental liabilities during the reporting period.

Base Realignment and Closure (BRAC) – A Department of Defense program that focuses on compliance and cleanup efforts at military installations undergoing closure or alignment, as authorized by Congress in four rounds of base closures for 1988, 1991, 1993, and 1995. The first base realignment and closure (BRAC) round was conducted in 1988 based on recommendations by the Defense Secretary's Commission on Base Realignment and Closure. Congress enacted the Defense Base Closure and Realignment Act of 1990 to authorize base closure rounds in 1991, 1993, and 1995. The Defense Environmental Restoration Program goal within the BRAC program is to conduct environmental remediation as efficiently as possible to speed transfer to and reuse by the community.

Beginning Balance – The beginning balance is the prior fiscal year ending balance for environmental liabilities, net.

Chemical Residues from Military Munitions – The chemical constituents of a military munition, including the chemical byproducts of detonation, deflagration, or other reactive processes. Examples include such constituents as unconsumed explosives (even in trace concentrations) from the detonation of a military munition, explosives released by the structural compromise of an unfired waste military munition, and chemical agents released from chemical munitions.

Closed Range – A military range that has been taken out of service as a range and that either has been put to new uses that are incompatible with range activities or is not considered by the military to be a potential range area. A closed range is still under the control of a Component.

Current Liability – Amount identified to be paid in the next fiscal year.

Decision Document – The Department of Defense has adopted the term Decision Document for the documentation of removal or interim remedial action (IRA) and remedial action (RA) decisions at non-National Priorities List (NPL) installations, and sites at NPL installations at which removal or IRA decisions have been made. The decision document shall address the following: Purpose, Site Risk, Remedial Alternatives, Public/Community Involvement, Declaration, and Approval and Signature. A Decision Document for sites not covered by an interagency agreement or federal facility agreement is still required to follow a CERCLA response. All Decision Documents will be maintained in the installation Administrative Record and the installation's permanent environmental restoration files.

Decreases – The dollar value of decreases in environmental liabilities during the reporting period due to cleanup work performed, expensed, and paid, or cleanup work performed, expensed but not paid (classified as an accounts payable) at the end of the reporting period.

Deletion – The dollar value of changes in environmental liabilities due to revaluation, including policy changes, during the current period.

Ending Balance – The end-of-year environmental liabilities balance reported for the current period. This amount must agree with the total environmental liabilities net amount reported in the Notes of Volume 6B, Chapter 10.

Explosive compounds – As used in the phrase “explosive compounds released to soil, surface water, sediments, or groundwater as a result of ammunition or explosives production or manufacturing at ammunition plants,” explosive compounds such as the trinitrotoluene found in “red water” or “pink water” from TNT manufacturing.

Facility (in relation to work classification) – A building, structure, or other improvement to real property, (10 USC 2801).

Finding of Suitability for Early Transfer – The process to document the conclusion that property is environmentally suitable for early transfer by deed according to CERCLA 120(h)(3)(C).

Finding of Suitability to Lease – The process to document the conclusion that property can be leased, even when cleanup still is underway.

Finding of Suitability to Transfer – The process to document the conclusion that property is environmentally suitable for transfer by deed.

Hazardous Substance – (A) Any substance designated pursuant to section 1321(b)(2)(A) of title 33, (B) any element, compound, mixture, solution, or substance designated pursuant to section 9602 of this title, (C) any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act [42 U.S.C. 6921] (but not including any waste the regulation of which under the Solid Waste Disposal Act [42 U.S.C. 6901 et seq.] has been suspended by Act of Congress), (D) any toxic pollutant listed under section 1317(a) of title 33, (E) any hazardous air pollutant listed under section 112 of the Clean Air Act [42 U.S.C. 7412], and (F) any imminently hazardous chemical substance or mixture with respect to which the Administrator has taken action pursuant to section 2606 of title 15. The term does not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of this paragraph, and the term does not include natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas).

Incidental – That which is not driving the action.

Installation (as defined by the Restoration Management Information System (RMIS) Data Element Dictionary for a Federal Facility Identification (FFID)) – The FFID number is a unique identifier, assigned to an installation/property in RMIS. The 14-character aggregate string is used in RMIS as the key column for each data table and is used to track all associated records for each installation. An installation may have a single range or multiple ranges (and each range may have more than one site contained within its boundaries) and a single or multiple sites not associated with a range.

Land Use Controls (LUCs) – Physical, legal, or administrative mechanisms that restrict the use of, or limit access to, contaminated property in order to reduce risk to human health and the environment. Physical mechanisms encompass a variety of engineered remedies to contain or reduce contamination and/or physical barriers to limit access to property, such as fences or signs. The legal mechanisms are generally the same as those used for institution controls (ICs) as discussed in the National Contingency Plan. ICs are a subset of LUCs and are primarily legal mechanisms imposed to ensure the continued effectiveness of land use restrictions imposed as part of a remedial decision. Legal mechanisms include restrictive covenants, negative easements, equitable servitudes, and deed notices. Administrative mechanisms include notices, adopted local land use plans and ordinances, construction permitting, or other existing land use management systems that may be used to ensure compliance with use restrictions.

Liability – A probable and measurable outflow of resources arising from past transactions or events.

Long-Term Management (LTM) – Term used for environmental monitoring, review of site conditions, and/or maintenance of a remedial action to ensure continued protection as designed once a site achieves Response Complete. Examples of LTM include landfill cap maintenance, leachate disposal, fence monitoring and repair, five-year review execution, and land use control enforcement actions. This term should be used

until no further environmental restoration response actions are appropriate or anticipated. LTM is reserved for monitoring once a site achieves Response Complete, and should not be used to refer to monitoring after Remedy in Place, (this includes sites for which the selected remedy is natural attenuation).

Military Construction – The term military construction includes any construction, development, conversion, or extension of any kind carried out with respect to a military installation, (10 USC 2801).

Military Construction Project – Includes all military construction work necessary to produce a complete and usable facility or a complete and usable improvement to an existing facility, (10 USC 2801).

Military Installation – A base, camp, post, station, yard, center, or other activity under the jurisdiction of the Secretary of a Military Department, (10 USC 2801).

Military Munitions – All ammunition products and components produced or used by or for the U.S. Department of Defense or the U.S. Armed Services for national defense and security, including military munitions under the control of the Department of Defense, the U.S. Coast Guard, the U.S. Department of Energy (DOE), and National Guard personnel. The term military munitions includes confined gaseous, liquid, and solid propellants, explosives, pyrotechnics, chemical and riot control agents, smokes and incendiaries used by Components, including bulk explosives and chemical warfare agents, chemical munitions, rockets, guided and ballistic missiles, bombs, warheads, mortar rounds, artillery ammunition, small arms ammunition, grenades, mines, torpedoes, depth charges, cluster munitions and dispensers, demolition charges, and devices and components thereof. Military munitions do not include wholly inert items, improvised explosive devices, and nuclear weapons, nuclear devices, and nuclear components thereof. The term, however, does include non-nuclear components of nuclear devices, managed under DOE's nuclear weapons program, after all required sanitization operations under the Atomic Energy Act of 1954, as amended, have been completed.

Military Range – A designated land or water area set aside, managed, and used to conduct research on, develop, test, and evaluate military munitions and explosives, other ordnance or weapon systems, or to train military personnel in their use and handling. Ranges include firing lines and positions, maneuver areas, firing lanes, test pads, detonation pads, impact areas, and buffer zones with restricted access and exclusionary areas. Military ranges also include bodies of water located within the boundaries of a military range (e.g., a stream, lake, or pond) or that are themselves a range (e.g., an offshore range in the Atlantic or Pacific ocean). Such water areas include all waters of the U.S. (as defined under the Clean Water Act) and those ocean waters extending out to 200 nautical miles from the U.S. coast. A military range may be a single site, or may be comprised of several sites.

No DoD Action Indicated – Formerly used defense sites where a decision that the site poses no threat to human health or safety or the environment is appropriate and no additional environmental restoration activities are required.

Operational Range – A military range that is currently in service and is being regularly used for range activities, or a military range that is not currently being used, but that is still considered by the Military to be a potential range area, and that has not been put to a new use that is incompatible with range activities.

Pollutant and Contaminant – These terms include, but are not be limited to, any element, substance, compound, or mixture, including disease-causing agents, which after release into the environment and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions (including malfunctions in reproduction) or physical deformations, in such organisms or their offspring; except that the term pollutant or contaminant shall not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of paragraph (14) and shall not include natural gas, liquefied natural gas, or synthetic gas of pipeline quality (or mixtures of natural gas and such synthetic gas).

Prior Period Adjustment – The dollar value of changes in environmental liabilities due to revaluation to correct error(s) in prior year reporting.

Real Property – Real estate owned by the United States and under the control of the DoD. It includes the land, right, title, and interest therein and improvements thereon. Rights and interest include leaseholds, easements, rights-of-way, water rights, air rights, and rights to lateral and subjacent support.

Remedial or Remedial Action – Those actions consistent with permanent remedy taken instead of or in addition to removal actions in the event of a release or threatened release of a hazardous substance into the environment, to prevent or minimize the release of hazardous substances so that they do not migrate to cause substantial danger to present or future public health, welfare or the environment. The term includes, but is not limited to, such actions at the location of the release as storage; confinement; perimeter protection using dikes, trenches, or ditches; clay cover; neutralization; cleanup of released hazardous substances and associated contaminated materials; recycling or reuse; diversion; destruction; segregation of reactive wastes; dredging or excavations; repair or replacement of leaking containers; collection of leachate and runoff; onsite treatment or incineration; provision of alternative water supplies; and any monitoring reasonably required to assure that such actions protect the public health, welfare and the environment. The term includes the costs of permanent relocation of residents and businesses and community facilities where the President determines that, alone or in combination with other measures, such relocation is more cost-effective and environmentally preferable to the transportation, storage, treatment, destruction, or secure disposition offsite of hazardous substances, or may otherwise be necessary to protect the public health or welfare. The term includes offsite transport and offsite storage, treatment, destruction, or secure disposition of hazardous substances and associated contaminated materials.

Remedial Action-Construction – The period during which the final remedy is being put in place. The end date signifies that the construction is complete, all testing has been accomplished and that the remedy will function properly.

Remedial Action-Operations (RA-O) – The period during which the remedy is in place and operating to achieve the cleanup objective identified in the Record of Decision or equivalent agreement. Any system operation or monitoring requirements during this time shall be termed RA-O.

Remedy In Place – Designation that a final remedial action has been constructed and implemented and is operating as planned in the remedial design. An example of a remedy in place is a pump-and-treat system that is installed, is operating as designed, and will continue to operate until cleanup levels have been attained. Because operation of the remedy is ongoing, the site cannot be considered Response Complete.

Removal – The cleanup or removal of released hazardous substances from the environment. Such actions may be taken in the event of the threat of release of hazardous substances into the environment, such actions as may be necessary to monitor, assess, and evaluate the release or threat of release of hazardous substances, the disposal of removed material, or the taking of such other actions as may be necessary to prevent, minimize, or mitigate damage to the public health or welfare or to the environment, which may otherwise result from a release or threat of release. The term includes, in addition, without being limited to, security fencing or other measures to limit access, provision of alternative water supplies, temporary evacuation and housing of threatened individuals not otherwise provided for, action taken under section 9604(b) of this title, and any emergency assistance which may be provided under the Disaster Relief and Emergency Assistance Act [42 U.S.C. 5121 et seq.] The requirements for removal actions are addressed in 40 CFR §§300.410 and 300.415. The three types of removals are emergency, time-critical, and non time-critical removals.

Response Complete (RC) – The remedy is in place and required remedial action–operations (RA-O) have been completed. If there is no RA-O phase, then the remedial action–construction end date will also be the RC date.

Revaluation – The dollar value of changes in environmental liabilities due to revaluation, including policy changes, during the current period.

Site (as defined in the Restoration Management Information System Data Element Dictionary for a SITE_ID) – A unique name given to a distinct area of an installation containing one or more releases or threatened releases of hazardous substances treated as a discreet entity or consolidated grouping for response purposes. Includes any building, structure, impoundment, landfill, storage container, or other site or area where a hazardous substance was or has come to be located, including formerly used sites eligible for building demolition/debris removal. Installations and ranges may have more than one site.

Third Party Site (TPS) – A facility or site that is not currently owned by, leased to, or otherwise possessed by the United States and under the jurisdiction of the Secretary of Defense or was not previously under the jurisdiction of the Secretary and owned by, leased to, or otherwise possessed by the United States, and where the Department of Defense is a potentially responsible party under CERCLA.

Transferred Range – A property formerly used as a military range that is no longer under military control and had been leased by the Department of Defense (DoD), transferred, or returned from the DoD to another entity, including federal entities. This includes a military range that is no longer under military control but was used under the terms of a withdrawal, executive order, special-use permit or authorization, right-of-way, public land order, or other instrument issued by the federal land manager.

Transferring Range – A military range that is proposed to be transferred or returned from the Department of Defense (DoD) to another entity, including federal entities. This includes a military range that is used under the terms of a withdrawal, executive order, act of Congress, public land order, special-use permit or authorization, right-of-way, or other instrument issued by the federal land manager or property owner. An operational or closed range will not be considered a “transferring range” until the transfer is imminent.

Unspecified Minor Military Construction Project – A military construction project not otherwise authorized by law that meets the approval limits and congressional notification requirements of 10 USC 2805. For purposes of this guidance, only the limitations on use of Operations and Maintenance funding for unspecified minor military construction projects apply to environmental response actions.

Unexploded Ordnance – Military munitions that have been primed, fuzed, armed, or otherwise prepared for action, and have been fired, dropped, launched, projected, or placed in such a manner as to constitute a hazard to operations, installations, personnel, or material and remain unexploded either by malfunction, design, or any other cause.

Waste Military Munition – For purposes of this guidance, a waste military munition is defined as:

- An unused munition that was abandoned by being disposed of, burned, or incinerated, or treated prior to disposal
- A used or fired munition that was recovered, collected, and disposed of by burial, landfilling, or land treatment.

A complete definition can be found at 40 CFR Part 266 – Subpart M.

APPENDIX 3
ACRONYMS

ARAR	Applicable or Relevant and Appropriate Requirements
AST	Aboveground Storage Tank
ATSDR	Agency for Toxic Substances and Disease Registry
BCP	BRAC Cleanup Plan
BCT	BRAC Cleanup Team
BD/DR	Building Demolition/Debris Removal
BES	Budget Estimate Submission
BRAC	Base Realignment and Closure
CA	Cooperative Agreement
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CERFA	Community Environmental Response Facilitation Act
CFO	Chief Financial Officers Act
CFR	Code of Federal Regulations
CON/HTRW	Containerized Hazardous, Toxic, and Radioactive Waste
CTT	Closed, Transferred, or Transferring
DAS	Deputy Assistant Secretary
DDESB	Department of Defense Explosives Safety Board
DEPSECDEF	Deputy Secretary of Defense
DERP	Defense Environmental Restoration Program
DLA	Defense Logistics Agency
DoD	Department of Defense
DoDD	DoD Directive
DoDI	DoD Instruction
DOE	Department of Energy
DOJ	Department of Justice
DPG	Defense Planning Guidance
DRMS	Defense Reutilization and Marketing Service
DSMOA	Defense and State Memorandum of Agreement
DTRA	Defense Threat Reduction Agency
ECAS	Environmental Compliance Assessment System
EO	Executive Order

Management Guidance for the Defense Environmental Restoration Program

EOD	Explosives Ordnance Disposal
EPA	Environmental Protection Agency
ER	Environmental Restoration
ETA	Early Transfer Authority
FFA	Federal Facility Agreement
FFMIA	Federal Financial Management Improvement Act
FMR	Financial Management Regulation
FOSL	Finding of Suitability to Lease
FOST	Finding of Suitability to Transfer
FR	Federal Register
FS	Feasibility Study
FUDS	Formerly Used Defense Site
FYDP	Future Years Defense Program
GOCO	Government Owned Contractor Operated
GMRA	Government Management Reform Act
GPRA	Government Performance and Results Act
GSA	General Services Administration
HTRW	Hazardous, Toxic, and Radioactive Waste
IAG	Interagency Agreement
INPR	Inventory Project Report
IPR	In-Progress Review
IR	Installation Restoration
LRA	Local Redevelopment Authority
LTM	Long Term Management
LUCs	Land Use Controls
NEPA	National Environmental Policy Act
MAP	Management Action Plan
MILCON	Military Construction
MOA	Memorandum of Agreement
MOM	Measure of Merit
NCP	National Oil and Hazardous Substances Pollution Contingency Plan
NDAI	No DoD Action Indicated
NFA	No Further Action
NPL	National Priorities List
ODUSD(I&E)	Office of the Deputy Under Secretary of Defense (Installations and Environment)

Management Guidance for the Defense Environmental Restoration Program

O&M	Operation and Maintenance
OMB	Office of Management and Budget
OSD	Office of the Secretary of Defense
OSHA	Occupational Safety and Health Administration
OSWER	(EPA) Office of Solid Waste and Emergency Response
PA	Preliminary Assessment
PAE	Preliminary Assessment of (FUDS) Eligibility
PMI	Program Management Indicators
POL	Petroleum, Oil, and Lubricant
POM	Program Objective Memorandum
PPI	POM Preparation Instructions
PRP	Potentially Responsible Party
RA	Remedial Action
RAB	Restoration Advisory Board
RAC	Risk Assessment Code
RC	Response Complete
RCRA	Resource Conservation and Recovery Act
R&D	Research and Development
RD	Remedial Design
RI	Remedial Investigation
RIP	Remedy In Place
RMIS	Restoration Management Information System
ROD	Record of Decision
RRSE	Relative-risk Site Evaluation
SARA	Superfund Amendments and Reauthorization Act
SFFAS	Statement of Federal Financial Accounting Standards
SI	Site Inspection
SWMU	Solid Waste Management Unit
TAG	Technical Assistance Grant
TAPP	Technical Assistance for Public Participation
TOSC	Technical Outreach Services to Communities
TPS	Third Party Site
TRC	Technical Review Committee
USACE	U.S. Army Corps of Engineers
USC	United States Code

Management Guidance for the Defense Environmental Restoration Program

UST	Underground Storage Tank
USD(AT&L)	Under Secretary of Defense (Acquisition, Technology, and Logistics)
UXO	Unexploded Ordnance
UXO-PE	Unexploded Ordnance Program Element
VV&A	Verification, Validation and Accreditation

APPENDIX 4

DEFENSE ENVIRONMENTAL RESTORATION PROGRAM DEFENSE PLANNING GUIDANCE (DPG) GOALS

NOTE: The DPG goals listed below, effective July 2, 1997, are subject to change on an annual basis.

Non-Base Realignment and Closure Sites

Restoration activities will clean up to a lower relative-risk category, or have remedial systems in place for:

- 50% of the identified high relative-risk sites by the end of FY2002,
- 100% of the identified high relative-risk sites by the end of FY2007,
- 100% of the identified medium relative-risk sites by the end of FY2011, and
- 100% of the identified low relative-risk sites by the end of FY2014.

Base Realignment and Closure Sites

By the end of FY2001,

- 75% of acres in categories 5, 6, and 7, identified in the end-of-FY1996 baseline, will be suitable for transfer from an environmental perspective,
- 75% of installations will have remedial systems in place or responses complete for all sites, and
- 90% of all sites will have remedial systems in place or responses complete.

By the end of FY2005,

- 100% of acres in categories 5, 6, and 7, identified in the end-of-FY1996 baseline, will be suitable for transfer from an environmental perspective, and
- 100% of installations will have all sites with remedial systems in place or responses complete.

APPENDIX 5

EXAMPLES OF ELIGIBLE AND INELIGIBLE RESTORATION ADVISORY BOARD (RAB) ADMINISTRATIVE COSTS

Subject to the availability of funds, installations shall provide administrative support to RABs/Technical Review Committees.

Eligible RAB Administrative Costs

Activities directly related to the operation of the RAB shall qualify as administrative costs of RAB establishment, such as expenses relating to member recruitment and retention and organizational meeting activities (e.g. meeting preparations), or contractor expenses specifically in support of the RAB.

RAB administrative expenses do not include general community involvement expenses, such as preparation of public outreach materials, responses to public comment, or repository costs. This does not include efforts to determine community interest in forming a RAB that does not result in the actual formation of a RAB. This should be categorized as a community involvement expense.

Ineligible RAB Administrative Costs

Salaries for Department of Defense (DoD) personnel

Dedicated equipment such as computers, software, facsimile machines, telephone lines or access or electronic mail for community RAB members

Renting dedicated office space and administrative support to community members of the RAB

Printed stationery and personal business cards

Temporary duty/travel, conference attendance, or fees, except where prior approval has been granted by DoD

Compensation to RAB members for meeting attendance, work hours lost, time reviewing and commenting on documents, travel to meetings, or long distance telephone calls

APPENDIX 6
EXAMPLES OF ELIGIBLE AND INELIGIBLE
TECHNICAL ASSISTANCE FOR PUBLIC PARTICIPATION (TAPP) ACTIVITIES

Community Restoration Advisory Board (RAB)/Technical Review Committee (TRC) members may request technical assistance to assist their understanding of the scientific and engineering issues underlying eligible DoD environmental restoration activities.

Eligible TAPP Activities

Interpretation of technical documents — reviewing and interpreting plans and technical documents such as site studies, risk assessments, and health assessments

Assessment of technologies — helping community members understand the function and implications of technologies selected to investigate or clean up sites

Participation in relative-risk site evaluations — helping community members contribute to DoD's relative-risk evaluation process for specific sites

Understanding health implications — helping community members interpret the potential health implications of site contaminants and exposure scenarios

Certain types of training — providing technical trainers on specific restoration issues where the community needs supplemental information (e.g., evaluating alternative technologies)

Ineligible TAPP Activities

Projects associated with non-restoration issues, such as compliance, are not eligible for TAPP because they are not in the purview of the RAB/TRC

Litigation or underwriting legal actions such as paying attorney fees

Political activity and lobbying as defined by OMB Circular A-122, "Cost Principles for Profit Organizations"

Other activities inconsistent with the cost principles stated in OMB Circular A-122

Generation of new primary data, including split sampling

Reopening final DoD decisions or conducting disputes with DoD

Epidemiological or health studies, such as blood or urine testing

Community outreach activities

**APPENDIX 7
TECHNICAL ASSISTANCE FOR PUBLIC PARTICIPATION APPLICATION**

5266 Federal Register / Vol. 63, No. 21 / Monday, February 2, 1998 / Rules and Regulations

APPENDIX A TO PART 203 - Technical Assistance for Public Participation Request Form

TECHNICAL ASSISTANCE FOR PUBLIC PARTICIPATION (TAPP) APPLICATION		<i>Form Approved OMB No. 0704-0392 Expires Dec 31, 1999</i>	
<p>The public reporting burden for this collection of information is estimated to average 4 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Department of Defense, Washington Headquarters Services, Directorate for Information Operations and Reports (0704-0392), 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number. PLEASE DO NOT RETURN YOUR FORM TO THE ABOVE ADDRESS. RETURN COMPLETED FORM TO INSTALLATION LISTED IN SECTION I, BLOCK 1.</p>			
SECTION I - TAPP REQUEST SOURCE IDENTIFICATION DATA			
1. INSTALLATION			
2. SOURCE OF TAPP REQUEST (<i>Name of Restoration Advisory Board (RAB) or Technical Review Committee (TRC)</i>)			
3. CERTIFICATION OF MAJORITY REQUEST			4. DATE OF REQUEST (YYYYMMDD)
5. RAB POINT OF CONTACT			
a. NAME (<i>Last, First, Middle Initial</i>)		b. ADDRESS (<i>Street, Apt. or Suite Number, City, State, ZIP Code</i>)	
c. TELEPHONE NUMBER (<i>Include Area Code</i>)			
SECTION II - TAPP PROJECT DESCRIPTION			
6. PROJECT TITLE			
7. PROJECT TYPE (<i>Data Interpretation, Training, etc.</i>)			
8. PROJECT PURPOSE AND DESCRIPTION (<i>State anticipated goals of project and relate to increased understanding/participation in restoration process at the installation. Include descriptions, locations, and timetables of products or services requested.</i>)			
9. STATEMENT OF ELIGIBILITY (<i>Refer to eligibility criteria in S203.10 and S203.11 of TAPP rule. Note other sources that were considered for this support and state reasons why these sources are inadequate.</i>)			
10. ADDITIONAL QUALIFICATIONS OR CRITERIA TO BE CONSIDERED (<i>Additional qualifications (beyond those specified in S203.12) a provider should demonstrate to perform the project to the satisfaction of the RAB/TRC. Attach separate statement, if necessary.</i>)			
SECTION III - INSTALLATION COMMANDER/DESIGNATED DECISION AUTHORITY APPROVAL			
<input type="checkbox"/>	APPROVED	11. SIGNATURE	12. TITLE
<input type="checkbox"/>	NOT APPROVED		13. DATE (YYYYMMDD)

DD FORM 2749, DEC 1997 (EG)

PREVIOUS EDITION IS OBSOLETE.

Designed using Perform Pro, WWS/DIOR, Dec 87

**APPENDIX 8
DATA ELEMENTS OF RMIS**

Common Data Elements
(IRP/MMR)
Installation-Level
Installation Name
FFID
Command
Mailing Address
County
Site-Level
FFID
SITE ID
Site Name
IRP MMR BD/DR Identifier

Cost
(FYDP Site-Phase-level)
(IRP/MMR)
Prior Year (PY)
Current Year (CY)
Budget Year (BY)
Budget Year (BY+1)
Budget Year (BY+2)
Budget Year (BY+3)
Budget Year (BY+4)
Budget Year (BY+5)
Budget Year (BY+6)
Budget Year (BY+7)
Site Cost to Complete (BY+8 to complete)
BY to Completion CTC
Funding Eligibility Descriptor
Account
IRP MMR BD/DR Identifier

Media/Contaminant
(IRP Only)
Media
Contamination Hazard factor
Ratio Total
Migration Pathway Factor (MPF)
MPF Rationale
Receptor Factor (RF)
RF Rationale
Media Relative Risk Category
Contaminant Name
CAS Number
Contaminant Concentration
Contaminant Unit of Measure

Land Use and Property Transfer Tables
(IRP/MMR)
Land Use Access Picks
Land Use Restrictions Picks
Land Use Interest Picks
Property Transfer Picks

Legal Agreement
(IRP/MMR)
Cleanup Milestone
Penalty Description
Penalty Amount
Agreement Impact

Range
(MMR Only)
Range ID
Range Name
Range Status
Location Identifiers
POC Identifiers
Range/Suspected Acreage

BCP Abstract Data
(IRP Only)
BRAC Round
BRAC Type (Closure, Realignment)
Date Scheduled Operational Closure
Date actual Operational Closure
BCT Required
Date BCT Formed
EBS Required
Date EBS Completed
BCP Required
Date BCP Completed
Total Acres
Transfer Acres
Transfer Federal
CERFA Clean Acres Proposed
CERFA Clean Acres Concurred
Acres Transferred cumulative
Acres w/Non-CERCLA Encumbrances
Category 1, 2, 3, 4, 5, 6, & 7 Acres
Date Redevelopment Plan Completed
FOST Acres Completed
FOSL Acres Completed
Reuse Status
LRA Name
Projected & Actual EA/EIS Date
Type of NEPA
Final Property Disposal Date

Phase Cleanup
(IRP/MMR)
Phase
Status
Estimated Start Date (FY only)
Estimated End Date (FY only)
Actual Start Date (FY only)
Actual End Date (FY only)
Remedy Type

RABs
(IRP/MMR)
Date RAB Established
RAB Not Needed
RAB Community Representation
RAB Activity
RAB Advice
RAB Expenditures (PY)
RAB Technical Assistance

MMR Site-Level Data
(MMR Only)
RAC Code
Hazard probability
Hazard Severity
Range Activity Classification
Regulatory Driver
On Range Flag
Natural Cultural Sensitive Area
Latitude & Longitude location

Site Status
(IRP/MMR)
On NPL
Estimated Remedy In Place Date
Actual Remedy In Place Date
Estimated Response Complete Date
Actual Response Complete Date
Site Type
Site-level Relative Risk Category
Five-year Review Flag
Land Use Control Flags

Munitions Area
(MMR Only)
Topography
Vegetation
Soil Type
Site & Suspected Acreage
Distance to Structures
Exposure Status
Drinking Water Affected
Average Depth to Groundwater

BCP Budget Data
(IRP Only)
BRAC Restoration Budget (fby FY)
Compliance Budget (for each FY)
Planning Budget (for each FY)

Progress Narrative
(IRP/MMR)
Study Impact
Interim Action Impact
Design Impact
Cleanup Impact
Progress Made
Progress Planned

MMR Ordnance
(MMR Only)
Ordnance Name
Ordnance Type
Density

BCP Narrative Data
(IRP Only)
Restoration Program Summary
Compliance Program Summary
Conservation Program Summary
Fast-Track Cleanup Summary

Note 1: **Bold Red** text denotes newly proposed data for MMR or financial liability or IRP.

Note 2: The above data groups are for illustrative purposes only and should not be used as the data file structure for data submissions.

**APPENDIX 9
MEASURES OF MERIT (MOM) LOGIC**

MOM	Logic
R1/B1 - Site Relative-risk Site Count	<p>Each site must be assigned a relative-risk category of High, Medium, Low, Not Evaluated or Not Required.</p> <p>Baseline: Number of sites reported in each category in the FY95 Defense Environmental Restoration Program (DERP) Annual Report to Congress.</p> <p>Prior Year(s): Number of sites reported in each category in the appropriate year(s) annual report.</p> <p>Current Year: Number of sites in each category in the data submission for the current draft DERP Annual Report to Congress.</p> <p>Budget Years (BY, BY+1–BY+5): For each category in each year, the number of sites is equal to the number of sites for the previous year minus the number of sites with a valid estimated response complete date or valid estimated remedy in place date falling in the previous fiscal year.</p>
R1/B1 - Site Relative-risk Budget	<p>Baseline: The funding level identified in each relative-risk category for FY96 in the FY97 budget submission.</p> <p>Prior Year(s): The funding level identified in each relative-risk category for the prior year(s) in the current budget submission.</p> <p>Current Year: The funding level identified in each relative-risk category for the current year (year of execution) in the current budget submission.</p> <p>Budget Years (BY, BY+1–BY+5): The funding level identified in each relative-risk category for each FY for BY–BY+5 in the current budget submission.</p>
R2/B2 - Phase Progress Site Count	<p>Each site must be classified as being in Investigation, Cleanup, or Response Complete. A site is in Investigation if either PA, SI, or RI/FS are identified as underway or future as determined by the lack of actual or estimated start and completion dates. A site is in Response Complete if it has an actual or estimated RC date in a previous year to the year being considered. A site is in Cleanup if it is not in Investigation or Response Complete in the year being considered.</p> <p>Baseline: Number of sites reported in each phase in the FY95 DERP Annual Report to Congress.</p> <p>Prior Year(s): Number of sites reported in each phase in the appropriate year(s) annual report.</p> <p>Current Year: Number of sites in each phase in the data submission for the current DERP Annual Report to Congress.</p> <p>Budget Years (BY, BY+1–BY+5): For each phase, in each year, the number of sites is equal to the number of sites for the previous year minus the number of sites with an estimated completion date for that phase in the previous year.</p>

**APPENDIX 9
MEASURES OF MERIT (MOM) LOGIC**

MOM	Logic
R2/B2 - Phase Progress Budget	<p>Funding must be identified as either Investigation, Cleanup, or Management. Investigation funding for each year is the sum of all funding identified as PA, SI, or RI/FS in the year considered. Cleanup funding for each year is the sum of all funding identified as RD, RA-C, RA-O, IRA, LTO, LTM, or PRP in the year being considered. Management funding for each year is the sum of all funding identified as program administration costs such as travel, training, and other support costs such as DSMOA, and ATSDR. Salaries are also included.</p> <p>Baseline: The funding level identified as Investigation, Cleanup, or Management for FY96 in the FY97 budget submission based on the above definitions.</p> <p>Prior Year(s): The funding level identified as Investigation, Cleanup, or Management for the prior year(s) in the current budget submission based on the above definitions.</p> <p>Current Year: The funding level identified as Investigation, Cleanup, or Management for the current year (year of execution) in the current budget submission based on the above definitions.</p> <p>Budget Years(BY, BY+1-BY+5): The funding level identified as Investigation, Cleanup, or Management for each FY for BY, BY+1-BY+5 in the current budget submission based on the above definitions.</p>
<p>R3/B3 - Milestones Accomplished</p> <p>[This MOM is not currently used.]</p>	<p>Each site must be assigned a status of RC, RIP or Action Taken or In Progress. Sites with an actual or estimated RC date in a previous FY are identified as RC. Sites with an actual or estimated RIP date in a previous FY that do not have an actual or estimated RC date in a previous year are identified as RIP. Sites with an actual or estimated IRA date in a previous FY that do not have an actual or estimated RIP or RC date in a previous FY are identified as Action Taken. All other sites are identified as In Progress.</p> <p>Baseline: Number of sites in each category at the end of FY95 in the data submission for the current draft DERP Annual Report to Congress based on the above definitions.</p> <p>Prior Year(s): Number of sites in each category, at the end of each prior year, in the data submission for the current draft DERP Annual Report based on the above definitions.</p> <p>Current Year: Number of sites in each category in the data submission for the current draft DERP Annual Report to Congress based on the above definitions.</p>

**APPENDIX 9
MEASURES OF MERIT (MOM) LOGIC**

MOM	Logic
	<p>Budget Years (BY, BY+1-BY+5): Number of sites in each category in each year in the data submission for the current draft DERP Annual Report to Congress based on the above definitions.</p>
<p>R4/B4- Installations achieving Final RIP/RC</p>	<p>This graph illustrates progress towards the DPG goals to have final remedies in place at each installation. The graph is created by querying the data base for the earlier of the RIP or RC date at each site and then selecting the latest of those dates as the final RIP/RC at each installation. Actual dates are used for prior years and the current year if applicable. Estimated dates are dates are used for future years.</p> <p>Prior Years: The total number of installations achieving final RIP/RC for all sites in each year are counted and plotted in a bar chart format.</p> <p>Current Year: The total number of installations achieving or projected to achieve final RIP/RC for all sites in the current year are counted and plotted in a bar chart format.</p> <p>Projected Years: The total number of installations projected to achieve final RIP/RC: for all sites in each year are counted and plotted in a bar chart format.</p>

**APPENDIX 9
MEASURES OF MERIT (MOM) LOGIC**

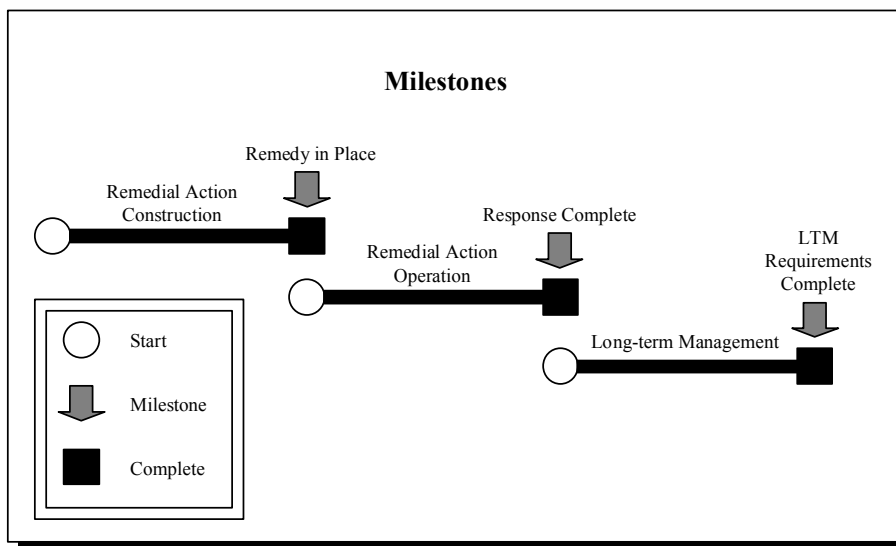
MOM	Logic
B5 - Acres Suitable for Transfer	<p>This table and graph illustrate progress towards the DPG goal to make 75% of the BRAC excess acres suitable for transfer by the end of FY2001 and 100% suitable transfer by the end of FY2005. The baseline was established based on the data submitted for the FY96 DERP Annual Report to Congress. Acres in Categories 1-4 are considered suitable for transfer. Acres in Categories 5-7 are not suitable for transfer.</p> <p>Baseline: Number of acres in each category in the yearend data submission for the FY96 DERP Annual Report to Congress.</p> <p>Prior Year(s): Number of acres in each category in the yearend data submission for the appropriate year DERP Annual Report to Congress. In FY98 the baseline year and the prior year are the same year.</p> <p>Current Year: Number of acres in each category in the data submission for the current draft DERP Annual Report to Congress.</p> <p>Budget Years(BY, BY+1-BY+5): For each year subtract the acres in Categories 5-7 at each installation achieving final RIP/RC at all sites in the previous year and increase the acres in Categories 2-4 by the total of the acres subtracted from Categories 5-7.</p> <p>For the graphical representation, plot the ratio, for each year beginning with the baseline year, of total acres in Categories 5-7 divided by total acres in Categories 1-7 as a percentage.</p>

APPENDIX 10 TERMINOLOGY FOR WORK AFTER REMEDIAL DESIGN

The terminology for work in the final stages of remediation was developed to more accurately reflect the status of the site.

Remedial Action-Construction (RA-C) is the period during which the final remedy is being put in place. The end date signifies that the construction is complete, all testing has been accomplished, and that the remedy will function properly. The phase Remedial Action-Operations (RA-O) is the period during which the remedy is in place and operating to achieve the cleanup objective identified in the Record of Decision or equivalent agreement. Any system operation or monitoring requirements during this time should be termed RA-O. Response Complete (RC) signifies that the remedy is in place and the required RA-O have been completed. If there is no RA-O phase, then the RA-C end date will also be the RC date. Once a site is RC, environmental monitoring or review of site conditions and/or maintenance of the remedial action to ensure the remedy is operating as designed is termed Long-Term Management (LTM). "Long Term Management" is reserved for monitoring once a site is RC, and should not be used to refer to monitoring after Remedy in Place (this includes sites for which the selected remedy is natural attenuation).

Components should review Restoration Management Information System data inputs to ensure that data reflect the terminology described herein.



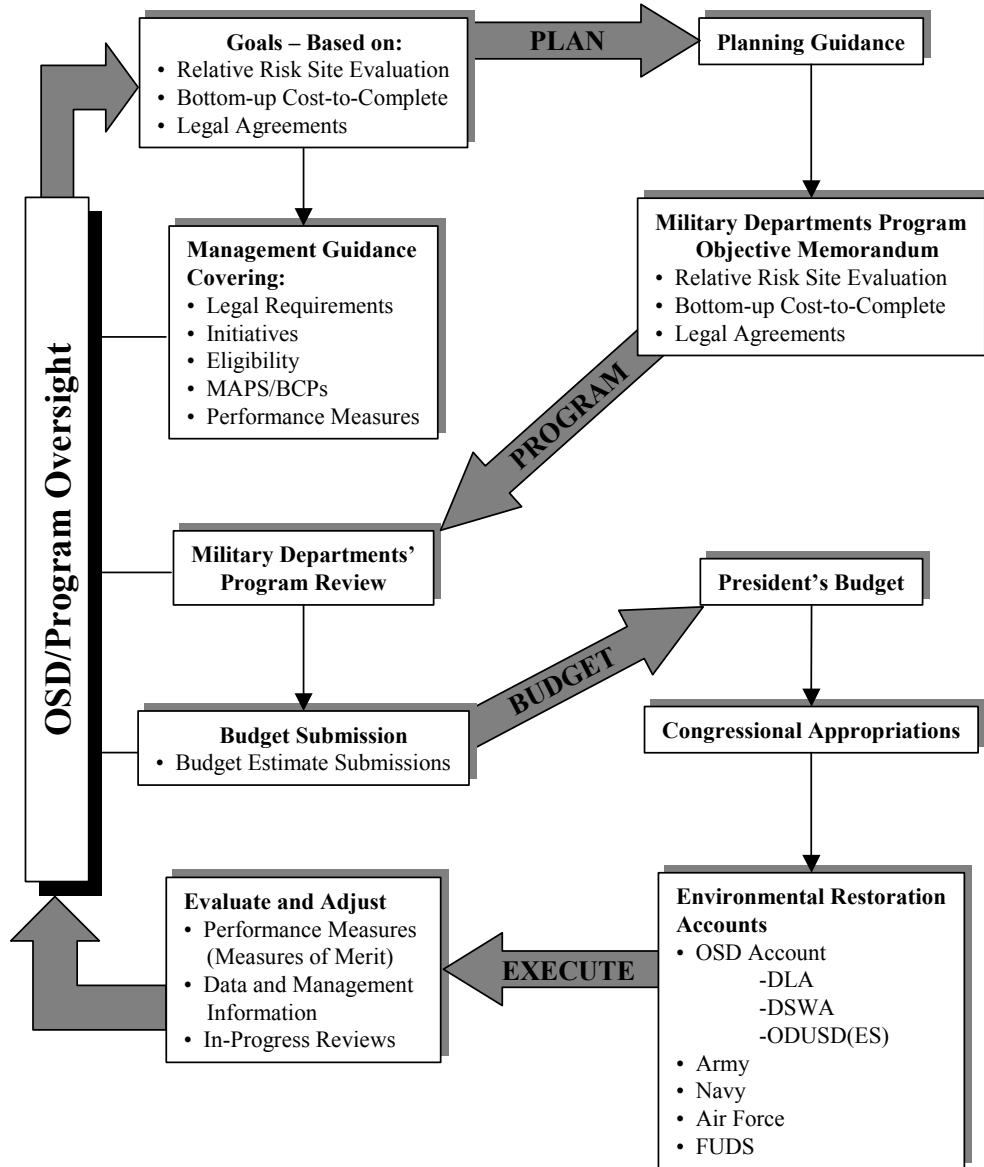
**APPENDIX 11
PROGRAM MANAGEMENT INDICATORS**

1. Environmental Restoration Account and base realignment and closure (BRAC) environmental restoration allocation, obligation and outlays (actual and projected) by quarter
2. Restoration Advisory Board Establishment and Expenditures
3. BRAC Cleanup Team Formation, by BRAC Round (required and accomplished)
4. Agency for Toxic Substances and Disease Registry (ATSDR) Support (Installations with ATSDR health Assessments, number of toxicological profiles developed, planned and completed)
5. Defense and State Memorandum of Agreement Program (number of installations included in program, actual and planned expenditures, by state)

**APPENDIX 12
ENVIRONMENTAL RESTORATION AND BASE REALIGNMENT AND CLOSURE
DATA COLLECTION OVERVIEWS
(with primary data sources)**

Information Requirements	Requested By	Target Dates				Primary Data Source	Information Use
		1st Qtr	2nd Qtr	3rd Qtr	4th Qtr		
Bottom-up cost estimate	ODCP(B/P) DPA&E DUSD(I&E)	X		X		1st Qtr: 15 October 3rd Qtr: 16 May RMIS Tables: Cost (site- and phase-level CTC data)	<ul style="list-style-type: none"> Annual Report to Congress Support program (POM) and budget reviews IPR
Operating, FUDS, or closing installation and site status	DUSD(I&E)			X		1 st Qtr: 16 November 3rd Qtr: 16 May 1st Qtr RMIS Tables: Installation, Range, Site, Cleanup Phase, Progress Narratives, RAB, Legal Agreement, Regulatory Driver, BCP tables, Property Transfer, Land Use tables, Range Classification 3rd Qtr RMIS Tables: Installation, Range, Site, Cleanup Phase, Range Classification	<ul style="list-style-type: none"> Annual Report to Congress MOMs that support DPG goals IPR
Relative-risk and RAC scoring site data (DERA and BRAC)	ODCP(B/P) DPA&E DUSD(I&E)	X		X		1st Qtr: 16 November 3rd Qtr: 16 May RMIS Tables: Media, Contaminant, Munitions Area, Acreage, UXO Ordnance	<ul style="list-style-type: none"> Annual Report to Congress MOMs that support DPG goals Support program (POM) and budget reviews IPR
DERA and BRAC budget formats completed	ODCP(B/P) DUSD(I&E)		X		X	2nd Qtr: 31 January 4th Qtr: 30 September 2nd Qtr: President's Budget Submission/Exhibits RMIS Tables: Budget 4th Qtr: Budget Estimate Submission (BES)/Exhibits	<ul style="list-style-type: none"> Annual Report to Congress Budget estimate submission for budget review IPR President's Budget
Program Objective Memorandum (POM)	DPA&E DUSD(I&E)			X		3rd Qtr: 16 May RMIS Tables: Cost (site- and phase-level CTC data)	<ul style="list-style-type: none"> Program review IPR Establish budget targets
DERA and BRAC funding status (DFAS available monthly)	ODCP(B/P) DUSD(I&E)	X	X	X		Monthly Defense Financial Accounting System (DFAS)	<ul style="list-style-type: none"> Appropriations/Obligations/Outlays for IPR
Issues, concerns, and initiatives	DUSD(I&E)	X	X	X		As necessary Ad Hoc from Components	<ul style="list-style-type: none"> Annual Report to Congress IPR Program Management
MOMs/PMIs	ODCP(B/P) DPA&E DUSD(I&E)	X		X		1st Qtr: 15 December 3rd Qtr: 16 May RMIS Tables: Installation, Range, Site, Cleanup Phase, Range Classification, Media, Contaminant, Munitions Area, Acreage, UXO Ordnance, BCP Tables	<ul style="list-style-type: none"> Annual Report to Congress IPR POM and budget submissions Program management Support DPG goals

APPENDIX 13
 PLANNING, PROGRAMMING, AND BUDGET SYSTEM PROCESS



APPENDIX 14
ENVIRONMENTAL RESTORATION FORMATS AND BUDGET EXHIBITS

To Be Provided Under Separate Cover

**APPENDIX 15
REPROGRAMMING ACTION DD FORM 1415**

Unclassified
CLASSIFICATION

Page 1 of 1 Page

REPROGRAMMING ACTION								
Appropriation Account Title: Environmental Restoration, Army						DoD Serial Number:		
Component Serial Number: FY 97-1 IR		<i>(Amounts in Thousands of Dollars)</i>						
LINE ITEM	Program Base Reflecting Congressional Action		Program Previously Approved by Sec Def		Reprogramming Action		Revised Program	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
a	b	c	d	e	f	g	h	i
<u>INTERNAL ACTION</u>								

DD 1415-3
7 May 90

**APPENDIX 16
THE RISK ASSESSMENT CODE**

BACKGROUND:

These risk assessment procedures were developed by the U.S. Army Engineering and Support Center, Huntsville, Ordnance and Explosives Team (CEHNC-OE) to prioritize the response action(s) at formerly used defense sites. The procedures were developed in accordance with MIL-STD 882C and AR 385-10. The Department of Defense (DoD) is adopting the procedures, as an interim DoD-wide standard, to provide a set of uniform procedures for assessing explosives safety risks at Defense Environmental Restoration Sites (DERP) sites.

Risk Assessment Code (RAC) scores developed using these procedures will be used by DoD for risk assessment at sites suspected to contain unexploded ordnance (UXO) or other explosive safety hazards. The risk assessment should be based on the best available information resulting from record searches, reports of Explosive Ordnance Disposal (EOD) Detachments actions, field observations, interviews, and measurements. This information is used to assess the risk involved based on the *potential* explosives safety hazards identified at the site. The risk assessment is composed of two factors, *hazard severity* and *hazard probability*. Personnel involved in visits to sites with potential explosives safety hazards should view the CEHNC-OE videotape entitled "A Life Threatening Encounter: OEW."

PROCEDURES

• **PART I. HAZARD SEVERITY.**

- Hazard severity categories are defined to provide a qualitative measure of the worst credible event resulting from personnel exposure to various types and quantities of unexploded ordnance.

TYPE OF ORDNANCE: (Circle all that apply)

A. Conventional ordnance and ammunition:	VALUE
Medium/large caliber (20mm and larger)	10
Bombs, explosive	10
Grenades, hand or rifle, explosive	10
Landmine, explosive	10
Rockets, guided missile, explosive	10
Detonators, blasting caps, fuzes, boosters, bursters	6
Bombs, practice (w/spotting charges)	6
Grenades, practice (w/spotting charges)	4

Management Guidance for the Defense Environmental Restoration Program

Landmine, practice (w/spotting charges)	4
Small arms, complete round (.22 cal -.50 cal)	1
Small arms, expended	0
Practice ordnance (w/o spotting charges)	0
Conventional ordnance and ammunition (largest single value)	_____

What evidence do you have regarding conventional unexploded ordnance? _____

B. Pyrotechnics (for munitions not described above): **VALUE**

Munition (containers) containing white phosphorus (WP) or other pyrophoric material (i.e., spontaneously flammable)	10
Munition containing a flame or incendiary material (i.e., Napalm, Triethylaluminum metal incendiaries)	6
Flares, signals, simulators, screening smokes (other than WP)	4
Pyrotechnics (select the single largest value)	_____

What evidence do you have regarding pyrotechnics? _____

C. Bulk High Explosives (not an integral part of conventional ordnance; uncontainerized): **VALUE**

Primary or initiating explosives (Lead Styphnate, Lead Azide, Nitroglycerin, Mercury Azide, Mercury Fulminate, Tetracene, etc.)	10
Demolition charges	10
Secondary explosives (PETN, Compositions A, B, C, Tetryl, TNT, RDX, HMX, HBX, Black Powder, etc.)	8
Military dynamite	6
Less sensitive explosives (Ammonium Nitrate, Explosive D, etc.)	3
High explosives (select the single largest value)	_____

What evidence do you have regarding bulk explosives? _____

D. Bulk propellants (not an integral part of rockets, guided missiles, or other conventional ordnance; uncontainerized): **VALUE**

Solid or liquid propellants 6

Propellants _____

What evidence do you have regarding bulk propellants? _____

E. Chemical Warfare Materiel and Radiological Weapons: VALUE

Toxic chemical agents (choking, nerve, blood, blister) 25

War Gas Identification Sets 20

Radiological 15

Riot Control Agents (vomiting, tear) 5

Chemical and Radiological (select the single largest value) _____

What evidence do you have regarding chemical or radiological? _____

TOTAL HAZARD SEVERITY VALUE (Sum of value A through E
(maximum of 61) _____

Apply this value to Table 1 to determine Hazard Severity Category

TABLE 1: Hazard Severity*

<u>DESCRIPTION</u>	<u>CATEGORY</u>	<u>HAZARD SEVERITY VALUE</u>
CATASTROPHIC	I	21 and/or greater
CRITICAL	II	10 to 20
MARGINAL	III	5 to 9
NEGLIGIBLE	IV	1 to 4
**NONE	V	0

* Apply Hazard Severity Category to Table 3

**If hazard severity value is 0, you do not need to complete Part II of this form. Proceed to Part III and use a RAC score of 5 to determine your appropriate action.

PART II. HAZARD PROBABILITY.

The probability that a hazard has been, or will be, created due to the presence and other rated factors of unexploded ordnance or explosive materials on a formerly used Department of Defense (DoD) site.

AREA, EXTENT, ACCESSIBILITY OF UXO AND OE HAZARDS (Circle all that apply)

A. Locations of UXO and OE hazards:	VALUE
On the surface	5
Within tanks, pipes, vessels, or other confined areas	4
Inside walls, ceilings, or other building/structure	3
Subsurface	2
Location (select the single largest value)	_____

What evidence do you have regarding the location of UXO or OE? _____

B. Distance to nearest inhabited location/structure likely to be at risk from a UXO or OE hazard (road, park, playground, building, etc.)	VALUE
Less than 1,250 feet	5
1,250 feet to 0.5 mile	4
0.5 mile to 1.0 mile	3
1.0 mile to 2.0 Miles	2
Over 2 miles	1

Distance (select the single largest value) _____

What are the nearest inhabited structures/buildings? _____

C. Number(s) of building(s) within a 2-mile radius measured from the UXO or OE hazard area, not the installation boundary	VALUE
26 and over	5
16 to 25	4
11 to 15	3
6 to 10	2
1 to 5	1
0	0

Number of buildings (select the single largest value) _____

Narrative: _____

D. Types of Buildings (within a 2 mile radius)	VALUE
Educational, child care, residential, hospitals hotels, commercial, shopping centers	5
Industrial, warehouse, etc.	4
Agricultural, forestry, etc.	3
Detention, correctional	2
No buildings	0

Types of buildings (select the single largest value) _____

Describe the types of buildings: _____

E. Accessibility to site refers to access by humans to ordnance and explosives. Use the following guidance:	VALUE
No barrier nor security system	5
Barrier is incomplete (e.g., in disrepair or does not completely surround the site). Barrier is intended to deny egress from the site, as for a barbed wire fence for grazing.	4
A barrier (any kind of fence in good repair) but no separate means to control entry. Barrier is intended to deny access to the site.	3
Security guard, but no barrier	2
Isolated site	1
A 24-hour surveillance system (e.g., television monitoring or surveillance by guards or facility personnel continuously monitors and controls entry; or, an artificial or natural barrier (e.g., fence combined with a cliff) which completely surrounds the area; and, a means to control entry at all times through the gates or other entrances (e.g., an attendant, television monitors, locked entrances, or controlled roadway access to the area).	0

Accessibility (select the single largest value) _____

Describe the site accessibility: _____

F. Site Dynamics. This deals with site conditions that are subject to change in the future, but may be stable at the present. Examples would be excessive soil erosion on beaches or streams and increasing land development that could reduce distances from the site to inhabited areas or otherwise increase accessibility. **VALUE**

Expected	5
None anticipated	0

Site Dynamics (select the single largest value) _____

Describe the site dynamics; _____

TOTAL HAZARD PROBABILITY VALUE (sum of largest values for A through F (maximum of 30) _____

Apply this value to Hazard Probability Table 2 to determine the Hazard Probability Level.

Table 2: Hazard Probability

<u>DESCRIPTION</u>	<u>LEVEL</u>	<u>HAZARD PROBABILITY VALUE</u>
FREQUENT	A	27 or greater
PROBABLE	B	21 to 26
OCCASIONAL	C	15 to 20
REMOTE	D	8 to 14
IMPROBABLE	E	less than 8

*Apply Hazard Probability Level to Table 3.

PART III. RISK ASSESSMENT.

The risk assessment value for this site is determined using the following Table. Enter the results of the Hazard Probability and Hazard Severity values.

Table 3: Risk Assessment

PROBABILITY LEVEL		FREQUENT A	PROBABL E B	OCCASIONAL C	REMOTE D	IMPROBABLE E
SEVERITY CATEGORY:						
CATASTROPHIC	I	1	1	2	3	4
CRITICAL	II	1	2	3	4	5
MARGINABLE	III	2	3	4	4	5
NEGLIGIBLE	IV	3	4	4	5	5

RISK ASSESSMENT CODE (RAC)

- RAC 1 High Risk - Highest priority for further action.
- RAC 2 Serious Risk - Priority for further action.
- RAC 3 Moderate Risk - Recommend further action.
- RAC 4 Low Risk - Recommend further action.
- RAC 5 Negligible Risk - Indicates that No DoD action is necessary.

PART IV. NARRATIVE.

Summarize the documented evidence that supports this risk assessment. If no documented evidence was available, explain all the assumptions that were made.
