

**THE DIVISION OF DECOMMISSIONING, URANIUM RECOVERY, AND WASTE PROGRAMS  
DRAFT DESK GUIDE PROCEDURES  
FOR PROJECT MANAGEMENT OF SITES WHICH FALL UNDER THE NRC/DOD  
MEMORANDUM OF UNDERSTANDING**

Introduction

The U.S. Nuclear Regulatory Commission (NRC) is taking a Memorandum of Understanding (MOU) approach for implementing NRC's jurisdiction over the U.S. Department of Defense's (DoD's) remediation of unlicensed Atomic Energy Act of 1954 (AEA) material (including radium). The MOU approach was proposed to the Commission in SECY-14-0082 for DoD sites remediated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) process. Enclosure 4 to SECY-14-0082 provided an outline for an MOU between the NRC and DoD. On December 22, 2014, the Commission agreed that the NRC staff should pursue finalizing an MOU with the DoD and should finalize a RIS for NRC's jurisdiction. On April 28, 2016, NRC and DoD signed the MOU.

NRC Role Under a MOU

The MOU approach includes reliance on the CERCLA process instead of the NRC licensing and decommissioning process and requirements. As a result, NRC's oversight is very different from its normal licensing oversight. Note that the U.S. Air Force and U.S. Navy have Master Materials Licenses (MMLs) and certain sites are permitted under these MMLs. These permitted sites are not under the MOU and would be remediated, decommissioned, and permits terminated using NRC's decommissioning process and requirements.

Two types of NRC involvement will be implemented under an MOU: "stay-informed" and "monitoring" (it is expected that NRC will only use one of these approaches at each site). For sites where the U.S. Environmental Protection Agency (EPA) has regulatory authority (e.g., sites listed on the National Priority List (NPL)) the staff is taking a limited involvement approach to "stay-informed" and relies on the CERCLA process and EPA regulatory oversight. This "**stay-informed**" approach was approved by the Commission for the Navy's Hunters Point site (SRM-SECY-08-0077), and the staff is also using this approach for the Navy's Alameda site and the Air Force's McClellan site. This approach does not involve licensing, and the staff does not conduct licensing reviews. The NRC reserves the option of providing comments to EPA on the military remediation, if necessary, to justify continued reliance on the CERCLA process and EPA oversight.

The second approach for NRC's involvement is "**monitoring**" of sites where there is no federal oversight conducted by EPA (e.g., sites not listed on the NPL). The NRC is prioritizing these sites and conducting the appropriate type and amount of "monitoring" activities for each site based on its priority. "Monitoring" activities include document and data reviews, site observations, and confirmatory radiological surveys. The purpose of this "monitoring" is to provide consistent federal oversight to confirm that DoD's remediation of radioactive material

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using the CERCLA process results in an outcome that is protective of public health and safety and the environment. To accomplish this, NRC “monitoring” determines that NRC’s 25 mrem/yr dose criterion is not exceeded for sites planning for unrestricted release, or for sites with restrictions on future land use and/or engineered controls. NRC is not applying its rules and regulations to these “monitoring” sites, but is relying on the CERCLA process. NRC’s involvement provides independent federal oversight to make certain that the CERCLA process is effectively implemented to ensure protection.

### Purpose and Content of Procedure

Because there are differences between the MOU approach and the normal NRC decommissioning process for NRC licensed sites, the staff has prepared operating procedures to help staff understand how to implement this new MOU approach. This particular procedure addresses project management and consists of the following sections: roles and responsibilities of the Project Manager (PM); general programmatic responsibilities; review of “stay-informed” sites”; and review of “monitoring” sites.” These are initial procedures and are expected to be periodically updated based on staff experience implementing the MOU.

## **1.0 Roles and Responsibilities of a PM**

### **1.1 Project Management Assignments**

A PM will be assigned by the responsible Branch Chief (BC) for designated projects for which the Division of Decommissioning, Uranium Recovery, and Waste Programs (DUWP) has the lead responsibility. A single individual may be assigned as the PM for multiple projects. Such projects include: programmatic topics, and site-specific project management topics.

#### **1.1.1 Programmatic issues for “staying-informed” or “monitoring” DoD CERCLA remediation sites:**

- Guidance development;
- Policy issue identification and resolution;
- Ensuring consistency in NRC reviews;
- Coordinating with Agreement States;
- Coordinating with EPA;
- Meeting with DoD annually to discuss sites for NRC focus; and
- Resolving issues with DoD, as they arise.

#### **1.1.2 Site-Specific Project Management of “staying-informed” or “monitoring” at DoD CERCLA remediation sites:**

- Review and commenting (commenting applies primarily to “monitoring”) on specific documents;
- Understand and consider individual Agreement State issues with the site cleanup;
- Respond to stakeholder concerns about an individual site;
- Performing Tribal outreach (if applicable);
- Track the resolution of NRC technical comments; and
- Issue formal letters to the DoD regarding their remediation.

## 1.2 Project Management Functions

The five principal PM functions are identified and discussed below.

- Planning - Planning is an essential element of project management. Planning can take several forms, from back-of-the-envelope estimates to elaborate project proposals. Planning is not a “once and done” process. Planning is an ongoing function because issues frequently emerge that impact the project’s scope, schedule, and available resources.
- Organizing - The PM is charged with assembling the project team, interfacing with the DoD to ensure all background information is available, and identifying and providing the reference material (e.g., related guidance) and other resources required by the team members. The PM serves as the liaison between the team and the task originator and other support staff (e.g., licensing assistant, Office of the General Counsel (OGC), etc.).
- Directing - The PM has overall responsibility for adherence to procedures and the quality and timeliness of the project’s activities and product(s). The PM will provide technical direction to the team to ensure that project objectives are met. When an issue arises that cannot be resolved within the team, the PM will raise the issue to the BC along with recommendations for resolving the issue. As required, the PM will coordinate with other organizations (e.g., OGC) to resolve the issue and will brief senior managers.
- Project monitoring - The PM will consult with team members to determine the status of the project and its progress against established milestones and due dates. Please refer to Attachment 1 for a template of standardized milestones. The PM will review interim and final project work products for overall quality and compliance with established guidance and procedures. The PM will determine any corrective action identified as a result of project monitoring and direct its implementation.
- Reporting - The PM is responsible for reporting on the status of the project to the BC and other managers as required. Types of reports include informal verbal reports to the BC, site summary reports (updated quarterly on NRC’s public website), updates to program operating plans and status reports, and briefings to senior management and other internal organizations. The need for adjustments in priorities, schedules, or other project activities are promptly identified by the PM and recommended to the BC. If delays are anticipated, the PM will inform the BC of the delay sufficiently in advance of the due date to inform upper management and the management of those groups who need the product, plan alternative courses of action, and reschedule the completion of the product.

## 2.0 General Program Lead PM Responsibilities

- Items listed in Section 1.1.1;
- Discuss annual site inventory format and content with DoD;
- Review and discuss annual site inventory with DoD;
- Identify sites on the inventory for “stay-informed” or “monitoring” and prioritize the “monitoring” sites;
- Annual Meeting with DoD to plan future site activities for the “stay-informed” approach or “monitoring” approach;
- Finalize NRC’s Annual Monitoring Report for Military Site Involvement;

- Coordinate with DoD and EPA management;
- Resolve site specific disputes beyond the DoD site project manager;
- Conduct an annual evaluation of the NRC/DoD MOU implementation effectiveness. The results of this evaluation should be briefed to management and a summary included in the Annual Military Site Monitoring Report and the Annual Decommissioning Report as directed by the Commission in SRM-SECY-14-0082.

## **2.1 Site-Specific PM Responsibilities**

- Items listed in Section 1.1.2.

## **3.0 Review of “stay-informed” Sites**

This section establishes standard procedures for the “stay-informed” approach for sites under the MOU.

### **3.1 General Requirements (Project Tracking and Reporting)**

- Establish milestones to support the Operating Plan.
- Significant project milestones will be tracked in the Operating Plan. The status will be revised at least monthly by the PM and/or BCs to reflect the actual condition of activities. The Operating Plan is maintained by the Licensing Assistants with input from the Division Management.
- A Site Summary Report will be prepared, and updated, by the assigned PM for each decommissioning site no later than the last working day of each quarter. A separate report will be prepared for each site. An example of this report is provided in Attachment 2.
- Reminders will be sent for the PM to update the Site Summary Reports. Once the Site Summary Reports have been updated, the information will be posted on the internet.

### **3.2 Coordination with and Evaluation of U.S. Environmental Protection Agency Oversight**

Each PM should confirm whether an existing site-specific “stay-informed” approach letter with EPA headquarters or the cognizant EPA Region is in place (please see example in Attachment 3). If not, the PM will work to put one into place to inform EPA of NRC’s plans to implement a “stay-informed” approach at a specific site or sites and establish a dialogue for communication and coordination. This agreement may look similar to the Agreement between NRC and EPA regarding the Hunters Point site (see Attachment 3).

Each PM would be responsible for evaluating, each year, NRC’s continued reliance on EPA’s regulatory oversight, primarily through the annual site visits and meetings but also periodic conference calls on emerging issues. Staff concerns, if identified, should be raised to the NRC BC and then to EPA first with informal discussions and, if necessary, a letter should be written to EPA describing NRC’s concerns with EPA’s oversight. There should be a high threshold for the concerns raised that reflect an ongoing deficiency considered by the staff to be a significant difference from how NRC conducts similar oversight. These concerns should affect the level of protection provided by the remediation as documented by the technical staff review.

### **3.3 Determination of Service Provider Jurisdiction**

As part of NRC's "stay-informed" approach, NRC staff should work to determine whether service providers (i.e., contractors performing remediation activities) are under Agreement State jurisdiction, NRC jurisdiction, or a combination of both. A PM should apply the guidance in FSME-14-039, "Clarification On The Determination Of Regulatory Jurisdiction Of Non-Federal Entities Conducting Clean-Up Activities On Federal Property In Agreement States," to determine the site's service provider jurisdiction. In instances where this jurisdiction is split between NRC and an Agreement State at a site, staff from NMSS/ Division of Material Safety, State, Tribal, and Rulemaking Programs (MSTR) and the appropriate NRC Region should be consulted. Further discussions with specific Agreement States may be necessary to confirm the Agreement State's understanding of the split jurisdiction and to discuss the potential coordination of oversight activities, including the exchange of information.

### **3.4 Document Reviews**

Sites under an MOU with the DoD, will not be licensed by the NRC (see SECY-08-0077, SECY-14-0082, and their associated staff requirement memorandums). NRC does not license sites that are on the NPL and instead, relies on DoD's remediation under the CERCLA process and EPA's regulatory oversight. NRC "stays-informed" by reviewing select documents, and meeting with appropriate stakeholders about site remediation activities, including the oversight provided by EPA, and involvement by State agencies. In addition NRC would provide service-provider oversight, for those contractors working under an NRC service provider license to ensure the contractors activities are conducted safely, both for workers and the public.

For DUWP PMs, document reviews should be focused on "staying-informed" (i.e., maintaining an awareness of status) for site areas that are potentially of interest to stakeholders. PMs are requested to focus their reviews in accordance with the Military Radium Site Prioritization Scheme provided in Attachment 4. NRC staff should document their reviews for larger actions using the Template provided in Attachment 5 (or Notes to File, as determined by the PM). These internal reviews are to allow NRC to be able to answer questions related to the cleanup, and for the staff to maintain a general understanding of the progress on important radiological remediation issues. If no major health and safety concerns are identified, NRC staff should not comment to the military or EPA, or make its internal reviews public, as this may drive the appearance of "second-guessing" another Federal Agency. NRC staff reviews may help the staff prepare questions for future site visits. However, it should be noted that if NRC staff does identify potentially significant health and safety implications, NRC staff should comment formally to EPA regarding the concerns as discussed in Section 3.2

### **3.5 Notice of Opportunity for a Hearing**

Since NRC is not licensing these sites, but instead relying on EPA's oversight, there is no need to provide a notice for an opportunity for hearing as is required for licensed sites.

### **3.6 Annual Stakeholder Visits**

NRC staff has typically visited the sites under a “stay-informed” approach and met with stakeholders annually and found this approach effective. These stakeholders have included: a) EPA; b) the appropriate DoD service in charge of remediation; c) the appropriate Agreement State representatives; and d) local governments who will be receiving the land. Through these discussions the staff maintains a general understanding of the progress and views on important radiological remediation issues as well as the completed and planned activities of each organization. The meetings with EPA provide insight about their oversight and an opportunity to discuss and understand differences in the EPA and NRC oversight approaches, which are used for the NRC staff to conclude that NRC can continue to rely on EPA oversight (see section 3.2).

### **3.7 Document and Inform the Public of the Staff “stay-informed” Activities**

In order to keep the public informed about NRC’s activities at sites with the “stay-informed” approach, the following reports (discussed further below) should be prepared.

NRC staff should maintain an updated site summary for each site on NRC’s public website, and ensure that all NRC formal documents regarding the site are publically available (where possible). A summary for all the sites should also be prepared and included in the Annual Decommissioning Report.

The results of the annual site visits should be summarized and incorporated into the NRC’s Annual Monitoring Report for Military Site involvement, which will not be made publically available through ADAMS. The Annual Monitoring Report would summarize the activities conducted, issues reviewed and discussed with stakeholders, important observations, recommendations for future activities, and a conclusion regarding continuing to rely on EPA and the “stay-informed” approach.

When remediation at a site is complete, a letter shall be sent to the appropriate military component, EPA, State Agencies, and future owner of the site documenting NRC’s completion of its involvement using the “stay-informed” approach and that NRC would no longer be involved. In the case of a site where portions of the site might have 5 year reviews conducted as required by CERCLA, NRC would inform the parties of our plans to continue to “stay-informed” about the 5 year reviews (if the controls are necessary to ensure public health and safety regarding AEA material).

### **4.0 Review of “monitoring” Sites**

This section establishes standard procedures for the “monitoring” approach of sites under the MOU.

#### **4.1 General Requirements (Project Monitoring and Reporting)**

- Establish milestones to support the Operating Plan.
- Significant project milestones will be tracked in the Operating Plan. The status will be revised at least monthly by the PM and/or BCs to reflect the actual status of activities. The Operating Plan is maintained by the Licensing Assistants with input from the Division Management.

- A Site Summary will be prepared, and updated, by the assigned PM for each decommissioning site no later than the last working day of each quarter. A separate report will be prepared for each site. An example of this report is provided in Attachment 2.
- Reminders will be sent for the PM to update the Site Summary Reports on the NRC public website. Once the Site Summary Reports have been updated, the information will be posted on the internet.
- Section 2.0 describes the responsibilities of the program lead PM.
- Section 2.1 describes the responsibilities of the site-specific PMs.

#### **4.2 Consultation with the U.S. Environmental Protection Agency**

Each PM should confirm with the cognizant EPA Region, that EPA will not be providing regulatory oversight at the site. Note that there may be some sites that are not listed on the NPL but EPA may have a role under RCRA.

#### **4.3 Determination of Service Provider Jurisdiction**

As part of NRC's "monitoring" approach, NRC staff should work to determine whether service providers are under Agreement State jurisdiction, NRC jurisdiction, or a combination of both. A PM should apply the guidance in FSME-14-039, to determine the site's service provider jurisdiction. In instances where this jurisdiction is split between NRC and an Agreement State, staff from NMSS/MSTR and the appropriate NRC Region should be consulted. Further discussions with specific Agreement States may be necessary to confirm the individual Agreement State's understanding of the split jurisdiction and to discuss the potential coordination of oversight activities, including the exchange of information.

#### **4.4 Document Reviews, Site Observations, and Confirmatory Surveys**

Sites under an MOU with the DoD, will not be licensed by the NRC (see SECY-14-0082 and the associated Staff Requirements Memorandum). Instead, NRC will identify sites for either "staying-informed" or "monitoring". This section addresses "monitoring" reviews for aspects of the site.

DoD is ultimately responsible for the release of these sites under their CERCLA authority as the "Lead Agency". NRC, as part of its site "monitoring," is not formally releasing properties that are being remediated under CERCLA. While NRC's independent reviews add confidence that the outcome of the site cleanup is protective of public health and safety, NRC's reviews cannot guarantee that all areas of a base meet the NRC's dose criterion. Instead, NRC staff is applying a Graded Approach<sup>1</sup> to site "monitoring", by performing technical reviews on the aspects/areas of a site with the potentially highest consequences to public health and safety. If NRC staff's review of a specific site area generates significant concerns, NRC staff will expand their reviews to the entire site, as necessary.

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<sup>1</sup> Please see SECY-14-0082 for a discussion on NRC's Graded Approach to monitoring.

DUWP PMs should focus their activities in accordance with the Military Radium Site Prioritization Scheme provided in Attachment 4. After sites are prioritized for review, the site PM will coordinate with the Programmatic PM annually to discuss NRC's priorities for "monitoring" that fiscal year.

NRC staff should primarily use three vehicles for formal communications with the DoD regarding their draft CERCLA documents for remedial action: 1) Requests for additional information (RAIs) or comments on DoD's remedial actions (to be transmitted within 30-60 days); 2) A Final Technical Evaluation Report to document aspects of the site reviewed (please see Attachment 5); and 3) Results and comments or conclusions from any site observations or confirmatory surveys.

#### **4.4.1 Requests for Additional Information or Comments on DoD's remedial actions (to be transmitted within 30-60 days)**

Technical reviews of submittals invariably result in comments concerning the information provided and/or the lack thereof. These comments will be documented as RAIs. The following guidance applies to preparing an RAI. NRC staff should review and comment on the selected DoD's draft CERCLA documents. Per the MOU, these documents should be made publicly available. These comments should be limited in scope to aspects of the remediation that relate to a potential exceedance of the 25 mrem/yr dose criterion in 10 CFR 20.1402 and 10 CFR 20.1403. There should be a high threshold for making a comment. Minor comments should not be made. Comments related to other aspects of NRC's regulations are outside of the scope of the NRC/DoD MOU. Within thirty to sixty (30-60) calendar days of documents being docketed within ADAMS, NRC staff should transmit its comments related to the DoD's cleanup. This timeframe will be consistent with DoD's review schedules with other Federal Agencies. Attachment 6 provides example RAIs.

Consider holding a meeting or conducting a telephone conference with the DoD early in the review process and prior to transmittal of the RAI to identify and discuss significant issues/deficiencies. Also conduct telephone conferences with the DoD during the review to clarify issues and answer simple questions.

Highlight significant issues/deficiencies for NRC management attention as they arise. Annotate significant issues in the RAI concurrence package.

Unless brief, the RAIs should normally be included as an enclosure to a letter to the DoD. General RAIs, if any, should be segregated from specific comments. A consistent numbering scheme should be used to uniquely identify RAIs to facilitate later reference.

In the cover letter the staff should:

- Identify the document being reviewed and any previous RAIs;
- Summarize significant RAIs;
- Refer to the enclosure(s) for the complete RAIs; and
- Identify the point of contact for the response.

RAIs should:

Be in the form of a request for information, clarification, or revision to the DoD's draft document. The individual comments should be in the form of statements, not questions; Be as specific as possible to avoid confusion by the DoD; and Reference specific portions of regulations and/or guidance, when applicable. In all cases, the technical basis (e.g., reference to a specific regulation or guidance as applicable) for the requested information should be included for each comment.

Pending RAI responses, staff should:

Meet or hold telephone conferences with the DoD shortly before transmittal of the RAI to discuss the areas requiring additional information and our expectations. This discussion should also clarify when DoD will respond to NRC's RAIs. Conduct telephone conferences with the DoD to discuss technical issues and possible resolution, and determine the status of development. Report issues that may impact the schedule or require management action (e.g., policy decision) as they arise.

A draft Final Technical Evaluation Report for aspects of the site reviewed should be prepared prior to transmittal of the RAI. The purpose of this draft Final Technical Evaluation Report is to ensure that all technical areas are addressed in the RAI. The draft Final Technical Evaluation Report will be retained by the PM and will not be transmitted to the DoD.

#### **4.4.2 Final Report of "monitoring" activities**

A Final Technical Evaluation Report is needed to document the completion of major MOU "monitoring" activities at the site. A draft Final Technical Evaluation Report is required to support the RAIs. The purpose of the Final Technical Evaluation Report is to document the evaluation conducted by the staff to reach its conclusion. Each Final Technical Evaluation Report will conclude with an overall summary of the staff's findings related to the dose criterion in 10 CFR 20.1402 or 10 CFR 20.1403(b).

PMs, at their discretion, may choose to document NRC's reviews in Notes to File for NRC's review of smaller actions.

##### **4.4.2.1 Final Site Dose Assessments**

As part of this "monitoring" process, the staff should develop an estimate of the potential dose from residual radioactivity at the site, using information provided in the DoD survey reports and from the results of any confirmatory measurements made by the staff or its contractors. It is expected that the estimated/final site dose will be included in the Final Technical Evaluation Report for the review of each site action.

##### **4.4.3 Site Observations**

Site observations are another name for inspections conducted under the MOU because the "monitoring" sites are not licensed. NRC staff would prepare for and conduct site observations much the same as done for normal inspections for a licensed site. For more information on site observations, please see the corresponding staff procedure on Monitoring Procedures.

#### **4.4.4 Confirmatory Surveys**

Confirmatory surveys are the same as those conducted for licensed sites. See the developed Monitoring Procedures for details on conducting confirmatory surveys.

#### **4.5 Notice of Opportunity for a Hearing**

Since NRC is not licensing these sites, but instead relying on the CERCLA process, there is no need to provide a notice for an opportunity for hearing as is required for licensed sites.

#### **4.6 Stakeholder Visits**

NRC staff should visit the site and become familiar with the work activities. Coincident with the site visits, stakeholder outreach should be performed by meeting a) the appropriate DoD service in charge of remediation; b) the appropriate Agreement State representatives; c) other State agency representatives involved with the radiological remediation activities, and d) local governments who will be receiving the land.

NRC staff should determine whether there are any federally recognized Tribes near the site, and determine an appropriate amount of outreach. Similarly, NRC staff should consider holding a public meeting as NRC first becomes involved at a specific site.

These site visits will help NRC staff focus on the ongoing remediation and aspects of the site that may be of concern to the stakeholders.

#### **4.7 Environmental Reviews**

Since NRC staff is providing comments to DoD within the CERCLA process, and is not formally licensing the sites, NRC is not taking a Federal action. As a result, NRC staff does not need to comply with NEPA for its activities under the MOU.

Courts also consistently have recognized that EPA procedures or environmental reviews under enabling legislation are functionally equivalent to the NEPA process and thus exempt from the procedural requirements in NEPA.

#### **4.8 Consultation and Coordination with State Agencies**

As part of this MOU effort, NRC staff will obtain an annual site inventory from the DoD. This inventory will list the Bases/Sites with confirmed unlicensed AEA materials and the CERCLA stage of remediation. NRC will be reaching out to individual Agreement States with ongoing DoD remediation of unlicensed AEA material. NRC will be seeking the State's perspective on: 1) Base/Site focus areas for NRC to consider as part of NRC's "monitoring" approach; and 2) The availability of the Agreement State to voluntarily provide comments to the NRC (within the scope of the MOU), regarding the DoD's CERCLA remediation actions. The intent of this future effort to coordinate with individual Agreement States is to leverage current State knowledge and

involvement at the Base/Site. Current State involvement at these Bases/Sites could be through existing State efforts under CERCLA, or State oversight of service providers. For further discussion on the State's jurisdiction of service providers on Federal property, please see FSME-14-039.

Attachments: As Stated