Department of Energy
Environmental Protection Agency
Washington, D.C.

SEP 25 2002

MEMORANDUM

SUBJECT: Clarification to 1998 Agreement Regarding the National Remedy Review Board Review Criteria for Department of Energy Non-Time Critical Removal Actions

FROM: Patrice M. Bubar, Associate Deputy Assistant Secretary
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United States Department of Energy

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TO: Distribution

Purpose

The purpose of this memorandum is to provide additional clarification on the applicability of the October 5, 1998, joint Environmental Protection Agency (EPA) and the Department of Energy (DOE) agreement on DOE decommissioning projects titled *Review of Department of Energy Non-Time Critical Removal Actions by the National Remedy Review Board.*

In summary, response actions conducted as non-time critical removal actions (NTCRA) that involve the decommissioning of facilities do not require National Remedy Review Board (NRRB) review unless the estimated costs of the *non*-decommissioning activities are estimated to exceed $30 million.

Background

On October 5, 1998, the DOE and the EPA issued the above joint agreement announcing that DOE NTCRAs are subject to NRRB review whenever the action is estimated to cost more than $30 million.

The DOE and EPA had previously issued a joint policy on May 22, 1995, titled *Policy on Decommissioning of DOE Facilities Under Comprehensive Environmental Response Compensation and Liability Act (CERCLA)* which states that generally, DOE decommissioning

should be done as NTCRAs.[1] A key reason for promoting the use of NTCRAs for decommissioning activity is that available cleanup alternatives are typically clear and very limited. Thus, the agencies have concluded there would be little benefit in having the NRRB review such decommissioning actions. It was not the intent of DOE and EPA to have the October 5, 1998, agreement apply to the decommissioning of facilities, but rather to apply to actions addressing contaminants in environmental media (e.g., air, soils, surface water, and ground water).

Implementation

The DOE field and EPA regional personnel should continue to submit the DOE NTCRAs, which do not address decommissioning of facilities, for NRRB review whenever the NRRB threshold criterion of $30 million is met. The NTCRAs involving the decommissioning of facilities should not be submitted for the NRRB review unless the estimated cost of the *non*-decommissioning portion of the action exceeds the NRRB review criteria.

The DOE field and EPA regional personnel are reminded that the NRRB review criteria for DOE **remedial** actions remain at: 1) $75 million estimated cost regardless of whether the action includes decommissioning activity; or 2) the action is estimated to cost more than $25 million and is 50 percent greater in cost than the least costly, protective, cleanup alternative that complies with other laws or regulations applicable or relevant and appropriate to the response regardless of whether the action includes decommissioning activity.

Contacts

Any questions or comments may be directed to Mr. Bruce Means, Office of Emergency and Remedial Response, EPA, at (703) 603-8815; Mr. Tim Mott, Federal Facilities Restoration and Reuse Office, EPA, at (703) 603 8807; or Mr. Steve Golian, Office of Technical Program Integration, DOE, at (301) 903-7791.

cc:
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[1]Decommissioning includes those activities that take place after a facility has been deactivated and placed in an ongoing surveillance and maintenance program. Decommissioning can include decontamination, dismantlement, or entombment. For the purpose of this policy statement, decontamination encompasses the removal or reduction of radioactive or hazardous contamination from buildings and structures *but not from environmental media such as air, soils, surface water, and/or ground water*. Dismantlement involves the disassembly or demolition, and removal, of any structure, system, or component and the interim or long-term disposal of waste materials in compliance with applicable requirements.

Deactivation is the process of placing a facility in a safe and stable condition that is protective of workers, the public, and the environment until decommissioning is initiated. As the bridge between operation and decommissioning, deactivation can accomplish operations-like activities such as final process runs, and also decontamination activities aimed at placing the facility in a safe and stable condition.

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