12.04 - 10/18/89 - 00579

DEPARTMENT OF THE NAVY

NAVAL FACILITIES ENGINEERING COMMAND

200 STOVALL STREET

ALEXANDRIA, VA 22332-2300

IN REPLY REFER TO

5090
181A
18 OCT 1989

From: Commander, Naval Facilities Engineering Command

Subj: MANAGEMENT GUIDANCE FOR EXECUTION OF THE FY 1990/91 DEFENSE ENVIRONMENTAL RESTORATION PROGRAM (DERP)

Ref: (a) ODASD(E) ltr of 12 Jul 89; same subject

Encl: (1) ODASD(E) ltr of 29 Sep 89; same subject

1. Enclosure (1) is forwarded for your review. This management guidance outlines the types of projects eligible and ineligible for Defense Environmental Restoration Account funding during FY 1990/91. When reviewing the enclosed management guidance, please keep in mind that even though Building Demolition/Debris Removal is listed as an eligible project, as in FY 1988/89, ODASD(E) does not expect to allocate funds for this program during FY 1990/91 due to other higher priority cleanup activities. We recommend you attempt to get other funds to demolish buildings.

2. Reference (a) requested comments concerning the proposed Management Guidance for Execution of the FY 1990/91 DERP. Based on Navy comments, ODASD(E) revised the draft guidance in the following areas:

- Deleted discussion of advantages/disadvantages of centralized/decentralized approaches for implementing the Defense Priority Model and Defense Priority System. ODASD(E) modified and updated this section of the guidance.

- Modified the language for Base Closure/Realignment Requirements and Property Transfer Procedures to permit cleanup of an Installation Restoration (IR) site regulated as a solid waste management unit.

- Changed the guidance concerning Activities Eligible for DERP - IR Program - to allow for an additional 8 years of operation and maintenance costs for operation of remedial and monitoring systems.

- Deleted costs of operation and maintenance of remedial and monitoring systems from Activities Not Eligible for DERP.

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Subj: MANAGEMENT GUIDANCE FOR EXECUTION OF THE FY 1990/91 DEFENSE ENVIRONMENTAL RESTORATION PROGRAM (DERP)

3. We are looking at enclosure (1) in further detail and will provide additional guidance at a later date. Our point of contact is Bill Judkins, Code 181A, commercial (202) 325-8176 or A/V 221-8176.

J. A. Rispoli

J. A. RISPOLI
Assistant Commander for
Environment, Safety & Health

Distribution:
COMLANTNAVFACENGCOM (115)
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THE OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE

WASHINGTON, D.C. 20301-8000

PRODUCTION AND LOGISTICS

SEP 29 1989

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MEMORANDUM FOR DEPUTY ASSISTANT SECRETARY OF THE ARMY, ENVIRONMENT, SAFETY AND OCCUPATIONAL HEALTH, OASA (I&L)
DEPUTY DIRECTOR FOR ENVIRONMENT, OASN (S&L)
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE (ENVIRONMENT, SAFETY AND OCCUPATIONAL HEALTH), SAF/RQ
DIRECTOR, DEFENSE LOGISTICS AGENCY (DLA-W)
ASSISTANT CHIEF OF ENGINEERS (DAEN-ZCZ-A)

SUBJECT: Management Guidance for Execution of the FY 1990/91 Defense Environmental Restoration Program (DERP)

DoD policy and management guidance for execution of the Defense Environmental Restoration Program (DERP) and the transfer account in FY 1990 and FY 1991 are provided in this memorandum and in the Attachments.

Defense Environmental Restoration Program (DERP) funds may be used for Installation Restoration (IR), for Other Hazardous Waste Operations (OHW) and for Building Demolition/Debris Removal (BD/DR). Installation Restoration Program activities must be given highest priority, and we must demonstrate DoD's policy of addressing the worst sites first.

Within the IRP there are several areas we should emphasize during FY 1990/91 with an overall goal of protecting human health and preventing deterioration of our environmental resources:

- Take removal actions immediately upon discovery of an imminent and substantial threat to human health or the environment.

- Conduct Preliminary Assessments (PA) in a systematic and comprehensive manner at those installations which, due to past activities, have increased potential for contamination problems.

- Take interim actions or stabilization measures through the removal process to prevent deterioration of site conditions and save life cycle costs.

- Demonstrate a bias for action by initiating removal or interim remedial activities at our most serious sites

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Enclosure (1)

as quickly as possible, and tailoring RI/FS work to identify in a cost effective manner, the preferred remedy at a site consistent with appropriate National Contingency Plan and State requirements.

- Strive to accomplish final remedial actions at our most serious sites.

- Cooperate and coordinate program activities as appropriate with Federal, State and local agencies. Enter Interagency Agreements in accordance with OSD guidance and follow conditions in Defense and State Memorandums of Agreement.

- Conduct research and development for cost-effective technologies which address DoD unique problems or have widespread applicability within DoD.

- Improve program databases. Each Component must maintain accurate and up-to-date status and funding information on individual sites at all installations, and provide these data to ODASD(E) for entry into the Interim DERP Management Information System (I-DERPMIS).

- Identify sites for which no further action is necessary. Work with EPA and States to identify, and develop supporting documentation for sites which can be closed out. Identify these sites for ODASD(E) for entry into the I-DERPMIS.

- Build and maintain community involvement in program activities.

Within OHW, DERP efforts should be directed toward:

- Initiating hazardous waste minimization and recycling efforts, with a goal of integrating these concepts into all DoD mission programs.

The efforts identified above should be pursued within established program priorities described in the Attachment.

Program oversight by this office will be primarily through quarterly In-Progress Reviews (IPRs) and the I-DERPMIS. A list of discussion topics and information requirements for the IPRs is provided at Attachment 2. A list of additional issues for discussion will be disseminated prior to each IPR.

This guidance is effective immediately. It supersedes my memorandum of December 9, 1988 on the same subject. This guidance will be incorporated into a DoD Instruction.

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- Strive to accomplish final remedial actions at our most serious sites.

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Forward two copies of implementing instructions to this office within 60 days.

William H. Parker, III, P.E.
Deputy Assistant Secretary of Defense
(Environment)

Attachments

cc: ENVR-E
CEMP-R
OP-45
AF/LEEV
HQMC/LFL

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DEFENSE ENVIRONMENTAL RESTORATION PROGRAM (DERP) MANAGEMENT GUIDANCE

Background

The Defense Environmental Restoration Program (DERP) provides centralized management for the cleanup of DoD hazardous waste sites consistent with the provisions of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the Superfund Amendments and Reauthorization Act of 1986 (SARA), and the National Contingency Plan (NCP) and Executive Order 12580. The goals of the DERP are stated in 10 USC 2701 and consist of the following:

(1) The identification, investigation, research and development, and cleanup of contamination from hazardous substances, pollutants and contaminants.

(2) Correction of other environmental damage (such as detection or 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 DoD at sites formerly used by or under the jurisdiction of the Secretary.

Component Executive Program Manager

In support of the above goals, the DoD Component authorities and responsibilities for executing DERP policy and guidance should be centralized by each Component under an Executive Program Manager, and include the following:

Develop Component implementing instructions and management guidance for the DERP consistent with DoD policy. Monitor execution of the program. Provide information to DASD(E) on program activities and progress, including at a minimum, quarterly updates of the I-DERPMIS.

Prepare, submit, defend and monitor execution of the budget consistent with OSD guidance and Defense appropriation language.

Select preferred alternatives for remedial action at sites, and sign and execute Records of Decision and comparable documents.

RECOMMENDED BY EXECUTIVE MANAGER FOR DEFENSE

Conduct studies and take action to prevent long-range environmental problems for which restoration would be required. This shall include, but not be limited to, waste reduction/minimization initiatives, and research, development and demonstration (RD&D) efforts with respect to hazardous waste.

Review and evaluate management or technical elements of the DERP. Develop and improve methodologies and procedures for conducting program activities such as site investigations, risk assessments and evaluation of waste treatment options.

Identify funding requirements in each DERP sub-element and make determinations regarding their eligibility consistent with OSD policy guidance. Submit to DASD(E) requests for allocations by sub-elements and appropriation in accordance with Defense Budget Guidance Manual 7110-1-M.

Ensure that funds transferred from the Environmental Restoration, Defense appropriation into Component appropriations via reprogramming actions (DD Form 1415-3) are expeditiously processed and made available for environmental restoration activities consistent with this guidance. Funds transferred will be managed in accordance with procedures established for the appropriation to which they are transferred.

Execute program to meet the following obligation targets for immediately executable work: First Quarter - 20% of Component's allocation; Second Quarter - 50% of Component's allocation; Third Quarter - 75% of Component's allocation; Fourth Quarter - 100% of Component's allocation.

Ensure program execution consistent with DoD's worst-first policy. Make determinations concerning priority of requirements within DERP in accordance with this guidance and allocate funds within a sub-element to meet priorities.

Identify emergent requirements proposed for accomplishment within DERP sub-elements and reallocate funds accordingly. Report these new, previously unprogrammed requirements at (IPRs).

Represent the Component at DASD(E) IPRs.

Ensure coordination of program activities with the Environmental Protection Agency and State agencies.

Assist ODASD(E) in its central management of DoD and State Memorandums of Agreement (DSMOAs) and Cooperative Agreements (CAs) by: (a) ensuring that required information on planned Environmental Restoration funded activities and total cost

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to complete is maintained for each installation and provided to the States and to DoD; (b) reimbursing States on an equitable basis for services provided.

Ensure that actions necessary to protect human health and the environment are taken prior to property transfer from the U.S. to any other person or entity in accordance with CERCLA Sec. 120(h).

The Executive Program Manager may delegate functional authority to execute the DERP consistent with this guidance through command channels.

Program Sub-Elements and Priorities

The DERP is comprised of three prioritized sub-elements -- Installation Restoration (IR), Other Hazardous Waste Operations (OHW) and Building Demolition and Debris Removal (BD/DR). All DERP requirements are assigned to a sub-element (IR, OHW, BD/DR) and priority ranking category (A, B, etc.), and within each category are ranked in descending order of precedence. These are further described below. Each sub-element has separate priority categories and is funded independently. Components should adhere to these priorities to the maximum extent possible when selecting requirements for funding. Components may re-prioritize requirements within a DERP sub-element provided funding ceilings are not exceeded. If priorities warrant, funding adjustments between IRP and OHW will be considered. The requesting DoD Component shall justify fully in writing to the DASD(E) these adjustments in terms of competing requirements and the impact upon the sub-element being reduced. The DASD(E) retains final authority to review and evaluate requirements, and approve in writing funding shifts between the DERP sub-elements.

Installation Restoration Program (IRP)

The IRP is a comprehensive program to identify, investigate and clean up contamination at currently controlled installations (including off the installation where contamination has migrated), and at formerly-owned or used properties. This program is focused on cleanup of contamination associated with past activities to ensure that we eliminate threats to public health and restore our natural resources for future use.

The RD&D effort for innovative and cost effective cleanup technology is to be carried out in cooperation and consultation with the EPA (10 USC 2702).

The following priorities are established for IRP activities. In general, Priority A work should be funded before Priority B

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and C work. Components should develop annual workplans which include a mix of activities among the three priority levels, since some Priority B and C work must be funded.

IRP Priority A.

- Removal actions upon discovery of an imminent threat due to hazardous or toxic substances or unexploded ordnance (UXO);
- Interim actions and stabilization measures taken to prevent site deterioration and achieve life cycle cost savings;
- Remedial Investigations/Feasibility Studies (RI/FS) at sites listed or proposed for listing on the National Priorities List and Remedial Designs/Remedial Actions (RD/RA) necessary to comply with SARA.

IR Priority B. Other RI/FS and RD/RA work. (Includes response actions at solid waste management units which meet the definition of past disposal sites under CERCLA/SARA).

IR Priority C. Pre-remedial work for discovery and notification programs; inventory programs; non-site specific work, such as program management, RD&D of innovative and cost-effective cleanup technology.

Key Issues in Interagency Agreement Negotiations

Components shall coordinate IRP activities with the EPA and States, enter into Interagency Agreements and comply with Defense and State Memorandums of Agreement (DSMOAs) in accordance with OSD guidance. The following issues should be considered during the negotiation process:

Agreements for Response Activities - Any agreements which could potentially involve use of DERP funds must reference potential Anti-Deficiency Act limitations on performance and state that in the event of a shortage of funds, a prioritization process will occur. Such agreements include, but are not limited to, Interagency Agreements with EPA, States or other governmental organizations, or agreements involving remedial actions with private parties. Where the Agreement involves a state that has signed a DSMOA, reference to the funding language in the DSMOA will suffice.

Coordination of Agreements - Any agreements envisioning use of DERP funds shall use language from the approved model agreements and DSMOAs to the maximum extent possible. Military Components and Defense Agencies shall endeavor to coordinate any language which deviates from the model language with the other

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Components at the earliest possible time. Before an agreement is forwarded to the approval authority for signature, the Component proposing such agreement must forward a copy of the agreement to the office or person designated by each of the components, ODASD(E) AND OAGC(L), with a cover memo highlighting any deviations from previously approved model language and any provisions which may set a precedent for DoD or the other components. If no objection is received within 72 hours after receipt of the agreement and memo by each of the designated offices, the agreement may be signed. OAGC(L) will work on behalf of the DASD(E) to resolve any inter-component issues related to IAGs and involve the DASD(E), if warranted. DASD(E) has authority to resolve any objections related to conduct of the Defense Environmental Restoration Program which cannot be resolved among the parties.

Agreement Data Base - An ASCII format copy of each Interagency Agreement and any other significant response action agreement entered into by the Components will be forwarded within 15 days to the Air Force for inclusion in a data base maintained on the Federal Legal Information Through Electronics System. The system will be accessible and usable by the Component offices involved in negotiating and executing such agreements.

Other Hazardous Waste Program

This sub-element provides funds for hazardous waste reduction equipment, process changes, and other hazardous waste minimization initiatives; for RD&D of hazardous waste minimization technology, including unexploded ordnance (UXO) detection and range clearance; and for other one-time environmental restoration expenses related to the cleanup of contamination from hazardous substances. Excludes operations and maintenance properly chargeable to base operations support.

Environmental Restoration Program funds for implementing the Hazardous Material Pollution Prevention Directive (DoDD 4210.15) will be phased out over the next 5 fiscal years because of the integration of hazardous material management into DoD mission programs. Office of Management and Budget Circular A-106 forms shall be used to identify funding requirements.

OHW Priority A.

- Procurement of equipment and conduct of studies for hazardous waste minimization that have broad Component-wide applicability or substantially reduce waste within a Component; including data collection, training and technology transfer efforts in support of hazardous waste minimization.

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- Studies and support for toxicological data collection and methodology on risk exposure of hazardous waste generated by the DoD.

OHW Priority B. RD&D of hazardous waste management, treatment or disposal methods; including hazardous waste minimization (10 USC 2702).

OHW Priority C. DoD support to the Agency for Toxic Substances and Disease Registry for toxicological profiles for unregulated hazardous substances commonly found on DoD installations and DoD support to EPA for health advisories concerning drinking water contaminants, beyond that required by statute.

OHW Priority D. RD&D of UXO detection and range clearance technology.

OHW Priority E. Other OHW requirements not classified by the above categories.

Building Demolition/Debris Removal Program

Includes demolition and removal of unsafe buildings or structures at current installations and at formerly-owned or used properties.

The DASD(E) does not expect to allocate funds to BD/DR during FY1990/91 due to other higher priority cleanup activities.

Management Information System

The I-DERPMIS, which contains site data provided by the Components, is used by ODASD(E) as an important tool for program management and oversight. It is also the primary source of information for the DERP Annual Report to Congress required under 10 USC 2706 and SARA S.120(e) and for responding to inquiries. Thus, it is imperative that the I-DERPMIS data accurately reflect program status and be consistent with Component's own program data. Components shall ensure that the I-DERPMIS data are complete and accurate, and are updated no less frequently than quarterly.

A limited number of new data fields will be added to the I-DERPMIS, including information associated with DSMOAs such as site category and total cost to completion. Components will be required to provide corresponding data.

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Defense Priority Model (DPM) and Defense Priority System (DPS)

During FY 1989, DoD made improvements to the DPM based on comments received from regulatory agencies. Beginning in FY 1990, the DPM will be used by DoD to assess the relative risk to human health and the environment of sites which are ready for Remedial Design/Remedial Action (RD/RA) under the IRP.

Components shall score all sites for which RD/RA (including interim actions taken during or post-RI/FS) could be executed during the upcoming fiscal year using the procedures described in "Defense Priority Model User's Manual." Prior to the start of the fiscal year, Components should develop and provide to ODASD(E), a list of executable RD/RA projects based on DPM site scores. The list should include the cost (for that fiscal year) for each project, and proposed amounts to be funded/unfunded under target funding levels. Component lists will be reviewed by ODASD(E) and funding priorities will be determined jointly by the DASD(E) and Component Executive Program Managers.

Development work has been initiated on a DPS which would incorporate other considerations such as regulatory responsiveness, mission impact and program efficiencies into the decisionmaking process.

Military Construction (MILCON)

Hazardous waste cleanup projects which, because of the type of work involved, are classified as military construction should be programmed and budgeted for in the normal military construction account. In those cases where use of normal military construction procedures will result in a substantial danger to public health, welfare or the environment, the project may be proposed for funding in DERP. These written requests should be submitted to the DASD(E) and be accompanied by:

The justification for and current estimate of the cost of the project.

The justification for carrying out that project under the DERP.

These requests will be made only for current year DERP funding, since the budget year funding should be accommodated in the normal military construction budget process.

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Compliance with the National Environmental Policy Act (NEPA)

The proposal to clean up a contaminated site is a DoD action subject, by policy, to the requirements of NEPA and its implementing regulations. To the maximum extent practicable, the procedural and public involvement requirements of the National Contingency Plan and NEPA regulations should not be duplicated. The processes should be merged. The implications of our actions for natural resources and wildlife ecology should be carefully examined as the environmental assessment process would dictate.

Base Closure/Realignment Requirements and Property Transfer Procedures

Cleanup requirements associated with base closure/realignment may be programmed and accomplished under the DERP. However, if base closure locations or timetables are not consistent with worst-first priorities or if cleanup involves activities not eligible for Environmental Restoration funding, such as closure of treatment, storage, or disposal units which received a final RCRA operating permit, unless such a unit was constructed and permitted as part of a SARA response action, then these cleanups or activities must be funded by the Components from other fund sources.

In general, a DoD Component which accepts accountability of property excessed by another DoD Component shall be responsible for IRP actions at the property. The losing Component is responsible for conducting a baseline survey to establish the contamination status of the site and providing the gaining Component all IRP reports and a history of actions taken prior to the transfer of the property. DoD Components will not accept property excessed by another federal agency without that Agency having met the requirements of SARA Sec 120(h). This policy does not preclude Components from making separate agreements regarding IRP execution for particular properties (e.g., in some cases the losing Component may continue to manage the IRP).

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Activities Eligible for DERP

Installation Restoration Program:

Investigations to identify, confirm and determine the risk to human health and the environment; feasibility studies; remedial action plans and designs; and removal or remedial actions.

Research, development and technology demonstrations necessary to conduct cleanups.

Expenses associated with cooperative multi-party cleanup plans and activities.

Remedial actions to protect or restore natural resources damaged by contamination from past hazardous waste disposal activities.

Cleanup of low level radioactive waste sites which have been identified as IRP sites.

Management expenses associated with the IRP, including civilian salaries and training.

Operation and maintenance costs for the first ten years of operation of remedial systems and monitoring systems.

Immediate actions necessary to address health and safety concerns such as providing alternative water supplies or treatment of contaminated drinking water, when the hazard results from a release from DoD property.

Studies to locate underground tanks not used since January 1984 and activities to determine actual or potential contamination.

Cleanup of contamination believed to be harming human health or the environment resulting from tanks not used since January 1984, unless such cleanup is incidental to tank replacement.

Cleanup of contamination believed to be harming human health or the environment resulting from tank leaks which occurred prior to March 1, 1986, unless the cleanup is incidental to tank replacement. Components must have evidence that tanks were leaking prior to March 1, 1986. NOTE: Beginning in FY92, Components should program cleanups for currently operating tanks in other appropriations.

CERCLA response actions necessary prior to base closure, realignment, or excess of real property assets.

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Response actions at solid waste management units which would meet the definition of a past disposal site under CERCLA/SARA.

Studies and support for RD&D of innovative and cost effective technologies for cleanup of hazardous waste sites, for DoD-unique wastes or other techniques widely applicable to DoD.

Response actions at third party sites where DoD is in receipt of a Potentially Responsible Party (PRP) letter.

State support services provided in accordance with a signed Interagency Agreement or a Cooperative Agreement under a DSMOA.

Other Hazardous Waste Operations:

Procurement of equipment and conduct of studies to minimize hazardous waste generation that have broad Component-wide applicability or substantially reduce wastes within a single Component.

Data collection, training and technology transfer efforts which support waste minimization.

Research, development, studies, and technology demonstrations related to hazardous waste minimization, recycling, treatment or disposal needs.

Studies and support for toxicological data collection and methodology on risk of exposure to hazardous wastes.

Studies and support for commonly found unregulated hazardous substances by HHS (ATSDR) and for DoD Health Advisories by the EPA.

Building Demolition and Debris Removal:

The demolition of buildings or the removal of debris which constitute a safety hazard on lands formerly used by the DoD, provided such lands were transferred to state or local governments or native corporations.

The demolition of buildings or the removal of debris which constitute a safety hazard on active installations.

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Expenses incident to complete restoration, such as restoration of natural resources, are included if such expenses are clearly and directly related to the demolition and debris removal.

Activities Not Eligible for DERP

Closing or capping sanitary landfills unrelated to a hazardous waste cleanup action.

RCRA closures which are associated with current waste generation and disposal facilities do not meet the definition of a response action under CERCLA/SARA.

Construction of hazardous waste storage, transfer, treatment or disposal facilities, except when part of a CERCLA/SARA response action.

Demolition or debris removal as part of a new construction project.

Testing or repair of active underground tanks.

Costs of replacing leaking underground tanks.

Cleanup of contamination believed to be harming health or the environment resulting from underground tanks in use after January 1984, unless there is evidence that contamination occurred prior to March 1, 1986.

Costs of testing, storing, disposing or replacing PCB transformers.

Costs of asbestos surveys, containment, removal or disposal, except where incidental to a DERP response action.

Costs of recurring service contracts for waste reduction/minimization.

Costs of spill prevention and containment measures for currently operating equipment and facilities.

Cleanup costs of spills covered or required to be covered by spill prevention, containment and countermeasures (SPCC) plans.

Costs of operation, maintenance or repair to hazardous waste treatment, storage, or disposal facilities which are currently in use.

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Costs of hazardous waste disposal operations, including associated management and operational costs, except when part of a DERP reponse action.

Overseas Environmental Restoration activities.

State support services prior to October 17, 1986, past State costs not reasonably documented, and State services in support of non-Environmental Restoration Program funded cleanup activities.

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IN-PROGRESS REVIEWS

Quarterly In-Progress Reviews will be held in February, May, August and November 1990 amd 1991 to review program progress. Components should be prepared to present the following information to ODASD(E) regarding program status as of December 31, March 31, June 30 and September 30:

- Obligation rate (use format attached). Also report for multi-year appropriations.
- Reprogramming requests
- Emergent requirements
- Significant events, accomplishments (e.g. completion of RI/FS, RD/RA at key sites, agreements reached, technology successes, etc.)
- Programmatic issues
- Updated I-DERPMIS site data (or confirm automated update)
- Other information, as requested by separate memo

ODASD(E) will provide information on:

- Budget (Upcoming year and out years)
- Congressional actions

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(SERVI[illegible] DERP PROGRAM
AS OF [illegible])

(in $000s)

	FY 1990 Program*					Obligated as of				
	O&M	MILCON	R&D	PROC	TOTAL	O&M	MILCON	R&D	PROC	TOTAL
Installation Restoration Program (IRP)										
Building Demolition Debris Removal (BD/DR)										
Other Hazardous Waste Operations (OHWO										
Total DERP										

*Include all reprogramming to date

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