Department of Energy
Washington, DC 20585

September 5, 2006

MEMORANDUM FOR: CAMILLE YUAN-SOO HOO, MANAGER, LIVERMORE SITE OFFICE
EDWIN WILMOT, MANAGER, LOS ALAMOS SITE OFFICE
JAY NORMAN, ACTING MANAGER, NEVADA SITE OFFICE
PATTY WAGNER, MANAGER, SANDIA SITE OFFICE
STEVE TAYLOR, MANAGER, KANSAS CITY SITE OFFICE
DANIEL GLENN, MANAGER, PANTEX SITE OFFICE
THEODORE SHERRY, MANAGER, Y-12 SITE OFFICE

FROM: JAMES A. RISPOLI JA Rispoli
ASSISTANT SECRETARY FOR ENVIRONMENT MANAGEMENT

BRUCE SCOTT
ASSOCIATE ADMINISTRATOR FOR INFRASTRUCTURE AND ENVIRONMENT

SUBJECT: Terms and Conditions for the Transition of Completed Environmental Projects from the Office of Environmental Management (EM) to the National Nuclear Security Administration (NNSA)

Attached is the "National Nuclear Security Administration and Office of Environmental Management Terms and Conditions for the Transition of Completed Legacy Environmental Projects," jointly signed between EM and NNSA. This document provides subject matter direction and outlines the roles and responsibilities for EM and NNSA as EM completes its legacy environmental cleanup projects at NNSA sites, and NNSA prepares for startup of its long-term stewardship activities at these same sites.

Printed with soy ink on recycled paper

These terms and conditions are to be implemented at your site to support the completion of EM legacy environmental cleanup projects and the startup of the NNSA funded long-term stewardship of remediated areas. Note that both EM and NNSA are required to perform a number of activities during project closeout, including the preparation of a Project Closeout and Transition Plan, conducting a Readiness Assessment to verify that all cleanup scope has been completed, and developing a Critical Decision-4 package for closeout of the cleanup project. The attached guidance entitled "Project Closeout and Transition Plan for Completed Environmental Projects at National Nuclear Security Administration Sites" will assist you in preparing the transition plan. Also attached is information on preparing and conducting a readiness assessment entitled "Readiness Assessments for Legacy Environmental Projects at NNSA Sites". This material has been developed through the collaborative efforts of personnel from EM and NNSA Headquarters, our respective Service Centers, and the NNSA Site Offices over the past several months.

We anticipate attaining closeout of the legacy environmental cleanup projects at the Kansas City Plant, Lawrence Livermore National Laboratory Main Site, and Sandia National Laboratories, New Mexico by the end of Fiscal Year 2006. Critical Decision-4 materials and supporting documentation for these projects should be submitted to the Office of the Assistant Secretary for Environmental Management through the Office of the Associate Administrator for Infrastructure and Environment, NNSA, not later than September 29, 2006, to ensure sufficient time for review and processing.

If you have questions regarding this process or the attached guidance, please contact Alice Williams, NA-56 at (202) 586-6847 or Inés Triay, EM-3 at (202) 586-0738.

Attachments
cc:
Tyler Przybylek, Acting Chief Operating Officer
Tom D'Agostino, Deputy Administrator for Defense Programs
Jack Craig, Director of Consolidated Business Center, EM
Karen Boardman, Director, NNSA Service Center
Inés Triay, EM-3
Cynthia Anderson, EM-3.4
Robert Goldsmith, EM-23
Jay Rhoderick, EM-43
Alice Williams, NA-56
Roger Liddle, NNSA SC
Dan Nakahara, LSO
Dave Caughey, KCSO
Joe Estrada, SSO
Johnnie Guelker, PSO
Steve Mellington, NSO
Gene Rodriguez, LASO

National Nuclear Security Administration and Office of Environmental Management Terms and Conditions for Environmental Cleanup Transition

This document outlines the terms and conditions for managing and funding transition activities between the Office of Environmental Management (EM) and the National Nuclear Security Administration (NNSA).

NNSA and EM expect all of EM's environmental cleanup scope of work to be substantially complete and regulatory approval provided prior to the transition of the post-project closeout responsibilities to NNSA. However, in cases where all physical work or regulatory approval/business closeout is not complete, the transition may occur if there is an agreement between EM and NNSA that outlines the organizational responsibilities for the remaining areas to be remediated at the site.

Planning/Process

- EM and NNSA will conduct the transition process in accordance with the applicable regulations and Department of Energy (DOE) Orders (mainly *DOE O. 430.1B Real Property Asset Management* and *DOE O 413.3 Program and Project Management for Acquisition of Capital Assets*).

- NNSA (in consultation with EM) will develop planning documents and cost estimates for the management of post-project closeout activities at the sites not less than 2 years before the projected transition date. (Note: this action has been completed for the Kansas City Plant site, Sandia National Laboratory site, and Lawrence Livermore Main Site)

- EM and NNSA will jointly develop the Project Closeout and Transition Plan (PCTP) that is required by DOE M 413.3-1.

- EM's Federal Project Director with the concurrence of the NNSA Site Office Manager will report progress on transition activities during the project's Quarterly Performance Review (QPR) starting one year in advance of the anticipated cleanup completion date, including updates to the PCTP.

- The site office will lead development of the Critical Decision-4 (CD-4) Package with support from NNSA for those portions of the CD-4 package that address activities and responsibilities relating to facilities, sites, or EM remediated areas to be transitioned to NNSA.

- NNSA will develop a Long-Term Stewardship (LTS) Plan for the site in consultation with EM.

- A site tailored transition readiness assessment will be conducted by EM and NNSA; findings and corrective actions will be included in the CD-4 Package. EM and NNSA will provide an appropriate level of staff support to the review teams.

Budget Responsibility

The budget formulation responsibility for the areas cleaned up by EM remains with EM until NNSA includes a request for funding in its fiscal year Congressional Budget request for Long-Term Stewardship. The NNSA budget execution responsibility begins once the requested NNSA funding for these areas is in place. However, if Congress should institute a Continuing Resolution (CR) for the fiscal year in which responsibility for completed remediated areas at an NNSA site is to transition from EM to NNSA, then EM will retain program and budgetary responsibility of these areas until the end of the CR and final appropriations are enacted. Under existing accounting protocol, NNSA will reimburse EM for all funds expended under the CR.

- NNSA in consultation with EM will develop a near-term baseline (including costs related to monitoring records management, expected surveillance and maintenance, public outreach, state funding, etc.) and supporting basis of cost estimates for the first five years of post-project closeout management for use by NNSA in preparing its budget for the LTS program activities.

- EM and NNSA will jointly develop the functional transition documents for approval by the Chief Financial Officer (CFO) and DOE.

- NNSA is responsible for developing the Long-Term Stewardship environmental liability estimates for NNSA sites. NNSA will report the liability estimates to EM for inclusion in the legacy environmental component of the overall DOE liability estimate prepared in accordance with departmental policies and procedures.

- EM and NNSA will negotiate the completion of legacy environmental remediation scope that remains at the time of transition from EM to NNSA.

- Funding for and management of the following activities will be the responsibility of EM until they are completed or as stated below:

    - Litigation regarding EM cleanup or other EM activity;
    - The closeout of contracts associated with cleanup and closure of the project.
    - Records of Decisions, Remedial Action Reports, closeout documentation, and other EM related documents. NNSA is responsible for associated 5-year reviews and CERCLA delisting requirements that occur after project closeout.
    - Record transfer not completed by the transition date.

Work Force

- EM will retain responsibility for open Worker Compensation claims under the state workers compensation system.
- As agreed between EM and NNSA, EM workers will transfer to NNSA, with appropriate funding support, for Long-Term Stewardship activities.

Records Management/Information Technology

- EM funded work scope will include planning, budgeting, and qualified resources to manage federal and contractor record inventories and information technology (IT) systems in accordance with all Federal (e.g., RCRA, CERCLA), National Archives and Records Administration (NARA), and DOE Orders (Draft *DOE O. 243.X Records Management Program, DOE O 200.1 Information Management Program, 36 CFR, and 44 USC)* until the programmatic transition. After the transition this work scope will be assumed by NNSA.

- Each site's Project Closeout and Transition Plan will include how the site will transition, manage, and store the appropriate information and records.

- NNSA will define the records, data, and format (electronic and hard copies) that are needed for post-project completion responsibilities.

- Prior to physical site transfer EM will provide management services for specifically identified transferring records.

- EM and NNSA will prepare and maintain a schedule with milestones identifying information and records activities that need to be accomplished to support the transition.

Contracts and Grants

- For contracts and/or grants that are transferring to NNSA, EM will provide copies of procurement documents to NNSA and will identify points of contact in appropriate business centers.

Real Property

- For assets and real property, if any, transferring to NNSA, EM will develop and provide real property records including any access agreements or easements for off-site sampling or treatment systems, such as ground water wells or land parcels required for LTS.

- The NNSA Site Office will modify its Facility Information Management System (FIMS) data at the time of transition to reflect any real property transfers.

- EM will initiate the documentation to transfer assets and real property, if any, from EM to NNSA and coordinate document finalization with NNSA and the Office of Management (MA).

Personal Property

- For personal property assets considered necessary by the NNSA gaining party, for the performance of the mission, EM will coordinate all transactional lists with the cognizant organization and the Service Center Organizational Property Management Officer (OPMO).

Deferred Cleanup Scope and Cost

At several NNSA sites mission activities continue to create areas of soil and water contamination that cannot be investigated or remediated at this time (e.g., active firing sites at Los Alamos National Laboratory and Lawrence Livermore National Laboratory Site 300). Typically, such cleanup work has been deferred to avoid safety risks to workers and unreasonable interference with site operations. In addition, cleanup of legacy contamination known to be under active facilities (e.g., PCB contamination beneath the manufacturing building at the Kansas City Plant) has also been deferred due to access limitations. These cleanup deferrals may extend beyond the time of completion of the current EM project for remediation of legacy wastes and the transfer of the post-project closeout responsibilities to NNSA. When these areas are closed or become inactive they may become subject to investigation and corrective action requirements under enforceable compliance agreements or permits. Upon completion of the operational mission and change to inactive status for the NNSA facilities or areas, or portions of facilities and areas meeting the above description, EM will then execute the remaining legacy cleanup at these Sites.

Unanticipated Remediation Scope and Cost:

For purposes of this section, "unanticipated remediation scope and costs" includes characterization and remediation actions and costs (both dollars and other resources) driven by new or changed regulatory requirements, change in end state designation for a remediated site, identification of additional facilities, sites, or areas of sites with newly identified legacy contamination previously remediated by EM, or failure of EM installed remedies.

Also for the purpose of this section, "failed installed remedies" include remedies installed by EM during remediation that have been determined to have failed to operate in accordance with design specifications or have been found to not be protective as defined by the regulator.

- EM is responsible for unanticipated scope and costs relating to activities identified as appropriate to EM legacy environmental cleanup responsibility and/or failure of installed remedies as defined above for the first year following transition to NNSA. Should completion of all legacy environmental cleanup not be accomplished and regulatory approval for this work not be obtained prior to transition, EM will remain responsible for unanticipated scope and costs and/or failure of installed remedies as described above through the first year following physical work completion or regulatory approval, whichever is later.

- Instances of unanticipated scope and costs relating to activities identified as appropriate to EM legacy environmental cleanup responsibility and/or failure of installed remedies as defined above that occur beyond one year after transition to NNSA will be evaluated by NNSA to determine their significance in terms of time, resources, and expertise for redress. EM and NNSA will negotiate the assignment of responsibility between their respective organizations, and upon agreement to pursue the needed resources and accomplish the corrective actions. Generally, activities with a lifecycle cost less than $5M per Project Baseline Summary (PBS) will be an NNSA responsibility while lifecycle costs greater than $5M per PBS will be an EM responsibility.

- If at any time following the transition of facilities or sites NNSA and EM staff cannot reach an agreement on assignment of responsibility for unanticipated remediation scope and costs and/or failure of installed remedies that arise, the issue will be raised to the appropriate Under Secretaries of DOE.

- The identification of unanticipated remediation scope and costs that are determined to be the result of NNSA ongoing mission activities, determined by the NNSA evaluation, will be the responsibility of NNSA.

8/2/2006

Bruce Scott Date
Associate Administrator for
Infrastructure and Environment

JA Rispoli 9/1/06

James A. Rispoli Date
Assistant Secretary for
Environmental Management

Project Closeout and Transition Plan Guidance for Environmental Projects at National Nuclear Security Administration Sites

Purpose

The Project Closeout and Transition Plan (PCTP) Guidance provides a framework for closeout of Environmental Management (EM) projects at National Nuclear Security Administration (NNSA) Sites. The PCTP is a tool to help facilitate a smooth transition from EM's active remediation projects to NNSA led Long-Term Stewardship (LTS), by providing a systematic process to utilize in analyzing the baseline, and understanding and managing actions from completion of the EM mission through transition into LTS.

The PCTP Guidance expands on the guidance and requirements outlined in DOE M 413.3-1, Chapter 7, Transition/Closeout Phase and will be the primary document in the Critical Decision-4 (CD-4) Package. It is expected that information included in the PCTP is more thoroughly detailed in other documents and will be referenced accordingly.

The PCTP Guidance is not intended to provide an exhaustive list of specific requirements and information. Sites will have unique considerations that may not be adequately addressed by this tool, and it is anticipated that a team consisting of representatives from NNSA and EM will use judgment in utilizing these requirements and integrating them with other DOE guidance. However, the PCTP Guidance should be followed to the extent possible and adapted to accommodate unique site-specific requirements, needs, and documents.

Ideally, the PCTP should be developed as early in the remediation process as possible. The PCTP should be reconsidered periodically to verify that all appropriate actions and responsibilities are identified to facilitate transition from EM's active remediation projects to NNSA's LTS program. Each site will be required to develop and record milestones and schedules for transition of the site from EM to NNSA. The requirements for the completion of a Project Closeout and Transition Plan are provided in the following sections.

Outline of the EM to NNSA Transition Plan

- Section I. Introduction
- Section II. Authorities and Accountabilities
- Section III. Site Conditions
- Section IV. Engineered Controls, Operation and Maintenance Requirements, and Emergency/Contingency Planning
- Section V. Institutional controls, Real and Personal Property, and Enforcement Authorities
- Section VI. Regulatory Requirements and Authorities
- Section VII. Budget, Funding, and Personnel Requirements

- Section VIII. Information and Records Management Requirements
- Section IX. Public Education, Outreach, Information and Notice Requirements
- Section X. Natural, Cultural, and Historical Resource Management Requirements
- Section XI. Business Closure Functions, Contract Closeout or Transfer, and Other Administrative Requirements
- Attachment 1. Information and Records Management Transition Guidance

EM and NNSA Project Closeout and Transition Plan Contents:

I. Introduction

A. Describe the purpose and development process of the PCTP and how it relates to the requirements outlined in DOE O 413.3, *Program and Project Management for the Acquisition of Capital Assets*
B. List the goals and objectives sought by completing and implementing the PCTP
C. Describe any key assumptions that were made while planning for the EM to NNSA transition

II. Authorities and Accountabilities

All documents allocating the roles and responsibilities of EM, NNSA and other parties for the transition of completed legacy environmental projects, as appropriate, need to be approved and documented in the PCTP.

A. Describe the major roles and responsibilities of EM and NNSA during the transition.

III. Site Conditions

A. At the time of EM's completed remediation activities the site historical uses, characterization, remedial actions, remedies, and remaining hazards need to be described and documented in the administrative record or defined in applicable permits or cleanup agreements for each site. Examples of what to include in the description are listed below:

1. Physical features of the site including: site topography, geology, hydrogeology, geomorphology, seismicity, site, area boundaries, and other features relevant to the long-term performance of the site. Where available information should include Geological Information Systems (GIS) references
2. Location of residual hazards and associated engineered and institutional control systems
3. Location of active, inactive, and decommissioned buildings, structures, and surface and subsurface infrastructure (e.g. utilities)

4. Location of groundwater wells, wastewater outfalls, and air quality monitoring stations. Information needs to be depicted on site maps

5. Location of any off-site buildings and structures, important ecological resources, and associated potential receptors in the vicinity of the site
6. Description of the initial and remaining risks following remediation. This information will help produce a reference baseline
7. Quantity and characteristics of any remaining contaminants (e.g., radioisotope activity, and physical and chemical form)
8. Description of the sites' end state requirements
9. The existence of and basis for a decision on cleanup levels for the end state, such as a "No Further Action," based on the initial project requirements and site performance criteria

B. A conceptual site model for LTS activities needs to be complete showing the relationships between existing residual hazards, environmental transport mechanisms, exposure pathways, and human/ecological receptors

C. Documentation of all remedial actions in the EM scope of work that will be completed and approved by regulators before the transfer date

D. All remedial actions and documentation for the EM scope of work that will be completed but not approved by regulators before the transfer date needs to be identified. The expected regulator approval date and any necessary actions to ensure approval needs to be identified and integrated into the overall project schedule

E. Results of any Natural Resource Damage Assessment (NRDA), where applicable, with associated documentation needs to be discussed along with NNSA's potential environmental liability

IV. Engineered Controls, Operation and Maintenance Requirements, and Emergency/Contingency Planning

A. Engineered controls need to be identified and documented. Information that needs to be included:

1. Design and construction drawings, specifications, and completion report
2. Site physical and geotechnical data
3. Location of engineered controls depicted on site maps
4. Identification of ongoing remediation and related waste management activities
5. 5. Performance history assessments indicating successful operation.

B. Exit criteria/strategy outlining if and/or when engineered controls will no longer be necessary, needs to be identified along with the supporting information

C. The following Operation and Maintenance (O&M) activities need to be documented, including funding necessary to perform these activities:

1. Surveillance and monitoring requirements (e.g., scope, frequency, reporting, process descriptions, and analytical parameters and methods), allowing for optimization that is consistent with the selected remedy
2. Cost estimation, including basis and assumptions, of operations, maintenance, and surveillance activities needs to be estimated, documented, and revised periodically as experience and additional information dictates. The request for funding should be in accordance with applicable budget appropriations procedures

D. Emergency/contingency planning for post-closure activities needs to be complete and incorporated into the site's emergency and ISMS plans

V. Institutional Controls, Real and Personal Property, and Enforcement Authorities

A. Land use/institutional controls need to be identified, implemented, and approved by the regulators (s) (if applicable). All institutional control components of each implemented remedy need to be described (e.g. future land use assumptions upon which each implemented remedy is based, and associated land use restrictions) and depicted on a site map. If engineered barriers will be relied upon as part of the remedy requiring institutional controls, assumptions regarding the longevity and performance of these barriers should be identified. The following items need to be considered, identified, documented for preparation of the information related to institutional controls and land use:

1. As appropriate, on-site and off-site land uses and land assumptions
2. Procedures for managing, assessing potential changes in, and enforcing on-site and off-site (as appropriate) land uses
3. A process needs to be in place to monitor and document institutional controls established as part of an implemented remedy
4. Outlines of roles and responsibilities for responding to requests to change existing land uses. The remedy needs to be consistent for the land use assumption
5. Procedures need to be established for periodic reviews of land uses and institutional controls to ensure they are being maintained and remain protective. Performance history indicating successful operation and archived for periods, as required

6. A process needs to be in place to enforce and maintain off-site easements implementation and documentation to ensure the protectiveness of the remedy
7. Exit criteria/strategy outlining when institutional controls will no longer be necessary if not previously documented in the Record of Decision (ROD) or other appropriate document
8. Determine what interests, on and off site, will remain at transfer including: land, easements, minerals, water rights, well permits, licenses and other permits

B. If any, the transfer of property records, personal property and government furnished property (as required by applicable laws, regulations and/or guidance, such as DOE Order 431.1 and Title 41 *Code of Federal Regulations* (CFR) Part 101) need to be complete prior to transfer to NNSA. The following items need to be considered, identified and documented: the personal property transfers need to be completed in accordance with Federal Management Regulations, and DOE Property Management Regulations (PMR).

1. The site's real estate history including identification of any former property owners, legal descriptions, deed restrictions, or other land-use restriction
2. Site boundaries, monuments, and site markers (Official Land Surveys, Monumentation Records and Cadastral Surveys, as well as any existing or abandoned utility easements with maps)
3. A 100% inventory must be prepared prior to transfer of items either by a joint wall-to-wall inventory by the gaining and losing organization/agency or by signature of a representative of the respective organization or agency who has the authority granted to them in writing
4. Identification of all buildings or structures that will remain following transfer, to include any leasehold interests, along with contract information for the leasehold interest and original real estate instrument (or copy if original not available) providing the leasehold interest
5. As built drawings for any remaining improvements and utilities
6. Existing maintenance/operations plans and procedures
7. Complete information on any ongoing acquisition or disposal efforts
8. All property records transferring with the responsibility and accountability date. Property records need to be gathered for transition from all sources
9. Items "sensitive or high risk in nature regardless of its acquisition cost "or otherwise not having a program requirement, should not be transferred to the NNSA
10. Transfers of excess property within DOE or to other Federal agencies need to documented using a Standard Form 122, Transfer Order - Excess Personal Property or automated equivalent

11. All real property in grants or out grants no longer required must be terminated prior to transfer
12. Identification of any environmental transfer restrictions

VI. Regulatory Requirements and Authorities

Regulatory requirements for any residual contamination needs to be identified in the PCTP. Pertinent regulatory documents (e.g., RODs, Resource Conservation and Recovery Act (RCRA) permits and correction action decisions, Consent Orders, Interagency Agreements, and Federal Facility Agreements) need to be maintained and available to the public in the administrative record.

A. All regulatory decision documents and associated site characterizations either complete or scheduled for completion are maintained and kept current

B. Verification that the implemented remedy is in compliance with all regulatory requirements (e.g., appropriate regulator(s) have entered into appropriate agreements) should be included in the PCTP

C. Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Five-Year Review or other review results need to be identified. Future periodic reviews (not to exceed 5 years), including supplemental analysis of site-wide Environmental Impact Statements (if applicable and/or required), need to be planned and consistent with the existing guidance

D. The U.S. Environmental Protection Agency (EPA) National Priority List (NPL) status and/or RCRA permit status or state requirements and the basis for these requirements should be clearly indicated (e.g., delisting, partial delisting, and non-NPL)

E. If applicable, a U.S. Nuclear Regulatory Commission (NRC) license status needs to be included. The status information needs to identify the license holder and the development of license transfer plans

F. Regulatory documents need to be identified and accessible. A process needs to be in place to ensure that the documents are maintained and kept current (e.g., new technology updates for records management)

VII. Budget, Funding, and Personnel Requirements

A. EM's Environmental Remediation Activities
   1. A life cycle cost estimate (1997-present), including basis and assumptions needs to be complete based on the best available data.

2. An updated master schedule of ongoing activities needs to be made available
3. EM's required resources (funding/staffing profile) until the transition to NNSA for implementation for LTS activities, which will be funded by NNSA.

B. NNSA's Long Term Stewardship Activities

1. A baseline document* for LTS programs and all activities at the site needs to be developed. The LTS baseline needs to include activities to be conducted by NNSA once the legacy environmental remediation is complete
2. Funding consistent with the baseline and supported by cost-estimates
   a. Estimates for the annual funding requirements for LTS activities, associated oversight, and information management requirements need to be derived and included in the Annual NNSA Budget Request to Congress
3. Personnel requirements need to be identified (for activities not previously addressed within this set of criteria).
   a. All personnel functions and qualifications necessary for the technical implementation and administration of LTS activities
   b. A determination for the need of other on-site personnel and their specific duties
4. If necessary, legacy environmental remediation scope not completed by the date of transition will be conducted during the LTS period as agreed by EM and NNSA.

* Sites should use the functional breakdown for LTS activities guidance for determining the budget, funding, and personnel requirements.

VIII. Information and Records Management Requirements

Records and information for LTS turnover or re tention plans need to be documented in post-closure or disposition plans. Each site is required to prepare a framework to address site-specific records and information transfer requirements (e.g., storage locations, special handling needs, geospatial data, and access and retrieval of documents.) Many sites are governed by CERCLA and RCRA requirements and those requirements should be followed over the guidance provided for records transfer in Attachment I.

IX. Public Education, Outreach, Information, and Notice Requirements

Any community involvement and associated Community Relations Plans should be governed by existing participation standards and systems. The following information should be included, or the appropriate document (e.g., Community Outreach Plan) referenced in the PCTP:

A. List of site stakeholders and the process for updating this list

B. The tools used to inform the public and community at large (e.g., fact sheets, newsletters, email notifications, public meetings, etc.)

C. Costs associated with public involvement need to be estimated and included in the baseline (e.g., oversight committees, meeting locations)

X. Natural, Cultural, and Historical Resource Management Requirements

A. A discrete system or process needs to be in place to protect information about sensitive and natural resources from inappropriate or unauthorized use or access

B. Biological resources, threatened and endangered species, archaeological and cultural resources, Native American treaty rights, and/or other natural and cultural resources requirements need to be identified and satisfied

C. Precise locations and characteristics or natural and cultural resources that require LTS need to be identified. A management system needs to be in place and operating successfully

XI. Contract Closeout or Transfer, and Other Administrative Requirements

Actions required by the completing organization and the receiving organizations related to business closeout functions needs to be identified and reflected in the requirements, policies and procedures , schedules and cost estimates, and budget.

A. If applicable, the status of pending litigation and liabilities needs to be identified. Any actions pertaining to EM funded work should be funded and tracked by EM. Examples include:

1. Pollution liability policy
2. Auto liability policy
3. General liability policy
4. Fiduciary/crime/medical malpractice liability policy
5. Government rating plan for workers compensation
6. Non-government rating plan workers compensation claims
7. Equal Employment Opportunity (EEO) and discrimination cases
8. Unresolved hourly employee claims
9. Beryllium liability claims
10. State or community litigation or claims
11. Pending citizen action suits

12. Department of Labor, Administrative Review Board cases, and/or Federal court litigation relating to Labor Standards (e.g., Service Contract Act, David-Bacon Act)

B. Sub-contract closeout actions, as appropriate, for closure of remediation contracts need to be identified and documented in the project closeout report as required by DOE M 413.3-1.

C. Requirements of DOE orders need to be satisfied. Examples of orders that should be address are listed below:

1. Facility Authorization Basis
2. Price Anderson Authorities
3. Reporting to International Atomic Energy Association (IAEA)
1. Disposition of personal property items

Rev. 2
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Attachment I

National Nuclear Security Administration

National Nuclear Security Administration Long Term Stewardship Information and Records Management Transfer Guidance

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NNSA LTS Information and Records Management Transition Guidance

I. Introduction

Records management is defined as the planning, controlling, directing, organizing, training, promoting, and other managerial activities related to the creation, maintenance, use, and disposition of records to achieve adequate and proper documentation of Federal laws, regulations, transactions and effective and economical management of agency operations.

Records management practices are critical to the functions of Federal agencies because records provide information about, or evidence of, the organization, functions, policies, decisions, procedures, operations, or other activities. Therefore, the information generated by an agency is created, maintained, and dispositioned through a records management process that ensures the appropriate preservation and retrieval of essential information.

Records may exist in various media, including hard copy, microform, maps, engineering drawings, databases, computer applications, audiovisual formats, and electronic document or image files. Because of their intrinsic value, best practices to preserve information and records should be utilized when records are transferred from one organization to another. The records custodian has the responsibility to ensure that the records are usable and accessible throughout their lifetime, regardless of storage media.

II. Purpose

As the Office of Environmental Management (EM) mission at National Nuclear Security Administration (NNSA) sites moves toward completion, planning, integrating, and documenting Long Term Stewardship (LTS) activities is increasingly important to help ensure smooth transfer to the NNSA. In meeting NNSA LTS goals, records management is crucial to the protection of health, environmental, and legal interests of the Department of Energy (DOE), NNSA, and the public. As part of the NNSA LTS mission, NNSA will assume ownership and custody of all EM Program records at NNSA sites. Many of the NNSA M&O contractors are currently managing EM records in approved storage facilities and therefore a site tailored approach to records transfer should be used at each site. CERCLA and RCRA requirements will be followed above the requirements listed below.

NNSA will:

- Establish Records Management points of contact and work with EM to ensure a smooth transfer of records to NNSA
- Accept custody of appropriate EM records at NNSA sites
- Manage all records in accordance with Federal regulations (e.g., 36 CFR Chapter 12, RCRA, CERCLA), NARA, and DOE policy and guidance documents
- Preserve records consistent with applicable records schedules
- Ensure that appropriate records are made available to stakeholders and the public in a timely manner and in accordance with appropriate security considerations
- Maintain records in storage facilities that meet Federal requirements and DOE requirements for unclassified and classified material, as appropriate
- Respond to requests for information (Freedom of Information Act, Energy Employees Occupational Illness Compensation Program Act, litigation, researchers, etc.) in a timely and cost efficient manner
- Work with the Office of the Chief Information Officer regarding permanent records, records policy, schedule development, and other issues that require coordination with or approval by the National Archives and Records Administration

The NNSA LTS Information and Records Management Transfer Guidance focuses on NNSA's goal to preserve and protect legacy records and information. It describes the requirements and responsibilities for the transfer of custody, ownership, and management of records and other information products from EM at NNSA sites to the NNSA LTS Program.

The DOE Office of the Chief Information Officer (OCIO) has a central role in DOE records management by providing guidance, expertise, and coordination to all DOE offices and organizations and coordination with the National Archives and Records Administration (NARA). Records management concerns that may arise during the transition should be addressed to the OCIO, NARA, or the NNSA Service Center.

III. Organizational Responsibilities

The management of legacy records is an important mission area for the NNSA LTS Program. As the EM mission at NNSA sites complete remediation activities, a transitional process will facilitate the shift in the management of site record activities from EM to the NNSA LTS Program. This section presents the responsibilities of EM and the NNSA LTS Program that are the necessary foundation for cooperation and coordination.

The DOE Office of the Chief Information Officer (OCIO) has a central role in DOE records management by providing guidance, expertise, and coordination to all DOE offices and organizations. The NNSA LTS Program and EM will utilize the OCIO guidance for records and information management. The OCIO document *Records Management Guide for Downsizing or Terminating Programs* is an excellent guide for records activities. In addition, NNSA LTS Program and EM will rely on OCIO for appropriate coordination within DOE and with NARA.

Joint Responsibilities

- Identify records and information points-of-contact (POCs) to participate in the Project Closeout and Transition Team to coordinate the transfer of information and records
- Work together to ensure that the transfer of records from EM to NNSA LTS Program is consistent with Federal and DOE guidelines.
- Prepare and maintain a schedule with milestones which identifies information and records activities that need to be accomplished to support transfer
- Prepare agreements and notifications that are required to support the transition and transfer of records management responsibilities (e.g., NARA custodial transfer)

NNSA LTS Responsibilities

- Provide sufficient managerial and support staff that have the skills and expertise necessary to ensure that a comprehensive, efficient, and effective records program is established to support the transfer and management of EM records

- The project closeout readiness review will be used to verify the status of records transfer

- Accept the records and information from EM consistent with the established schedule and agreements
- Provide EM with reasonable access to records in NNSA LTS Program's ownership and custody so that DOE can be responsible for requests for information, including records requests, in a timely and cost-effective manner that meets applicable deadlines
- Respond to FOIA/Privacy Act requests, medical studies, EEOICPA claims, and other requests initiated after the transfer of ownership and custody of records from EM to NNSA LTS Program

EM Responsibilities

- Maintain managerial support and staff personnel with the skills and expertise necessary to operate a comprehensive records management program consistent with all regulatory requirements and adequately support NNSA LTS Program transitional needs until transfer is completed

- Prepares an inventory of all active and inactive records that includes volumes, media types, and locations

- Identify and segregate records that will be transferred to NNSA LTS Program as part of site transition, including special collections (e.g., historical, epidemiological, classified, photographs, videos, x-rays,) and records needed to support post-closure activities

- Identify unscheduled records and work with DOE/EM, NNSA, and OCIO to develop new schedules as required

- Dispose of non-record materials that will not transfer to NNSA's LTS program.

- Ensure that resources for records management and responses to records requests for FOIA, Privacy Act, medical studies, EEOICPA claims, litigation, and personnel records are available until transfer of record responsibilities to the NNSA LTS Program is completed

- Fund transportation, storage, and retrieval costs of its records, including records at NNSA-recommended records storage facilities, until custody of the records is transferred to NNSA LTS Program

IV. Preparation of Section VIII, Information and Records Management Requirements of the Project Closeout and Transition Plan

EM with the assistance of NNSA's LTS Program shall prepare an integrated transition plan which will identify transition activities required to transfer information and record holdings effectively and efficiently to NNSA's LTS Program. The plan will assist in organizing tasks; establishing a timetable and milestones for task completion; and identifying manpower, funding, and other resources that will be needed to complete the records transfer.

V. Records Management Guidelines

This section provides guidance on the types of records and records management activities that are necessary for a smooth transfer of records responsibilities from EM to the NNSA records program.

Records Inventory and Disposition Schedule

EM should provide an up-to-date inventory of records holdings. As part of the inventory process, a DOE Records Inventory and Disposition Schedule (RIDS)should be completed for the records. This process requires that the record inventories adhere to NARA-approved schedules for records disposition.

DOE has established the DOE Environmental Programmatic Records Schedule for unique and site specific records. The primary focus of this schedule is the retention and disposition of records of those activities that may affect the physical environment. The records covered by this schedule document the results of sampling and analysis, monitoring, permitting and disposal and cleanup activities affecting the physical environment. Environmental records include, but are not limited to, the administrative record (as defined/required by CERCLA/RCRA

and other dangerous waste programs), permits, reports, studies, evaluations, characterizations, logbooks of various kinds, as well as more obvious burial or storage records, closure plans, and waste management documentation. This record schedule also covers electronic mail and word processing system copies. These records may be organized and maintained as project case files to provide a more useful reference/retrievability or as individual record series. The project case file approach provides a reasonable record of an environmental project from start to finish which would allow for reconstruction or verification of relevant procedures and analyses (see Section 1.k). Other issues such as, medical, health and safety concerns emanating from these activities, but not specifically required by environmental regulations, will not be addressed in this schedule.

The NNSA LTS Program will not accept ownership or custody of any records that are not appropriately inventoried, scheduled, and dispositioned by EM.

Records that are transferred from EM to the NNSA LTS Program should be accompanied by a records inventory for each box and completed SF 135s Records Transmittal and Receipt. Finding aids and indices should also accompany records transferred to the NNSA LTS Program.

Non-Record Material

Non-record material are defined as Government-owned informational material that are excluded from the legal definition of records or do not meet the requirements of that definition. Non-records include extra copies of documents kept for convenience or reference, stocks of publications and processed documents, and library or museum materials intended solely for reference or exhibition. An unnecessary delay in disposing of such materials increases the need for additional storage and adds to overhead storage costs. As a general practice, the NNSA LTS Program will not accept non-record material from an EM project that is closing.

Non-record material should be filed or maintained separately from record material. If non-record material is not segregated within an organization, it can be difficult to determine whether a document is record or non-record.

Libraries and reading rooms are other sources of non-record material. EM should identify whether non-record materials maintained specifically for site or public reference should be retained to support NNSA LTS activities, including public interaction. While these documents do not belong within the NNSA records management program, they could be incorporated into the NNSA information management program, as appropriate.

Record keeping Systems

The NNSA LTS Program must receive all documentation and information associated with the records that are being transferred, such as SF 135s, finding aids, indices, and other available information related to the record collections. This data will be supported by the current NNSA record keeping system through the M&O contractor on site.

Electronic Documents and Data Formats

An inventory of electronic data, databases, software, e-mail, and documents should be developed as part of the records management activities at the transfer site. In addition, electronic records will be scheduled and dispositioned. If appropriate records schedules are not available, new schedules will be drafted and submitted to NARA. These electronic records will be managed consistent with NARA guidelines on the management of electronic records. Environmental, monitoring, or survey data that are needed for generating documents (e.g., drawings, tables, and maps) should be transferred to NNSA LTS Program in electronic and paper formats.

Databases or software and electronic or digital copies of site documents may be available, in addition to electronic formats of data. Depending on the file format, electronic documents can vary in the degree that they mirror the original document and correspondingly vary in the purpose for which they can be used. "Picture-like" copies identical to the original can be retrieved from electronic file formats such as .pdf, .tif, or .jpg files; copies that mirror the text and formatting of the original document can be retrieved from word processing, spreadsheet, or other office-support software formats if the default printer is known; and basic content without formatting can be retrieved from .txt formats. Optical character recognition file formats may also be available to support text search capabilities.

When documents are available in electronic format, records management practices can become more complicated. Common problems include the management of electronic records past their retention schedules and the existence of duplicate electronic copies of records. EM should make every effort to separate record from non-record electronic files.

The transfer of all electronic files will be coordinated between the NNSA LTS Program and EM to ensure that all information and documentation necessary to support the use of the electronic files are also transferred.

VI. References

Title 36, Code of Federal Regulations (CFR), Parts 1220 through 1238.

Title 44, United States Code (U.S.C.), Chapter 29, Records Management by the Archivist of the United States and by the Administrator of General Services, Chapter 31, "Records Management by Federal Agencies," and Chapter 33, "Disposal of Records."

Title 18, U.S.C., Title I8, Part I, Chapter 101, "Records and Reports."

Title 18, U.S.C., Section 2071, covering criminal penalties for unlawful, concealment, removal, or destruction of Federal records.

Title 18, U.S.C., Sections 793, 794, and 798, covering unlawful disclosure of certain recorded information pertaining to national security.

General Accounting Office (GAO), Policy and Procedures Manual for Guidance of Federal Agencies, Records Management.

In addition, various statutes and implementing rules provide for the confidential or protected treatment of certain information in the custody of the U.S. Government and restrict the removal of such recorded information. For example, such statutes include, but are not limited to, 18 U.S.C. 798 governs the disclosure of security classified information; 18 U.S.C. 1905 prohibits the unauthorized disclosure of confidential information relating to the business of financial affairs of identifiable businesses; 13 U.S.C. 9 provides for the confidentiality of certain census information; 50 U.S.C. Appendix 2411 covers confidentiality of certain information obtained under the Export Administration Act; and 5 U.S.C. 552a provides for specified protection of certain personnel information about individuals.

U.S. Department of Energy Order 200.1, Information Management Programs.

U.S. Department of Energy Guide 200.1, Implementation Guide for Use With 36 CFR Chapter 112, Subchapter B, Records Management.

U.S. Department of Energy Order 414.1A, Quality Assurance

U.S. Department of Energy Manual 471.2-1C, Classified Matter Protection and Control Manual

U.S. Department of Energy Office of the Chief Information Officer (OCIO) Guide, Records Management Guide for Downsizing or Terminating Programs.

U.S. Department of Energy Records Schedule for Environmental Records

Readiness Assessments for Legacy Environmental Projects at NNSA Sites

Readiness Assessments for National Nuclear Security Administration (NNSA) sites (LLNL-Main Site, Sandia and Kansas City Plant) where Environmental Management (EM) remediation work will be completed in FY06 will be conducted in the spring/summer of 2006. The purpose of NNSA's Readiness Assessment will be to verify that all environmental remediation activities identified as a part of the EM cleanup scope are complete, i.e., EM has met the project specifications and regulatory requirements, and to assess the condition of facilities and remediated areas NNSA will be accepting on September 30, 2006. EM and NNSA will jointly participate in developing the site-specific assessment criteria, performing appropriate readiness reviews, and presenting the final findings and any proposed corrective actions.

Each site office should consider using the guidelines outlined in DOE O 425.1c, Startup and Restart of Nuclear Facilities, and site-specific Readiness Assessment procedures for developing Readiness Assessments for legacy environmental projects. A tailored approach should be applied based on site-specific characteristics, facilities, and remediated areas. In many cases Operational Readiness Reviews have already been conducted or have been scheduled for EM facilities (e.g., pump and treat systems) and those reviews need to be noted along with any significant findings that would prevent the Readiness Assessment from being approved. Areas to include as a part of the Readiness Assessment criteria are:

- All EM/NNSA transition agreements are prepared and signed
- Descriptions of all items of personal, real, or government issued property being transferred are documented and easily accessible. (e.g., documents should reflect the operational condition of the facility etc.)
- Identification and status of all EM work that was performed (e.g., soil/groundwater remediation) and determination of completeness, i.e., did it meet project specifications and did it receive regulatory sign-off
- Identification and status of all work that will remain with EM after the transition
- Identification and status of regulatory requirements that should be met before the transition
- Identification of outstanding action items and corrective actions
- Items identified on the punch list in the Project Closeout and Transition Plan

When the Readiness Assessment is complete, the findings and any associated corrective actions will be included as part of the CD-4 package. EM and NNSA will work together implementing the corrective actions before the transition date. If no findings are identified, NNSA will provide a letter of acceptance to EM stating that all environmental remediation activities identified as a part of the EM cleanup scope are complete, regulatory requirements have been met, and the conditions of the facilities and areas are acceptable and NNSA will take responsibility of the facilities and remediated areas of the site.