

## DOE EM CLEANUP AND COMPLIANCE AGREEMENT FACT SHEET

### SUMMARY

Data Element	Data
Site	Nevada Test Site
Agreement Name	Nevada Test Site Federal Facility Compliance Act Consent Order, March 27, 1996
State	Nevada
Agreement Type	Consent Order
Legal Driver(s)	FFCAct
Scope Summary	Enforce the STP and establish procedures for reviewing schedules, deleting waste streams, and administrative procedures
Parties	DOE; Nevada Division of Environmental Protection
Date	3/27/1996

### SCOPE

- Require DOE to achieve compliance with the requirements of the FFCAct through the STP which contains schedules and applicable strategies for achieving compliance with the applicable LDR standards.
- Establish procedures for reviewing schedules, deleting waste streams, and administrative procedures.
- Establish enforceable schedules and milestones applicable to this Order.

### ESTABLISHING MILESTONES

- The Deadlines contained in this Order have been derived from the milestones identified in the STP.
- Following the effective date of this Order, DOE shall, on or before the 30th calendar day following the end of each fiscal quarter, submit a written or electronic progress

report to NDEP.

- By January 15 of each fiscal year, DOE shall submit a draft annual update of the STP to the NDEP for review and comment.
- Milestones and deadlines will be evaluated by the parties during quarterly meetings.
- Unless the parties mutually agree that no amendment to this Order is warranted, the parties shall begin a good faith dialogue in January 1999 to determine the extent to which the deadlines and funding structure of the Order and the technical plans and schedules should be amended.
- NDEP shall grant a reasonable extension of a deadline upon receipt of a timely written request from DOE and when NDEP determines that good cause exists for the requested extension, including, but not limited to, an event of Force Majeure.

## **FUNDING**

- DOE shall take all necessary steps to obtain timely funding to meet its obligations under this Order through consultation with NDEP and the submission of timely budget requests.
- DOE shall make the scope of work and the Programmatic budgets to be used in implementing the terms of this Order available to NDEP.
- Prior to the annual submission of DOE Nevada Operations Office budget request for FY+2 to DOE Headquarters, NDEP shall be given briefings on the proposed budget requests and the opportunity to review, comment, and make recommendations on the priorities and budget request
- DOE shall notify NDEP of any differences between the proposed budget requests and the actual requests included in the President's Budget Request to Congress.
- In the event that the U.S. Congress has failed to appropriate the funds requested for Order-related milestones, and deadlines, the Parties shall review the level of presently available appropriated funds and the estimated cost of meeting all obligations and requirements under this Order.
- NDEP does not recognize that the Anti-Deficiency Act constitutes a Force Majeure or in any way constitutes a defense or an excuse for failure to comply with the terms and conditions of this Order

## **PENALTIES**

- In the event DOE fails to meet an established deadline, NDEP may assess a stipulated penalty in the amount of \$5,000 per week for the first week or part thereof, \$10,000.00 per week for the following week or part thereof, and \$15,000.00 per week for the third and each succeeding week.
- NDEP reserves the right to bring any enforcement action against DOE for noncompliance with the terms and conditions of this Order.
- Both parties shall make reasonable efforts to informally resolve outstanding issues and/or disputes. Should the informal dispute resolution process or its appeal fail to satisfy either party, either party may appeal the final decision of the Nevada State Environmental Commission (SEC) by filing a petition for judicial review.