

DOE EM CLEANUP AND COMPLIANCE AGREEMENT FACT SHEET

SUMMARY

Data Element	Data
Site	Rocky Flats Environmental Technology Site
Agreement Name	Rocky Flats Cleanup Agreement
State	Colorado
Agreement Type	Federal Facility Agreement
Legal Driver(s)	CERCLA/RCRA
Scope Summary	Establish the regulatory framework for achieving the ultimate cleanup of the Rocky Flats Site.
Parties	DOE; US EPA; The State of Colorado
Date	7/19/1996

SCOPE

- Establish the regulatory framework for achieving the ultimate cleanup of the Rocky Flats Site.
- Ensure that the environmental impacts associated with activities at the Site will continue to be investigated and that appropriate response actions are taken.
- Establish a procedural framework and schedule for developing, implementing, and monitoring appropriate response actions at the site.
- Coordinate all of DOE's cleanup obligations under CERCLA, RCRA, and the Colorado Hazardous Waste Act in a single agreement to streamline compliance.
- Disposition weapons usable fissile materials and transuranic wastes, with a target of ultimate removal of these materials no later than 2015.
- Conduct cleanup activities in a manner that will reduce risk, be cost effective, protect public health, protect reasonably foreseeable land and water uses, prevent adverse impacts to ecological resources, surface water and groundwater; and be consistent with a streamlined regulatory approach.

- Decontaminate and/or demolish all contaminated buildings.

ESTABLISHING MILESTONES

- EPA and the state will, in consultation with DOE, set the regulatory milestones, including completion dates for specific activities.
- The Agreement is designed to provide DOE significant flexibility in managing projects to meet regulatory milestones; therefore, changes in the baseline do not necessarily constitute good cause for changes to regulatory milestone completion dates.
- The parties will review the regulatory milestones annually and either re-establish or revise them.
- EPA and the state shall establish no more than 12 milestones per fiscal year. Review of the regulatory milestones for the upcoming FY and FY+1, shall occur between July and October of each year. Factors to be considered while establishing milestones are outlined in Part 11 of the Agreement.
- Once final determination of the FY and FY+1 milestones has been made, DOE, EPA, and the state will propose tentative milestones for FY+2, which must be finalized within 60 days. If DOE, EPA, and the state can not reach a consensus on the FY+2 milestones, then EPA and the state can unilaterally establish the FY+2 milestones.
- Changes to established regulatory milestones can be requested, if the request is submitted before 30 days prior to the date of the milestone for which the change is being sought.
- The lead regulatory agency (either EPA or the Colorado Department of Public Health & Environment) must grant, grant in part, or deny the request within 14 days.

FUNDING

- DOE must take all necessary steps to obtain timely funding to meet its obligations under the Agreement.
- Within 45 days after Congressional appropriation of the FY budget, DOE shall brief EPA, and the State on the appropriation and tentative funding allocations.
- If appropriated funds are not allocated, the state must be notified in accordance with the agreement notification procedures.

- Project managers will meet as part of the baseline and milestone review to determine if adjustments to approved schedule and milestones are warranted.
- The dispute resolution procedures will be used if the project managers can not agree to modifications.
- The State of Colorado explicitly states that it does not believe any legitimate Anti-Deficiency Act defense exists.

PENALTIES

- Penalties for missed regulatory milestones will accrue at \$20,000 per week for each regulatory milestone designated as “first tier.” First tier regulatory milestones reflect end-points for major projects and are limited to no more than six per fiscal year.
- Penalties for missed regulatory milestones designated as “second tier” (those that reflect beginning points for multi-year projects or end points in addition to those designated as “first tier” regulatory milestones) will be at a rate of \$5,000 per week.
- Violations of regulatory milestones that run for part of a week shall be prorated for the number of days of violations.
- In the event that DOE's failure to meet any regulatory milestones under this Agreement was due to a lack of funding, the state will not seek or assess any penalties (stipulated or otherwise) for such violations