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To: Assistant Directors, State Directors, and Center Directors

From: Acting Assistant Director, Minerals, Realty and Resource Protection

Subject: Site Inspections of Formerly Used Defense Sites (FUDS) on Lands Managed by the Bureau of Land Management (BLM)

Program Area: Resource Protection and Lands

Purpose: This Instruction Memorandum (IM) provides policy guidance to the Bureau of Land Management (BLM) Field Offices to supplement H-1703-2, Military Munitions and Explosives of Concern. This supplemental policy addresses site access requirements and dispute resolution procedures when dealing with the U.S. Army Corps of Engineers (Corps) or their contractors during site inspections of Formerly Utilized Defense Sites (FUDS). The BLM will adhere to the Statement of Principles, signed by the Department of the Interior (DOI) and provided as attachment 1, which outlines coordination between Federal agencies with respect to the FUDS program.

Policy/Action:

The BLM Field Offices should work closely with the Corps to identify areas of concern with respect to military munitions. Once a FUDS site is identified, the Corps has the authority and responsibility under the Defense Environmental Restoration Program (DERP), established by Section 211 of the Superfund Amendments and Reauthorization Act (SARA) of 1986, to conduct remediation pursuant to the Comprehensive Environmental Response, Compensation, and
Liability Act (CERCLA) to address contamination as a result of Department of Defense (DOD) activities. In conducting FUDS cleanups, the Corps is required to comply with the National Contingency Plan (NCP), established under CERCLA, and also to ensure that cleanup complies with all Applicable or Relevant and Appropriate Requirements (ARARs).

The local BLM Field Office is to coordinate ongoing land management activities at these sites with the Corps in a manner that promotes prompt site inspection and eventually will facilitate clean-up of the explosive hazard.

The Corps is the lead for the DOD for the execution of the FUDS program. The Corps follows CERCLA for cleanup of FUDS and their own internal guidance in Engineering Manual 200-3-1. The Technical Project Planning Process (TPP) is the process that the Corps uses to execute a site assessment and cleanup. The BLM’s Field Offices should participate in stakeholder meetings and activities of the TPP process for FUDS sites within their geographic areas of responsibility when public lands are within or adjacent to the FUDS.

Site inspections are non-intrusive, investigative activities, conducted by the Corps and designed to identify and classify areas for possible remediation. Because of the non-intrusive nature of these site investigations and the short congressionally-mandated timeframe allotted to conduct the investigations, the BLM’s Field Offices should coordinate with the Corps to facilitate the FUDS Site Inspection work.

In order to facilitate site access requirements, the BLM, in consultation with the Corps Headquarters, has developed letter templates (attachment 2) for the Corps’ initial notification to the BLM’s Field Office and for the BLM response. The BLM response letter template may be modified, as appropriate, to include local issues of concern such as the BLM’s understanding of the presence of munitions on BLM managed lands, or such issues as the location of sensitive archeological, cultural, or ecological resources. The BLM letter template also should provide information regarding the local BLM point of contact.

In the event that disputes arise between a local BLM Field Office and the Corps or contractors, the Field Office manager will notify the State Office, via the State Office Hazardous Materials Lead, as to the nature of the dispute. The State Office should expeditiously work with the Corps Division Office to resolve the dispute. It is in the BLM’s interest to have FUDS sites investigated and cleaned up by the Corps and to expedite access. If access is not granted, the Corps may move
operations to other non-BLM sites, which could significantly delay the clean up of
the BLM FUDS site.

Most disagreements arising during the course of site investigations can and should
readily be resolved at the Field or State levels. However, if the Field Office/ State
Office cannot satisfactorily resolve the dispute in a timely manner, the matter
should be elevated to the Washington Office Hazmat Program Lead to be resolved
at the national level between Agencies.

**Timeframe:** Effective upon issuance.

Background: The military services have used public lands for military training and
testing since the founding of the Nation. In many cases, when the lands were no
longer needed by the military, the lands were returned to the BLM for management
under the public land laws and mining and mineral laws. The BLM manages more
than 15 million acres of lands previously used by the military. When the military
returned these lands to the BLM, they were often only partially cleared of
munitions, hazardous materials and abandoned buildings. Congress established the
FUDS program under the Defense Environmental Restoration Act (DERA) to
address the issues of residual contamination on FUDS as a result of DOD
activities. Not all formerly used military lands qualify for the FUDS program.
The lands of primary importance to the BLM with respect to the FUDS program
are lands that were transferred from the military to the BLM prior to October 17,
1986. Lands transferred after this date are environmentally restored under other
military environmental programs.

The DOI is a signatory to the Statement of Principles for Collaborative Decision
Making for Cleanup of Formerly Used Defense Sites on Federal Lands and DOI
has adopted various “White Papers” developed by the Munitions Response
Committee (MRC). The MRC is comprised of representatives from all the military
services and DOD policy makers. Regulatory partners include the Environmental
Protection Agency (EPA), states, American Indians, Native Alaskans, and other
federal land managers such as the Departments of the Interior and Agriculture.
The MRC strives to reach consensus on munitions response policy and technical
issues through the use of a collaborative decision making process. The MRC white
papers, in addition to the laws, regulation, manuals and handbooks, provide the
framework for the Corps/ BLM collaborative effort to reduce and manage risk on
FUDS located on public lands.

**Budget Impact:** This IM has no effect on budget.

Coordination: This IM has been coordinated with the Division of Lands, Realty and Cadastral Survey and the DOI Office of Environmental Policy and Compliance.

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Signed by:  
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2 Attachments

1 - Statement of Principles (8 pp)  
2 - Letter Templates (4 pp)

Section 121 (d) of CERCLA requires that cleanups protect human health and the environment and also comply with requirements or standards imposed by other Federal and state environmental laws – typically referred to as ARARs.