OFFICE OF THE UNDER SECRETARY OF DEFENSE

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ACQUISITION,
TECHNOLOGY
AND LOGISTICS

DEC 1 8 2003

MEMORANDUM FOR ASSISTANT SECRETARY OF THE ARMY
(INSTALLATIONS & ENVIRONMENT)
ASSISTANT SECRETARY OF THE NAVY
(INSTALLATIONS & ENVIRONMENT)
ASSISTANT SECRETARY OF THE AIR FORCE
(INSTALLATIONS, ENVIRONMENT & LOGISTICS)

SUBJECT: Definitions Related to Munitions Response Actions

In the past two years, the Department of Defense (DoD) has developed polices and guidance to establish and implement a Military Munitions Response Program (MMRP). DoD's Management Guidance for the Defense Environmental Restoration Program (DERP), dated September 28, 2001, was DoD's initial effort in this regard.

To further this effort, and to promote understanding, provide clarity and consistency in both internal and external discussions, a commonly understood set of terms is required. Key among these new definitions is "munitions response" and "munitions and explosives of concern" (MEC). Along with "munitions constituents" (MC), a term defined in 10 U.S.C. § 2710, these definitions also help to clarify DoD's intent to integrate both the explosives safety (i.e., responses to MEC) and environmental (i.e., responses to MC that do not present an explosive hazard) aspects of a munitions response.

The use of accurate, descriptive terminology is important in our on-going efforts to engage other Federal agencies, American Indian Tribes, Alaska Native Entities, the States, and the public in our efforts to address issues related to munitions responses. I therefore request that you begin now to use these terms. Please note however, that as these definitions that are not based on existing statute, regulation, or DoD directive, they should be considered interim. In particular, this memorandum is not intended to limit or to foreclose public comment on these terms during the forthcoming rulemaking for the Military Munitions Response Site Prioritization Protocol.

Use of this terminology does not infer any specific funding authority nor does it alter the program eligibility criteria for munitions responses or building demolition/debris removals found in the DERP Management Guidance. Guidance for funding a munitions response is provided in the DERP Management Guidance.

Attachment A
Definitions provided by this Policy Letter

Defense Sites. Locations that are or were owned by, leased to, or otherwise possessed or used by the Department of Defense. The term does not include any operational range, operating storage or manufacturing facility, or facility that is used for or was permitted for the treatment or disposal of military munitions. (10 U.S.C. 2710(e)(1))

Discarded Military Munitions (DMM). Military munitions that have been abandoned without proper disposal or removed from storage in a military magazine or other storage area for the purpose of disposal. The term does not include unexploded ordnance, military munitions that are being held for future use or planned disposal, or military munitions that have been properly disposed of consistent with applicable environmental laws and regulations. (10 U.S.C. 2710(e)(2))

Explosives or Munitions Emergency Response. All immediate response activities by an explosives and munitions emergency response specialist to control, mitigate, or eliminate the actual or potential threat encountered during an explosives or munitions emergency. An explosives or munitions emergency response may include in-place render-safe procedures, treatment or destruction of the explosives or munitions, and/or transporting those items to another location to be rendered safe, treated, or destroyed. Any reasonable delay in the completion of an explosives or munitions emergency response caused by a necessary, unforeseen, or uncontrollable circumstance will not terminate the explosives or munitions emergency. Explosives and munitions emergency responses can occur on either public or private lands and are not limited to responses at RCRA facilities. (Military Munitions Rule, 40 CFR 260.10)

Munitions Constituents (MC). Any materials originating from unexploded ordnance, discarded military munitions, or other military munitions, including explosive and nonexplosive materials, and emission, degradation, or breakdown elements of such ordnance or munitions. (10 U.S.C. 2710 (e)(4))

Munitions and Explosives of Concern (MEC). This term, which distinguishes specific categories of military munitions that may pose unique explosives safety risks, means:

(A) Unexploded Ordnance (UXO), as defined in 10 U.S.C. 2710 (e) (9);
(B) Discarded military munitions (DMM), as defined in 10 U.S.C. 2710 (e) (2); or

(C) Munitions constituents (e.g., TNT, RDX) present in high enough concentrations to pose an explosive hazard.

Munitions Response. Response actions, including investigation, removal and remedial actions to address the explosives safety, human health, or environmental risks presented by unexploded ordnance (UXO), discarded military munitions (DMM), or munitions constituents (MC).

Munitions Response Area (MRA). Any area on a defense site that is known or suspected to contain UXO, DMM, or MC. Examples include former ranges and munitions burial areas. A munitions response area is comprised of one or more munitions response sites.

Munitions Response Site (MRS). A discrete location within a MRA that is known to require a munitions response.

Attachment B
Definitions provided by 10 USC 101
(FY 2004 National Defense Authorization Act)

Military Munitions. Military munitions means all ammunition products and components produced for or used by the armed forces for national defense and security, including ammunition products or components under the control of the Department of Defense, the Coast Guard, the Department of Energy, and the National Guard. The term includes confined gaseous, liquid, and solid propellants, explosives, pyrotechnics, chemical and riot control agents, smokes, and incendiaries, including bulk explosives and chemical warfare agents, chemical munitions, rockets, guided and ballistic missiles, bombs, warheads, mortar rounds, artillery ammunition, small arms ammunition, grenades, mines, torpedoes, depth charges, cluster munitions and dispensers, demolition charges, and devices and components thereof.

The term does not include wholly inert items, improvised explosive devices, and nuclear weapons, nuclear devices, and nuclear components, other than non-nuclear components of nuclear devices that are managed under the nuclear weapons program of the Department of Energy after all required sanitization operations under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) have been completed. (10 U.S.C. 101(e)(4)

Operational Range. A range that is under the jurisdiction, custody, or control of the Secretary of Defense and—

(A) that is used for range activities; or

(B) although not currently being used for range activities, that is still considered by the Secretary to be a range and has not been put to a new use that is incompatible with range activities.

(10 U.S.C. 101(e)(3)

Range. The term 'range,' when used in a geographic sense, means a designated land or water area that is set aside, managed, and used for range activities of the Department of Defense. Such term includes the following:

(A) Firing lines and positions, maneuver areas, firing lanes, test pads, detonation pads, impact areas, electronic scoring sites, buffer zones with restricted access, and exclusionary areas.

(B) Airspace areas designated for military use in accordance with regulations and procedures prescribed by the Administrator of the Federal Aviation Administration.

(10 U.S.C. 101(e)(3)

Unexploded Ordnance (UXO). Military munitions that:

(A) have been primed, fused, armed, or otherwise prepared for action;
(B) have been fired, dropped, launched, projected, or placed in such a manner as to constitute a hazard to operations, installations, personnel, or material; and
(C) remain unexploded whether by malfunction, design, or any other cause.
(10 U.S.C. 101(e)(5)

In addition to the definitions contained in this memorandum, there are also relevant general statutory definitions contained in section 101 of title 10, United States Code. That section provides authoritative definitions for the following five terms: military munitions, operational range, range, range activities, and unexploded ordnance.

My points of contact for these definitions are Colonel John Selstrom, (703) 604-1529 (john.selstrom@osd.mil), and Mr. Kurt Kratz, (703) 697-5372 (kurt.kratz@osd.mil).

Philip W. Grone
Principal Assistant Deputy Under Secretary of Defense
(Installations and Environment)

Attachment:
As stated