



# PRELIMINARY RESPONSES TO COMMENTS

ON THE

## ACCELERATING CLEANUP: FOCUS ON 2006 NATIONAL DISCUSSION DRAFT



OFFICE OF ENVIRONMENTAL MANAGEMENT

DECEMBER 1997



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Attached is "Preliminary Responses to Comments on Accelerating Cleanup: Focus on 2006, National Discussion Draft." This document is intended to convey how EM plans to respond to comments of concern submitted by stakeholders and Tribal Nations during the National Discussion Draft comment period, which ended on September 9, 1997. The Draft National 2006 Plan, currently scheduled for release in February of 1998, is the vehicle by which EM will be able to fulfill its commitments to respond to comments.

This document presents preliminary responses to over 600 comments in over 170 letters received by EM. In addition, the document describes the planned actions to be taken in response to comments received through direct interactions with stakeholders such as the Environmental Management Advisory Board (EMAB) and the National Governors Association (NGA), as well as comments in the form of appropriation language from congressional committees. This preliminary response document describes how these comments will be addressed, by subject and/or issue area, in the Draft National 2006 Plan being developed. This document does not address site-specific comments, which were forwarded to the appropriate DOE Site, nor those that pertained to programs other than EM, which were forwarded to those programs. Some comments of a general nature, not addressed specifically in this document, will be considered in the development of the Draft National 2006 Plan.

I wish to express my thanks for your efforts to review and comment on the National Discussion Draft. Continuing dialogue with the public is essential to improvement of the 2006 Plan, and the 2006 planning process. EM is committed to involving the public in the 2006 planning process and welcomes continuing comments.

Sincerely,



Alvin Alm  
Assistant Secretary  
for Environmental Management

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**TABLE OF CONTENTS**

1	OVERVIEW .....	1-1
2	RESPONSES TO ISSUES OF CONCERN .....	2-1
2.1	Data Quality .....	2-1
2.2	Cost Estimates .....	2-3
2.3	End States / Long-Term Stewardship .....	2-4
2.4	Enhanced Performance .....	2-7
2.5	Compliance .....	2-10
2.6	Budget .....	2-14
2.7	National Action Plan on Intersite Transfer .....	2-16
2.8	Innovative Technology .....	2-18
2.9	Prioritization .....	2-21
2.10	Contingencies .....	2-23
2.11	Contracting Strategies / Privatization .....	2-27
2.12	Waste Management PEIS .....	2-31
2.13	Groundwater Contamination .....	2-32
2.14	Radioactive Source Recovery Program (RSRP) .....	2-34
2.15	Public Participation .....	2-35
2.16	Other Comments .....	2-39
3	PATH FORWARD .....	3-1

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# 1 OVERVIEW

The Department of Energy's Office of Environmental Management (EM) is issuing this document in response to comments received on the National *Accelerating Cleanup: Focus on 2006, Discussion Draft*, distributed in June 1997. This document is intended to convey how EM plans to respond to these comments in the context of the Draft National 2006 Plan, scheduled for release in February 1998. As such, this document is an *early* response to the issues of most concern to stakeholders and Tribal Nations, and is intended to affirm EM's commitment to involve the public in the 2006 planning process. The Draft National 2006 Plan, itself, is the vehicle by which EM will be able to carry out, or fulfill, its commitments to respond.

In June 1996, EM proposed a unifying vision focused on completing as much of the EM mission as possible by 2006. This vision was based on the realization that accelerating cleanup and closure would reduce economic and environmental liabilities over the long term. Between June 1996 and June 1997, EM Headquarters interacted with stakeholders and Tribal nations and individual sites where EM activities are being conducted to develop a strategic approach for achieving this vision, generically referred to as the 2006 Plan

In June 1997, EM issued National and Site *Accelerating Cleanup: Focus on 2006, Discussion Drafts*, as the basis for continuing dialogue with stakeholders and Tribal Nations. The National *Discussion Draft* was based on Site *Discussion Drafts* submitted by each Operations/Field Office in February 1997. EM distributed the National *Discussion Draft* to interested parties to elicit comments on the goals and strategies of the National 2006 Plan, and input on how those strategies should be implemented. The public comment period for the *Discussion Drafts* ended on September 9, 1997.

In October 1997, EM issued a revised *2006 Plan Guidance* to direct the sites in developing updated Draft Site 2006 Plans. The updated Draft Site 2006 Plans and supporting data will become the basis for a Draft National 2006 Plan, which is scheduled for release to Congress and the public in February 1998. The following document responds specifically to issues and concerns expressed by stakeholders and Tribal Nations during the *Discussion Draft* comment period.

EM received over 170 letters containing comments on a broad range of subject areas, and from a wide variety of stakeholder and Tribal Nation groups. Although some of these comments were supportive of the goals and strategies outlined in the National *Discussion Draft*, most comments challenged EM to improve their approach, assumptions, and processes related to 2006 Plan development and implementation.

This document focuses exclusively on comments provided in response to the National *Discussion Draft*. Comments not related to the National 2006 Plan, including site-specific comments, and comments related to DOE programs other than EM, are not addressed in this document. These comments have been directed to the appropriate Operations/Field Offices and program offices where they will be addressed through a separate forum.

In all, EM compiled over 800 comments from over 170 letters received during the comment period. Of these, about 160 are site-specific or unrelated to EM. The remainder address the National *Discussion Draft* or EM program and are discussed in this document. In addition, pertinent language in the Appropriations Committee Reports of the U.S. Congress and dialogue with groups such as the National Governors' Association (NGA) and the Environmental Management Advisory Board (EMAB) are factored into the preparation of this comment response document.

The variety of concerns expressed by various stakeholder groups and Tribal Nations represent a challenge for EM. The EM program is extremely diverse in terms of geographic locations, environmental conditions, physical plant, and work scope. Just as diverse are the many faces of the public which the program serves. Tribal Nations, state and local governments, regulatory agencies, citizen groups, the business community, academic institutions, and individuals all have a stake in the EM program. Through their input, EM hopes to develop a 2006 Plan that fairly balances diverse perspectives that are sometimes in conflict. Further dialogue with the public is essential to continuous improvement of the National 2006 Plan, and the 2006 planning process.

EM cannot solve its waste cleanup problems alone, and will not be able to craft a workable integrated plan for imparting its cleanup program without the active participation and support of most of our stakeholders and Tribal Nations. Further dialogue with the public is essential to continuous improvement of the 2006 Plan, and the 2006 planning process. EM welcomes continuing comment, particularly as to how it can more actively involve the public.

The remainder of this document is organized as follows:

- Section 2.0 identifies the issues of concern by subject area, and specifically identifies how EM plans to respond to the range of concerns expressed.
- Section 3.0 discusses EM's path forward with respect to development and implementation of the National 2006 Plan.

## 2 RESPONSES TO ISSUES OF CONCERN

EM categorized the comments into the 16 subject areas identified in Table 1, and further identified the issues of concern within each subject area. For each issue, representative excerpts from the comments received about that issues are provided to form the context for an EM Response.

To the maximum extent possible, EM will address the issues by improving and modifying the National 2006 Plan. These preliminary responses to issues may not specifically address every stakeholder or Tribal Nation comment, but they attempt to address the majority of comments that were received. In addressing the broad range of comments submitted, EM firmly believes that it will develop an improved National 2006 Plan, and structure an EM program that better serves its many constituents.

### 2.1 DATA QUALITY

Many organizations have expressed concern over what they view as a lack of consistency within and between various EM planning documents issued as part of, or in conjunction with, the National 2006 Plan. Aside from creating concerns over the credibility of the EM program to achieve its mission, the discrepancies have generated questions about the sufficiency of EM's data collection efforts. Some stakeholders have indicated that they expect some data gaps, but ask that EM explicitly identify the areas where further research and analysis may be required, rather than develop plans that are unsubstantiated by existing data. The NGA FFCA Task Force also expressed concern over data inconsistencies in waste disposition plans between the Site *Discussion Drafts* and the reports submitted in compliance with the Federal Facility Compliance Act (FFCA). EM received seven comments on the National *Discussion Draft* related to data quality, approximately one percent of the total number of comments received. The remainder of this section provides representative excerpts from the comments received and summarizes EM's response to this issue.

**Excerpts:** "There are several key inconsistencies among planning documents that undermine the credibility of the entire process." (State of Idaho)

"There seems to be a lack of consistency between statements in the Executive Summary and baseline of work presented in DOE Site specific planning documents." (State of Tennessee)

"The drafts (National and Site) do not agree." (Savannah River Site Citizens Advisory Board)

"ES-2 states that an effort has been made to highlight certain data gaps and inconsistencies. In fact, many of the data gaps and inconsistencies are neither mentioned or highlighted." (Southwest Research and Information Center)

**Table 2.1 Number of Comments on the National *Discussion Draft* by Stakeholder Group and Subject Area**

Subject Areas	Stakeholder Groups and Tribal Nations													TOTAL
	Academic Institution	Advisory Board	Citizens Group	Congress	Contractor	Corporate Entity	Federal Government	Foreign Government	Laboratory	Local Government	Private Citizen	State Government	Tribal Nations	
Data Quality		1	1	1		1					1	2		7
Cost Estimates		7	1	1	1						9	3	2	24
End States / Long-Term Stewardship	1	6	4	2					2	9	7	11		42
Enhanced Performance	4	4	3	1				2	3	21	7	7		52
Compliance	1	9	2	1		1				10	5	9		38
Budget		10	2	1			1		4	4	5	1		28
National Action Plan on Intersite Transfer		5	8			2		1	3	18	9	4		50
Innovative Technology		3	3						1	4	3	1		15
Prioritization	6	16	13	2		1		2	8	6	14	6		74
Contingencies	1	5	5						4	7	6	1		29
Contracting Strategies / Privatization		5	4			2			4	2	4	1		22
WM PEIS		3	1						1	2	6	1		14
Groundwater Contamination		4	5				1				13	3		26
Radioactive Source Recovery Program	24		2		1	55	6	1	3	1	3	22		118
Public Participation	2	18	4						8	11	3	11		57
Other Comments	1	10	6	2						50	2			71
<b>TOTAL</b>	<b>40</b>	<b>106</b>	<b>64</b>	<b>11</b>	<b>2</b>	<b>62</b>	<b>8</b>	<b>1</b>	<b>8</b>	<b>39</b>	<b>157</b>	<b>111</b>	<b>58</b>	<b>667</b>

“The Committee is extremely disappointed that the document itself admits that the top level document cannot be supported by the details, that it is not based on budget quality data, and that after a year of planning, that the Department is only at the initial planning stages.” (U.S. Congress)

**Response:** EM is currently improving the quality of data that is being used to prepare the Draft National 2006 Plan. Sites have been asked to validate that the data provided in the next data submission are consistent with their site baselines. Baselines are also expected to be validated, and Headquarters will collect information regarding project validation. The objectives of the validation process are to determine if the baseline is defensible relative to scope, schedule, and cost, and to minimize any data inconsistencies.

The NGA FFCA Task Force primarily expressed concern over data inconsistencies in waste disposition plans, between Site *Discussion Drafts* and the plans submitted in compliance with the FFCA Act. EM has undertaken measures to explicitly address this concern. Waste inventory and generation data provided in Site Plans and reflected on disposition maps will be consistent with other regulatory commitments. If Site Plans differ from the FFCA Act planning assumptions, sites must provide a clear discussion of these differences and how the changes have been, or will be, accepted by regulators. The likelihood of that acceptance will be indicated by the associated programmatic risk of that site’s Critical Closure Path.

In order to mitigate data discrepancies in the area of waste transfers, EM Headquarters is requiring shipping and receiving sites to communicate with each other and reach agreement as to the quantity of waste planned to be shipped. Numerous meetings are being held to facilitate this communication. The creation of Site and National disposition maps should enable more accurate tracking of these data, as well as highlight those areas where any inconsistencies between shipping and receiving sites may exist. Plans that do not have the necessary agreement will be indicated as a programmatic risk to the site’s Critical Closure Path, and the site will indicate a resolution strategy.

## 2.2 COST ESTIMATES

The National *Discussion Draft* provides life-cycle cost estimates for each Operations/Field Office based upon data developed in the Field. EM received 24 comments related to this subject area, about four percent of the total number of comments received. These comments generally focus on the quality of the cost estimates. The remainder of this section provides representative excerpts from the comments received and summarizes EM’s response to this issue.

**Excerpts:** “The assumptions used to project environmental restoration costs seem overly optimistic.” (State of Idaho)

“Chapter 4. Hanford life-cycle costs did not include post-closure surveillance and maintenance.” (Confederated Tribes of the Umatilla Indian Reservation)

**Response:** The data provided for the Draft National 2006 Plan will be based upon baselines, which will be developed by each site using sound assumptions. Baselines are expected to be validated and will be developed in conjunction with stakeholders and Tribal Nations. Each site will work with stakeholders and Tribal Nations to determine what activities need to be included in the site’s baseline. In response to the specific comment regarding post-closure costs, sites will include post-closure surveillance and maintenance costs in their baseline.

## 2.3 END STATES / LONG-TERM STEWARDSHIP

The National *Discussion Draft* outlines the projected end state for each major site. End states are of particular concern because they represent one of the most fundamental planning assumptions upon which cost, scope, and schedule are estimated. EM received 42 comments related to end states / long-term stewardship, about six percent of the total number of comments received. These comments can be generally categorized into the following issues of concern:

- Commentors are concerned with the definition of “end state,” the issue of ongoing missions at sites, and long-term stewardship requirements.
- Those who commented express concerns with the lack of stakeholder involvement in the determination of end states, particularly early in the process.
- Those who commented request a better discussion of end states, end dates, and costs.
- Stakeholders and Tribal Nations request additional clarification on the definition of “cleanup.”

The remainder of this section discusses each of these issues in greater detail, provides representative excerpts from the comments received, and summarizes EM’s response to each issue.

**Issue 1:** Commentors are concerned with the definition of “end state,” the issue of ongoing missions at sites, and long-term stewardship requirements.

**Excerpts:** “The SRS-CAB recommends that the documents address final end states, or identify those programs with uncertain end states and clearly state the uncertainties and the issues that need to be resolved.” (Savannah River Site Citizens Advisory Board)

“End states are defined in the text as ‘that point when all environmental restoration, waste management, or nuclear materials and facility stabilization activities are complete.’ *This is unacceptable.* Please affirm that we will be included as members of all workgroups or integration teams that discuss performance measures and end states.” (Confederated Tribes of the Umatilla Indian Reservation)

**Response:** In the Draft Site 2006 Plans, each site will define the end state assumption for the site with respect to EM activities. This assumption will be consistent with existing agreements and applicable regulations. Sites are also responsible for developing work scope, cost estimates, and schedules in accordance with the end state assumption. The current end state planning assumptions do not rule out future decisions to clean up site to a more protective or “cleaner” end state. In fact, each site will be asked to explicitly state that the end state used for planning purposes in the National 2006 Plan may not represent the ultimate end state for the site. Improved end states may be possible at some time in the future with the development of new technologies, more economical cleanup approaches, or the availability of additional resources.

After the end state is achieved, there may be ongoing surveillance and monitoring, or stewardship requirements. EM’s Environmental Management Advisory Board (EMAB) has established a new long-term stewardship committee. This committee will provide advise and recommendations on policies and actions EM should take to prepare for the transition from active waste treatment and remediation efforts to long-term stewardship. For the Draft National 2006 Plan, EM expanded its requirements for the sites to discuss long-term stewardship requirements. This, in conjunction with a parallel effort to develop a stewardship report for DOE, will ensure that adequate attention has been paid to this important aspect of cleanup. The stewardship report will be issued shortly after the Site and National Draft 2006 Plan.

**Issue 2:** Commentors are concerned with the lack of stakeholder involvement in the determination of end states, particularly early in the process. Specifically, stakeholders and Tribal Nations are very concerned that EM is developing end states for sites without adequate input or participation, sometimes in potential violation of laws/agreements.

**Excerpts:** “Attachment D gives strong emphasis to states and others in negotiated agreements relative to end states. For this to take place, major changes in the style of many DOE managers will be required ....” (State of Missouri)

“These points encompass issues of critical concern to Native Americans .... That ‘End States’ and ‘Land Stewardship’ for cleanup sites on territories in which Native Americans have reserved rights be determined now, at the beginning of the Ten Year Plan process.” (Confederated Tribes & Bands of the Yakama Indian Nation)

**Response:** While sites have made assumptions with respect to end states, these assumptions in no way should be interpreted as a circumvention of the process by which end states need to be agreed upon in conjunction with regulators, stakeholders, and Tribal Nations. The Draft 2006 Plans will explicitly acknowledge the uncertainties in any assumptions made with respect to end state, particularly when the end state for a site has not been agreed to by all involved parties. EM intends to move forward in the

legally-required processes to establish end states for sites in an equitable and fair manner.

**Issue 3:** Stakeholders requested a better discussion of end states, end dates, and costs. Some who commented provide specific recommendations for graphics and the types of information they would find useful in the 2006 Plan.

**Excerpts:** “A chart should be included for each site showing cumulative and annual expenditures over the time required to meet these end states and show when the end state milestones are expected to be met.” (W. Lee Poe, Jr.)

“The 2006 Plan document should provide details concerning the presently anticipated ‘end state.’” (Vernon J. Brechin)

“It appears to be physically impossible to reach the end states projected in [Table D.1, High-Level Summary of End States Proposed in Site Discussion Drafts--Oak Ridge] by the year 2006.” (State of Tennessee)

“Requiring discussion, particularly in a strategic document, is how funds will be provided for those sites requiring long-term stewardship.” (Clark County, Nevada)

**Response:** The next Site and Draft National 2006 Plans will contain a detailed discussion of end states, end dates, and costs. EM will attempt to clearly articulate the assumptions upon which the cost, scope, and schedule are based; the long-term stewardship issues (including funding); and the certainty/uncertainty associated with the end state planning assumptions.

**Issue 4:** Stakeholders and Tribal Nations requested additional clarification on the definition of “cleanup.” Many stakeholders feel that cleanup standards have not been thoroughly defined, nor evaluated. Others expressed concern over the current cleanup standards, which they believe will not result in acceptable end states.

**Excerpts:** “DOE is proceeding to do cleanup in an ad-hoc fashion without national cleanup standards, and, in some cases, waste disposal standards to guide it. In fact, DOE opposes national cleanup standards and last December asked the Environmental Protection Agency to stop the process of setting them.” (Military Production Network)

“The words ‘cleaned up’ should not refer to areas which will remain contaminated even if the contamination is stabilized. The public should not be misled; the ‘cleanup’ program now envisioned will leave large areas significantly contaminated with radioactive and hazardous wastes.” (Oak Ridge Advisory Board)

“The apparent lack of cleanup standards, the inconsistency of standards among sites, and the uncertainty of the basis for the standards is of concern to all stakeholders. The nonexistence of a clearly articulated policy on remediation

standards will serve to slow down cleanup efforts. DOE must develop standards, and be able to describe (and defend) the standard to the public.” (Clark County)

“The discussion draft assumes that EM will maintain a long-term presence even at sites at which it has ‘accelerated cleanup’... The goal of cleanup should be to meet national and local cleanup standards so that, in some cases, no further action or DOE control is necessary.” (Southwest Research and Information Center)

“Ten years will not be sufficient to clean up larger, more complicated sites such as the West Valley Demonstration Project (WVDP) ... Environmental quality should not be compromised simply to complete cleanup in ten years or less. DOE will have to take more than ten years to achieve a thorough cleanup.” (The Seneca Nation of Indians)

**Response:** EM establishes cleanup standards for each site consistent with the end state agreed to by stakeholders and Tribal Nations. In cases where the specified end state and final standards have not been agreed to by regulators, stakeholders, and Tribal Nations, the site will describe within its Draft Site 2006 Plan the process that will be used to establish an agreed upon end state, including the target date for end state agreement. The next Site and Draft National Plans will be more explicit in their description of “cleanup” used to bound the projects for planning purposes.

## 2.4 ENHANCED PERFORMANCE

The National *Discussion Draft* evaluates alternative planning scenarios based upon specific enhanced performance targets for each Operations/Field Office and compares them to the planned baselines for each Operations/Field Office. EM views enhanced performance objectives as a means for “doing more with less.” EM received 52 comments related to enhanced performance, comprising about eight percent of all comments received on the National *Discussion Draft*. The majority of these comments focus on three issues of concern:

- The efficiency targets outlined in the National *Discussion Draft* are untenable.
- Safety and Health and other regulatory compliance activities (e.g., enforceable agreements, Executive Order 12088, etc.) may be overshadowed or sacrificed in pursuit of enhanced performance objectives.
- Contingency plans need to be developed and discussed by the Field and Headquarters in the event that the performance enhancement targets are not achieved.

The remainder of this section discusses each of these issues in greater detail, provides representative excerpts from the comments received, and summarizes EM’s response to each issue.

**Issue 1:** Some stakeholders and Tribal Nations feel that the enhanced performance targets are reasonable and achievable. A few comments suggest that EM’s targets are too

conservative, and that EM can achieve even more enhanced performance than currently projected. However, many stakeholders and Tribal Nations consider the enhanced performance targets to be speculative, and request that further documentation be provided in support of the targets.

**Excerpts:** "... the targets are appropriate if budget planning is in step with yearly achievements." (State of Missouri)

"We believe that the performance enhancement targets are reasonable and attainable." (The Nez Perce Tribe)

"The Committee is concerned that the Department is trying to force a scope of work to fit into an unrealistic acceleration plan using efficiency goals or management challenges that are virtually impossible to meet, especially in the outyears." (U.S. Congress)

"... savings generated through greater program efficiencies and privatization initiatives ... are highly speculative ... given that the easy efficiencies have already been squeezed from the system ..." (Western Governors' Association)

"While the goals projected are laudable, the Department has a demonstrated track record of being unable to convert projected paper savings into savings in the field." (State of Tennessee)

"... annual target enhancements ... appear unrealistic, they are imposed arbitrarily, regardless of the nature of the site, its past record of achieving efficiencies, or the equities of prior budgets." (State of Idaho)

**Response:** EM does not anticipate, nor expect, that all sites will achieve the same efficiency gains because of the inherent differences across sites. Since the National *Discussion Draft* was issued, EM has held "workouts" with the major sites to see what types of enhanced performance goals are achievable. Based on the workouts, these goals have been further refined, and each site has accepted the goals that will be identified in the Draft National 2006 Plan.

In response to concerns raised by those who commented, the Draft National 2006 Plan will be based on credible baselines that include only known methods of achieving enhanced performance goals. Additional enhanced performance objectives, above those included in a baseline, are *goals* accepted by the Operations/Field Office. The Draft National 2006 Plan will identify enhanced performance in both categories.

In preparing the Draft National 2006 Plan, EM will evaluate FY 1997 performance and assess whether sites are on track. Workouts will continue to be conducted to

evaluate the targets. The enhanced performance targets could change (from fiscal year to fiscal year), in order to push sites to maximize efficiency while retaining realistic expectations.

**Issue 2:** Many who submitted comments are concerned that the enhanced performance targets in the National *Discussion Draft* may create an adverse incentive structure for sites with regard to safety and/or security. Some commentators suggest that the enhanced performance goals to reduce costs could have unwanted consequences, such as sites failing to stay in compliance and failing to work in a manner that would promote the safety and health of workers, the public, and the environment.

**Excerpts:** “Requirements for contractor efficiencies could result in ... Standard Operating and Safety Protocols [being] ignored in order to meet monetary or schedule goals [and] security, safeguards, life safety, building upgrades/maintenance may be sacrificed [increasing] the risks of an on-site accident resulting in a release of contaminants to the local communities.” (City of Westminster)

“[Have] worker safety, environmental safety, and compliance issues been met?”  
(The Shoshone-Bannock Tribes)

“... the State [of Idaho] questions whether a budget based on extensive reliance on very ambitious efficiency targets meets DOE’s obligations under Executive Order 12088 and many of its legal agreements to request funding that meets regulatory requirements.” (The State of Idaho)

**Response:** The enhanced performance targets are *goals* that have been established through a dialogue between the Field and Headquarters in a mutual effort to reduce costs in response to the current federal fiscal climate, while continuing to protect the safety and health of workers, the public, and the environment. The Draft National 2006 Plan will indicate that it is unacceptable to meet these goals by relaxing regulatory compliance, creating adverse work conditions, or performing work to lower standards. EM is committed to conducting work in a safe and reliable manner, and Secretary Peña has made it clear that protection of safety, health, and the environment are absolute standards which cannot be compromised. The enhanced performance targets are not to be met at the cost of diminished attention to safety, health, or environmental quality. Enhanced performance does not mean that sites will be given the latitude to cut corners. To the contrary, the current rigorous standards will continue to be applied to sites.

The goals for enhanced performance have been designed to encourage sites to work toward increased operating efficiency. EM has worked to improve the methodology for measuring enhanced performance. To further ensure actions are undertaken in a safe and environmentally sound manner, EM will continue to involve stakeholders and Tribal Nations in the 2006 planning process, and they will be given opportunities to provide input into EM’s cleanup strategy and process.

**Issue 3:** Those who commented identified the need for EM and the Field to have contingency plans in place to cover the possible scenario that the enhanced performance targets are not met. The comments in this area generally ask that plans be developed that address the possibility that efficiency gains are not achieved. (See also Section 2.9, Contingencies).

**Excerpts:** "... DOE needs [to] include a section in the report addressing contingency planning showing the relative confidence level difference between differing segments of the *Discussion Draft*. As presented the Draft leads to the conclusion that obtaining these goals is certain." (W. Lee Poe, Jr.)

"SRIC believes that the draft plan should include scenarios where those targets are not met in order to determine how important to the success of the effort they are." (Southwest Research and Information Center)

**Response:** In the Draft National 2006 Plan, site baselines will reflect what EM realistically expects projects will cost without any speculative performance enhancement assumptions included. Site baselines for project scope, schedule, and cost will include only defined enhanced performance.

While EM believes that it will be challenging the sites with achievable enhanced performance targets for the Draft National 2006 Plan, the targets are only goals at this point. If these targets are not achieved, the site baseline, as provided in the Draft National 2006 Plan, will reflect the estimated cost and schedule to conduct the EM mission at the site without enhanced performance.

The Draft National 2006 Plan will document the efficiencies achieved in FY 1997 and project savings that are anticipated in the future. EM expects that some sites will exceed their targets while others may fall short. EM firmly believes, however, that setting targets is a critical management tool for improving performance.

## 2.5 COMPLIANCE

As stated in the National *Discussion Draft*, EM is committed to maintaining full compliance with applicable environmental and other requirements, including Executive Order 12088; federal, state, and local statutes and regulations; activities required under the terms of permits, administrative orders, or judicial decrees; and enforceable milestones or schedules established in agreements negotiated between EM and regulators. EM received 38 comments on the National *Discussion Draft* related to compliance, about six percent of the total number of comments received. These comments underscore three issues with respect to EM's compliance with federal, state and tribal agreements:

- Some of those who commented are concerned that compliance agreements will negatively impact other program goals, and they suggest that EM evaluate the reasonableness of existing and proposed compliance agreements.
- Stakeholders and Tribal Nations are worried about EM's ability to meet compliance agreements under the accelerated schedule and lower funding levels of the 2006 Plan.
- Stakeholders and Tribal Nations expect EM to evaluate the projected cost, schedule, and scope associated with program completion under existing and proposed compliance agreements.

The remainder of this section discusses each of these issues in greater detail, provides representative excerpts from the comments received, and summarizes EM's response to each issue.

**Issue 1:** Some stakeholders express concern that EM's need to comply with regulations will require large expenditures which may not yield benefits substantial enough to justify their costs. These stakeholders view these regulations as costly barriers to efficient completion of EM's program mission. Some stakeholders question the validity of adhering to compliance requirements at the expense of sacrificing other pertinent objectives. Given funding constraints, some stakeholders fear that EM will not be able to meet certain important objectives, while diverting limited resources to meeting compliance requirements that are difficult to achieve.

**Excerpts:** "Some Administration or Congressional guidance may be necessary to achieve appropriate regulatory relief in program execution." (Earnest Chaput)

"Why must tax dollars be spent to clean [to] human habitat standards? Would funds not be saved if much of the contaminated areas of some sites were left at levels that [only] wildlife could exist .... If this idea were implemented, this would speed up closing of some sites, reduce mortgages and free up funding for other sites." (SRS - Citizens Advisory Board)

"Consideration should be given to existing compliance agreements however, there should be flexibility in the process to allow for changes where an improved outcome can be demonstrated." (U.S. Congress)

**Response:** EM activities, including activities related to safety and health, are not limited to those which are required by regulations or external requirements. EM does not believe that compliance conflicts with other objectives; however, EM seeks to comply in the most cost-effective manner so as to maximize a variety of objectives, including risk reduction and mortgage reduction. EM is committed to working with regulators and stakeholders to identify the most efficient manner of meeting all of these objectives. EM will develop the Draft National 2006 Plan to meet all critical safety requirements and regulatory requirements, within the requested \$5.75 billion level of funding. If adequate funding is not provided by Congress to perform all safety and compliance related activities, EM will work with stakeholders and Tribal

nations and regulators to establish appropriate priorities and the levels at which those priorities should be funded, with the understanding that EM will not compromise safety and health.

**Issue 2:** Many stakeholders are worried that in order to meet the accelerated schedule and reduced funding targets of the 2006 Plan, EM will not be able to meet the requirements of various compliance agreements. This would be a direct violation of Executive Order 12088, which requires DOE to request sufficient compliance funding from Congress to meet its legal requirements.

**Excerpts:** “The various cost-cutting and time-saving provisions presented in the *Discussion Draft* are very aggressive. Do the funding projections include the needed funds to comply with various federal mandates such as the National Historic Preservation Act, American Indian Religious Freedom Act, Native American Graves Protection and Repatriation Act and others?” (The Shoshone-Bannock Tribes)

“At a minimum the Environmental Management program must fully incorporate changes in the following vital [area]: Compliance with existing site cleanup agreements.” (Military Production Network)

“At the local level, reduced funding can cause a compromise of cleanup goals and impose burdens on regulators, and perpetual hazards to the public and the environment. ‘Performance Enhancement’ is admirable, but a simultaneous compromise of site cleanup goals is already occurring.” (State of Tennessee)

“DOE must comply with Executive Order 12088 and request the full funding necessary to comply with the laws of the nation.” (Oregon Department of Energy)

“DOE is required by law to use its best efforts to request, not identify, the funding required for full compliance.” (Hanford Advisory Board)

“Idaho is perhaps most concerned with the compliance issues raised by the plans. For example, under the low funding scenario, the Carlsbad Office Plan indicates that removal of the contact-handled waste from Idaho and other states would be below compliance levels.” (State of Idaho)

**Response:** As stated in the National *Discussion Draft*, EM is committed to maintaining full compliance with applicable laws, orders, agreements, and regulations, including Executive Order 12088. In accordance with Executive Order 12088, EM will request sufficient funds to ensure compliance. More broadly, EM will comply with all activities required by applicable federal, state, and local statutes and regulations; activities required under the terms of permits, administrative orders, or judicial decrees; and enforceable milestones or schedules established in agreements between EM and regulators. The sites will work closely with Tribal Nations and

stakeholders to address compliance requirements, conduct other activities, and determine appropriate priorities and related funding levels.

In order to maintain compliance with Executive Order 12088, EM Headquarters also requests that the Field identify what scope of work would not be completed under lower funding scenarios. An Integrated Priority List (IPL), which is a mechanism for providing documentation and justification for budget requests, is routinely provided by each Operations/Field Office, on a subproject basis. The IPL clearly states the impact of alternative budget scenarios on specific IPL elements, and documents regulatory and compliance issues raised by changes in funding for these IPL elements. With this detailed information from the Field, EM Headquarters will be able to request sufficient funds for compliance with applicable pollution control standards as required by Executive Order 12088.

If the situation arises where the combined Headquarters and Operations/Field Office efforts to optimize the use of resources still fall short of the expectation of meeting compliance needs and other top priority program goals, the EM program will communicate the shortfall and its root causes to the Secretary of Energy, the Office of Management and Budget, and to appropriate congressional committees requesting that increased funding be provided to EM.

**Issue 3:** Commentors have noted that, in order to request adequate compliance funding as mandated under Executive Order 12088, it is necessary for EM to have full understanding of the long-range costs that will be incurred in completing the program's mission. Many groups have expressed concern that EM has not accumulated sufficient knowledge to make an accurate assessment of life-cycle costs with different oversight conditions, and therefore, adequate funding will not be requested. In particular, several groups have noted that in those situations where new regulations have been proposed, an adequate assessment of the associated impacts of implementing the change has often not been performed. Without a thorough evaluation, sufficient funding cannot reasonably be determined.

**Excerpts:** "The SR-CAB recommends that the plans recognize the probability of NRC regulatory oversight sometime before 2006 and evaluate the effect of this change on both schedule and costs." (Savannah River Site Citizens Advisory Board)

"Implementation of Defense Nuclear Facilities Safety Board (DNFSB) Recommendation 94-2 will impact DOE low-level radioactive waste treatment, storage, and disposal. The projected costs of implementing the DNFSB recommendations across the DOE complex should be made and DOE Order 5820.2A should be revised." (University of Nevada, Las Vegas)

"Within five to ten years, the DOE's military activities are scheduled to come under direct oversight of the Nuclear Regulatory Commission. The *Discussion Drafts* of the 2006 Plan do not contain any analysis of the potential impacts of a change in oversight. RFCAB recommends that future versions of the 2006 Plan attempt to

analyze, or at least recognize, the impacts that the change in oversight might have for the cleanup programs at Rocky Flats and across the complex.” (Rocky Flats Citizen Advisory Board)

**Response:** EM recognizes the concerns of stakeholders over the unknown implications of impending and proposed changes to the program. EM is currently taking measures to address these concerns. EM will discuss these uncertainties and related contingencies in the Draft National 2006 Plan. For example, a working group has been created to analyze the potential impacts on the program and associated funding needs if the Nuclear Regulatory Commission assumes responsibility for oversight of certain defense-related portions of EM. It is not anticipated, however, that any proposed changes would significantly alter the cleanup approach which has been adopted to meet the main program objectives of reducing risk and accelerating program completion. The 2006 Plan is not intended to cover all contingencies. Rather, the Plan is a strategic planning document that indicates the direction of the program based on current expectations and reasonable assumptions about possible alternatives and future contingencies. EM intends to update the Plan annually. New information will be taken into account in these annual updates

## 2.6 BUDGET

The National *Discussion Draft* is not a budget document; although as a planning document, it does frame budget decisions. EM received 28 comments on the National *Discussion Draft* regarding budget issues, comprising about four percent of all comments received. These comments focus on two issues of concern:

- Commentors are concerned about the flat funding assumptions for the outyears.
- Stakeholders are concerned about potential funding shortfalls at sites, as well as funding decisions made at Headquarters.

The remainder of this section discusses each of these issues in greater detail, provides representative excerpts from the comments received, and summarizes EM’s response to each issue.

**Issue 1:** Some of those who commented are concerned that EM’s funding assumptions for the outyears (i.e., “flat funding”) will be detrimental to the EM mission.

**Excerpts:** “The flat funding assumption may, in fact, not only delay cleanup, but may also increase costs as a result for deferring ER activities.” (Hanford Advisory Board)

“By flatlining the EM budget [at least at the NTS], DOE will negate its ability to maintain full compliance with applicable environmental laws and other legal requirements. We note that maintaining legal requirements is a tenet of the 2006 Plan.” (State of Nevada)

**Response:** Currently, the annual EM allocation is projected to be \$5.75 billion for planning purposes, which is halfway between the \$5.5 billion and the \$6.0 billion funding levels documented in the National *Discussion Draft*. In the National *Discussion Draft*, all sites were assumed to have flat funding over the life cycle. This assumption is improved in the Draft National 2006 Plan which reflects reallocations of funds in the outyears from sites that have closed to sites with continuing missions. Although the total allocation for the EM program is projected to remain constant over the life cycle, sites with long-term missions are expected to receive additional funding as time goes on.

**Issue 2:** Commentors are concerned about potential funding shortfalls at sites and about funding decisions made at Headquarters.

**Excerpts:** “As WIPP Program Manager for the State of Colorado, I wish to express strong concerns over the potential lack of funds for WIPP to ship and dispose of waste from DOE generator sites in a timely manner.” (State of Colorado)

“If DOE wishes to accelerate cleanup at any site it must be done with funding already planned for that site, or with new funding. It is unacceptable for DOE to delay cleanup at Hanford to any degree by diverting funds to other sites.” (Oregon Department of Energy)

“The Board is concerned that the nation will not understand the obligation to clean up Hanford. The financial climate - cutbacks and short-term commitments - is of concern because for Hanford to maximize efficiencies, a stable funding source is needed. Congressional willingness to provide stable funding is unclear.” (Hanford Advisory Board)

**Response:** Each EM site must plan its near-term budgets within a set of funding constraints provided by DOE, the Office of Management and Budget (OMB), and Congress. EM is committed to cleaning up as much of the complex as possible within its annual funding constraints. EM places a high funding priority on activities with risk reduction potential, activities that maintain compliance, and activities that reduce mortgage costs and accelerate cleanup. Within that context, and in an environment of increasingly limited funds, EM is continually working to perform activities of the highest priority. In addition, EM will continue to comply with Executive Order 12088, which requires the program to request sufficient funding to maintain compliance. EM regularly works with OMB and Congress to demonstrate the value of stable funding for the program and the Draft National 2006 Plan will be based on this assumption. In spite of these efforts, EM must make difficult funding decisions within existing funding constraints.

## 2.7 NATIONAL ACTION PLAN ON INTERSITE TRANSFER

In the National *Discussion Draft*, EM outlines the issues involved in managing wastes and materials that may require shipment between sites in the "National Action Plan on Intersite Transfer." Pending decisions regarding the configuration of storage, treatment, and disposal sites and the mode and volume of transportation are of great interest and concern to stakeholders and Tribal Nations. Of the comments received on the National *Discussion Draft*, 50 (about eight percent) are related to the National Action Plan on Intersite Transfer. Most of these comments focus on two issues of concern:

- The issue of transportation requires more discussion in a strategic document, and budget allocations are not consistent with the safe transportation, storage, and treatment of waste.
- Stakeholders identify specific areas in the document for which they need clarification.

The remainder of this section discusses each of these issues in greater detail, provides representative excerpts from the comments received, and summarizes EM's response to each issue.

**Issue 1:** Many of those who commented believe that EM does not adequately address the issue of transportation in the National *Discussion Draft*. Concern was also expressed that budget allocations are not consistent with the requirements to safely transport, treat, and dispose of wastes.

**Excerpts:** "Criteria for accepting off-site waste and nuclear materials include ... careful planning of transportation routes and consideration of weather emergencies to minimize the likelihood of an accident." (Hanford Advisory Board)

"That all sites be directed to include in their baseline proposals assessments as to how they will deal with the transportation of hazardous substances across Native American lands, including lands in which Native Americans have reserved rights." (Confederated Tribes & Bands of the Yakama Indians)

"Planning for the transportation of the waste should be comprehensive ... and must ensure that [the] least number of citizens and communities are impacted." (Clark County, Nevada)

"Criteria for accepting off-site waste and nuclear materials include ... Financial support from DOE to State, tribal, and local involvement for emergency preparedness, including adequate equipment and training." (Hanford Advisory Board)

“DOE must fully commit the resources necessary for local emergency response training and equipment and logistical support.” (Oregon Department of Energy)

“We are also concerned about the effect of proposed budget cuts on the WIPP Transport Safety Program .... Adequate funding should be provided to ensure that this ongoing WIPP Transport Safety Program continues.” (California Energy Commission)

**Response:** The Draft National 2006 Plan will provide the basis for addressing the concern relative to transportation since each site will be providing disposition maps which will quantify the waste quantities and treatment and disposal alternatives, thus allowing a detailed analysis of the transportation requirements. These data will be submitted to the National Transportation Program to ensure that logistics and resource needs are developed.

EM is committed to provide a transportation program that is protective of human health, worker safety, and the environment. Although efficiencies are being sought in the overall EM process, safe transportation and storage of wastes will not be compromised. As the disposition maps are developed and related waste integration issues are resolved during updates to the plan, budget allocations will be reviewed as required to meet commitments.

**Issue 2:** Some stakeholders recommend that DOE clarify specific terms within the National *Discussion Draft*. They identify key areas within the National Action Plan on Intersite Transfer section of the document for which they need clarification. Moreover, they identify specific programs and reports that they consider to be “flawed.”

**Excerpts:** “The Contractor Report to the Department of Energy on Environmental Management Baseline Programs and Integrated Opportunities (*Discussion Draft*), May, 1997, contains some thoroughly interesting and potentially viable solutions to the Waste Management problems for DOE. Its major flaws relate to accuracy of data, disregard for compliance agreements, failure to incorporate NEPA, and State equity concerns.” (State of Tennessee)

“The National *Discussion Draft* provides a synthesis of the detailed information provided by each Operations/Field Office but is not adequate to understand the specific ramifications for each waste type (e.g. TRU waste). A comprehensive understanding of this detailed information is essential to begin to assess the ‘realities’ for achieving the goals of Focus 2006 at the national level.” (Sandia National Laboratories)

“Statements throughout the *Discussion Draft* and the *Discussion Draft-Carlsbad Area Office* have raised the specter again of changing WIPP’s mission to include larger quantities and other types of TRU waste. Statements [in] the *Discussion Draft* have raised CARD’s concern that DOE is already considering using WIPP for

all TRU-waste. DOE needs to clarify if this is an option as soon as possible and certainly before WIPP is ruled on by the EPA.” (Citizens for Alternatives to Radioactive Dumping)

“At a minimum the Environmental Management program must fully incorporate changes in the following vital [area]: Integration of ‘waste management’ and ‘environmental restoration.’” (Military Production Network)

**Response:** The National Action Plan discusses a generic approach to solving issues associated with intersite transfers. Since the drafting of the National Action Plan, EM has implemented an integrated approach to decision making for waste and nuclear material disposition. A key component of this approach is development of “baseline” disposition maps which will graphically depict waste and nuclear material flows in the Draft National 2006 Plan, both within, and between sites. The baseline disposition maps, along with underlying technical information, provide a schematic of waste and nuclear material quantities managed by the EM program from generation through final disposition. The baseline disposition maps and their supporting data will reflect prior decisions and current policy, and include “to be determined (TBD)” indicators where decisions have not yet been made for specific waste and nuclear material streams. The revised Draft 2006 Plan for each site will include all appropriate disposition maps, and the Draft National 2006 Plan will summarize the waste and nuclear material transfers between sites as derived from the individual site baseline disposition maps. This will provide the reader with a clear understanding of the disposition strategies.

Some comments received included various questions regarding the destination of certain waste streams and specific classification/definition of wastes. The baseline disposition maps should provide answers to most of these questions, while other answers will be found in the revised waste management order (DOE Order 435.1), due to be made available for public review and comment in 1998.

The Department is continuing its evaluation of recommendations in the contractors’ report described in Appendix B of Attachment G of the National *Discussion Draft*. These recommendations will be rejected or accepted only after careful evaluation and within existing formal decision processes which allow public participation (e.g., National Environmental Policy Act).

## 2.8 INNOVATIVE TECHNOLOGY

The National *Discussion Draft* discusses innovative technology as a means by which EM can reduce cost, accelerate cleanups, and achieve cleaner end states. EM received 15 comments on the National *Discussion Draft* related to science and technology, constituting about two percent of the total comments received. These comments underscore three issues of concern:

- Some commentors are skeptical that significant savings can be realized from the deployment of innovative technologies.
- EM should provide access to additional information about the science and technology program, including documentation of science and technology needs, and assessments of innovative technologies being considered for deployment.
- Science and technology development should focus on the achievement of cleanup objectives, as well as cost savings and acceleration of cleanups.

The remainder of this section discusses each of these issues in greater detail, provides representative excerpts from the comments received, and summarizes EM's response to each issue.

**Issue 1:** In general, stakeholders and Tribal Nations express concern that EM is relying too much on the deployment of innovative technologies to generate cost savings and achieve enhanced performance targets. Although some of those who commented are cautiously optimistic about the potential benefits associated with new technologies, many of the comments suggest that it often makes more sense to use existing technologies, either because cost savings are too uncertain, or because the science and technology program does not always have sufficient time or funding to develop and implement new technologies.

**Excerpts:** "While SRIC supports use of innovative technology to achieve better cleanup, we are not convinced of the validity of the estimate [that] innovative technology can potentially save \$12 billion to \$27 billion." (Southwest Research and Information Center)

"If \$12B to \$27B can be saved through the use of innovative technology, all efforts should be directed toward realizing these savings, however, caution and discretion are called for." (The Shoshone-Bannock Tribes)

"It is unclear to what extent DOE was relying on funding of its Technology Deployment Initiative and resultant savings to meet 2006 funding assumptions." (State of Idaho)

"[T]he use of existing technologies is applicable to many of the waste legacy problems on the ORR and their use should be maximized." (State of Tennessee)

**Response:** EM recognizes that cost savings and other benefits associated with innovative technologies can be uncertain, particularly in the early stages of research and development. To address this issue, EM is improving its technology data collection and analysis requirements for the Draft National 2006 Plan. In particular, Operations/Field Offices will identify in their Draft Site 2006 Plans the projected cost savings or other benefits associated with planned or likely technology deployments, their confidence in these projected savings or other benefits, any associated reference documents, and whether or not projected savings are included in project baseline costs. Operations/Field Offices will elaborate on the cost savings

data submitted for the Draft National 2006 Plan in their Technology Deployment Management Plans, which establish the key strategies and management structure for accelerating the deployment of innovative technologies. These plans will discuss the methodology used for estimating cost savings associated with innovative technologies, and will include fact sheets that discuss the cost savings associated with specific technologies. In addition, EM is developing a standard methodology for calculating cost savings due to the use of new technologies. This methodology will be used for the Field Office submittals in 1998, and will facilitate comparison of existing and innovative technologies.

**Issue 2:** Several stakeholders request additional information regarding science and technology initiatives, including documentation of unmet needs and assessments of innovative technologies being considered for deployment.

**Excerpts:** “ES-5 [of the *Discussion Draft*] states that ‘substantial unmet science and technology needs’ were identified at the sites. A specific document identifying those needs should be referenced and made public.” (Southwest Research and Information Center)

“DOE/EM needs to explain if such a technology assessment program was performed in the recent past ....” (Vernon J. Brechin)

**Response:** Collection of science and technology data will be significantly improved for the Draft National 2006 Plan. In addition to identifying science and technology needs, EM requires the Field in their Draft Site 2006 Plans to link these needs to (1) the disposition of waste, nuclear materials, and contaminated media, and (2) critical milestones and activities necessary to clean up the site. The Field will also be required to develop Programmatic Risk Management Plans for critical events with high technological risk. Moreover, EM is requiring Operations/Field Offices to develop site-specific Technology Deployment Management Plans for technologies that will be deployed in the near-term. These plans will indicate when new technologies are expected to be deployed, cost savings and other potential benefits associated with their deployment, potential regulatory barriers, and concerns expressed by stakeholders or Tribal Nations. The Draft National 2006 Plan will instruct stakeholders on how to obtain these and other publicly available documents containing science and technology information. Note that all technology needs, listed by Field Office, are available on the Internet at <http://em-52.em.doe.gov/ifd/stcg.htm>.

**Issue 3:** In discussing the benefits of science and technology deployment, the National *Discussion Draft* emphasizes potential cost savings and accelerated cleanups. Several stakeholders indicate that science and technology initiatives should be more focused on the attainment of environmental remediation objectives, particularly in cases where the current technology is not capable of achieving cleanup objectives.

**Excerpts:** “The discussion in the document needs to be enhanced to reflect the importance of technology in meeting the remediation objectives.” (Clark County, Nevada)

“RFCAB [Rocky Flats Citizens Advisory Board] recommends that DOE pursue a technology program that seeks not only a faster and cheaper cleanup, but one that is focused on working toward a cost-effective cleanup to background levels.” (Rocky Flats Citizens Advisory Board)

**Response:** EM tracks all science and technology needs identified by the sites, including needs for technologies that do not currently exist to accomplish cleanup objectives, needs for technologies that will improve the likelihood of compliance, and needs for technologies that will permit cleaner end states. In general, the emphasis placed on these technologies versus technologies that will accelerate cleanup or reduce costs will be determined by the priorities and goals established through the 2006 planning process. This issue will be discussed in the Draft National 2006 Plan. Draft Site 2006 Plans will include an overview of critical science and technology development needs, anticipated benefits from the deployment of new technologies, and the Operations/Field Office plans for the acceleration of technology development.

## 2.9 PRIORITIZATION

The National *Discussion Draft* explicitly states that EM places a high priority on maintaining full compliance with applicable environmental and other requirements, performing work in a manner that does not compromise safety and health to accelerate closures, and reducing risk to workers, the public, and the environment. EM received 74 comments on the National *Discussion Draft* related to prioritization of activities, about eleven percent of the total number of comments received. These comments focus on two issues of concern:

- EM may have placed a priority on accelerated cleanup at the expense of health, safety, and the environment.
- EM might better achieve the goals of accelerated cleanup by shifting resources or reorganizing activities.

The remainder of this section discusses each of these issues in greater detail, provides representative excerpts from the comments received, and summarizes EM’s response to each issue.

**Issue 1:** Some commentators have expressed concern that EM has placed a priority on accelerated cleanup at the expense of health, safety, and the environment. Most feel that risk and compliance should be priorities. (Also see comments on enhanced performance.)

**Excerpts:** “Speed does not equate to reduced risk. The priority must be on health and safety.”  
(Hanford Advisory Board)

“ERWM’s preferred strategic approach would incorporate elements of all five strategies and would focus on: (1) reducing risk, and (2) reducing mortgages.”  
(The Nez Pierce Tribe)

“RFCAB believes that reduction of risk and full compliance with regulatory agreements should be the top priorities in developing a closure case for Rocky Flats.” (Rocky Flats Citizen Advisory Board)

“... reducing risk is the top priority and should be the primary strategy. The other approaches: (2) Accelerating cleanup; (3) Meeting compliance agreements; (4) Reducing mortgages; and (5) Deploying innovative technologies are secondary means to the end of reducing risk rather than independent strategies of their own.”  
(Savannah River Site Citizens Advisory Board)

“Idaho is also concerned with DOE’s ability to oversee efficiencies to ensure that cutting costs does not mean cutting corners.” (State of Idaho)

**Response:** EM recognizes environmental and human health risk management as a major programmatic driver for setting priorities, sequencing project work, and measuring progress. Compliance activities in most instances have been developed with the intention of reducing risk, and past analysis shows that they do. In short, EM’s policy regarding safety and health is to “do work safely or don’t do it.”

In addition, each Operations/Field Office is responsible for establishing a project prioritization process that maintains project and end-state integrity, while ensuring the safety of site workers and the public. DOE sites are directed to design these prioritization processes with input from local stakeholders and Tribal Nations. Site-specific priorities established through these processes are reflected in the Integrated Priority Lists (IPLs), submitted by Operations/Field Offices to EM Headquarters as part of the 2006 planning process. These priorities will be incorporated into the Draft National 2006 Plan.

All acceleration and mortgage reduction activities performed in accordance with the 2006 Plan vision will be conducted with a focus on risk reduction and ensuring the safety of workers, the public, and the environment. Mortgage reduction projects are an integral part of EM’s risk reduction strategy. Such projects not only reduce risk exposure periods, but they also provide savings which can be redirected to other risk reduction projects.

**Issue 2:** Some of those who commented on the National *Discussion Draft* believe that EM could more effectively achieve the goals of accelerated cleanup by shifting resources or reorganizing activities.

**Excerpts:** "... MRC recognizes the need to expend resources on those sites that are the most seriously contaminated. While recognizing this need, MRC advocates and recommends sites, such as the Mound, which may be less contaminated than other DOE sites, but can be cleaned up quickly, be given a high priority in budgeting resources. Such an approach will result not only in quicker cleanup of less contaminated sites and reuse of the sites for private business development but will enable DOE to reallocate funds to other sites." (Miamisburg Mound Community Improvement Corp.)

"Despite considerable progress in characterizing many of the large problems of cleanup and waste management in the nuclear weapons complex, DOE has not developed a process by which it can set sensible priorities. Nor does it have a philosophy to guide its cleanup program." (Military Production Network)

"... Ohio continues to provide an opportunity where relatively modest additional short-term investment can reap billions in savings for the taxpayers of this country." (Ohio EPA)

"The Committee urges the Department to consider risk and mortgage reduction in the prioritization and sequencing of cleanup projects." (U.S. Congress)

**Response:** EM has always recognized that the prioritization and sequencing of its work are essential to accelerating risk reduction and achieving cost savings. Energy and Water Development Appropriations Bills for both Fiscal Year 1997 and Fiscal Year 1998 have provided clear congressional direction for the EM program to emphasize funding for projects which accelerate the closure of sites. Site closures which can be accomplished by the year 2006 receive separate funding visibility and emphasis in a "Defense Facilities Closure Projects" appropriations account. For Fiscal Year 1998, the appropriation to this account is \$890,800,000. By accelerating closure fund sites (and portions of sites), the heavy burden of EM program support costs can be cut, allowing more overall risk reduction and cost reduction to be achieved as compared to a "maintenance of effort" program at all sites. The relatively new congressional direction in this area is certainly a driving force in restructuring programmatic priorities.

## 2.10 CONTINGENCIES

The National *Discussion Draft* examined two funding scenarios (the "High Planning Scenario" and the "Low Planning Scenario") to address contingency issues. In addition, the National *Discussion Draft* made some specific assumptions about the schedule for opening proposed national waste repositories (i.e., WIPP and Yucca Mountain). EM received 29 comments on the

National *Discussion Draft* related to contingency issues, approximately four percent of the total number of comments received. These comments were concerned primarily with three issues:

- Some of those who commented are concerned that there was not enough planning done in preparing for possible budget shortfalls.
- In the area of programmatic risk, commentors focused on schedule issues (i.e., the opening dates of WIPP and Yucca Mountain), and the dates that specific contingency plans would go into effect.
- Stakeholders are concerned that life-cycle cost estimates presented in the National *Discussion Draft* do not include the cost of cleanup associated with non-EM facilities expected to become excess before 2006.

The remainder of this section discusses each of these issues in greater detail, provides representative excerpts from the comments received, and summarizes EM's response to each issue.

**Issue 1:** Stakeholders are concerned that EM may not actually receive the allocations in the funding targets and are interested in a discussion of how EM would manage possible reductions.

**Excerpts:** "Based on recent experience, the lack of contingency planning alone could cause severe compliance problems under a funding scenario with no room for error."  
(The State of Idaho)

"Among the factors that could preclude the currently defined alternatives from being implemented would be a severe reduction in federal funding, and a lack of success ... by the private sector." (Clark County, Nevada)

**Response:** It is not possible for EM to discuss or analyze the consequences of all potential scenarios as part of the 2006 planning process. However, programmatic risk management efforts will be incorporated into the 2006 planning process to identify "at-risk" activities, milestones, and waste planning assumptions. These higher risk elements of the overall planning process will receive special management attention through the development of Programmatic Risk Management Plans. (See response to Issue 2.)

With respect to funding, the National *Discussion Draft* looked at two scenarios, one based on a "high" and one on a "low" funding allocation. The latest data call uses a funding scenario between these two that is consistent with current budget forecasts. In addition, EM is requesting that the Field provide narrative discussions of the impacts of reduced funding. EM is committed to requesting from Congress the funding required to meet compliance and "stay on track," and EM will work with stakeholders and Tribal Nations to identify the activities of the highest priority first, should lower levels of funding be appropriated.

**Issue 2:** Many of those who commented feel that the possibility of late openings of key disposal facilities (i.e., WIPP and Yucca Mountain) needs to be addressed in a more thorough and detailed manner. In addition, EM received several comments requesting greater specificity in EM's contingency plans; particularly, specificity of dates for when specific plans and actions would take place given different scenarios.

**Excerpts:** "... there is no 'critical path' of events presented, nor a process for considering options in the event that the critical assumptions do not occur as planned (e.g., continued delays in opening WIPP)." (Western Governors' Association)

"There are no contingency plans in place for disposal of TRU and HLW in the event that the locations do not open .... A more rational approach would include full identification of optimal solutions for each waste stream before finalizing the planning details." (Idaho Citizens Advisory Board)

"The statement that the 2006 Plan cornerstone is dependent on the WIPP in New Mexico creates concern relative to the entire plan given the factors that affect such activities which are beyond the control of DOE. It would seem appropriate to at least consider other alternatives ...." (State of Missouri)

"The Plan bases much of its success on the repository program which assumes that transuranic wastes will go to WIPP starting in May 1998 and high-level wastes go to Yucca Mountain .... [DOE needs to examine] scenarios that WIPP will not open until significantly later than 1998 and that it would not open by 2006." (Southwest Research and Information Center)

"It appears that the Waste Isolation Pilot Plant will not be ready to open in May of 1998. How will this delay affect the 2006 Plan?" (The Nez Perce Tribe)

"In order to maintain the safest possible level of storage for wastes and other materials at Rocky Flats ... DOE must identify, and make public, specific decision dates for determining when contingencies will need to be acted upon." (Rocky Flats Citizens Advisory Board)

**Response:** As a result of comments received, Site and Draft National 2006 Plans will define programmatic risk as part of the development of the critical closure path and disposition maps in the 2006 Plan. For high risk elements, programmatic risk plans will be used to discuss risk mitigation, contingencies, and impacts. DOE believes that EPA will give final approval for WIPP this spring, and EM is confident that WIPP will be able to begin accepting wastes on, or significantly close to, the scheduled date. If WIPP does not open, planning assumptions will change, and costs will likely increase for the ongoing storage of transuranic waste.

In general, the field will develop Programmatic Risk Management Plans for all critical closure activities and milestones with high programmatic risk. These plans should describe (1) the programmatic risk; (2) the proposed resolution process,

including alternative backup approaches, as applicable; (3) other sites or other agencies that must be consulted; (4) any need for Headquarters assistance or coordination; and (5) a preliminary schedule for resolution. EM Headquarters will be responsible for assisting the sites, as requested, in the resolution of high programmatic risk.

As the Operations/Field Offices take on the challenge of accelerating site closure dates, areas with high programmatic risk will become the focus of DOE management attention to ensure appropriate visibility and resources are provided.

**Issue 3:** Several comments note that life-cycle cost estimates presented in the National *Discussion Draft* do not include the cost of cleanup associated with non-EM facilities expected to become excess before 2006. Those who commented suggest that the 2006 Plan ought to include an evaluation of potential impacts to program costs, scope, and schedule should the cleanup of these facilities become the responsibility of EM.

**Excerpts:** “The plan addresses remediation of only those facilities and sites that are currently assigned to the DOE Assistant Secretary for Environmental Management (EM). There is no plan for managing cleanup of other excess DOE facilities.” (City of Oak Ridge)

“The discussion draft assumes that facilities currently not under EM will not [become their responsibility]. A good strategic planning tool would also analyze how to deal with additional facilities since there are numerous DOE facilities that are not now EM facilities, but will require major cleanup.” (Southwest Research and Information Center)

**Response:** Each site will include in its Site Draft 2006 Plan a description of potential cost and schedule impacts resulting from additional facilities being transferred into the EM program. Currently, the EM program assumes that it will maintain a stable scope of facilities, and will not need to accommodate additional facilities transferred from other programs. However, this assumption may change pending the outcome of recent efforts by EM to better understand this issue. Specifically, EM is conducting an in-house study to investigate unresolved issues concerning unneeded DOE facilities and the budgetary burdens they are likely to impose in the near future should they become excess before 2006. DOE is also considering recommendations made by the National Association of Public Administration on organizational alternatives for best allocating management and funding responsibilities for future excess properties. Any changes to the assumption on excess facilities resulting from these studies will be reflected in the Draft National 2006 Plan.

## 2.11 CONTRACTING STRATEGIES / PRIVATIZATION

The National *Discussion Draft* outlines EM's position that privatization, effectively implemented, is a key strategy that EM will use to meet cleanup challenges despite declining budgets. The National *Discussion Draft* specifically states that, "Privatization is an acquisition strategy that, under appropriate circumstances, can accelerate cleanup and reduce costs through competition, financing by the private sector, and application of private-sector technology and experience." EM received 22 comments on the National *Discussion Draft* related to contracting strategies or privatization, about three percent of the total number of comments received. In particular, these comments underscore five issues of concern:

- EM needs to explain the consequences of Congress's apparent reluctance to approve funding for new privatization projects.
- The definition of "privatization," as discussed in the National *Discussion Draft*, is potentially misleading.
- Tribal Nations are concerned that under privatization, contractors may not be required to recognize Native American rights established through existing agreements and policies.
- EM has not demonstrated privatization to be a viable contracting approach.
- Inadequate contractor oversight, budget constraints, and reductions in work force may result in poor quality work and unsafe work conditions.

The remainder of this section discusses each of these issues in greater detail, provides representative excerpts from the comments received, and summarizes EM's response to each issue.

**Issue 1:** EM initiated a privatization program in FY 1997, submitting a budget request of over \$300 million for privatization activities. EM's budget request for FY 1998 included more than \$1 billion for the privatization of 11 additional projects. However, some commentators are concerned about congressional reluctance to provide funding for new privatization projects, citing concerns about how the privatization program has been managed. Comments on the National *Discussion Draft* indicate concern that EM has not developed contingency plans for the funding of these projects.

**Excerpts:** "[E]xplain the consequences for failure to fund privatization to the \$1 billion level requested in FY 1998 .... Explain precisely how the funding is anticipated to be provided to assure the TRU pits and trenches cleanup will be accomplished."  
(Idaho Citizens Advisory Board)

"The tank waste is the biggest mortgage at Hanford, so DOE needs to be concerned about what it will do if privatization fails and causes a loss of Congressional support for dealing with the tanks." (Hanford Advisory Board)

“... DOE needs to have a backup plan if ... privatization plans are unsuccessful (the concern here, in part, is that Congress may not be willing to adequately fund DOE’s privatization initiatives).” (Clark County, Nevada)

“SRIC [Southwest Research and Information Center] believes that the draft [2006 Plan] should include an ‘alternative planning scenario’ of no privatization.”  
(Southwest Research and Information Center)

**Response:** The EM privatization program was provided \$200 million in FY 1998. As specifically stated in the FY 1998 Energy and Water Development Appropriations Act Conference Report, the \$200 million provides for the EM privatization program to guarantee the Federal Government’s commitment to a variety of projects for which private financing will be sought by the contractors involved in bidding on these activities at Department of Energy sites.

Twelve projects were included in the \$1.006 billion FY 1998 budget request. Ten of the twelve projects are new, and eight of these ten received funding in FY 1998 adequate to support initiation of the projects - from either the privatization account or the closure projects account. The two new projects proposed in FY 1998 that did not receive any funding will be deferred to later years, without significant impact on the program. The two projects that are not new in FY 1998 are sufficiently funded to continue as scheduled.

The Conference Report specifically recognizes the importance of the tank waste remediation system (TWRS) privatization project. The total budget authority provided by Congress for TWRS is sufficient for TWRS to proceed on schedule, and underscores the commitment to see this project completed. The conferees also recognized the importance of meeting cleanup milestones at the Idaho National Engineering and Environmental Laboratory in the settlement agreement between the Department and the State of Idaho. The report states that adequate funds should be provided for this purpose.

**Issue 2:** The National *Discussion Draft* identifies “privatization” as an alternative contracting approach that can potentially reduce program life-cycle costs, perhaps significantly. In discussing this opportunity, some stakeholders believe that EM has not accurately defined “privatization,” and that discussion of this contracting approach is misleading.

**Excerpt:** “The term privatization should only be used when marketplace forces are at work. Federal tax funded projects do not meet this criteria.” (Vernon J. Brechin)

**Response:** EM will use the definition of “privatization” as contained in the FY 1998 budget. As described in the Department’s FY 1998 budget request, privatization is “an alternative business strategy to the traditional M&O approach.” Its objective is “to

reduce the cost of desired products and services by encouraging free-market forces to set the 'price' [of these products and services] through open competition." This objective is accomplished primarily through the use of fixed-price contracts and private sector financing. That is, the Federal Government pays a fixed price (or fixed unit price) to the lowest bidder meeting the performance specifications established by the Department, and no payment is due from the Federal Government until the products and/or services are delivered by the contractor.

**Issue 3:** Privatization would fundamentally change the contractual relationship between DOE and its contractors on privatized projects. Tribal Nations are concerned that under this contracting approach, contractors may not be required to honor Native American rights established through existing DOE-Tribal Nation agreements, DOE policies, or Presidential Executive Orders.

**Excerpt:** "As DOE policy shifts toward privatization, will the independent contractors be required to comply with the DOE-Native American Policy and specific agreements with Tribes?" (Shoshone-Bannock Tribes)

**Response:** Privatization of EM projects in no way releases DOE from its commitments to DOE-Tribal Nation agreements. DOE is obligated to ensure that all contracts, including fixed-price contracts, are consistent with existing agreements, orders, and policies regarding Tribal Nations and the rights of Native Americans. Furthermore, DOE is obligated to ensure that its contractors and subcontractors are aware of such provisions and honor them in the execution of DOE contracts.

**Issue 4:** Although some who commented recognize that EM can potentially realize significant cost savings through privatization, others are concerned that EM has not demonstrated privatization to be an economically or technically viable contracting approach. Congress has expressed similar concerns regarding EM's management and oversight of current privatization initiatives.

**Excerpts:** "The recent Idaho experience (e.g., *DOE's Project to Clean Up Pit 9 at Idaho Falls Is Experiencing Problems* [GAO/RCED-97-180]) ... provides evidence that the use of fixed price contracts is probably not appropriate in all cases." (Clark County, Nevada)

"[Fixed-price contracting, competitive contracting and privatization] should not be applied wholesale until DOE is able to show more success first on a smaller scale." (Citizens for Alternatives to Radioactive Dumping)

"The degree of success [of privatization] will be dependent on the clear definitions of the tasks/projects, or the contractors' change orders will destroy any cost savings." (Kenneth M. Reim, P.E.)

"To this point, privatization as practiced by DOE, with few exceptions, has been one cause of cleanup delays and cost over runs .... The past privatization history

unfortunately has been one of frustration, heightened environmental risks, and financial losses for all parties .... With DOE reduction in force, the quality control of contractor work and 'outsourcing' will suffer even more." (State of Missouri)

**Response:** While EM recognizes that privatization is not an appropriate contracting approach for all projects or subprojects, it expects that, if properly implemented, privatization can reduce the program's cost structure and contribute to the attainment of performance enhancement targets established in the 2006 Plan. EM is collecting contracting and privatization data through several reporting mechanisms in order to provide supporting information for privatization that is both thorough and defensible. EM is also requiring that Draft Site 2006 Plans document the organizational responsibilities and processes for federal management, oversight, and administration of privatized projects. EM will continue to develop a standardized approach for evaluating projects being considered for privatization, including guidelines for estimating projected cost savings.

A number of management initiatives have already been implemented to strengthen the privatization program. For example, an EM Privatization Program Management Plan has been developed which establishes the management approach, plans, systems, organization, roles and responsibilities, guidelines and operating framework to ensure the successful and cost-effective implementation of the EM privatization program.

**Issue 5:** Recent GAO reports have been critical of EM's management and oversight of contractors. Furthermore, budget constraints and streamlining initiatives have recently resulted in reductions to the DOE work force. Some stakeholders express concern that these factors are resulting in poor quality work and unsafe work conditions.

**Excerpts:** "Contractors are not being held accountable for bad management and poor technical decisions." (Military Production Network)

"The SRS-CAB [Savannah River Site Citizens Advisory Board] is very apprehensive about privatization initiatives .... Risks to humans and the environment due to lowered standards of safety, security or environmental protection are unacceptable." (Savannah River Site Citizens Advisory Board)

**Response:** In responding to these concerns, EM will use the *Department of Energy Basic Elements of Contracting Reform*, developed by DOE to ensure that Department contracts incorporate the full range of applicable contract reform provisions. EM will use these elements (e.g., "Protection of the Worker, the Public, and the Environment," "Results-Oriented Statements of Work," "Performance Criteria and Measures," and "Performance-Based Incentives") as a guide in developing contracting strategies. In particular, EM will apply these guidelines in the areas of acquisition, planning, contract management and administration, and cost reduction.

EM will also use the contracting data collected as part of the 2006 planning process to establish planning objectives with respect to contract reform efforts. EM Headquarters and the Field are also implementing organizational changes to improve the management of contracts.

## 2.12 WASTE MANAGEMENT PEIS

The Waste Management Programmatic Environmental Impact Statement (WM PEIS) is a nationwide study of the environmental impacts of managing radioactive wastes from past, present, and future DOE activities. The WM PEIS allows the public and DOE decision makers to make comparisons of the impacts of various potential configurations for the management of DOE waste. EM received 14 comments on the National *Discussion Draft* that focus on the WM PEIS, approximately two percent of the total number of comments received. Stakeholders recognize that unresolved issues in the Record of Decision for the Waste Management PEIS affect goal-setting for the entire 2006 Plan. Without definitive decisions on waste management and disposal, sites cannot accurately estimate the amount of waste coming into or being shipped out of a particular site. This uncertainty affects baseline cost estimates and other aspects of the 2006 Plan. Stakeholders identify areas that they believe still need to be addressed. This section provides representative excerpts of the comments received and summarizes EM's response to these comments.

**Excerpts:** "It is difficult to understand how the 2006 goals regarding low-level radioactive waste, and mixed low-level radioactive waste can be articulated without a final PEIS decision being made." (Nevada Test Site Community Advisory Board)

"... because Nevada's [unresolved] issues are connected to the Waste Management PEIS (e.g., through potential selection of NTS as a regional disposal facility), they should be conceptually addressed in the Record of Decision (ROD) for that document ... a discussion of these issues in the Waste Management PEIS/ROD would better insure the State's ability to resolve them with Department officials." (Agency for Nuclear Projects)

"An additional problem is that the TYP is going forward ... in absence of a final Waste Management Programmatic Environmental Impact Statement .... We still await information on the status of the Waste Management PEIS." (Military Production Network)

**Response:** The Department issued the Final WM PEIS in May 1997. This document established preferred alternatives for transuranic waste (TRU) treatment and storage, low-level waste (LLW) treatment and disposal, mixed low-level waste (MLLW) treatment and disposal, high-level waste (HLW) storage, and hazardous waste (HW) treatment. Although configuration decisions have yet to be made (in the form of WM PEIS Records of Decision), sites will, for planning purposes, incorporate the WM PEIS preferred alternatives in their Draft Site 2006 Plan treatment, storage, and disposal proposals, or explicitly propose a deviation from the preferred alternatives for Headquarters approval. The Draft National 2006 Plan

will incorporate this information and include a more detailed discussion of the WM PEIS and its relationship to the 2006 planning process.

## 2.13 GROUNDWATER CONTAMINATION

In the National *Discussion Draft*, a site is considered “complete” if, among other things, groundwater contamination has been contained, and long-term treatment and monitoring is in place. The National *Discussion Draft* does not exclude the possibility that groundwater activities will continue even after a site is considered “complete.” EM received 26 comments on the National *Discussion Draft* related to groundwater contamination, approximately four percent of the total number of comments received. These comments generally fall into two categories:

- The definition of “cleanup” does not adequately address groundwater contamination.
- Funding assumptions and life-cycle cost estimates may not be appropriate for groundwater remediation activities.

The remainder of this section discusses each of these issues in greater detail, provides representative excerpts from the comments received, and summarizes EM’s response to each issue.

**Issue 1:** Stakeholders are concerned that EM’s definition of “complete” for a site does not sufficiently address the problem of groundwater contamination.

**Excerpts:** “Page 2 (third full paragraph). At most sites the cleanup of contaminated groundwater is essential in ensuring that the health and safety of the public are adequately protected (e.g., Hanford). Accurately describing a complete cleanup would also include the cleanup of contaminated groundwater.” (Nevada Test Site Community Advisory Board)

“The national 2006 Plan states that the completion of site cleanup would be accomplished when groundwater contamination has been contained, and long-term treatment or monitoring is in place (page 1-5). While the 2006 Plan assumes this definition, DOE officials at headquarters should realize that the NTS site-specific plan does not make this assumption. Accordingly, long-term stewardship of the contaminated groundwater at the NTS will require an active, evolving, and ongoing monitoring, surveillance, and maintenance program for at least 100 years.” (State of Nevada)

“The movement of waste through the soil to groundwater is poorly understood at DOE sites. Lacking this critical information, DOE cannot properly assess the risks that will remain after cleanup is done ....” (Oregon Department of Energy)

“Page 7/31, 1.2.2.4 Weldon Spring End State ... monitoring of the groundwater for both the disposal cell, the groundwater operable unit, and the quarry residuals operable unit, will be required for the long term possibly hundreds of years.” (State of Missouri)

**Response:** EM is addressing the definition of “complete” with respect to groundwater contamination in several aspects of the 2006 planning process. As many stakeholders concurred, a definition for “complete” is required to establish a basis for the application of project management tools and provide opportunities to assess the overall program progress. Although the definition that will be used in the Draft National 2006 Plan will be the same as that used in the National *Discussion Draft*, several new requirements of the 2006 plan will also address this concern. First, the sites will provide a clearer definition of the projected end state for groundwater cleanup, as well as the underlying assumptions being used for project baselines. The sites will also include long-term active remediation assumptions, restrictions, and descriptions for the groundwater portion of the project, and its associated costs consistent with the Draft National 2006 Plan. Finally, as in other areas of the 2006 Plan, DOE is clearly stating its intent to fully comply with all applicable regulations and agreements.

**Issue 2:** Some stakeholders and Tribal Nations do not believe that EM has accurately estimated costs for groundwater remediation, and that funding constraints may not provide sufficient funding for groundwater remediation to required levels.

**Excerpts:** “The projected cost (\$18 billion) of long-term surveillance and maintenance indicates that not enough environmental restoration will occur. In the long term, failing to remedy environmental threats is not a true cost savings. For example, Hanford’s Strategic Plan does not envision cleanup of groundwater on the Central Plateau and Central Core. The cost of long term containment and institutional controls may be higher than remediation.” (The Nez Pierce Tribe)

“... Further, the plan should clearly state that any cost numbers do not include the very substantial and not adequately quantified costs of groundwater remediation.” (Southwest Research and Information Center)

“There will need to be funding for monitoring and operation maintenance of the WSSRAP project beyond 2006. The assumption that no active remediation for groundwater issues is premature at best.” (State of Missouri)

**Response:** As in the response to Issue 1 above, the Draft National 2006 Plan will have a number of improvements over the National *Discussion Draft* that will address this issue. In addition to the more clearly defined assumptions discussed previously, the Draft National 2006 Plan will highlight the “programmatic risk” associated with all aspects of the sites’ critical closure path and thus will identify where critical activities such as groundwater remediation have remaining uncertainties that may lead to budget and/or schedule uncertainty. Long-term funding requirements will be clearly identified based on the current assumptions and the “programmatic risk”

associated with those assumptions. Updates to the plan will identify changes to the assumptions resulting from ongoing efforts and any required revisions in the funding requirements. See also the EM Response to Issue 1 under End States / Long Term Stewardship.

## 2.14 RADIOACTIVE SOURCE RECOVERY PROGRAM (RSRP)

The Radioactive Source Recovery Program (RSRP) is designed to reduce, and eventually eliminate, the risks in the private and government sectors posed by unwanted, damaged, old, or otherwise unsuitable radioactive sources for which the custodians have no disposition options. DOE is responsible, under the Low-Level Radioactive Waste Policy Amendments Act of 1985 (PL 99-240), for the disposal of these sources. EM received over 118 comments on the National *Discussion Draft* related to this program, approximately 18 percent of the total number of comments received. Generally, stakeholders believe that the RSRP would either be useful for, or is essential for, the proper disposition of radioactive sources. This section provides representative excerpts of the comments received and summarizes EM's response to these comments.

**Excerpts:** "It is absolutely imperative that stored, unused transuranic neutron sources be properly disposed and the RSRP provides an excellent avenue for such disposition." (Arkansas Department of Health)

"We request that this program be given the highest possible priority." (Department of the Air Force)

"It is in our best interest, and I am sure for many colleges and universities, to have a ready access to a repository that would accept these sources for their ultimate disposal." (Columbia University)

"The funding of the RSRP is considered essential by the source manufacturing industry." (Gammatron)

"The CRCPD is very pleased that DOE has at last recognized the need for this important program and we give it our full support." (State of New Jersey)

"The Radioactive Source Recovery Program is one of the best sounding projects that I have heard of in a long time." (Eric Boeldt)

"... Naval Reactors strongly endorses extension of the Los Alamos Pu-239 source recovery program and its proposed expansion to accommodate additional types of neutron sources." (US DOE)

**Response:** EM is committed to supporting all projects and programs that contribute to compliance with existing laws and regulations. In addition, EM recognizes the importance of sustaining programs that reduce risks to workers, the public, and the

environment. As a result, EM will work to maintain this program as long as funding constraints permit.

## 2.15 PUBLIC PARTICIPATION

Public participation was a key component in the development of the National and Site *Discussion Drafts*. EM places a high priority on soliciting and considering the suggestions of all parties at both the local and national levels in the 2006 planning process. During the National *Discussion Draft* comment period, EM received 57 comments (approximately nine percent of the total received) on the subject of public participation. The majority of these comments focus on four issues of concern:

- Stakeholder input should be focused on the national level, as well as the site-specific level.
- Timing and duration of comment periods do not encourage effective stakeholder participation.
- The planning process needs more openness and honesty when providing information to stakeholders and Tribal Nations.
- References in the National *Discussion Draft* to stakeholder classifications should be more specific.

The remainder of this section discusses each of these issues in greater detail, provides representative excerpts from the comments received, and summarizes EM's response to each issue.

**Issue 1:** Some comments suggest that, while DOE has encouraged stakeholder input, the focus is primarily at the site level. These comments suggest that more attention should be placed on public participation at the national level. Commentors are specifically interested in having more "National Dialogues." The comments include requests for more funding to be allocated to stakeholder participation in the National Dialogue, suggestions for more opportunities for stakeholders to participate in complex-wide dialogues, and requests for DOE to arrange and facilitate discussions that involve multiple sites and that address issues that cross site-specific lines.

**Excerpts:** "A suggestion which I fully endorse is to have a complex-wide dialogue between the various site-specific advisory boards so that equity issues and other concerns can be discussed and possibly resolved among the representatives of diverse stakeholders." (University of Nevada Las Vegas)

"Conducting periodic National Dialogues can be a constructive way to deliberate issues that affect multiple sites." (Clark County, Nevada)

"DOE should provide opportunities for National review and consensus on Complex-wide issues." (Savannah River Site Citizens Advisory Board)

“DOE would clearly benefit from improved public process regarding the Ten Year Plan. By accepting a six month delay in the Ten Year Plan implementation process and integrating that process with the National Dialogue on Nuclear Materials, DOE would greatly increase the likelihood of success of each of these important efforts to improve public participation in nuclear materials decisions.” (Hanford Advisory Board)

**Response:** The Office of Environmental Management encourages Tribal Nations and members of the public to participate actively in the ongoing development of the 2006 Plan. EM is committed to ensuring that the viewpoints of concerned citizens and groups are fully and accurately represented. In support of this, DOE Operations/Field Offices have been communicating opportunities for public involvement in the 2006 planning process. This includes the development of Project Baseline Summaries (PBSs) and the formulation of each site’s FY 2000 Integrated Priority Listing (IPL). In February 1998, the Draft National and Site 2006 Plans will be made available to the public for a 45-day comment period. These draft plans will then be revised to reflect any additional comments received.

In addition to the public involvement opportunities specifically identified in the process of developing the 2006 Plan, individuals and groups are encouraged to participate in the various NEPA activities, budget planning sessions, and advisory board meetings to be held at each site over the next several months. All of these forums offer opportunities for the public to exchange information and provide input into the various decisions that will help determine a site’s cleanup priorities, funding requests, and project schedules.

Finally, the Office of Environmental Management agrees that *intersite* dialogues which focus on *national* issues are an essential component of the process of ascertaining and incorporating the views of the public. Accordingly, EM anticipates that *cross-site* and *regional* workshops—such as the recent joint session of the Hanford Advisory Board (HAB) and the INEEL Citizens Advisory Board (CAB), the National Dialogue Pilot Field Workshops, plus the forthcoming “Low-Level Waste Forum” to be sponsored by the Nevada Test Site Community Advisory Board (NTS CAB)—will assume an increasingly important role as complex-wide forums for public involvement. EM is also in the process of initiating a process of regular contacts with key stakeholder groups that will continue throughout development of the Draft National 2006 Plan. Such a process will strengthen the ability of the Department to make sustainable and implementable decisions, thereby increasing the level of trust and understanding among the citizens that DOE serves.

**Issue 2:** DOE is required to include stakeholders in the planning of actions. However, some of those who commented believe that the stakeholder comment period was offered too late in the planning process to be effective. Others did not think that the time allotted for comments was sufficient for stakeholder groups to fully understand the issues and give educated responses, with full consideration of other EM documents such as the WM PEIS and the contractors’ Integration report.

**Excerpts:** “In developing the cost estimates and schedules to remediate sites, DOE has made assumptions about the actions that will be taken. This disregards the stakeholders’ right to participate in the development of planned actions.” (US EPA)

“The comment period for the 2006/Integration reports must be extended. DOE cannot close the 2006 Plan comment period when we just received the Integration report, before the National Dialogue pilots occur, and before we have a chance to look at the WM PEIS.” (Confederated Tribes of the Umatilla Indian Reservation)

“... spend sufficient time and resources to ensure that the greater public also has an understanding of the issues, and an opportunity to discuss issues of concern .... While site specific advisory board [SSAB] meetings provide an excellent forum for public understanding and input, other interactive opportunities should be given to the public for involvement.” (Clark County, Nevada)

**Response:** We recognize that the legally-mandated requirements for input to the EM program must be augmented by other public involvement opportunities in order to achieve an effective, on-going dialogue with stakeholders and Tribal Nations which results in sustainable and implementable decisions. To accomplish this, the Office of Environmental Management is committed to a robust program of public involvement which is characterized by:

- Meeting or exceeding all of the standard practices for legally-required public input (e.g., through the NEPA process), and by operating with a strong bias toward extending legally-mandated comment periods when this can be done without impact to critical-path schedules;
- Providing support and encouragement for other avenues of public dialogue on the EM program through Site-Specific Advisory Boards (SSABs), community-based committees which focus on particular areas such as “end-use” and “stewardship,” and other forums which may be requested by the public;
- Furnishing regular opportunities at Field sites for the public to dialogue face-to-face with EM managers on updates to the 2006 Plan, setting site cleanup project priorities, budget preparation, and other areas of interest to community members; and
- Providing newsletters, information on Internet sites, and other opportunities for interactive dialogue for those members of the public less likely to participate in public meetings or hearings.

**Issue 3:** While stakeholders and Tribal Nations are supportive of the DOE “openness policy,” some do not think that DOE has provided all of its available information to the public. Those who commented made several suggestions to place available documents on the DOE/EM’s Internet website to enable easy public access. If DOE withholds information, it should cite authorities and rules under which it has decided to act.

**Excerpts:** “DOE/EM staff continue to display problems with providing open and honest answers and discussion.” (University of Nevada Las Vegas)

“That in order to permit Native Americans—and all stakeholders—to meaningfully participate in the TYP and cleanup process, DOE agree to release all documents and information relating in any way to the scope of contamination at the sites ....”  
(Confederated Tribes & Bands of the Yakama Indian Nation)

**Response:** The Office of Environmental Management is committed to the highest level of openness in the dissemination of all information relating to the EM Program to affected members of the public. This includes placing all project data, Site *Discussion Drafts*, and the National *Discussion Draft* on the EM website for public review. DOE will continue to provide updated information on the Internet as it becomes available. In addition, the Office of Intergovernmental and Public Accountability is in the process of updating its public involvement Internet site ([www.em.doe.gov/stake](http://www.em.doe.gov/stake)), in order to improve its usefulness and relevance to EM stakeholders and Tribal Nations.

**Issue 4:** Several stakeholders want the term “stakeholders” to be more specifically defined throughout the document. Most comments revolve around the classification of Tribal Nations. Several stakeholders suggest that Tribal Nations should be classified separately and distinctly from other stakeholders because of Tribal Nations’ unique ties to the land, distinctive legal status, and cultural considerations.

**Excerpts:** “Tribes should be listed as special stakeholders because of their aboriginal ties to the land on which many DOE facilities are sited.” (The Shoshone-Bannock Tribes)

“Tribal Nations should be given a section independent from the generic stakeholder section in the document.” (Clark County, Nevada)

**Response:** The Office of Environmental Management includes states, state regulatory agencies, the U.S. Environmental Protection Agency (EPA), city and county governments, Site-Specific Advisory Boards, other national and community-based citizen groups, and private citizens in its definition of EM “stakeholders.”

EM also recognizes fully that Tribal Nations require additional and separate consideration as parties interested in EM’s work. The Federal Government has a unique legal relationship with the American Indians Tribal Governments, as set forth in the U.S. Constitution, treaties, statutes, and court decisions. DOE is committed to maintaining a government-to-government relationship with Tribal Nations to ensure that Tribal rights and concerns are considered in decision-making processes.

The Draft 2006 Plan will continue to address the concerns of both stakeholders and Tribal Nations.

## 2.16 OTHER COMMENTS

EM received 71 comments on the National *Discussion Draft* that could not be categorized into any of the other subject areas. These comments constitute 11 percent of the total number of comments received and generally focus on two issues of concern:

- EM needs to improve the clarity and organization of the National 2006 Plan and better integrate it with other DOE plans and documents.
- Stakeholders express concern about how the National 2006 Plan will be used and how it will be kept current.

**Issue 1:** Many comments suggest revisions to the document itself that will make it more coherent, cohesive, and better integrated with Site 2006 Plans, other EM planning tools, and other DOE programs. Of these comments, many suggest that EM should provide more and better definitions of certain words, phrases, and terms of art used in the document. Others suggest improving the organization and structure of the document, and adding more background on topics such as the Yucca Mountain geologic repository. In addition to improving the document's clarity, such changes would facilitate understanding and attainment of 2006 Plan goals and objectives.

**Excerpts:** "The documents must sell their goals and the benefits of providing the resources and making necessary tough decisions to meet those goals to the public and to State and Federal Governments. The documents are not currently written to convince the public or legislators of the need to implement the initiatives." (Savannah River Site Citizens Advisory Board)

"In its next version, the 2006 Discussion Draft should... [b]e more cleanly structured for ease of review, and should be clear, concise, and consistent, integrating information from the individual site and other DOE planning documents." (Idaho Citizens Advisory Board)

"The DOE-EM discussion needs to be integrated with other programmatic and site-specific planning and decision-making." (University of Nevada, Las Vegas)

**Response:** EM agrees that the clarity, organization, and cohesiveness of the document are essential to communicating its content. EM will consider all such comments in developing the Draft National 2006 Plan and expects that the incorporation of these comments into the document will significantly improve its usefulness.

**Issue 2:** Some stakeholders commented on how the National 2006 Plan should be used and on the logistics of keeping the Plan current. Citing the complexity of issues, the level of public involvement required, and the large uncertainties in work scope, cost, and schedule, stakeholders commented that the National 2006 Plan should remain flexible enough to allow for appropriate modifications, as necessary.

**Excerpts:** “The document contains numerous assumptions and open-ended decision points that appear to create large uncertainties in programmatic costs and schedules. Given the uncertainties, the document should not be viewed as a budget document, but rather a strategic planning document that needs to be updated, e.g. every other year, as projects progress and are better characterized, costs are better defined, and compliance negotiations and policy decisions are made.” (University of Nevada Las Vegas)

“Given the complexity of the document and the issues being debated, the present schedule suggests DOE will have an unacceptably short time frame to produce reasoned documents.” (Savannah River Site Citizens Advisory Board)

**Response:** From the inception of the National 2006 Plan, EM has maintained that the Plan is not a budget document. Rather, it is a strategic planning document that will be used to guide budget formulation, and will be updated annually based on supporting data submitted by Operations/Field Offices. As such, the National 2006 Plan is a “snapshot in time.” EM assumes that 2006 planning assumptions are continually being refined and modified. These changes will be reflected in subsequent planning documents.

# 3 PATH FORWARD

The Draft 2006 Plan Guidance for the development of Draft Site 2006 Plans was distributed to the Field on October 20, 1997. The Draft Site 2006 Plans will serve as the foundation for the Draft National 2006 Plan, which is due to Congress in February 1998. The Draft National 2006 Plan will address Congressional, Tribal Nation, and other stakeholder concerns about both the data quality and supporting assumptions underlying the Environmental Management (EM) 2006 Plan through a systematic and thorough data collection and analysis process. The goal of the Draft National 2006 Plan is to demonstrate the following:

- EM has developed a clear plan for completing work at all sites (i.e., a critical closure path);
- Each site has an integrated and defensible cost, scope, and schedule baseline;
- Each site has well-defined enhanced performance targets against which quantifiable progress can be measured;
- EM is actively pursuing a range of business strategies to achieve further reductions in life-cycle costs; and
- EM has addressed stakeholder and Tribal Nation comments, as indicated in this summary.

Public participation in the development and revision of Draft Site 2006 Plans will continue to be encouraged. In order to facilitate public involvement in the 2006 planning process, a meeting of Site-Specific Advisory Board Chairs was held in Dallas, Texas, on October 28-29 to discuss the major concerns of each advisory board. Headquarters held a similar meeting for the members of the reconstituted State and Tribal Government Working Group on November 4-6 in St. Louis, Missouri. Additionally, Headquarters senior staff recently met with the Environmental Management Advisory Board (EMAB) to brief them on the 2006 planning process.

EM Headquarters is also in the process of preparing an integrated timeline that reflects the Draft 2006 Plan development, integration and cross-site issues in support of the WM PEIS and public involvement activities (including the National Dialogue regional pilot workshops). This timeline will clarify and reinforce the relationships between individual site (and Site-Specific Advisory Board), cross-site, and other public involvement activities (e.g., discussions with local governments, states, and the National Governors' Association).

Another written comment period will follow issuance of the Draft National and Site 2006 Plans, currently scheduled for February 1998. Comments received on the Draft National 2006 Plan will be addressed in the Initial National 2006 Plan, currently scheduled for release later in 1998. EM encourages the public to communicate its questions and concerns throughout the 2006 planning process. Questions or concerns regarding this document or other aspects of the 2006 planning process can be submitted directly to EM at the following address:

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