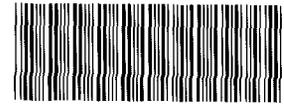


LA100



000061691

INTEROFFICE MEMORANDUM

DATE: April 15, 1996
TO: Distribution
FROM: Karan North, Compliance & Performance Assurance, Bldg. T130C, X9876
SUBJECT: TRANSMITTAL OF INFORMATION TO THE DEPARTMENT OF ENERGY, ROCKY FLATS FIELD OFFICE (DOE, RFFO) - KN-071-96

Effective immediately - all correspondence being forwarded to DOE, RFFO or transmitting information for their review or signature must be sent with an external cover letter.

Dave Maxwell is the DOE, RFFO point of contact for Strategy, Integration and Guidance and should be copied on all information being submitted as part of Agency permits and agreements.

As always, whenever possible, we need to give DOE, RFFO as much lead time and advance notice of upcoming projects and documents that will require their input as possible.

This above procedure should not only ensure that the right people within DOE, RFFO are receiving information, but should also address any concerns regarding Kaiser-Hill's timeliness of submittal and communication of requested review and turn around time.

If you have any questions regarding this correspondence, please contact me at extension 9876.

karn

Distribution

- Jim Alexander - Kaiser-Hill
Carol Anderson - "
Ted Benton - WSI
Laura Brooks - Kaiser-Hill
Dave Costain - "
Mike Ferrari - "
Matt Garton - "
Trent Hays - "
Karen Holstein - DynCorp
Mike Jennings - Kaiser-Hill
Candice Jierree - RMRS
Gerry Kelly - Kaiser-Hill
Karen Lavorato - "
Randy Leitner - "
Bob Leonard - "
Bill Moore - "
Dave Neal - "
Steve Nesta - "
Bob Nininger - "
Carol Patnoe - "
Chris Peppler - "
Kyle Peter - "
Flo Phillips - Kaiser-Hill
Deborah Pretzer - "
George Setlock - "
John Sipkowski - "
Harold Wells - "
Bill Wierzbicki - SSOC
Harry Wilson - Kaiser-Hill
John Wong - "
Larry Woods - "
John Wrapp - "

428

ADMIN RECORD

SW-A-004220





*Nora
Judy
Susan*

March 14, 1996

Dear Friends,

We are pleased to release today for public comment the Draft Rocky Flats Vision and Cleanup Agreement (RFCA). The public comment period will end May 24.

These documents represent the cumulative effort of more than two years of work by the State of Colorado, the U.S. Department of Energy, the U.S. Environmental Protection Agency, and the public, which provided input throughout the process.

We believe that the agreements reached in these documents will substantially expedite cleanup and risk reduction at Rocky Flats. The agencies involved in developing these documents share with the public the goal of making Rocky Flats safer and cleaner, and of achieving cleanup faster, better and for less money. We believe that we have made substantial progress in this direction, and we look forward to receiving formal public comment over the next two months.

The Draft RFCA and the accompanying Draft Vision address many issues and concerns central to the cleanup of Rocky Flats, including:

- options for removal of plutonium and other Special Nuclear Material,
- cleanup levels for water and soil,
- more streamlined, integrated and effective regulatory oversight,
- specific and tangible cleanup and risk reduction goals,
- prioritization of the highest risk activities, and
- involvement of local governments, stakeholder organizations and the public in Site activities and decision making.

We believe that community input on these agreements is crucial to the success of the cleanup at Rocky Flats. We strongly urge members of the public to review these documents carefully and to actively participate in the public comment period. During the next two months, there will be a series of public meetings and a workshop for the public to receive more information and to comment on these documents. Also, we welcome written comment. Please send written comments to Robert True, Rocky Flats Program, Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South, Denver, Colorado 80222. (See the enclosed fact sheet on public comment activities for more information on how to comment on the RFCA and the Vision.)

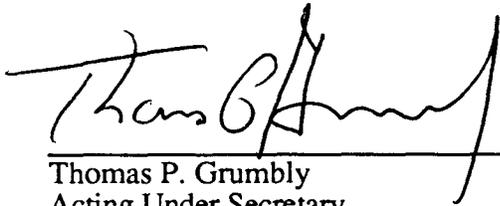
We greatly appreciate your interest in the cleanup of Rocky Flats. We look forward to working with you toward our common goal for Rocky Flats; to make it safe and clean it up.

Sincerely,

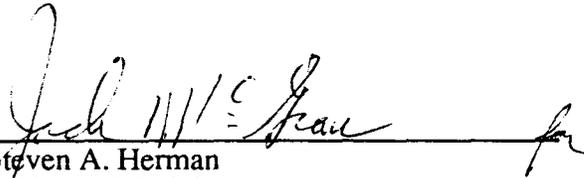




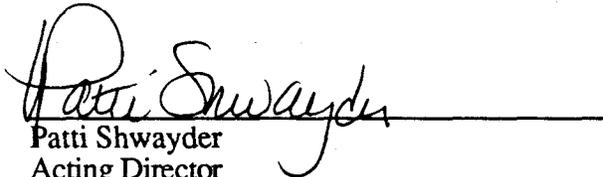
Gail S. Schoettler
Lt. Governor
State of Colorado



Thomas P. Grumbly
Acting Under Secretary
U. S. Department of Energy



Steven A. Herman
Assistant Administrator
Office of Enforcement and Compliance
Assurance
U. S. Environmental Protection Agency



Patti Shwayder
Acting Director
Colorado Department of Public
Health and Environment

**DRAFT ROCKY FLATS VISION AND ROCKY FLATS CLEANUP AGREEMENT
PUBLIC INVOLVEMENT GUIDE**

Reading Rooms — Draft Vision and RFCA Documents on Reserve

U.S. Environmental Protection Agency
Superfund Records Center

Wendy Kisicki
312-6968

Colorado Department of Public
Health and Environment

Kay Juricek
692-2035

DOE Rocky Flats Public Reading Room
Front Range Community College Library

Montey Wright
469-4435

Rocky Flats Citizens Advisory Board

Jeanie Sedgley
940-6090

Standley Lake Public Library

456-0806

More Information — List of Public Involvement Personnel

DOE/RFCA Community Relations

Michael Konczal
966-7095
Mariane Anderson
966-6088

Colorado Department of Public
Health and Environment

Robert True
692-3015
Steven Tarlton
692-3013

Environmental Protection Agency

Rob Henneke
312-6618

RFCA Answer Line — Leave Recorded Questions **966-2011**

Meeting Schedule — Information and Formal Public Comment

The following is the tentative meeting schedule for the RFCA and the Vision. These are target time frames and anticipated locations. Confirmed dates, times and places will be forthcoming in community advisories, newspaper advertisements and other announcements.

Information Workshop

Early April

Westminster Ramada on Yates

Formal Public Hearings

Boulder
Mid April

Clarion on 28th

Denver/Aurora
Early May

TBD

Jefferson County
Mid May

Arvada Center on Wadsworth

Written Comments May Be Sent To: Robert True, Rocky Flats Program
CDPHE
4300 Cherry Creek Drive South
Denver, Colorado 80222.

END OF PUBLIC COMMENT PERIOD

MAY 24, 1996

THE ROCKY FLATS VISION

Draft for Public Comment

The vision for Rocky Flats is:

- To achieve accelerated cleanup and closure of Rocky Flats in a safe, environmentally protective manner and in compliance with applicable state and federal environmental laws;
- To ensure that Rocky Flats does not pose an unacceptable risk to the citizens of Colorado or to the site's workers from either contamination or an accident; and
- To work toward the removal of contamination, wastes, buildings, facilities and infrastructure from Rocky Flats consistent with community preferences and national goals.

The following goals will be accomplished in the shortest possible time, in the most cost effective manner, and within a streamlined, flexible and effective regulatory framework:

1. The highest priority at Rocky Flats is to reduce the risks posed by plutonium, other special nuclear materials, and transuranic wastes. These materials will be collected, consolidated and safely stored in a retrievable and monitored manner and in the fewest number of buildings for removal to off-site locations at the earliest possible date.
2. Other wastes presently stored on-site, generated during cleanup, and removed from buildings during cleanup and demolition will be collected, consolidated, treated where necessary, and stored in a retrievable and monitored manner to support the goal of ultimate removal to off-site locations where feasible. In some cases, on-site disposal may be appropriate in light of risk reduction, safety, costs, and feasibility considerations. In any case, the federal government will continue to be responsible for any contamination or wastes potentially left on-site.
3. The quality of water supplies of the communities surrounding Rocky Flats will be protected. In addition, the water leaving the site will be of acceptable quality for any use.
4. All buildings will be cleaned up as needed so that they can either be demolished or converted to other appropriate uses.
5. At a minimum, given current technology and resources, Rocky Flats will be cleaned up to allow open space and other appropriate uses. Where possible, the site will be cleaned up to the maximum extent feasible. Should cost effective technologies and additional fiscal resources become available, a goal of achieving average background levels of contamination for the Front Range of Colorado will be supported. The site's unique ecological values will be preserved.
6. The future uses for Rocky Flats will be decided with the full and active involvement of local governments and the public. Cleanup and closure activities will support a wide range of appropriate future uses.

DISCUSSION AND ANALYSIS

As a former contributor to our nation's defense, Rocky Flats is one of the larger U.S. Department of Energy nuclear industrial facilities undergoing cleanup and closure. Constructed in 1952 along what was then a sparsely populated area of the foothills near Denver, Rocky Flats now sits on the edge of a major metropolitan area. Over 2 million people live within 50 miles of the facility. The site is directly upstream of water supplies that serve four municipalities and over 300,000 people. As a result, a coherent course of action is needed to promote accelerated cleanup, consolidation, reuse and closure of the site.

This vision provides a broad statement for the future of Rocky Flats. All activities, agreements, planning documents and other legal arrangements shall be guided by this vision and preserve, to the maximum extent possible, the full range of options and opportunities necessary to help accomplish and attain this vision. Specific and day-to-day activities at the site will be governed by relevant agreements and other legal arrangements. This vision also will accommodate changing priorities, activities and strategies to reflect community values.

Below is a further elaboration of this vision and a discussion its adaptability to meet future budgetary, technological, safety concerns and community preferences. Local elected officials and the public will be fully involved in making decisions and addressing issues in all of the topics that follow.

1. Removal of Plutonium, Transuranic Wastes and Other Special Nuclear Material

The highest priority of this vision is to make Rocky Flats safe. This principally involves the collection, stabilization, and safe, secure and retrievable and monitored storage of plutonium, transuranic wastes and other special nuclear materials for as long as they remain at Rocky Flats. Presently, there is no off-site facility available to receive these materials from Rocky Flats. As a result, this material may remain at the site in a safe configuration for years. However, the agencies are committed to help secure the availability of off-site locations to receive these materials. These materials must be removed from Rocky Flats as soon as a location is found to receive them and it is safe to do so. The U.S. Department of Energy is committed to begin removing the plutonium and special nuclear materials as soon as possible with a target set to begin removal no later than the year 2010 with final removal completed by the year 2015. In the year 2000, these dates will be evaluated to determine if these time frames need to be adjusted and then reestablished as enforceable commitments from that date forward. The Waste Isolation Pilot Plant (WIPP) in New Mexico may be available sooner than the year 2010 to receive transuranic wastes. The U.S. Department of Energy is committed to begin removing transuranic wastes to WIPP or, if necessary, to another off-site location, as soon as it is available.

2. On-Site Disposal of Wastes and Materials

Efforts will be made to remove wastes, building debris and other materials from Rocky Flats to off-site disposal locations. However, budgetary, technological, safety and other circumstances may require that some of these wastes be disposed of in-place or stored on-site in a safe and retrievable and monitored manner for many years. At some point in the future, it may be necessary, from a risk reduction, budgetary, technological, safety and environmental standpoint, to dispose of these wastes and materials on-site. If so, every effort will be made to minimize the amount of material that must be disposed of on-site. Future retrieval of wastes disposed of on-site will not be precluded if and when technological development, budgetary availability, and location of an off-site disposal facility permits such activity. Should any wastes or contamination remain on-site, the federal government will be responsible for effective monitoring, maintenance of facilities, and maintenance of institutional controls adequate to prevent exposure from, and any release of, contamination.

3. Water

The water supplies of the communities downstream of Rocky Flats will be protected during cleanup and closure activities and for the long-term. Water planning and standard setting processes will be conducted with the active participation and involvement of local governmental authorities and the public. The U.S. Department of Energy will maintain any systems that are needed to protect water resources.

4. Buildings

The cleanup of buildings, the consolidation of wastes and materials within them, and the safe demolition of buildings will occur to reduce risks and reduce site operating costs. All radioactive and hazardous wastes stored in buildings and much of the equipment and hardware within them – such as duct-work, piping and equipment, some of which may be contaminated with radioactive and hazardous components – will be removed or decontaminated before the buildings are reused or demolished. The contaminated equipment and hardware removed from the buildings will be stored in a retrievable and monitored manner. Some on-site disposal of this material, including building debris, may be necessary. Those buildings that may have value for other economic uses will be identified and the option of converting and transferring these buildings to other appropriate uses once cleanup and closure work has been completed will be preserved.

5. Level of Cleanup

While cleaning up the site to average background levels for the Front Range of Colorado is a goal of this vision, it is beyond the reach of today's technology, budgetary resources, and legal requirements. As a result, the site will be cleaned up to allow open space and other appropriate uses given current technology and fiscal resources. Further cleanup efforts will be made where feasible as fiscal resources and cost effective technology allows. The U.S. Department of Energy

is committed to assuring ongoing monitoring and maintenance of any wastes or contamination remaining on-site, the containment of contamination, and allowing for the further treatment of wastes as new and emerging cost effective technologies become available. In addition, Rocky Flats contains a unique ecological habitat that cannot be easily replaced. Its ecological values will be preserved and protected to the maximum extent possible during cleanup and closure activities.

6. Land Use

All land use decisions pertaining to Rocky Flats will be made with the active involvement of local governmental authorities and the public. This vision anticipates that Rocky Flats will be cleaned up so that it can be used as open space or converted to other appropriate uses consistent with community preferences, although opportunities for residential use may be limited. There will be a need to restrict access to certain areas of the site while cleanup and closure activities are conducted and while plutonium, transuranic wastes, and special nuclear materials remain on-site. Access and use restrictions also may need to be applied where residual contamination may be present and constitute a risk to the public and for areas that house storage facilities or possible landfills. However, most of the land should be able to accommodate a wide range of appropriate future uses and economic opportunities.

7. Budget

All efforts will be made to secure the funds necessary to accomplish this vision within the shortest possible time. However, the limitations of the federal budget and the need to reduce the costs of cleanups at federal facilities are realities that will affect the scope and pace of work. When budget shortfalls occur, the site's activities may need to be adjusted and time frames may need to be extended. The agencies will involve the communities and the public on needed revisions and alternatives to the site's activities due to budget shortfalls. However, no matter how the site's activities and time frames may need to be adjusted because of budget realities, adherence to the vision's goals of reducing risk, preserving future opportunities, and achieving cleanup will always be preserved.

8. Technological Development

Every effort will be made to develop and apply new and emerging cost effective technologies to address waste treatment, cleanup and closure needs at the site. However, recognizing the urgent need to reduce risks, promote safety and advance activities to accomplish this vision, treatment, cleanup and closure activities may need to be accomplished using the best technology presently available. The agencies are committed to investigating and applying new and emerging cost effective technologies to treat and further cleanup any wastes or contamination remaining on-site, including wastes in storage and possible disposal facilities. New and emerging cost effective technologies will be explored on an ongoing basis as long as waste or contamination remain at Rocky Flats. Activities to accomplish this vision should not wait for the development of new technologies. However, permanent and irretrievable decisions will be kept to a minimum to take advantage of possible new and emerging cost effective technologies.

9. Local Elected Official and Community Involvement

Rocky Flats is located in Jefferson County and near several municipalities. It lies within 50 miles of a metropolitan area of over 2 million people. As a result, the need for public involvement in site activities is critical. Local elected officials, a wide range of stakeholder organizations including a site specific advisory board and a community reuse organization, and the public have been and will continue to be consulted. In particular, future decisions regarding land use, water quality, public safety, and infrastructure must be closely coordinated with local governmental officials, stakeholder organizations and the public. The local governments which surround or are near Rocky Flats have permanent stewardship responsibilities that will be affected by Rocky Flats. These responsibilities demand that local government officials help shape and influence cleanup and closure decisions. In addition, stakeholder organizations play a vital role in providing broad community input on site decisions. Local government officials, stakeholder organizations and the public will be invited to fully comment and advise on the selection and direction of projects and activities. Local officials, stakeholder organizations and the public will be involved early in the policies and activities for the site.

10. Ethical Considerations

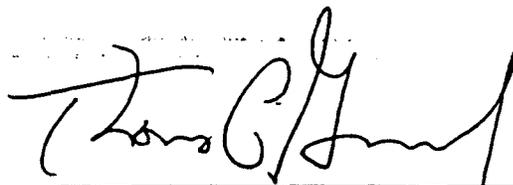
Reducing risks, protecting the public and workers, accelerating cleanup and closure activities, and increasing cost effectiveness are inherent in this vision. In addition, this vision reflects a number of overarching ethical considerations. Ethical stewardship at Rocky Flats requires a mechanism for continual governance and responsibility. Decisions must include consideration for the welfare of future generations. This stewardship acknowledges the communities and governments' mutually reinforcing responsibilities regarding our nuclear legacy. To this end, a commitment to caretaking nuclear materials is made for the future that includes:

- fairness;
- openness;
- trust and trust worthiness;
- accessibility of information;
- seeking sufficient resources; and
- consideration of options to reduce any uneven impacts to communities.

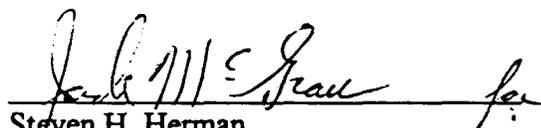
Signed this 14th day of March, 1996



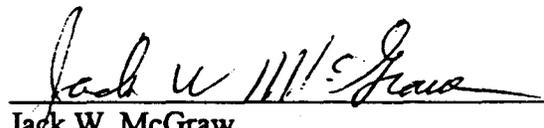
Gail S. Schoettler
Lt. Governor
State of Colorado



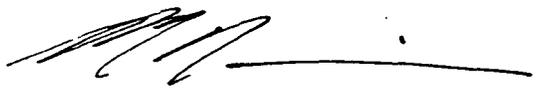
Thomas P. Grumbly
Acting Under Secretary
U.S. Department of Energy



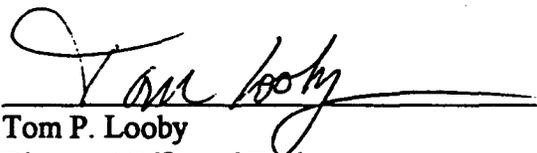
Steven H. Herman
Assistant Administrator
Office of Enforcement and Compliance
Assurance
U.S. Environmental Protection Agency



Jack W. McGraw
Deputy Regional Administrator
U.S. Environmental Protection Agency



Mark N. Silverman
Manager, Rocky Flats Field Office
U.S. Department of Energy



Tom P. Looby
Director, Office of Environment
Colorado Department of Public Health and
Environment

A Users' Guide to the Draft Rocky Flats Cleanup Agreement

The following is a user's guide to the draft Rocky Flats Cleanup Agreement (RFCA). This guide summarizes key points covered in each of the major areas of the agreement. This document does not address every point covered in the RFCA and is not a legal document. For a more complete analysis, individuals should refer to the document itself. Public comments on the RFCA will be accepted from March 20 to May 24, 1996.

The RFCA establishes the regulatory guidelines and framework for achieving the cleanup of Rocky Flats in an accelerated and cost-effective manner.

RFCA is the Federal Facility Agreement and Consent Order¹ for the Rocky Flats Environmental Technology Site. The U.S. Environmental Protection Agency, the State of Colorado and the Department of Energy are all signatories to this agreement.

The draft cleanup agreement is based upon a set of general parameters to guide cleanup decisions. The parameters include assumptions about future land and water uses; strategic approaches to cleanup; approaches to cleanup standards; options for interim storage and expectations regarding the removal of plutonium; the fate of existing buildings; and waste disposal. These parameters are contained in the Preamble to the cleanup agreement and broadly stated in the Rocky Flats Vision.

PREAMBLE

The Preamble to the RFCA describes objectives to help guide the implementation of the RFCA. The Preamble is not legally binding.

A brief summary of each of the eight objectives described in greater detail in the Preamble follows.

Disposition of plutonium, other special nuclear material and transuranic wastes — DOE will stabilize, consolidate, and temporarily store plutonium, other special nuclear material, and transuranic wastes on site until eventual removal. Plutonium is targeted for removal from the site as soon as possible, beginning no later than 2010 and with a goal for completion of 2015.

Onsite and offsite waste management — Waste management activities for low-level, low-level mixed, hazardous and solid wastes will include a combination of site treatment, retrievable and monitored storage, disposal and offsite shipment. DOE, together with the regulators and with appropriate public participation, will determine which wastes are stored, disposed of on site or removed through an ongoing process consistent with this Statement.

Water quality — At the completion of cleanup activities, all surface water on site and all surface and groundwater leaving the site will be of acceptable quality for all uses.

Cleanup guidelines — Cleanup activities will be conducted in a manner that will reduce risks; be cost effective; protect public health; protect reasonably foreseeable land and water uses; prevent adverse impacts to ecological resources, surface water and ground water; and be consistent with a streamlined regulatory approach.

¹ Rocky Flats Environmental Technology Site is subject to other orders and agreements, such as the Federal Facility Compliance Act (FFCA) Site Treatment Plan Order under RCRA. The Rocky Flats FFCA Site Treatment Plan was approved Oct. 3, 1995. The Federal Facility Agreement and Consent Order (under CERCLA) is separate from the FFCA.

Land use — Cleanup decisions and activities are based on open space and limited industrial uses. The particular land use recommendations of the Future Site Use Working Group (FSUWG)² are not precluded. Specific future land uses and post-cleanup designations will be developed in consultation with local governments.

Environmental monitoring — Environmental monitoring will be maintained as long as necessary.

Building disposition — All contaminated buildings will be decontaminated as required for future use or demolition; unneeded buildings will be demolished.

Mortgage reduction — Plutonium, other special nuclear material and transuranic wastes will be safely consolidated into the smallest number of buildings to reduce operating costs and shrink the security area. Contaminated and non-contaminated buildings will be decommissioned and either demolished or turned over for non-DOE uses.

Within its discussion of objectives, the Preamble also identifies and describes the activities to be performed in achieving the Near-Term and Intermediate Site Conditions.

JURISDICTION

The RFCA integrates the complex regulatory requirements for Rocky Flats, overseen by multiple regulatory agencies, into a single regulatory agreement.

Activities under this agreement are regulated by the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the Resource Conservation and Recovery Act (RCRA), the National Oil and Hazardous Substances Pollution Contingency Plan, the Colorado Hazardous Waste Act (CHWA), and their implementing regulations, and other applicable State environmental laws. DOE is responsible for satisfying the requirements of the agreement even if the work is ultimately performed by another agent, such as the Rocky Flats integrating management contractor.

STATEMENT OF PURPOSE

The goal of the RFCA is to clean up Rocky Flats better, faster and for less money so as to protect the workers and the public.

This section lists many objectives for the RFCA. Included among them are the following key areas:

- to ensure a cooperative effort to promote a cost-effective and orderly cleanup of Rocky Flats
- to establish the process for setting annual cleanup milestones
- to reduce risks to the workers, the public and the environment during cleanup
- to accelerate cleanup actions
- to ensure early and meaningful public involvement
- to describe the roles and responsibilities of the Parties

² The FSUWG June 1995 Report, "Future Site Use Recommendations," is available in Rocky Flats Public Reading Rooms.

STATUTORY COMPLIANCE/RCRA-CERCLA COORDINATION

The agreement coordinates the statutory compliance obligations under CERCLA, CHWA and RCRA and the waste treatment activities that are regulated under the Federal Facility Compliance Act (FFCA).

The coordination of these statutory requirements under this agreement does not diminish DOE's obligation to comply with all applicable requirements under law, including meeting applicable permit requirements.

LEGAL BASIS OF AGREEMENT

This section discusses the history of the site and provides a chronology for events as they relate to the Rocky Flats Cleanup Agreement. This contains the conclusions of law assigning responsibility for the Rocky Flats Environmental Technology Site. It identifies the Department of Energy as the responsible party for the site under CERCLA. The document identifies DOE as the owner and co-operator under RCRA and Kaiser-Hill, Rocky Mountain Remediation Services, Safe Sites of Colorado and DynCorp as co-operators. This means that the contractors are permittees under RCRA.

CONSULTATION AND PROJECT COORDINATION

The agreement stresses the need for early and frequent dialogue between parties so that problems can be solved before they impede progress at the Site. The establishment of project coordinators provides for the clear identification of individuals with authority.

This section emphasizes a commitment to a consultative process. It provides for the establishment of project coordinators for all three parties. Project coordinators will be named within ten days of the effective date of the agreement. This section also defines "consultation" and the "consultative process" as the responsibility of one party to meet and confer with another party and any appropriate contractors in order to reach agreement among the parties, to the extent possible, regarding a course of action. The goal is to have a clear understanding by all Parties of the actions or direction to be taken based upon the outcome of the consultative process. All Parties agree to a set of principles for effective dialogue and communication. Within 30 days of the signing of this agreement, all Parties will finalize a plan for training all appropriate staff on the implementation of the agreement.

REGULATORY APPROACH

The clear establishment of one lead regulatory agency for each of two general areas at the site streamlines the regulatory process.

This section outlines the regulatory approach which the Parties will take to minimize the potential for duplicative regulation, while ensuring that the legal requirements for each statute are met.

The following activities are covered by the agreement:

- 1) remedial activities for the present list of open Individual Hazardous Substance Sites
- 2) decommissioning of nuclear facilities as covered by this agreement and through the Memorandum of Understanding (MOU) with the Defense Board
- 3) mixed waste treatment as applicable under this agreement

- 4) timely completion of milestones established under this agreement
- 5) closure of underground storage tanks

Activities that do not fall under this agreement continue to be subject to regulation under any existing permits and orders.

The Parties have divided the site into "the Industrial Area" and the "Buffer Zone." The EPA is designated as the Lead Regulatory Agency on remedial activities in the Buffer Zone or offsite areas and the State is the lead for the industrial area and any issues surrounding siting of a waste facility. Decommissioning activities will be conducted as CERCLA removal actions in accordance with a May 22, 1995, national joint decommissioning policy between DOE and EPA.

The Parties have agreed on a number of issues contained within appendices or attachments to the Agreement. These are as follows:

- 1) assumptions regarding the future of the site that include land and water uses to be protected (the Preamble)
- 2) an initial risk ranking of Individual Hazardous Substance Sites and the process for updating and revising this ranking (Attachment 4)
- 3) An Action Levels and Standards Framework, including action levels for contaminated soils and groundwater and action levels and standards for surface water (Attachment 5)
- 4) Criteria for deciding when no further remedial action is required (Attachment 6)
- 5) Building and equipment disposition standards (Attachment 9)

Action levels describe numeric levels of contamination in ground water, surface water and soils which, when exceeded, trigger an evaluation, remedial action and/or management action. The surface water standards are in-stream contaminant levels that the regulators will require DOE to meet for activities undertaken prior to the final Corrective Action Decision (CAD)/Record of Decision (ROD). These are contingent on future action by the Water Quality Control Commission. The Parties have committed to develop a Sitewide Surface Water and Ground Water Management Plan. Affected downstream water users will be involved in this process.

The Parties agree that the design criteria for facilities for the retrievable, monitored storage of remediation waste shall be the same as for the disposal of remediation wastes.

REVIEW AND APPROVAL OF DOCUMENTS AND WORK

Focusing on Individual Hazardous Substance Sites (IHSSs) rather than Operable Units will allow most remedial work to be reviewed and conducted through an accelerated review and approval process. By dealing with work on an IHSS-by-IHSS basis, the highest areas of risk will be addressed first.

This section establishes the procedures that shall be used by the Parties to provide each other with appropriate notice, review, comment, and responses to comments regarding submitted documents. This includes the public review process and specifies involvement by the Citizens Advisory Board and stipulates that documents will be made available in public reading rooms.

Documents required to go to public comment include: Draft Permit Modifications/Proposed Plans, Standard Operating Procedures (SOPs), Proposed Action Memorandums (PAMs), Interim Measure/Interim Remedial Actions (IM/IRAs) and Closure Plans. The length of the public comment period is defined during scoping.

This section also addresses review and approval of work.

All remedial work at the site, including activities which are not time critical, shall be conducted either as an accelerated action for one or more IHSSs, a closure plan, or under a CAD or ROD for an Operable Unit. The types of accelerated actions are: Interim Measure/Interim Remedial Action (IM/IRA), Proposed Action Memorandum (PAM), and Standard Operating Procedure (SOP).

IM/IRAs apply to actions expected to take more than six months from the start of physical remediation work. PAMs apply to actions expected to take less than six months and SOPs apply to routine repetitive remedial activities for which standard procedures can be developed.

DOE will incorporate public comments in the final documents as appropriate and submit the revised document and Responsiveness Summary to the Lead Regulatory Agency. If disapproved, DOE has 14 days to incorporate the Lead Regulatory Agency's changes or invoke dispute resolution. If the Lead Regulatory Agency does not render a decision in the required time frame, the revised PAM is automatically approved.

In areas where the actions in the Industrial Area require a permit from the State, the State commits that the procedural requirements for obtaining the permit will not add to the approval time of the activity under this agreement. The permit requirements are included in the approved document.

To further streamline the work approval process, DOE may apply for a single construction permit to cover multiple activities which would otherwise require separate air construction permits.

CHANGES TO WORK

This section establishes the procedures for modifying or revising approved work or decision documents. DOE shall evaluate the impact of approved changes on baseline and regulatory milestones.

While the process varies depending on the type of accelerated action, in general, minor modifications require written notice and possible justification, but do not require Lead Regulatory approval. However, they may be halted by a Stop Work Order issued by the Lead Regulatory Agency within a specified time frame.

Major modifications in work require longer lead time for submittal, must be submitted in writing with justification, and require the approval of the Lead Regulatory Agency. Modifications to a CAD or ROD also require a 30-day public comment period.

The agreement allows the DOE's project coordinator to make minor field modifications as required by the work, but requires after-the-fact notification of the Lead Regulatory Agency.

BUDGET AND WORK PLANNING

This agreement takes into account budget, costs and other issues in the establishment of achievable milestones and prioritization of work so that highest-risk activities are accomplished first.

This section stresses that DOE must make a good faith effort to obtain funding to meet the requirements of the agreement. It also specifies that the costs of projects under this agreement, along with overall constraints of the federal budget process, timing of financial decisions and

allocation of funds shall be considered by all Parties when establishing the scope and schedule of projects.

In addition, site activities are placed on an Integrated Sitewide Baseline of activities to allow decisions to relate to budget and to focus site funds on accomplishing the highest risk activities first.

This section specifies that the State and EPA shall establish no more than 12 milestones per year. The milestones will be designed to: provide accountability for key commitments, ensure adequate progress at the site, provide adequate scope drivers, and facilitate budget planning and execution. Milestones will be established taking into consideration factors such as the logical progression toward cleanup and the reduction of short-term and long-term human health and environmental risk. This section also sets the review process and time frame for milestone development that is consistent with the timing of the federal budget planning process and development of the Integrated Sitewide Baseline. It calls for the involvement of local elected officials and community groups/public in the process.

This section also describes cost savings and productivity improvement. It states that a percentage of cost savings presumptively will be retained at Rocky Flats for use in performing additional risk reduction and cleanup work unless DOE Headquarters determines an overriding need at another site.

CHANGES TO REGULATORY MILESTONES

Regulatory milestones shall be changed upon receipt of a timely request and provided there is good cause for the change. Good cause may include the following: an event of force majeure (an uncontrollable event), a delay caused by EPA or the State, a delay caused by a judicial action, a delay caused by the change in another regulatory milestone, a delay caused by a change to a planning assumption that does not represent a failure of DOE or the contractors to properly manage work, a delay caused by the requirement to perform additional work under CERCLA, and anything else mutually agreed to by the Parties as constituting good cause.

FORCE MAJEURE

This section defines in detail what is meant by force majeure, including things such as natural disasters, fire, war, strikes or labor disputes, adverse weather, breakage of equipment, restraint by court order, and others.

STOP WORK ORDERS

Any of the Parties may declare a Stop Work Order in cases where there is cause, such as an unsafe condition. This could occur if a Party believes a particular task or portion of work 1) is inadequate or defective, 2) is likely to have an adverse affect on other work, or 3) is pursuant to requirements under Changes to Work and in cases of disputes regarding the overall direction of proposed work. Restart of work must be authorized by the Dispute Resolution Committee or the Senior Executive Committee.

RESOLUTION OF DISPUTES

This agreement provides a process that allows for timely resolution of disputes.

This section sets the process and time frame for the resolution of disputes and provides for the establishment of a Dispute Resolution Committee made up of all three Parties. Once resolved, DOE must incorporate the decision within 21 days. Disputes may be resolved by the Dispute Resolution Committee (DRC) (first level) or the Senior Executive Committee (SEC) (second level). In cases involving national or statewide policy, the final decision will rest with the EPA Administrator or the Governor's Office. This section addresses the processes for each of the following: DOE disputes regarding decisions of the Lead Regulatory Agency (LRA), disputes regarding additional work required under CERCLA, disputes regarding work planning and execution, disputes between EPA and the State regarding sitewide issues, and disputes regarding overall direction of proposed work.

ENFORCEABILITY

All Parties have the right to enforce this agreement. Failure to comply with this agreement may result in stipulated penalties for missed milestones or other enforcement action.

STIPULATED PENALTIES

In the event DOE fails to meet any regulatory milestone under this agreement, the State and/or EPA may assess a stipulated penalty against the DOE. DOE's liability for stipulated penalties for missed regulatory milestones will accrue at the following rate:

- 1) \$20,000 per week for each regulatory milestone classified as "first tier." There may be a maximum of six first tier milestones.
- 2) \$5,000 per week for each regulatory milestone classified as "second tier." There may be a maximum of six second tier milestones.

The Parties will strive to reach agreement for preserving the use of stipulated penalties at the site; however, the EPA and State will ultimately decide how those funds are to be directed.

All stipulated penalties issued by the State must be paid in full by the DOE within 120 days, unless the State agrees to a longer schedule.

Nothing in this section prevents the State and EPA from pursuing sanctions afforded by applicable law instead of assessing these stipulated penalties.

RESERVATION OF RIGHTS

All Parties retain the right to bring about any enforcement action necessary to ensure the protection of human health and/or the environment according to regulations and the law.

AMENDMENT OF AGREEMENT

This agreement can be amended by mutual agreement of the Parties.

PERIODIC REVIEW

The Parties will review the Agreement every two years. This review may result in renegotiation of the appropriate parts of the agreement.

REPORTING

The Parties' Project Coordinators will meet at least monthly to discuss implementation of the Agreement. DOE will provide EPA and the State with a quarterly Progress Report.

NOTIFICATION

Documents must be sent in a manner designed to be received by the due date to the designated addresses unless otherwise specified by the Parties.

SAMPLING AND DATA/DOCUMENT AVAILABILITY

The Parties will develop and maintain an effective and efficient monitoring system in accordance with an approved Integrated Monitoring Plan for Rocky Flats with the results available to the public (specifically, the downstream communities) as appropriate.

RETENTION OF RECORDS

DOE will retain all records and documents for the duration of the Agreement and in accordance with any other laws or regulations in effect.

ACCESS

Party representatives with proper clearance may enter the Site at any time.

TRANSFER OF PROPERTY

DOE must notify EPA and the State at least 30 days before any transfer of Rocky Flats real property and must comply with any agreements, regulations, or laws pertaining to real property.

PUBLIC PARTICIPATION/ADMINISTRATIVE RECORD

DOE will initially update the Community Relations Plan to incorporate public involvement as required by the RFCA. The Administrative Record files will be updated at least annually.

DURATION/TERMINATION

Within 60 days after the Federal Register notice that removes the Site from the National Priorities List, the Agreement will be modified by the Parties and may be terminated.

SEVERABILITY

If any provision of the Agreement is ruled invalid, illegal, unconstitutional, or unenforceable, the rest of the Agreement will not be affected.

CLASSIFIED AND CONFIDENTIAL INFORMATION

Classified and confidential information can be accessed according to existing requirements and applicable law.

RECOVERY OF STATE COSTS

DOE will pay the State, in full, no later than 30 days after receipt, all reasonable fees and costs the State incurs in implementing this agreement unless otherwise specified.

OTHER CLAIMS

The Agreement does not protect the Parties from claims by any party.

PUBLIC COMMENT/EFFECTIVE DATE

The Agreement will be presented for a 60-day public review and comment period. The Parties will consider all comments and may revise the agreement based on these comments. The effective date is the date on which the last party signs the Agreement after comments have been considered.

Why the RFCA is good for Colorado

It is designed to facilitate the cleanup of Rocky Flats

- The purpose of the RFCA is to ensure a cooperative effort between DOE, EPA, and the State to promote a cost-effective, safe cleanup of Rocky Flats. The RFCA establishes the process for setting annual, enforceable cleanup milestones and accelerates cleanup actions. It is a collaborative process between DOE and the regulators.

RFCA coordinates regulatory requirements into a single regulatory agreement

- RFCA combines the regulations of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1986, the Resource Conservation and Recovery Act (RCRA), the National Oil and Hazardous Substances Pollution Contingency Plan, and the Colorado Hazardous Waste Act (CHWA) and other applicable environmental laws without changing the requirements.

RFCA streamlines the regulatory process to get the job done at an accelerated pace

- The RFCA divides the site into "The Buffer Zone" and "The Industrial Area" and identifies these areas as operable units. The EPA is designated as the Lead Regulatory Agency on remedial activities in the Buffer Zone or offsite areas and the State is the Lead for the Industrial Area and any issues surrounding siting of a waste facility. The operable units are comprised of Individual Hazardous Substance Sites (IHSSs) which will be remediated on an individual basis. Focusing on Individual Hazardous Substance Sites (IHSSs) rather than Operable Units will allow most remedial work to be reviewed and conducted through an accelerated review and approval process.

- The RFCA stresses the importance of early and frequent dialogue between parties so problems can be solved before they impede progress at the site. The State and/or EPA may assess a stipulated penalty against the DOE for failure to meet a milestone and determines how those funds will be used.

- In areas where the actions in the Industrial Area require a permit from the State, the State commits that the procedural requirements for obtaining the permit will not add to the approval time of the activity under this agreement. The permit requirements are included in the approved document.

- To further streamline the work approval process, DOE may apply for a single construction permit to cover multiple activities which would otherwise require separate air construction permits.

- The agreement allows the DOE's project coordinator to make minor field modifications as required by the work, but requires after-the-fact notification of the Lead Regulatory Agency. This prevents work from being halted due to very minor change issues.

- This agreement provides a process that allows for timely resolution of disputes.

- A single point of contact will be designated and held accountable for individual issues.

RFCA prioritizes risk reduction activities — focusing on highest risks first

- By dealing with work on an IHSS by IHSS basis, the highest areas of risk will be addressed first.

- Site activities are placed on an Integrated Sitewide Baseline of activities to allow decisions relating to budget determine the accomplishment of highest risk activities.

Objectives of Draft Cleanup Agreement

The draft Rocky Flats Cleanup Agreement (RFCA) released for public comment is designed to help speed environmental cleanup and risk-reduction activities at Rocky Flats, and streamline the regulatory process by identifying responsible regulatory authorities by area, and establishing numeric action levels and recommended standards for contaminants. RFCA will be a legally binding agreement among the Colorado Department of Public Health and Environment (CDPHE), the U.S. Environmental Protection Agency (EPA), and the Department of Energy (DOE) to accomplish required cleanup of radioactive and other hazardous substances at the Rocky Flats Environmental Technology Site (RFETS).

The agreement is officially called a Federal Facilities Agreement and Consent Order, and is required by Rocky Flats' designation as a Superfund site under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). Participants in the agreement include the DOE, the federal agency that owns Rocky Flats, the CDPHE for Colorado as the state in which the site is located and which has regulatory authority under the Resource Conservation and Recovery Act (RCRA), and the EPA, which has regulatory oversight under CERCLA. The draft RFCA contains a preamble with a list of eight specific objectives for Rocky Flats tentatively agreed upon by participating agencies and regulatory authorities. Major objectives as identified in the preamble are:

- **The disposition of plutonium, Special Nuclear Material (SNM), and Transuranic (TRU) wastes:** The preamble calls for DOE to stabilize, consolidate, and temporarily store plutonium, other special nuclear material and transuranic wastes onsite for removal. The removal of plutonium is targeted for as soon as possible, beginning no later than 2010 and to be completed by 2015.
- **Onsite and offsite waste management:** Waste management activities for low-level, low-level mixed, hazardous, and solid wastes will include a combination of onsite treatment, storage in a retrievable and monitored manner, disposal, and offsite removal.
- **Water quality:** At the completion of cleanup activities, all surface water onsite and all surface and groundwater leaving the site will be of acceptable quality for all uses. There are also restrictions during the cleanup phase to ensure protection of human health and the environment.
- **Cleanup guidelines:** Cleanup activities will be conducted in a manner that will reduce risk, be cost-effective, protect public health, protect reasonably foreseeable land and water uses, prevent adverse impacts to ecological resources, surface water and groundwater, and be consistent with a streamlined regulatory approach.
- **Land Use:** Cleanup decisions and activities are based on open space and limited industrial uses. The particular land use recommendations of the Future Site Use Working Group (FSUWG) are not precluded. Specific future land uses and post-cleanup designations will be developed in consultation with local governments.
- **Environmental Monitoring:** Environmental monitoring will be maintained for as long as necessary.
- **Building Disposition:** All contaminated buildings will be decontaminated as required for future use or demolition. Unneeded buildings will be demolished.
- **Mortgage Reduction:** Plutonium, other SNM and TRU wastes will be safely consolidated into the smallest number of buildings possible to reduce operating costs and shrink the security perimeter. Contaminated and non-contaminated buildings will be decommissioned and either demolished or turned over for non-DOE uses.

Streamlining the Regulatory Process

Streamlining the regulatory process is a key objective of the draft Rocky Flats Cleanup Agreement (RFCA) that has been released for formal public comment. The draft agreement, when finalized following the public comment period, will help streamline the regulatory process in several ways.

- **It clearly defines which regulatory agency is responsible for cleanup and risk-reduction actions, and eliminates duplication of effort.**

The draft RFCA provides a clear division of authority that defines which regulatory agency is responsible for each aspect of cleanup. Under the draft RFCA, the DOE will have a single point of contact for each cleanup activity. The Colorado Department of Public Health and Environment (CDPHE), which has oversight authority through the Resource Conservation and Recovery Act (RCRA), will have oversight of cleanup activities in the site's industrial area, including decontamination and cleanup of former production buildings. CDPHE will also be the lead agency regarding any facility for the retrievable, monitored storage or disposal of all cleanup wastes. The Environmental Protection Agency, with its authority under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), will have cleanup oversight of the site's Buffer Zone and offsite areas. The draft RFCA also includes a Memorandum of Understanding (MOU) that clarifies the jurisdiction of the Congressionally appointed Defense Nuclear Facilities Safety Board (DNFSB) in the process.

- **The draft RFCA reduces the number of Operable Units from 16 to two onsite and one offsite area, reducing the number of regulatory investigations and reports required in the future and hastening actual cleanup activities.**

In the past, a total of 178 known or suspected contamination sites at Rocky Flats were grouped into what were called 16 Operable Units (OUs), which were then prioritized for investigation and cleanup. Each OU was managed as a separate cleanup unit. The consolidation of the 16 OUs, and the division of the site into fewer major cleanup areas (the Industrial Area, Buffer Zone, and Offsite Areas), substantially reduces the number of reports required before final cleanup can proceed, without weakening any of the statutory requirements of CERCLA or RCRA.

- **It provides action levels and cleanup standards which will help speed actual cleanup activities.**

The draft RFCA provides action levels and a standards framework for surface water, groundwater, surface soils, and subsurface soils. It also provides standards for the cleanup of buildings destined for decontamination and reuse or eventual demolition. This represents a significant step forward with a defined process using agreed-upon standards defining "how clean is clean." The cleanup standards established in the draft RFCA are risk-based and designed to protect human health and the environment.

- **The new agreement provides a means to prioritize cleanup activities.**

The draft RFCA establishes a risk-based ranking system to prioritize cleanup activities associated with Individual Hazardous Substance Sites (IHSSs). This prioritization will result in a reduction of costs associated with cleanup by allowing better planning, and more efficient utilization of resources. This will more quickly reduce risks to human health and the environment by selecting the highest-risk sites for remediation.

Milestones and Commitments Target Highest Risks

Enforceable milestones with stipulated penalties are an integral component of the draft Rocky Flats Cleanup Agreement (RFCA). The milestones are established to prioritize highest-risk cleanup areas at Rocky Flats. Under the new draft RFCA, established milestones are focused on actual work and, similar to the previous IAG, are enforceable with monetary penalties.

Milestones will be limited under the RFCA to no more than 12 per fiscal year. In addition, they will be established and reviewed each year to coincide with the budgetary cycle. This will allow the Department of Energy (DOE) and regulatory agencies to choose milestones based on importance and risk reduction. All activities will be prioritized in an integrated manner with the DOE and the regulators. The RFCA currently outlines six milestones and four major consolidation/stabilization activities that will take place in Fiscal Year 1996.

Waste Management Milestones for FY 1996

Shipment of Saltcrete for Offsite Disposal: One megashipment (8,400 cubic feet) was shipped offsite to a permitted disposal site in Utah in December 1995. Completion of the milestone requires a second megashipment for offsite disposal by September 30, 1996.

Evacuation of Stored Waste and Solid Residue from Building 779: Building 779 has been targeted for deactivation in preparation for building demolition. The milestone requires removal of stored waste and solid residues in drums by September 30, 1996.

Reactive Disposition: Some chemicals identified onsite and listed in the Excess Chemical Program are classified as Priority 1 Reactive Chemicals. There are 48 Priority 1 Reactive Chemicals identified onsite. This milestone requires onsite treatment or offsite treatment/disposal of the reactive chemicals by September 30, 1996.

Environmental Restoration Milestones for FY 1996

Accelerated Action at Trench T-3 in Operable Unit 2: Trench T-3 is believed to be a potential source of Volatile Organic Compounds (VOCs) and radionuclide contamination to groundwater. The milestone requires accelerated action to excavate approximately 2,240 cubic yards of source material from the trench, treat the material using thermal desorption technology, place the treated soils back into trenches (if appropriate), and add clean soil (if needed) to return the terrain to its pre-excavation condition. The milestone requires excavation by July 30, 1996.

Accelerated Action at Trench at T-4 in Operable Unit 2: Trench T-4 is believed to be a potential source of VOC and radionuclide contamination to groundwater. The accelerated action requires the excavation of approximately 2,240 cubic yards of source material from the trench, treating the material using thermal desorption technology, placing processed soils back into trenches (if appropriate), and adding clean soil (if needed) to return the terrain to its pre-excavation condition. The milestone is to complete the source material excavation by September 30, 1996.

Accelerated Actions on Interagency Agreement Tanks in the Industrial Area: Accelerated action will be completed at six Interagency Agreement tanks in four Industrial Area Operable Units (OUs) (OU8, OU9, OU10, and OU13). The action will consist of removal of the tank contents, rinsing the tanks, and filling the tanks with a closed-cell foam for closure in place. The milestone is to complete the tank cleaning and foaming by September 30, 1996.

Four Special Nuclear Material Major Activities for FY 1996

Disposition Health and Safety Practice Manual Section 31.11 Items: A total of 1,100 plutonium metal items that are not in compliance with the surveillance requirements of the Health and Safety Practices Manual Section 31.11 (HSP 31.11) will be dispositioned. The HSP mandates certain requirements to ensure the safe storage of material to minimize potential fire hazards. The major activity is the disposition of the 1,100 HSP 31.11 items by September 30, 1996.

Stabilize Plutonium Oxides: Eighty percent of potentially pyrophoric plutonium oxides generated from HSP 31.11 disposition activities will be thermally stabilized at a high temperature to produce a stable and safer form of oxide. This major activity is to be completed by September 30, 1996.

Remove Highly Enriched Uranium Solutions from Rocky Flats Environmental Technology Site: Highly Enriched Uranium solutions will be shipped to Nuclear Fuels Service (NFS) in Irwin, Tennessee. The solutions will be transferred from tanks in Building 886 to bottles and packaged in approved containers for offsite shipment. This activity will be completed by December 31, 1996.

Remove Category I and II Special Nuclear Material From Building 779: All SNM designated under DOE Order 5633.32 as Category I or II that is in unfavorable locations (i.e., in vault type rooms or gloveboxes) will be removed from Building 779 to support reduction of security requirements and subsequent deactivation. This activity will be completed by September 30, 1996.

Stipulated Penalties

A key provision of the draft RFCA is the establishment of enforceable milestones, with stipulated penalties. A three-year rolling milestone process will help guide future budget requests, which will allow the site and regulatory agencies to prioritize activities in an integrated manner and address higher-risk areas first. Failure to meet major milestones will subject the DOE to major penalties of \$20,000 per week, while second-tier milestones will be subject to a \$5,000 per week penalty.

**Oversight of Special Nuclear Materials
by the Defense Nuclear Facilities Safety Board,
Colorado Department of Public Health and Environment,
and the Environmental Protection Agency**

The responsibilities and statutory authorities of the Congressionally appointed Defense Nuclear Facilities Safety Board (DNFSB) are integrated in the draft Rocky Flats Cleanup Agreement through a Memorandum of Understanding (MOU) with the Department of Energy and regulatory agencies. The MOU with the DNFSB is the first of its kind in the DOE complex.

The DNFSB reports directly to Congress and makes recommendations to the Secretary of Energy to ensure adequate protection of worker and public health and safety, and protection of the environment. Because of its expertise, the DNFSB will serve under the MOU as a primary agency for many activities in the RFETS' Industrial Area related to the safe stabilization and consolidation of plutonium and other Special Nuclear Material (SNM) at Rocky Flats, and Transuranic (TRU) wastes. The board's statutory authority will include oversight of operations and processing, storage and onsite transport of plutonium and SNM, deactivation of buildings, and the removal of SNM from those facilities.

The integration of DNFSB oversight responsibilities with regulatory responsibilities of the state of Colorado and Environmental Protection Agency (EPA) for activities at Rocky Flats will help streamline the overall regulatory process, and reduce potential duplication of effort. This also will help the Department of Energy (DOE) focus its efforts on areas of greatest risk, particularly the safe stabilization and consolidation of plutonium and SNM.

The draft RFCA recognizes that plutonium at Rocky Flats in liquid and solid forms must be stabilized for long-term disposition. This material was left in place when production operations were abruptly curtailed in late 1989.

The draft RFCA also establishes a formal process for cooperation among the various regulatory and oversight agencies involved in the Rocky Flats cleanup. These agencies will cooperate to establish a single point of contact for each site activity. It also provides for early identification of a single and consistent set of requirements for the DOE to satisfy, and provides a speedy conflict resolution process to resolve disputes among regulatory agencies with minimal impact on DOE activities, while preserving the statutory mandates of each regulatory and oversight agency involved.

Under the MOU, the DNFSB will serve as the primary agency for many activities during deactivation involving plutonium, other SNM and radioactive waste materials. The MOU also provides that the DNFSB will serve a secondary oversight role to the primary role of the state of Colorado and EPA in some areas where it has statutory jurisdiction or special expertise, including providing reviews, concurrence and comment on health and safety-related issues.

Although agencies may take a secondary role for some activities, they do not abdicate their statutory responsibility. The MOU provides for unilateral action if a secondary agency disagrees with actions of a primary agency for a DOE activity, and retains authority to take immediate and independent action in the event of an imminent undue risk to workers or public health and safety.

Waste Management - Summary of RFCA Provisions

The draft Rocky Flats Cleanup Agreement (RFCA) provides that waste management activities for low-level, low-level mixed, hazardous, and solid wastes will include a combination of onsite treatment, storage in a retrievable and monitored manner, disposal, and offsite removal.

The new draft RFCA envisions the ultimate removal of all high-risk plutonium, other special nuclear material, and transuranic wastes from Rocky Flats to eliminate the risk posed by those hazardous materials. In addition, the RFCA provides for the safe management of lower-risk waste material that currently exists or will be generated as part of future cleanup. The Department of Energy, in conjunction with the regulators and with appropriate public participation, will determine which wastes are stored at Rocky Flats, disposed or removed through an ongoing process consistent with the RFCA.

Controlling and remediating sources of high-risk contamination at Rocky Flats to reduce worker and public risks will initially take priority over efforts to ship wastes to offsite locations. The RFCA requires that the DOE, EPA and CDPHE actively seek offsite facilities to accept Rocky Flats waste, with offsite shipments occurring based on risk, technology, facility availability, and cost.

The draft RFCA provides for most environmental cleanup to be completed, and urgent risks removed, in the near term. Environmental cleanup will include the treatment, consolidation, and management of contaminated soils, treatment and management of water resources, and proper handling of other materials generated as part of the cleanup. Options for lower-risk wastes generated during cleanup activities that remain at Rocky Flats include:

- Stored temporarily pending shipment offsite
- Stored for a longer term in a retrievable and monitored manner
- Disposed onsite

For all storage options, the wastes will be stored in a manner that is environmentally safe and in compliance with legal requirements. Decisions on the specific degree of retrievability and monitorability will be based on risk, legal requirements, waste type, technology, cost effectiveness, and community concerns. Storage facilities will be designed to provide safe storage with an option to convert to disposal at some point in the future if other alternatives are not available.

The possibility of longer-term storage and/or disposal of lower-risk materials will be addressed by the DOE in conjunction with regulators, stakeholders, and the public at a future time. The immediate focus of the new draft RFCA is the cleanup of high-risk environmental sites, and the safe stabilization and consolidation of plutonium, other SNM, and TRU wastes to eliminate urgent risks posed to public health and the Colorado environment. No final decisions will be made on treatment, storage or disposal options for lower-risk wastes without public involvement. In the meantime, any onsite storage facilities constructed for the interim storage of material will be designed to meet dual requirements of monitored and retrievable storage, or be convertible from storage to disposal at Rocky Flats with minimal impacts. Any existing and future onsite landfills will be closed in compliance with legal requirements, capped, and designed to blend in with the natural topography of the site.

Action Levels and Cleanup Standards in RFCA

The Action Levels and Cleanup Standards established in the draft Rocky Flats Cleanup Agreement (RFCA) are risk-based and are designed to protect human health and the environment. The cleanup standards, which address environmental media as well as building cleanup, must be achieved for a remedial action at Rocky Flats to be considered complete. Some outstanding aspects of the radiological and organic standards will be further evaluated in the next few months and will be made available for public review before they are finalized. They will then be incorporated into RFCA. Parties to the agreement have agreed on a radiological protection standard of 15 millirem per year with active controls, and not to exceed 75 millirem per year for 1,000 years if all active controls fail.

The draft RFCA provides recommended standards for surface water and groundwater for all contaminants, including radiological and hazardous constituents. A standard is an enforceable narrative and/or numeric restriction established by regulation and applied so as to protect one or more existing or potential future uses. Within this framework, standards are associated with surface water use classifications and applied at points of compliance. Protection of surface water is paramount, with many of the site actions aimed at protecting that resource through the intermediate and long-term site conditions.

Some of the water standards proposed differ from existing state water quality standards. It will be necessary to petition the state's Water Quality Control Commission (WQCC) for changes. The parties to the draft RFCA agree to jointly petition the WQCC for revisions as appropriate. Local municipalities also will be more actively involved under the draft RFCA. A working group has been created which includes the participating agencies, other federal agencies such as the U.S. Fish and Wildlife Service, and nearby municipalities.

Separate from cleanup standards, the draft RFCA also provides actions levels which, when triggered, require immediate investigation and action. Action levels for groundwater must be protective of surface water standards and quality as well as ecological resources. Domestic use of groundwater will be prevented through institutional controls. Since no other human exposure to onsite groundwater is foreseen, groundwater action levels are designed for surface water protection. Exceedances of soil or groundwater action levels will require an evaluation or action. Soil action levels are designed to be protective of surface water by preventing leaching of unacceptable amounts of contaminants from the soil.

RFCA also provides for building cleanup standards, which will help ensure that buildings are decontaminated and cleaned to a level that protects worker and public health, and the environment. The radiological building cleanup standards allow the parties to determine what is required to decontaminate a building, and will help hasten building cleanup for reuse or eventual demolition.

Definitions of Future Site Conditions

Accelerating environmental cleanup at Rocky Flats and eliminating urgent risks in the near-term timeframe are key objectives of the Department of Energy (DOE), the Environmental Protection Agency (EPA), and the Colorado Department of Public Health and Environment (CDPHE). The draft Rocky Flats Cleanup Agreement incorporates a streamlined regulatory approach to allow accelerated cleanup to proceed and to eliminate risks in the near term. Because of uncertainties in the longer term associated with budget allocations and new cleanup technologies which may be developed in the future, the draft Rocky Flats Cleanup Agreement is focused on activities that will occur in the near future to reach an intermediate site condition, where major cleanup is completed and urgent risks to the public and Colorado environment are eliminated first. The following provides a description of the future site conditions.

Near-term site condition

The near-term site condition generally covers a period ranging from 8 to 15 years. Major activities will be completed during this period, including the stabilization, consolidation, and safe storage of plutonium, other Special Nuclear Material (SNM), and Transuranic (TRU) waste materials. Also envisioned during the near-term site condition are the completion of nearly all environmental cleanup activities, and the removal of a portion of low-level, low-level mixed, and other low-risk waste materials. Low-risk waste materials that remain on site will be disposed or stored in a monitored and retrievable manner, so as to protect public health and the environment. It is the intent of the DOE and regulatory agencies to accelerate site activities to substantially achieve and complete risk reduction and cleanup during this period.

Intermediate site condition

The intermediate site condition generally covers a timeframe ranging from 12 to 25 years. During this period, all plutonium, other SNM, and TRU waste materials will be removed from Rocky Flats and transported to offsite locations. All buildings that previously housed the material will be decontaminated and dismantled. Closure of non-contaminated buildings will be completed, and operating costs will be substantially reduced. By the end of the intermediate timeframe, all low-level, low-level mixed, hazardous and solid wastes will have been shipped to offsite locations, disposed onsite, or placed in safe storage in a retrievable and monitored manner to ensure the protection of public health and the environment. Environmental monitoring will continue during the intermediate site condition. The existing site infrastructure--and the costs associated with maintaining that aging infrastructure--will be substantially reduced. Any remaining environmental cleanup will be completed during the intermediate site condition, further reducing remaining risks posed to public health and the environment.

Long-term site condition

The long-term site condition follows the intermediate period and will continue through the indefinite future. Additional cleanup and removal activities may be conducted during this time based on available funding and as new cost-effective technologies become available. The DOE and regulatory agencies will continue to explore and apply new cleanup technologies that could be used to complete cleanup toward background levels. The draft RFCA recognizes that some members of the public prefer cleanup to background levels, but the participating agencies are unable at this time to commit to that goal because of uncertainties in trying to plan 25 years into the future. There is nothing in the draft RFCA that precludes the goal of cleanup to background levels, or removal of any lower-risk waste materials that might be stored on site during the intermediate period. Activities beyond the intermediate site condition are unknown at this time, perhaps unknowable, and not described.