

programmatic level, DoD Components will report the results of sequencing to the ODUSD (I&E).

## XII. Consultation

The provisions of 10 U.S.C. 2710 required the DoD to develop this proposed Protocol in consultation with States and Tribes. DoD has followed Congress' direction, specifically working with States, Tribes, and other interested stakeholders throughout the development process. DoD appreciates the involvement and contributions of these stakeholders in the development process. Many of the comments received were incorporated into the Protocol. Some of the actions DoD took include:

*A. Advanced Notice of Proposed Rulemaking.* On March 20, 2002, DoD published an *Advanced Notice of Proposed Rulemaking* in the **Federal Register** to inform stakeholders of DoD's efforts to develop a tool for prioritizing MRS and to request suggestions on current prioritizing methods in use and factors to consider in developing the Protocol. DoD has reviewed all comments received and has considered them in its development of the Protocol.

*B. DENIX Web site.* Beginning in March 2002, DoD established a Website specific to the Protocol development effort on the Defense Environmental Network & Information eXchange. DoD provided information on the Protocol regarding background and status of development efforts as well as an opportunity for stakeholders to submit comments electronically.

*C. Consultation with other Federal Agencies.* In December 2002 and February 2003, ODUSD (I&E) personnel met with representatives from the U.S. Department of Agriculture, U.S. Department of Interior, and EPA to discuss their concerns and comments on the Protocol.

### *D. Consultation With States*

(1) *Formal Notice for Protocol Development.* Although DoD discussed the Protocol with State representatives at meetings of various organizations, the Deputy Under Secretary of Defense (Environment) (ADUSD(E)) sent a letter to the head (e.g., Secretary, Commissioner, Director) of the environmental agency for each State and U.S. territory providing notification and background on the Protocol development effort and requesting a point of contact for future correspondence. DoD received formal responses from 15 States and territories. DoD considered all submitted comments during its development of the Protocol.

(2) *State Meeting.* To facilitate State involvement in the development of the

Protocol, in November 2002 and February 2003, DoD invited representatives from the 50 States and U.S. territories to attend a meeting to discuss State concerns. Participants reviewed the Protocol and discussed their comments with representatives from the ODUSD (I&E) and DoD Components.

(3) *Munitions Response Committee.* DoD established the Munitions Response Committee (MRC) to coordinate, identify and synchronize efforts among DoD, other Federal agencies, the States, and Tribes to ensure munitions responses at locations on other than operational ranges are conducted in a manner that protects public health and the environment while allowing the military to fulfill its mission. DoD worked with the Association of State and Territorial Solid Waste Management Officials (ASTSWMO) and National Association of Attorneys General (NAAG) to determine how best to achieve representation of State interests and concerns on the MRC. Delegates from the ASTSWMO Board of Directors and Committees served as representatives expressing potential State concerns in managing activities at MRS. DoD also engaged the National Congress of American Indians (NCAI) to participate in the MRC. DoD discussed its Protocol development efforts with the MRC at meetings held in March, May, July, and November 2002, as well as through numerous teleconferences. The July meeting was conducted in conjunction with the annual Defense and State Memorandum of Agreement Conference.

(4) *ASTSWMO.* In addition to coordination with the Association of State and Territorial Solid Waste Management Officials (ASTSWMO) through the MRC, DoD also sought to engage ASTSWMO members directly. In October 2002 and April 2003, DoD representatives participated in ASTSWMO's annual meeting—presenting a brief update at a breakout session and individually discussing the Protocol with members.

### *E. Consultation With Tribes*

DoD is committed to working with Tribes on a government-to-government basis in recognition of their sovereignty and in a continuing effort to implement the 1998 DoD American Indian and Alaska Native Policy. In recognition of this commitment and policy and to fulfill congressional requirements, DoD consulted with Tribes throughout the development of the Protocol.

(1) *Formal Notice for Protocol Development.* In April 2002, the ADUSD(E) sent a letter to each Tribal

leader of the 586 Federally-recognized Tribes notifying them of the effort to develop the Protocol to prioritize MRS known or suspected to have UXO, DMM, or MC, inviting them to participate in the effort, and requesting of them any information regarding the presence of UXO, DMM, or MC on their lands.

(2) *National Tribal Conference on Environmental Management.* In June 2002, DoD participated in the 6th National Tribal Conference on Environmental Management. DoD representatives briefed interested conference attendees on the background and develop of the Protocol and requested comments and factors to consider in its development. DoD asked several interested Tribal members to participate in a subsequent MRC meeting.

(3) *Tribal Consultation Meetings.* In September 2002 and April 2003, DoD hosted meetings specifically for Tribes whose lands may be impacted by UXO, DMM, or MC. The meeting was intended to ensure that DoD fully considers concerns specific to Tribes in the Protocol. DoD briefed the Tribal participants on the status of the development efforts and discussed their comments and concerns.

(4) *National Congress of American Indians.* In November 2002, DoD attended the 59th Annual Session of the National Congress of American Indians. DoD briefed conference participants in a breakout session on the draft Protocol construct and requested participants to provide their comments and concerns.

(5) *Native American Lands Environmental Mitigation Program Meeting.* DoD provided materials for distribution to interested Tribal members at the annual meeting of the Native American Lands Environmental Mitigation Program in November of 2002 in Juneau, Alaska.

### *F. DoD Response to Preliminary Comments*

In developing this Protocol, DoD actively solicited ideas from interested stakeholders on the scope, structure, and specific features of a Protocol for prioritizing MRS. In addition to the **Federal Register** notice announcing development of the Protocol and requesting input from interested parties, DoD set up a Web site where parties could submit comments and ideas. DoD also actively sought ideas in numerous meetings with other Federal agencies, States, Tribes, and the public.

DoD was pleased with the response to its request for ideas, having received comments and ideas from other Federal agencies, States, Tribes, and members of