

**Public Comment on the Draft Programmatic Environmental Impact Statement
for Plutonium Pit Production**

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The draft Programmatic Environmental Impact Statement (PEIS) assesses a “no-action alternative” of projected plutonium pit production at Los Alamos National Laboratory (LANL) and construction but not pit production at Savannah River Site (SRS). That is the status quo and is similar to the “multi-site alternative” assessed in the draft PEIS except that the latter includes SRS production operations.

As set out in our scoping comment,¹ the PEIS should assess a *true no-action alternative* in which there would be no plutonium pit production at LANL or SRS, and no related activities at Lawrence Livermore National Laboratory and other sites. In the context of a long-duration, nation-wide program with major security and environmental dimensions, a *programmatic* review encompassing a true no-action alternative would inform whole-of-government decision-making. It would reveal the environmental and health consequences of the entire pit production enterprise, facts which should inform decision-making. Moreover, it would reflect an intent to comply with U.S. international legal obligations, as discussed below. Further, as also discussed below, the fact that a true no-action alternative is not consistent with current statutory requirements does not foreclose its consideration.

¹ Lawyers Committee on Nuclear Policy and Western States Legal Foundation Comment on the Scope of Environmental Review of Production of the Plutonium Pits (Cores) of Nuclear Warheads, July 14, 2025, <https://wslfweb.org/docs/LCNP-WSLF-PuPitPEIS-scoping.pdf> (“LCNP/WSLF scoping comment”).

The Nuclear Disarmament Obligation

At the recent Nuclear Non-Proliferation Treaty (NPT) Review Conference, a U.S. representative stated:

President Trump has been very clear: The power of nuclear weapons is too immense, and the cost of their employment is too great. He has repeatedly expressed his desire to see a world with fewer nuclear weapons and to move further to the goal of eventual worldwide elimination.

Those are our marching orders. That's why we have proposed multilateral strategic stability and arms control. We provided detailed proposals to Russia and China, and among the P5, on possible initial steps, including on transparency, risk reduction, and nuclear testing. On an optimistic, forward-looking note, we are encouraged our Russian and Chinese colleagues have shown some willingness to engage on these topics. But this is only the beginning. Under NPT Article VI, all nuclear-weapon States must engage in good faith on negotiations on arms control and disarmament to avoid an arms race.²

NPT Article VI provides: "Each of the Parties to the Treaty undertakes to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control."³ In a 1996 advisory opinion, the International Court of Justice interpreted Article VI, stating: "The legal import of that obligation goes beyond that of a mere obligation of conduct; the obligation involved here is an obligation to achieve a precise result - nuclear disarmament in all its aspects - by adopting a particular course of conduct, namely, the pursuit of negotiations on the matter in good faith."⁴

If the United States and other nuclear-armed states, in particular China and Russia, in accordance with Article VI take a negotiated path to the global elimination of nuclear weapons in the foreseeable future, there will be no need, perceived or real, for plutonium pit

² Statement by the United States to the NPT Review Conference, Statement by Assistant Secretary Dr. Christopher Yeaw, U.S. Department of State, Bureau of Arms Control and Nonproliferation, New York, NY, April 29, 2026, https://www.reachingcriticalwill.org/images/documents/Disarmament-fora/npt/revcon2026/statements/29April_US.pdf (emphasis added).

³ For more about NPT Article VI, NPT review conference commitments, and other relevant international law, see LCNP/WSLF scoping comment, pp. 2-3.

⁴ *Advisory Opinion of 8 July 1996 on the Legality of the Threat or Use of Nuclear Weapons*, I.C.J. Reports, 1996, p. 226, para. 99. See "The ICJ on the Nuclear Disarmament Obligation," John Burroughs, *Reaching Critical Will NPT News in Review*, vol. 21, no. 3, 7 May 2026, <https://www.lcnp.org/s/ICJnucleardisarmamentobligationRCWfin.pdf>.

production.⁵ Further, a 2000 NPT Review Conference commitment calls for “efforts by the nuclear-weapon states to reduce their nuclear arsenals unilaterally.”⁶ The negotiation of the abolition of nuclear arms is a legal obligation of extraordinary practical and moral importance. While the current international landscape may not be conducive to the enterprise of negotiated elimination of nuclear arsenals, it should not be assumed that pit production will take place over the next several decades.

Additionally, a sometimes overlooked element of Article VI is *cessation of the nuclear arms race at an early date*. Production of pits for new-design warheads on a new delivery system, the Sentinel ICBM, and on submarine-based ballistic missiles,⁷ has aspects of nuclear arms racing, both in reality and, importantly, as it is perceived by rival nuclear-armed states. If the W87-1 serves to enable MIRVing of the Sentinel ICBM,⁸ it would contribute to quantitative arms racing;⁹ MIRVing also would be destabilizing. Moreover, according to the Department of Defense, the Sentinel ICBM will have enhanced capabilities¹⁰ and thus its development and deployment amount to qualitative arms racing. It appears too that the W93 warhead for submarine-based missiles will add some military capability.¹¹ Again, the United States is obligated to pursue negotiations in good faith to cease arms racing involving new-design warheads and new delivery systems *at an early date*. Moreover, the United States has made an NPT review conference commitment to “a diminishing role for nuclear weapons in

⁵ For a critical assessment of the alleged need for pit production and a discussion of alternative measures, see *Plutonium Pit Production: The Risks and Costs of US Plans to Build New Nuclear Weapons*, Dylan K. Spaulding, Union of Concerned Scientists, May 2025, pp. 62-71 (“UCS report”), <https://www.ucs.org/sites/default/files/2025-05/Plutonium-Pit-Production-report.pdf>.

⁶ See LCNP/WSLF scoping comment, p. 2.

⁷ It appears that enabling such production is a driver of the schedule to establish the capability to manufacture pits. UCS report, p. 53.

⁸ See UCS report, p. 54.

⁹ The draft PEIS is concerned with the project’s effects in the United States. Nonetheless, it should be observed that increased production of nuclear arms by competing states has deleterious environmental and health consequences globally, not to speak of the catastrophic impacts of actual detonation of nuclear weapons. Relevant here is that the National Environmental Policy Act (NEPA) requires federal agencies to “recognize the worldwide and long-range character of environmental problems and, where consistent with the foreign policy of the United States, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of mankind’s world environment.” 42 U.S.C. § 4332(I).

¹⁰ See UCS report, p. 58, citing a Department of Defense statement quoted in Toby Dalton et al, *Assessing U.S. Options for the Future of the ICBM Force: A Report to the Office of the Under Secretary of Defense for Policy*, Carnegie Endowment for International Peace, May 2022, p. 6.

¹¹ According to the UCS report, p. 56: “As a lightweight warhead, the W93 would add capability to future Columbia-class submarines; the NNSA and the Pentagon have argued that the lighter weight would help compensate for the fact that the submarines will carry fewer warheads than the existing Ohio-class due to having fewer missile tubes. A lighter, relatively high-yield (or variable yield) warhead would provide the Navy with the ability to ‘hold all targets in current plans at risk,’ implying that it would make possible strikes from a greater distance against hardened targets,” citing John Donnelly, “Trump team’s case for new nuke cites risks in current arsenal,” Roll Call, July 29, 2020, <https://rollcall.com/2020/07/29/trump-teams-case-for-new-nuke-cites-risks-in-current-arsenal/>.

security policies.”¹² Improvements in military capabilities of nuclear forces imply an expanding, not diminishing, role of nuclear weapons in security policies.

The PEIS should not rule out the possibility that nuclear arms racing will cease and nuclear disarmament will be implemented in accordance with NPT Article VI. Failing to consider a true no-action alternative would have that effect. The draft PEIS asserts that the United States “takes [Article VI] seriously”.¹³ The PEIS should accordingly examine a possible future in which the United States and other nuclear-armed states successfully implement Article VI and there is no perceived need for pit production.

The NEPA Basis for Examination of a True No-Action Alternative

The fact that there is a current statutory mandate for pit production does not foreclose consideration of a true no-action alternative. Department of Energy (DOE) NEPA implementing procedures provide for examination of a no-action alternative separately from assessment of reasonable alternatives that meet the purpose and need of the project.¹⁴ A no-action alternative should not include the proposed project or any component of it. It is noteworthy that the U.S. Air Force 2023 environmental impact statement for deployment of the new Sentinel ICBM includes a no-action alternative in which deployment would not take place.¹⁵ That is so though the purpose and need for the deployment is characterized as implementation of a legislative mandate.¹⁶ No less should be done with respect to environmental review of planned plutonium pit production, including for pits in warheads for the Sentinel ICBM. It is feasible to assess a no pit production alternative in terms of the health and environmental consequences.

Further, flexibility regarding statutory requirements is illustrated by the draft pit production PEIS itself. It examines two single site alternatives, at LANL and SRS, despite the statutory requirement for a two-site approach. As the draft PEIS states: “The Fiscal Year 2026 Defense

¹² See LCNP/WSLF scoping comment, p. 2.

¹³ Draft PEIS, p. 1-5.

¹⁴ Section 7.3(a) of the DOE NEPA implementing procedures provides in part:

“Accordingly, in all environmental impact statements, DOE shall analyze (1) the proposed action; (2) a reasonable range of technically and economically feasible alternatives that meet the purpose and need of the proposal ...; and (3) no action, which may be limited to an analysis of negative environmental effects of not implementing the proposed action.”

<https://www.energy.gov/sites/default/files/2025-06/2025-06-30-DOE-NEPA-Procedures.pdf>

Analysis of negative environmental effects of not implementing the proposed action is not relevant here, as it would be for example in a proposal for a flood control project.

¹⁵ *Final Environmental Impact Statement for the Sentinel (GBSD) Deployment and Minuteman Decommissioning and Disposal*, Air Force Global Strike Command, Section 2.3, No Action Alternative (March 2023), available at <https://www.afgsc.af.mil/Sentinel/Environmental-Impact-Statement/>. In a May 2023 Record of Decision, the Air Force chose a Reduced Utility Corridors Alternative for deployment.

¹⁶ *Id.*, Section 1.3, Purpose and Need for Action.

Authorization Act, enacted by Congress on December 18, 2025, specifies production of plutonium pits at LANL and SRS (Public Law 119-60).”¹⁷

More broadly, an alternative of ending pit production is a reasonable one, whether it is characterized as a no-action alternative or as an alternative path. It is consistent with U.S. international obligations and with the vision articulated by presidents of the United States. In a matter of this scope and importance, an environmental review should inform the whole of government, and indeed the public. Congress and the Department of Defense may change the requirements for pit production, and environmental review that includes an alternative of no pit production would inform decisions about such changes. Identifying the alternatives for environmental review depends on the circumstances and nature of the project and on the reasoned exercise of judgment. The current pit production mandate does not foreclose NEPA assessment of alternatives that could be adopted through subsequent legislative or executive action.¹⁸ An alternative of no plutonium pit production should be examined.

¹⁷ Draft PEIS, p. 2-27. See 10 USC § 6128 (f).

¹⁸ In *Natural Resources Defense Council, Inc., v. Morton*, 458 F.2d 827 (D.C. Cir. 1972), the D.C. Circuit Court of Appeals stated that “[w]hen the proposed action is an integral part of a coordinated plan to deal with a broad problem, the range of alternatives that must be evaluated is broadened,” *id.* at 835, and “[t]he mere fact that an alternative requires legislative implementation does not automatically establish it as beyond the domain of what is required for discussion,” *id.* at 837. Citing that case and others, in *National Wildlife Federation v. U.S. Army Corps of Engineers* (7th Cir. 2023), 75 F.4th 743, 753, the Seventh Circuit Court of Appeals observed: “Courts have repeatedly said that an otherwise reasonable alternative should not be eliminated solely because it would require legislative action.”