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PUBLIC HEARING NOTICE No. 14-01

**NEW MEXICO ENVIRONMENT DEPARTMENT
HAZARDOUS WASTE BUREAU
SANTA FE, NEW MEXICO
March 10, 2014**

**NOTICES FOR PUBLIC COMMENT AND HEARING ON: 1) THE PROPOSED
HAZARDOUS WASTE FACILITY PERMIT; 2) THE INTENT TO APPROVE
CORRECTIVE ACTION COMPLETE (CAC) STATUS FOR 24 SOLID WASTE
MANAGEMENT UNITS (SWMUs)/AREAS OF CONCERN (AOCs)**

**SANDIA NATIONAL LABORATORIES
EPA ID No. NM5890110518**

The New Mexico Environment Department (**Department**) provides this public notice of a public hearing, and the opportunity for the public to comment on a pending action before the Department regarding Sandia National Laboratories (SNL, or the **Facility**). Specifically, the Department intends to issue a hazardous waste permit (**Permit**) to SNL to manage, store, and treat hazardous and mixed waste, pursuant to the New Mexico Hazardous Waste Act (**HWA**) and its implementing regulations. The Department also intends to approve corrective action complete (**CAC**) status for 24 solid waste management units and areas of concern (**SWMUs/AOCs**). The Department must undertake to issue a Permit that ensures that SNL's hazardous waste operations are managed in a manner protective of human health and the environment.

SNL generates hazardous and mixed wastes that are regulated under the U.S. Resource Conservation and Recovery Act (**RCRA**), the New Mexico Hazardous Waste Act (Chapter 74, Article 4 NMSA 1978), and the New Mexico Hazardous Waste Management Regulations (20.4.1 NMAC or **HWMR**). Mixed waste is radioactive waste that is also a hazardous waste as defined by the HWA, and is thus subject to regulation by the Department.

The Facility currently operates under a permit the Department issued on August 6, 1992, which authorizes the management, treatment and storage of hazardous waste at the Facility.

SNL is a multi-purpose engineering and science laboratory owned by the U.S. Department of Energy (DOE) and operated by Sandia Corporation (a subsidiary of Lockheed Martin, Inc.). The DOE and Sandia Corporation are collectively referred to as the “Permittees” in the proposed Permit and as “the Permittees” or “the Applicants” in this Public Notice.

SNL is located within the boundaries of Kirtland Air Force Base (KAFB) on land owned by the DOE, the U. S. Department of Defense, and the U. S. Forest Service. Collectively, these lands are situated south of Albuquerque in north-central New Mexico. The Facility is divided into five smaller geographical areas known as technical areas (TAs) and several large remote test areas (Foothills Test Area, Central Coyote Test Area, Southwest Test Area, and Canyons Test Area). The Facility occupies 2,820 acres (4.4 square miles). The administrative offices of SNL are located at the following mailing addresses: Sandia Corporation, 1515 Eubank Boulevard SE, Albuquerque, New Mexico, 87123; and the DOE Sandia Site Office at KAFB-East, Pennsylvania & H Street, Albuquerque, New Mexico 87116. The Applicants’ primary contact and address for this action is: Mr. David Rast, NNSA/Sandia Site Office, DOE, Post Office Box 5400, Albuquerque, New Mexico 87185.

I. NOTICE OF HEARING AND OPPORTUNITY TO COMMENT ON THE PROPOSED PERMIT AND CAC PETITIONS

The Applicants submitted to the Department an application for a permit to store and treat hazardous wastes at SNL under the HWA. The proposed Permit is based on this application and the HWMR. The Department originally issued a draft permit for public comment during a period that ran from August 20, 2007 through October 19, 2007. NMED received a request from the Applicants to extend the public comment period; and on October 16, 2007, NMED granted an additional 60 days to the public comment period, extending it until December 18, 2007.

After issuance of the October 16, 2007 extension, NMED received two more requests from public advocacy groups to extend the public comment period for an additional 30 days. NMED granted an additional 30 days to the public comment period, which ended on January 17, 2008.

In conjunction with the Applicants and other interested persons, NMED attempted to resolve issues raised by the Permit opponents, as required by the HWMR. As a result of these discussions, the Department issued a revised proposed permit and solicited public comment from September 17, 2012 to November 16, 2012. NMED received additional requests to extend the public comment period; and granted an additional 90 days until February 14, 2013, for a total period of 150 days.

The Department, in conjunction with the Applicants and other interested persons, has attempted to resolve the issues giving rise to the opposition on the revised proposed permit. In accordance with 20.1.4.300.B(1)(a)(ii), the Department will provide in its notice of intent to present technical testimony a recommendation to approve with conditions the 2012 proposed Permit with further revisions resulting from these negotiations.

When finalized, the Permit will allow the Applicants to accept, manage, treat and store hazardous and mixed waste at 9 hazardous waste management units at SNL prior to transferring

the waste to off-site treatment or disposal facilities. The Permit would also require the Applicants to: 1) manage hazardous and mixed waste in accordance with permit conditions and limitations to protect human health and the environment, 2) conduct corrective action activities at SWMUs/AOCs not covered by an April 29, 2004 Compliance Order on Consent, and 3) conduct post-closure care at the Corrective Action Management Unit.

Under the authority of the HWA and the HWMR, the Department, pending further public input, also intends to approve CAC status for 24 SWMUs/AOCs at SNL. Each of the SWMUs/AOCs petitioned for CAC status was addressed in one or more of the following permitting requests from the Permittees: a March 14, 2006, permit modification request regarding 26 SWMU/AOCs; a January 7, 2008 request regarding 5 additional SWMUs/AOCs; and a March 16, 2012 request regarding one additional SWMU. (The number of SWMUs/AOCs involved in this present permitting action does not total 32 because three have been acted on separately and five are undergoing additional characterization requested by the Department).

Through this notice the Department hereby announces a public hearing to accept additional public comment and to provide interested persons a reasonable opportunity to present data, views, and arguments, as well as to take testimony regarding the CAC petitions and the Permit, prior to taking final action on these matters. See *II. Public Hearing*, below, which addresses the public hearing and submission of public comment on this action.

II. PUBLIC HEARING

The public hearing on the Permit and CAC petitions shall begin **Monday, May 5, 2014 at 9:00 A.M. MDT** and continue as necessary through **Friday, May 16, 2014**. The public hearing will be held at the Hotel Cascada located at 2500 Carlisle Boulevard NE, Albuquerque, NM 87110. The NMED will conduct the hearing pursuant to the HWMR, 20.4.1.901.F NMAC, the Department Permit Procedures, 20.1.4 NMAC, and any scheduling and procedural orders as the Hearing Officer may issue.

Any person, including the Applicants, who intends to submit written public comment or present oral public comment at the public hearing for Department's consideration, shall do so according to the procedures set forth below. The public comment period ends at the close of the public hearing.

A. WRITTEN PUBLIC COMMENT

The Department will accept written public comments on the Permit and the CAC petitions. Written comments shall be based on all reasonably available information and include, to the extent practicable, all referenced factual materials. Documents already in the Administrative Record need not be re-submitted if expressly referenced by the commenter. Written comments must be filed with the Hearing Clerk (see address below) on or before the close of the public hearing. Written public comments may also be submitted at the public hearing.

B. TECHNICAL TESTIMONY AND ORAL PUBLIC COMMENTS

At the public hearing, the Department will accept technical testimony and non-technical oral comments. The Hearing Officer may set reasonable limits upon the time allowed for technical testimony and oral comments. Technical testimony and oral comments on the Permit and CAC petitions shall be accepted at the public hearing, pursuant to Department regulations, as set forth below:

1. Technical Written Statements and Oral Testimony: Any person who intends to provide a technical written statement or technical oral testimony concerning these actions shall file a Statement of Intent to Present Technical Testimony with the Hearing Clerk at the address provided below. . . Pursuant to a procedural order issued by the Hearing Officer on March 6, 2014, the Statement of Intent, with all contents specified below, must be submitted no later than the close of business on **April 14, 2014**, and copies must be served on all other parties.

(a) Content of Statement of Intent: The Statement of Intent to Present Technical Testimony shall:

- (i) identify the person filing the statement;
- (ii) state whether the person filing the statement supports or opposes the Permit, Application, or Petition;
- (iii) identify each witness, including name, address, affiliation(s), and educational and work background;

- (iv) identify all exhibits which are part of the Record Proper and, for exhibits not part of the Record Proper, attach a copy. Exhibits should be clearly numbered or lettered consecutively, and must be entirely legible;
- (v) list or make available all technical materials relied upon by each witness in making statements of technical fact or opinion contained in his or her direct testimony; and
- (vi) attach the testimony of each witness in full narrative form, stating any opinion(s) to be offered by such witness, and an explanation of the basis for such opinion(s).

Powerpoint and other slide presentations or displays which are demonstrative and clearly based on technical evidence timely submitted may be shown at the hearing regardless of inclusion in the statement of intent. Copies no larger than 8 ½ by 11 inches shall replace large charts and maps in the record after the hearing.

2. Effect of Failure to File: Failure to file a timely Statement of Intent to Present Technical Testimony meeting the requirements above, pursuant to 20.1.4.300.B NMAC, shall preclude a person from presenting technical testimony, and if the person has not filed a timely Entry of Appearance, pursuant to 20.1.4.300.A NMAC, from being a party in the proceeding, but a failure to file timely a Statement of Intent to Present Technical Testimony shall not preclude a person from presenting a general written or oral statement or non-technical testimony in the proceeding.

3. General Written and Oral Statements; Non-Technical Testimony: Any person may provide a general written statement concerning the Permit or CAC petitions at or before the hearing. Any person may provide a general oral statement or non-technical testimony concerning the Permit or CAC petitions at the hearing.

Non-technical public comment will be accepted throughout the hearing, at least once each day, as directed by the Hearing Officer, depending upon progress in the technical case. Regardless of progress in the technical case, non-technical public comment will also be accepted beginning at 6 p.m. on May 6, 2014.

Comments, Statements of Intent, and Entries of Appearance shall be filed with:

Sally Worthington
Hearing Clerk
New Mexico Environment Department,
Room S-2103, 1190 S. St. Francis Drive,
PO Box 5469, Santa Fe, NM, 87502-5469
(505) 827-2002

III. PROCEDURES FOR GRANTING CAC STATUS AND ISSUANCE OF FINAL PERMIT DECISIONS

The Department must ensure that the approved final permit is consistent with the New Mexico HWMR (20.4.1 NMAC). All written comments submitted on the CAC petitions or Permit will be considered in formulating the decisions on granting CAC status or issuance of a final permit, and may cause a CAC petition to be rejected or the Permit to be modified.

The Department will provide a written response to all public comments. The response will specify which provisions, if any, of the Permit have been changed in the final permit, the reasons for the changes, and briefly describe and respond to all public comments on the Permit raised during the public comment period. The response will also specify which SWMUs/AOCs have been approved for CAC status, and the basis for the rejection of a petition for CAC, if any. All persons presenting written comments or who requested notification in writing will be notified of the Department's decisions by mail and the Department will post its response on its website.

After consideration of all the written public comments received, the Department will issue the Permit as currently written, modify the Permit and then issue it, or otherwise, the Department will not issue a final permit. If the Department modifies the Permit and issues a final permit based on those modifications, the Applicants shall receive by mail a copy of the modified documents and a detailed written statement of reasons for the modifications. The Department will also notify the Applicants as to which CAC petitions have been granted, or rejected, and if rejected, the reason why a petition was rejected.

The Secretary of the Department or his designee will make the final decisions on the Permit and CAC petitions publicly available, and will notify the Applicants by certified mail. The Secretary's decisions shall constitute final agency decisions and may be appealed as provided by the HWA.

ARRANGEMENTS FOR PERSONS WITH DISABILITIES

Any person with a disability and requiring assistance or auxiliary aid to participate in this process should contact J.C. Borrego, NMED, Room S-4303, P.O. Box 5469, 1190 St. Francis Drive, Santa Fe, New Mexico, 87502-6110, TDD or TDY users please access Mr. Borrego's number via the New Mexico Relay Network at 1-800-659-8331.

ADDITIONAL INFORMATION

Any person seeking additional information regarding this action, or who would like to arrange for review of the Permit, corrective action documents, or the Administrative Record, may contact Mr. David Cobrain at the Hazardous Waste Bureau, 2905 Rodeo Park Drive East, Building 1, Santa Fe, New Mexico 87505, (505) 476-6000. A copy of the 2012 proposed Permit, the index to the Administrative Record, and this Public Notice are also available on the Department website at:<http://www/HWB/snlperm.html>. The Department will provide copies, or portions thereof, of the Administrative Record at a cost to the requestor. The Department will also file a copy of the Administrative Record and Index with the Hearing Clerk on or before March 14, 2014.