

**Citizen Action New Mexico, Concerned Citizens for Nuclear Safety,
Conservation Voters New Mexico, Nuclear Watch New Mexico,
Southwest Research and Information Center,
Veterans for Peace Chapter 55, Veterans for Peace Chapter 63**

June 25, 2022

By email: neelam.dhawan@state.nm.us

Ms. Neelam Dhawan
Hazardous Waste Bureau
New Mexico Environment Department
2905 Rodeo Park Drive, Building 1
Santa Fe, NM 87505-6303

Re: Public Comments concerning Public Notice No. 22-04
Proposed Revision 32.0 of the Site Treatment Plan Federal Facility
Compliance Order (FFCO), 2021 Annual Site Treatment Plan Update
for Los Alamos National Laboratory
NMED Intends to Approve Requested Revision

Dear Ms. Dhawan:

The seven undersigned non-governmental organizations provide the following comments concerning the New Mexico Environment Department (NMED) Hazardous Waste Bureau (HWB) intent to approve the above-referenced document, prepared by the Respondents. EM2022-0041, March 2022. The Respondents are: U.S. Department of Energy (DOE) Office of Environmental Management – Los Alamos Field Office (EM-LA), Newport News Nuclear BWXT-Los Alamos, LLC (N3B), DOE National Nuclear Security Administration (NNSA) Los Alamos Field Office (NA-LA), and Triad National Security, LLC (Triad).

We are particularly concerned about NMED's intent to approve the requested revision, including the proposed new milestone dates for three waste activities listed in Table 3.3.4-2 *Activities and Compliance Dates for 10-100 nCi/g Waste*. The proposed modification would extend the compliance dates from September 30, 2022 to September 30, 2025. *Id.*, p. 29 of the pdf.

The three waste activities that the Respondents proposed to be changed are:

1. Waste Activity Table 3.3.4-2(A) for complete radiological characterization;
2. Waste Activity Table 3.3.4-2(B) to complete shipment of existing waste to off-site facility for treatment, or complete parallel options; and
3. Waste Activity Table 3.3.4-2(C) to provide documentation to NMED that waste was received at off-site facility or provide notification of parallel option.

We object to the Respondents' proposed change for the following reasons:

Some of this radioactive and hazardous waste is destined for disposal at the Waste Isolation Pilot Plant (WIPP). Under the current NMED WIPP Hazardous Waste Permit (HWP), waste disposal is scheduled to end in 2024. The Respondents' proposed extension is a backdoor approach to modify the WIPP HWP without a permit modification request through the WIPP HWP process. 40 CFR § 270.1(c), 40 CFR § 270.42.A.5.b.

The Resource Conservation and Recovery Act (RCRA) regulations state that the proposed extension of the final compliance date is a Class 3 permit modification requiring, if requested, a public hearing. *Id.*, Appendix I to 40 CFR § 270.42.

Further, the WIPP HWP is currently up for renewal. The Parties, including DOE and some signatories to this letter, are fully aware that the 2024 date to end disposal operations is a contested issue for the inevitable public hearing process.

The Respondents are asking NMED to approve a backdoor approach to change the WIPP HWP outside of the permit modification and/or permit renewal processes.

The Respondents are asking NMED to extend WIPP disposal activities beyond 2024 to September 30, 2025. This is inappropriate. The Respondents should have asked only for a one to two year extension for this waste.

The Respondents have been on notice that WIPP disposal activities are to end in 2024. NMED should approve only a one or two year extension for Table 3.3.4-2

Activities and Compliance Dates for 10-100 nCi/g Waste, pursuant to its authority in the FFCO Section X.A. to “approve, approve with modifications, or disapprove all revisions.”

Please contact us with any questions or comments.

Sincerely,

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