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JAMES C. KENNEY
CABINET SECRETARY

July 14, 2025

Ms. Jade Fortiner
NEPA Document Manager
National Nuclear Security Administration
Office of Pit Production Modernization
U.S. Department of Energy
1000 Independence Avenue SW
Washington, DC 20585

Subject: Comments on the National Nuclear Security Administration's Notice of Intent to Prepare a Programmatic Environmental Impact Statement for Plutonium Pit Production

Dear Ms. Fortiner,

The New Mexico Environment Department (NMED) appreciates the opportunity to provide comments on the National Nuclear Security Administration's (NNSA) Notice of Intent (NOI) to prepare a Programmatic Environmental Impact Statement (PEIS) for Plutonium Pit Production, as published in the Federal Register (Vol. 90, No. 89, Friday, May 9, 2025). NMED recognizes the importance of this PEIS process in ensuring compliance with the National Environmental Policy Act of 1969 (NEPA) for plutonium pit production in support of NNSA's Stockpile Stewardship and Management Program.

Given that Los Alamos National Laboratory (LANL) in Los Alamos, New Mexico, is identified as a reasonable alternative for plutonium pit production due to available facilities and infrastructure, NMED emphasizes the need for a thorough and comprehensive analysis of potential environmental impacts within our state as explained in our attached comments.

Sincerely,

James C. Kenney
Cabinet Secretary

Cc: Courtney Kerster, Senior Advisor, Office of Governor Michelle Lujan Grisham

New Mexico Environment Department comments to the National Nuclear Security Administration's Notice of Intent to Prepare a Programmatic Environmental Impact Statement for Plutonium Pit Production

July 14, 2025

General Comments:

1. As stated in the May 9, 2025 Notice of Intent, NNSA requests all Federal, State, Native American Tribes, and local agencies that desire to be designated as cooperating agencies on the PEIS to contact the NEPA Document Manager at the address listed in this section by the end of the scoping period. **The State of New Mexico, through the New Mexico Environment Department (NMED), has sought cooperating agency status related to the PEIS.**

2. As stated in the May 9, 2025 Notice of Intent, the National Nuclear Security Administration (NNSA) is a semi-autonomous agency within the United States (U.S.) Department of Energy (DOE), conducting a programmatic environmental impact statement (PEIS) to ensure National Environmental Policy Act (NEPA) compliance to produce plutonium pits in support of the Stockpile Stewardship and Management Program. **NNSA must consider the draft PEIS and the U.S. DOE sitewide environmental impact statements (SWEIS) for proposed locations.**

3. As stated in the May 9, 2025 Notice of Intent, pit production at Los Alamos National Laboratory (LANL) has been analyzed in several NEPA documents over the past two decades, including the 2008 SWEIS for Continued Operation of the LANL (DOE/EIS–0380) and the 2020 Final Supplement Analysis of the 2008 SWEIS for the Continued Operation of Los Alamos National Laboratory for Plutonium Operations (DOE/EIS–380–SA–06). On September 2, 2020, NNSA published a record of decision (ROD) stating LANL will implement actions to produce a minimum of 30 war reserve pits per year during 2026 for the national pit production mission and implement surge efforts to exceed 30 pits per year up to the analyzed limit (80 war reserve pits per year) as necessary (85 FR 54550).

   In the amended decision, NNSA stated: “NNSA has decided to implement elements of the Expanded Operations Alternative in the 2008 LANL SWEIS, as needed, to produce a minimum of 30 war reserve pits per year during 2026 for the national pit production mission and to implement surge efforts to exceed 30 pits per year up to the analyzed limit to meet NPR and national policy. NNSA will implement the following actions: (1) Remove legacy equipment and install new equipment; (2) hire and train approximately 400 additional staff; (3) upgrade existing support facilities and construct new support facilities; (4) repackage and dispose of mixed-oxide fuel fabrication facility fuel rods; (5) implement Replacement Office Buildings Project; (6) implement elements of the Security-Driven Traffic Modifications Project; (7) management and disposition of additional wastes generated; and (8) transport additional materials, parts, and waste.”

As stated in the May 9, 2025 Notice of Intent, "The purpose of this Notice is to invite public participation in the PEIS process and to solicit public comment on the scope, environmental issues, and alternatives for consideration by NNSA in the draft PEIS." **If LANL is selected pursuant to the PEIS process, the NMED requests NNSA and U.S. DOE develop a joint, comprehensive SWEIS related to both pit production and legacy waste cleanup at LANL. NMED cannot adequately provide comment today in response to the PEIS Scoping as NNSA has not docketed updates to the September 2, 2020 amended decision related to the implementation of the eight categories of actions.**

4. While the Federal Fiscal Year 2026 (FFY 2026) budget proposal increases NNSA funding by 24%, the U.S. DOE EM proposed budget for Carlsbad Field Office (WIPP) is a reduction of 15%.[1] While Congress has not acted on the FFY 2026 budget, NMED is concerned that NNSA will be able to fulfill its mission if the U.S. DOE cannot afford to mitigate the GAO's findings.

   Further, the WIPP Hazardous Waste Facility Permit (Permit) condition at Part 1, Section 1.7.7 addresses proper operation and maintenance. Specifically stating: *"The Permittees shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Permittees to achieve compliance with the conditions of this Permit. Proper operation and maintenance shall include effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance/quality control procedures. This provision requires the operation of backup or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of this Permit. [20.4.1.900 NMAC (incorporating 40 CFR §270.30(e))]"*

   Further, U.S. DOE's proposed 15% reduction for the Carlsbad Field Office may impact the staffing levels of WIPP in conflict with this permit condition. If such a reduction occurs in FFY 2026, U.S. DOE would need to demonstrate compliance with this permit condition to continue to operate WIPP. This may directly impact NNSA's mission.

Specific Comments:

1. As stated in the May 9, 2025 Notice of Intent, NNSA identified a tentative list of issues to facilitate public comment on the scope of the PEIS. The tentative list of issues presents 13 categories of impacts. NMED notes that NNSA did not identify state laws, rules, permits, settlement agreements, etc. as it relates to the sites discussed in the PEIS. These sites discussed in the PEIS are LANL in Los Alamos, New Mexico; Savannah River Site near Aiken, South Carolina; Pantex Plant near Amarillo, Texas; Y–12 National Security Complex in Oak Ridge, Tennessee; and the Nevada Test Site (now named the Nevada National Security Site) north of Las Vegas, Nevada.

[1] See https://www.energy.gov/sites/default/files/2025-06/doe-fy-2026-bib-v6.pdf

Given NNSA is seeking public participation and public comment in the PEIS on the scope, environmental issues, and alternatives for consideration by NNSA in the draft PEIS; NMED requests NNSA provide the public with compliance history at each site – including any federal or state enforcement actions. NMED and stakeholders cannot comment on impacts to many of the 13 categories without this information. For example, impacts to air, water, and soil related to increased pit production are dependent on the historic and on-going compliance issues. At LANL, NNSA and DOE compliance issues are not reflected in the PEIS or SWEIS, respectively.

2. In December 2024, the Government Accountability Office (GAO) issued a report titled: "Nuclear Waste Cleanup - NNSA Should Improve Its Strategy for Managing Anticipated Waste from Defense Activities."[2]

   Per this report, GAO found that NNSA failed to develop a strategy for treating, storing, and disposing of the anticipated increase in nuclear waste from stockpile maintenance and modernization activities. GAO stated that NNSA successfully met only one out of seven strategic plan criteria. NNSA was successful in developing a mission statement, but GAO found the following deficiencies related to a meaningful strategy for nuclear waste stockpile activities, including pit production. Specifically, GAO stated that NNSA did not consider anticipated waste from important upcoming activities, such as reestablishing plutonium pit production capability or surplus plutonium disposition.

   Further, GAO found that NNSA failed to coordinate with the U.S. DOE Office of Environmental Management (EM) which is critical for prioritizing shipments to WIPP in Carlsbad, New Mexico. Under the current NMED-issued WIPP operating permit, LANL stored (including buried) waste, not newly generated pit production waste, is the priority, pursuant to Permit Part 4, Section 4.2.1.4, which states in part: *"…While this permit remains in effect, the Permittees shall prioritize by so certifying the emplacement at WIPP of stored (including buried) TRU mixed waste from the clean-up activities at the Los Alamos National Laboratory (LANL)."*

   With the Waste Isolation Pilot Plant (WIPP) serving as the nation's only repository for such wastes, New Mexico will be impacted regardless of the outcome. Therefore, NMED seeks NNSA's response to the GAO report findings through the PEIS process. In addition, NMED requests NNSA publicly document how it will work with U.S. DOE EM to maintain compliance with the WIPP operating permit once a site (or sites) is selected through the PEIS process, including finding another geologic repository outside of New Mexico.

[2] See https://www.gao.gov/products/gao-25-107636

3. Per the May 9, 2025 Notice of Intent, NNSA is looking at the impacts of plutonium pit production over the next 50-year period. Integral to meeting NNSA's mission is disposal of associated wastes.

   In June of 2025, GAO issued the following report: "Nuclear Waste Cleanup - DOE Needs to Improve Contractor Oversight at the Waste Isolation Pilot Plant."[3] Per the report, U.S. DOE has revised WIPP's waste shipment schedule projections to accept waste until the early 2080s, due to a number of factors including the rate of waste emplacement, the amount of waste stored, and method of calculating waste volume, among others. This change in WIPP's operational time frame means that site infrastructure and equipment will now be required to operate at least 50 years beyond what was originally expected. Some site infrastructure at WIPP has degraded and is now in poor condition. According to U.S. DOE, site infrastructure in poor condition increases the potential for infrastructure failure, allowing greater risk of unforeseen delay to waste disposal operations or shutdown of the site.

   Even if NMED agreed to continue to renew WIPP's operating permit in accordance with the U.S. DOE timeframes and Congress appropriated the necessary funding to ensure proper operation and maintenance of the facility, NNSA timeframe exceeds the useful life of WIPP by 25 years. In order for NNSA to meet its obligations under Federal legislation and requirements delineated by the U.S. Department of Defense, U.S. DOE would need to construct a second geologic repository to meet the assumptions in the PEIS related to NNSA plutonium pit wastes.

   NMED requests NNSA provide a quantitative volumetric assessment of defense waste associated with 80 pits per year. NMED requests NNSA address alternate dispositionpaths for plutonium pit production wastes absent the continued investment in the operation and maintenance of the WIPP facility or should the WIPP facility enter closure. NMED requests NNSA publish this information in the Federal Register as part of the record associated with the draft PEIS.

4. Impacts on land use and applicable plans and policies: NMED requests a detailed analysis of how increased plutonium pit production, including potential construction and operational activities, will impact existing land use plans and policies in and around LANL and any other potential sites within New Mexico. This should include consideration of federal, state, and local land use designations, zoning, and any associated restrictions or special use areas. **If LANL is selected pursuant to the PEIS process, the NMED requests NNSA and U.S. DOE develop a joint, comprehensive SWEIS related to both pit production and legacy waste cleanup at LANL. NMED cannot adequately provide comment today in response to the PEIS**

[3] See https://www.gao.gov/products/gao-25-107333

Scoping as NNSA has not docketed updates to the September 2, 2020 amended decision related to the implementation of the eight categories of actions.

5. Impacts on visual aesthetics: The draft PEIS should evaluate the potential changes to the visual landscape resulting from new infrastructure, facility modifications, or increased industrial activity associated with pit production. This is particularly relevant for communities located near proposed sites in New Mexico. **If LANL is selected pursuant to the PEIS process, the NMED requests NNSA and U.S. DOE develop a joint, comprehensive SWEIS related to both pit production and legacy waste cleanup at LANL. Further, NMED requests NNSA engage in place-based discussions acknowledging the fact that visual landscape issues may be localized. For example, scenic vistas in New Mexico may have more value to state and tribal communities from a cultural perspective than in other parts of the United States.**

6. Impacts on geology and soil: NMED requires a comprehensive assessment of potential impacts on geological stability and soil integrity, especially considering the seismic activity and unique geological features in the region around LANL. This should include potential for erosion, contamination, and subsidence from construction, operations, and waste management activities. **If LANL is selected pursuant to the PEIS process, NMED requests NNSA and U.S. DOE develop a joint, comprehensive SWEIS related to both pit production and legacy waste cleanup at LANL.**

7. Impacts on water resources, including floodplains and wetlands: A thorough analysis of both surface and groundwater resources is critical. This must include potential impacts from water consumption, wastewater discharges, stormwater runoff, and accidental releases on the quality and quantity of water in affected watersheds, particularly those that serve communities in New Mexico. Impacts on floodplains and wetlands, if present, must also be addressed. **If LANL is selected pursuant to the PEIS process, the NMED requests NNSA and U.S. DOE develop a joint, comprehensive SWEIS related to both pit production and legacy waste cleanup at LANL.**

8. Impacts on air quality and noise: NMED expects a detailed assessment of emissions to air from all phases of pit production, including construction, routine operations, and potential accidental releases. This analysis should cover criteria pollutants, hazardous air pollutants, and radionuclides, and model their dispersion and potential impacts on ambient air quality in New Mexico. Furthermore, the PEIS should evaluate noise impacts on surrounding communities and sensitive receptors. **If LANL is selected pursuant to the PEIS process, NMED requests NNSA and U.S. DOE develop a joint, comprehensive SWEIS related to both pit production and legacy waste cleanup at LANL.**

9. Impacts to plants and animals and their habitat, including species which are federally- or State-listed as threatened or endangered, or of special concern: The PEIS must include a robust ecological assessment that identifies and evaluates potential impacts to all flora and fauna, with particular emphasis on federally and state-listed threatened, endangered, and

special concern species and their critical habitats in New Mexico. Mitigation measures for identified impacts should be clearly outlined. **If LANL is selected pursuant to the PEIS process, NMED requests NNSA and U.S. DOE develop a joint, comprehensive SWEIS related to both pit production and legacy waste cleanup at LANL.**

10. Impacts to cultural resources such as those that are historic and paleontological: NMED emphasizes the importance of identifying and assessing potential impacts to cultural, historic, and paleontological resources within the project's area of potential effect, especially in areas with known significant cultural heritage in New Mexico. This should include consultation with appropriate tribal entities and adherence to relevant historic preservation laws and regulations. **If LANL is selected pursuant to the PEIS process, NMED requests NNSA and U.S. DOE develop a joint, comprehensive SWEIS related to both pit production and legacy waste cleanup at LANL.**

11. Socioeconomic impacts to affected communities: The PEIS needs to analyze the full range of socioeconomic impacts on communities in New Mexico, including changes in population, housing, employment, public services (e.g., education, healthcare, emergency services), and infrastructure, both positive and negative. **If LANL is selected pursuant to the PEIS process, the NMED requests NNSA and U.S. DOE develop a joint, comprehensive SWEIS related to both pit production and legacy waste cleanup at LANL.**

12. Impacts from traffic and transportation of radiological and hazardous materials and waste: NMED requires a comprehensive evaluation of the impacts associated with increased traffic, particularly related to the transportation of radiological and hazardous materials and waste, through New Mexico's communities and transportation networks. This should include route analyses, risk assessments, and emergency preparedness planning. **If LANL is selected pursuant to the PEIS process, NMED requests NNSA and U.S. DOE develop a joint, comprehensive SWEIS related to both pit production and legacy waste cleanup at LANL.**

13. Impacts from use of utilities, including water and electricity consumption, fuel use, sewer discharges, and resource conservation: A detailed accounting of utility demands (water, electricity, fuel) and potential impacts on regional supplies and infrastructure is necessary. The PEIS should also address sewer discharges and demonstrate commitment to resource conservation throughout the project lifecycle. **If LANL is selected pursuant to the PEIS process, NMED requests NNSA and U.S. DOE develop a joint, comprehensive SWEIS related to both pit production and legacy waste cleanup at LANL.**

14. Impacts on the public and workers from exposures to radiological and hazardous materials during construction and normal operations: NMED expects a thorough assessment of potential exposure pathways and health risks to both the public and workers from radiological and hazardous materials during all phases of construction and normal operations. This should include detailed analyses of monitoring programs and safety protocols. **If LANL is**

selected pursuant to the PEIS process, NMED requests NNSA and U.S. DOE develop a joint, comprehensive SWEIS related to both pit production and legacy waste cleanup at LANL.

15. Impacts on the public and workers from exposures to radiological and hazardous materials from reasonably foreseeable accidents, and intentional destructive acts: A robust accident analysis and consequence assessment are crucial. This should consider a range of reasonably foreseeable accidents, including but not limited to spills, fires, and transportation incidents, as well as the potential for intentional destructive acts, and their potential impacts on public and worker health and safety in New Mexico. Emergency response plans and capabilities must also be thoroughly detailed. **If LANL is selected pursuant to the PEIS process, NMED requests NNSA and U.S. DOE develop a joint, comprehensive SWEIS related to both pit production and legacy waste cleanup at LANL.**

16. Impacts on waste management activities and capacities at on-site and off-site locations: The PEIS must provide a comprehensive analysis of all waste streams generated by pit production, including characterization, projected volumes, management strategies, and the capacity of both on-site and off-site waste management facilities to accept this waste. This is of significant concern to New Mexico, given existing waste management challenges as previously outlined. **If LANL is selected pursuant to the PEIS process, NMED requests NNSA and U.S. DOE develop a joint, comprehensive SWEIS related to both pit production and legacy waste cleanup at LANL.**