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GOVERNOR

EMID-702245
Rec'd 8/4/22
JAMES C. KENNEY
CABINET SECRETARY

August 4, 2022

Adrienne Nash
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Arturo Duran
STP Project Manager
Environmental Management
Los Alamos Field Office
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**RE: APPROVAL WITH MODIFICATIONS
SITE TREATMENT PLAN, FISCAL YEAR 2021 ANNUAL UPDATE AND PROPOSED REV. 32.0,
FEDERAL FACILITY COMPLIANCE ORDER, OCTOBER 4, 1995
LOS ALAMOS NATIONAL LABORATORY
EPA ID#NM0890010515
HWB-LANL-22-023**

Dear Adrienne Nash and Arturo Duran:

The New Mexico Environment Department (NMED) has received the United States Department of Energy (DOE), Newport News Nuclear BWXT-Los Alamos, LLC (N3B), and Triad National Security, LLC (Triad) (Collectively, the Respondents) *Site Treatment Plan, Fiscal Year 2021 Annual Update and Proposed Revision 32.0, Federal Facility Compliance Order, October 4, 1995* (Annual Update), dated March 24, 2022, and received March 24, 2022, and referenced by N3B-2022-0013.

On May 26, 2022, NMED issued a public notice of Intent to Approve the Annual Update. The 30-day public comment period ended on June 25, 2022. NMED has considered all comments received during the public comment period before approving the Annual Update with modifications.

NMED met with the Respondents on July 13, 2022 and discussed modifying the Annual Update based on the public comments received. The public comments and NMED responses are provided in the attached STP Comment Matrix. The Modified Annual Update is available on NMED's website <https://www.env.nm.gov/hazardous-waste/lanl-ffco-stp/>.

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If you have any questions regarding this letter, please contact Siona Briley (505) 690-5160.

Sincerely,



Rick Shean
Chief
Hazardous Waste Bureau

Attachment: STP Comment Matrix

cc:

N. Dhawan, NMED HWB
S. Briley, NMED-HWB
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File: 2022 LANL, Approval with Modifications to the Annual Update and Proposed Revision 32.0,
Site Treatment Plan FFCO
LANL-22-023

Attachment STP Comment Matrix

NMED Response to Public Comment on LANL 2021 Site Treatment Plan Update, Revision 32.0

August 4, 2022

Comment No	Commenter	Comment	NMED Response	Modifications to the STP Annual Update Rev. 32.0
1	Joni Arends, Concerned Citizens for Nuclear Safety (CCNS); Scott Kovac, Nuclear Watch New Mexico; Don Hancock, Southwest Research and Information Center; Douglas Meiklejohn, Water Quality and Land Restoration Advocate Conservation Voters New Mexico; Dave McCoy, Citizens Action New Mexico; Greg P. Corning Veterans for Peace-Santa Fe Chapter 55; and John E.	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 <i>Activities and Compliance Dates for 10-100 nCi/g Waste</i> . 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)	The WIPP Permit application is outside of the scope of the Los Alamos Site Treatment Plan, however the commenters are correct that the final closure date for WIPP has not been determined. The Respondents have agreed to modify the compliance dates from 2025, to 2024.	The Compliance date for 10-100 nCi/g Waste (LA-W935) has been modified in Table 3.3.4-2 from September 2025 to September 2024.

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	Wilks, Veterans for Peace- Albuquerque Chapter No. 63	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 <i>Activities and Compliance Dates for 10-100 nCi/g Waste</i> , pursuant to its authority in the FFCO Section X.A. to “approve, approve with modifications, or disapprove all revisions.”		
2	Joni Arends, CCNS	We note there were many formatting issues and omission of pages in the proposal. A closer examination reveals the Respondents’ LANL FFCO Annual STP Update for FY 2021, Rev. 32.0 (EM2022-0041 March 2022) pdf did not include all of the pages. The document CCNS downloaded ended on p. 64, with Table I-23. The Table of Contents indicate that there should have been two more pages to the downloaded Appendix I. Appendix J and the References were omitted from the pdf.	NMED has reviewed the Tables and pages referenced by the commenter finds that the document is not missing any pages or references. The complete document is available by appointment at HWB’s office or on HWB’s website and the LANL’s public reading room and in the electronic public reading room (EPRR).	No change.
3	Joni Arends, CCNS	The Respondents have not used consistent language for the Table titles. Using inconsistent titles creates confusion.	It is unclear from this comment which table titles would need to be revised. NMED has found the table titles to be consistent but has noted a	The typographical error has been corrected to include additional

			typographical error in the table of contents Part III, Section 3.2.	spacing to align page numbers.
4	Joni Arends, CCNS	Part I <i>Background Update</i> . Does the public have access to the Waste Compliance and Tracking System (WCATS)? If not, why?	Public access to the Waste Compliance and Tracking System (WCATS) is not available. Because of the types of data stored in the Waste Compliance and Tracking System (WCATS), the application is required to follow LANL policies for Cyber Security Controls (P218) and LANL Enterprise Major Applications (LEMA) Information System Security Plan which restricts access to authorized individuals only	No change.
5	Joni Arends, CCNS	Section 2.2 <i>Mixed Transuranic Inventory Summary</i> . The Respondents do not adequately explain why the 3706 m3 Framework Agreement waste is no longer reported in Table E-1, but is reported in Table E-3. The language used by Respondents reads more like inside baseball talk. For transparency, a clearer explanation is required. See also Table G-3, p. 57 of pdf.	The 3706 campaign waste reporting was removed from Table E-1, since the information was duplicative of what is reported in E-3. In fact, the inclusion of Table E-3 volumes in Table E-1 has been a cause of confusion, as the Table E-3 volumes were never included in the totals reported in Table E-1. The change from revision 31.0 to 32.0, that providing a breakdown of the "Framework Agreement" volumes in a separate table allows for clearer description of the remaining volume onsite.	Part I, Section 2.2 of the STP has been revised to add the text provided in red font below to: "Section 4.0 of the CP) is now detailed in Table E-3; therefore, it is no longer summarized in Table E-1. Table E-3 is a subset of the data that was presented in Table E-1 as the volumes in Table E-3 do not contribute to the volumes in Table E-1. Providing a separate breakdown of the "Framework Agreement" waste volumes in a separate table allows for a detailed representation of the remaining volume onsite. Appendix F, Table F-1, provides a

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				summary of FY21 MTRU shipments to WIPP. In Appendix G, Tables G-1, G-2, and G-3 describe the administrative adjustments that were made to resolve differences in N3B inventories and Triad inventories, and Framework Agreement MTRU inventory data, respectively. The explanation provided for Table E-1 and Table E-3 above, also applies to Table G-1 and Table G-3 "FY21 3706 MTRU Inventory Administrative Adjustments". More explanation of Table E-3 and Table G-3 is given in Part III, "Mixed Transuranic Waste", Section Disposal."
6	Joni Arends, CCNS	It is not clear why Respondents "may correct database entries so that waste items not previously listed as STP waste are now identified and included as STP waste." p. 4. Where are those corrections clearly documented in the STP?	<p>The Federal Facilities Compliance Order (FFCO allows for the Respondents to update waste entries to ensure accuracy of waste volumes and reporting in the STP.</p> <p>Please see Annual Update to the Site Treatment Plan, Part I, Section 2.2 of the, <i>Mixed Transuranic Inventory Summary</i> which provides a description of the administrative adjustments" that the Respondents perform.</p>	No change.

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			For example, Tables C-1 and C-2, of Appendix C, documents administrative changes and the reason or the modification. Please also see the column labeled "Comments" in Appendix E and G.	
7	Joni Arends, CCNS	Further, it is not clear why footnote (a) was deleted. p. 5. Section 7.0 WIPP Facility Capabilities.	NMED and the Respondents could not locate the footnote referenced, it was not in the redline versions of STP Updates for FY2020 or FY2021.	No change.
8	Joni Arends, CCNS	More explanation is needed to explain when 85-gallon overpacks are used. Respondents state that removal of the overpacks decrease the waste volume, but do not describe where the 85-gallon overpacks are disposed. p. 5.	<p>The 85-gallon overpacks are used when the original container is damaged or does not provide adequate shielding to reduce the radioactivity emitted from the waste contained within the 55-gallon container for transportation purposes. Please see Part I, Section 2.2, "Mixed Transuranic Inventory Summary" for more information. The 85 overpack containers are re-used and if they need to be disposed of, then LANL follows the process described in Part III, Section 3.3.4, "10-100 nCi/g Waste", second and third paragraph, as these overpack containers are then considered, "empty" and follow 40 code of federal regulation (CFR) Section 261.7.</p> <p>The Facility must inspect containers integrity and if the containers are in good condition and RCRA clean they may be reused. If the containers are not in a condition to be reused, they are typically disposed of at a receiving facility.</p>	No change.

9	Joni Arends, CCNS	<p>Section 3.0 Treatment Progress. It is irresponsible for the Respondents not to conduct treatability studies. Sections 3.1, 3.2, 3.3, 3.4, 3.5. p. 6. Section 4.1 reveals that the "Respondents continue to monitor the development of potential treatment technologies that may become [sic] in the future." Respondents then state that " [s]ome of these technologies are being develop[sic] at LANL and at other sites." But Respondents do not describe those technologies.</p> <p>CCNS refers the Department and the Respondents to the January 3, 2021 <i>LANL Response to Supplemental Information Request Fiscal Year 2020 Status Update for Non-Conformance Report (NCR) Containers, EPA ID#NM0890010515</i>. ESHID-603639. It appears that Respondents have not prioritized conducting treatability studies to address the waste listed in Enclosures 1 [Supplemental Information Request FY 2020 Status Update for Non-Conformance Report (NCR) Containers, NA-LA/Triad, EPC-DO-21-166; LA-UR-21-24492] and Enclosure 2 [Annual NCR Report for Containers That Did Not Meet BoK, FY2020].</p> <p>Some of the containers have been listed in the enclosures since 1980 - for over 40 years!</p> <p>It is clearly time for the Respondents to conduct treatability studies to address the complexity of discovering what is inside the waste drums and how to treat them.</p>	<p>NMED continues to encourage the Respondents to find additional forms of waste reduction and treatment. Additional information may be found in the <i>Annual Waste Minimization Report(s) submitted by the Respondents every year.</i></p>	No change.
10	Joni Arends, CCNS	<p>CCNS remains concerned about the Respondents' plan to vent the Flanged Tritium Waste Containers (FTWC) stored at TA-54 for reasons of public health and safety. The Respondents have not provided their reasons why the containers cannot remain in place so that the tritium may continue to decay. They have not provided information about how long the containers have been stored; how long it will take for the tritium to fully decay; and when it</p>	<p>The general description of waste treatment activities for the Flanged Tritium Waste Containers (FTWC) stored at TA-54 are provided in in Part III, Section 3.2, "Mixed Waste Requiring Further Characterization or for Which Technology Assessment Has Not Been Done" within the Site Treatment Plan, Fiscal Year 2021</p>	No change.

		would be possible to move the containers without having to vent them.	Annual Update and Proposed Revision 32.0. More information can be found in the <i>Withdrawal and Resubmittal of a Temporary Authorization Request for Waste Treatment, Storage, and Repacking, Los Alamos Hazardous Waste Facility Permit (Request)</i> , dated and received March 9, 2020, and referenced by EPC-DO-20-074/LA-UR-20-22103, submitted by the Respondents and is under NMED review.	
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