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CERTIFIED MAIL - RETURN RECEIPT REQUESTED

EP2013-5202

September 24, 2013

Robert Dodge
Division Leader
Waste Management Division
Los Alamos National Security LLC
P.O. Box 1663, K499
Los Alamos, NM 87545

Geoffery L. Beausoleil
Acting Manager
Los Alamos Field Office
Department of Energy
3747 West Jemez Road MSA316
Los Alamos, NM 87454



**RE: FINAL DETERMINATION CLASS 2 MODIFICATION REQUEST TO
HAZARDOUS WASTE FACILITY PERMIT
LOS ALAMOS NATIONAL LABORATORY
EPA ID#NM0890010515**

Dear Messrs. Beausoleil and Dodge:

On September 24, 2013, the New Mexico Environment Department (NMED) took final administrative action on a Class 2 permit modification request (PMR) to modify the Los Alamos National Laboratory (LANL) Hazardous Waste Facility Permit. The U.S. Department of Energy National Nuclear Security Administration and the Los Alamos National Security LLC, (collectively the Permittees) submitted this PMR to the Hazardous Waste Bureau on June 26, 2013, seeking to increase the storage capacity and footprint of the two permitted hazardous waste management units at the Technical Area (TA) 54, Building 38, West, Radio-Assay and Non-Destructive Testing Facility (TA-54-38 West or RANT).

NMED hereby approves this PMR with changes for the reasons specified in the attached response to comments. This Class 2 PMR was evaluated and processed in accordance with the requirements specified in 20.4.1.900 NMAC (incorporating 40 CFR §270.42(b)). The PMR was subject to a 60-day public comment period, running from June 25 through August 26, 2013, during which NMED received specific written comments from three individuals and organizations.

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Messrs. Beausoleil and Dodge
September 24, 2013
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Attached are all comments received and NMED's general response to the comments. Information related to this administrative action may be found on the NMED Hazardous Waste Bureau Information Page at <http://www.nmenv.state.nm.us/hwb/lanlperm.html>.

Also attached is a disc containing the Revised Permit Parts and Attachments in redline strikeout and clean formats, and the full Permit in PDF format. The Permit is available on the NMED Hazardous Waste Bureau LANL Permit page at <http://www.nmenv.state.nm.us/hwb/lanlperm.html>.

The New Mexico Hazardous Waste Management Regulations at 20.4.901.A(10) NMAC state, "A final permit decision shall become effective thirty (30) days after the notice of the decision has been served on the applicant..." NMED approved this PMR on September 24, 2013; hence, the effective date of the Permit shall be October 24, 2013.

Please contact Tim Hall at (505) 222-9555, if you have questions or need additional information.

Sincerely,



Tom Blaine, P.E.
Director
Environmental Health Division

Enclosures:

cc w/out enclosures:

J. Kieling, NMED-HWB
D. Cobrain, NMED HWB
N. Dhawan, NMED HWB
T. Hall, NMED HWB
S. Briley, NMED HWB
L. King, EPA 6 PD-N
M. Haagenstad, ENV-RCRA, LANS MS-K404
G. Turner, ODE-LASO, MS-A316

File: Reading and LANL Permit 2013

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BUTCH TONGATE
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TOM BLAINE, P.E.
Director
Environmental Health Division

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

September 24, 2013

**RE: RESPONSE TO COMMENTS, CLASS 2 MODIFICATION REQUEST TO
HAZARDOUS WASTE FACILITY PERMIT
LOS ALAMOS NATIONAL LABORATORY
EPA ID#NM0890010515**

Dear Commenter:

On September 24, 2013, the New Mexico Environment Department (NMED) took final administrative action on a Class 2 permit modification request (PMR) to the Los Alamos National Laboratory (LANL) Hazardous Waste Facility Permit. U.S. Department of Energy National Nuclear Security Administration and the Los Alamos National Security LLC, collectively the "Permittees," submitted this PMR to the Hazardous Waste Bureau on June 26, 2013, seeking to increase the storage capacity and footprint of the two permitted hazardous waste management units at the Technical Area (TA) 54, Building 38, West, Radio-Assay and Non-Destructive Testing Facility (TA-54-38 West or RANT).

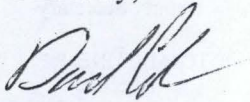
NMED approved this PMR with changes for the reasons specified in the response to comments. This Class 2 PMR was evaluated and processed in accordance with the requirements specified in 20.4.1.900 NMAC (incorporating 40 CFR §270.42(b)). The PMR was subject to a 60-day public comment period from June 25 through August 26, 2013, during which NMED received written specific comments from a total of three individuals and organizations. You are receiving this mailing because you provided public comment on this modification.

NMED's response to comments and further information on this administrative action may be found on the NMED LANL Information Page at:
<http://www.nmenv.state.nm.us/hwb/lanlperm.html>.

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Thank you for your participation by submitting comments on these permit modification requests. Please contact Tim Hall at (505) 222-9555 or via e-mail at timothy.hall@state.nm.us if you have further questions or need additional information.

Sincerely,



Dave Cobrain
Manager
Permits Management Program

Attachments

cc: T. Blaine, NMED EHD
J. Kieling, NMED HWB
N. Dhawan, NMED HWB
T. Hall, NMED HWB
G. Beausoleil, DOE/LASO, MS-A316
R. Dodge, LANS, MS K499

File: Reading and LANL Permit 2013

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**Technical Area 54, Building 38, West
Class 2 Permit Modification Request
General Responses to Comments**

I. Purpose and Necessity for the Permit Modification Request

The Permit Modification Request (PMR) proposes to increase storage capacity at two permitted units at the Radioassay and Nondestructive Testing Facility (RANT) located at Technical Area (TA)-54-38 West. If approved, the PMR would increase the capacity of the indoor unit from 3,740 gallons (68 55-gallon drum equivalents (DE)) to 4,950 gallons (90 DE), and increase the outdoor capacity from 11,660 gallons (212 DE) to 42,570 gallons (774 DE). The total capacity of the two units at RANT would be 47,520 gallons (864 DE).

The stated purpose and necessity for the PMR is “to enable the two permitted units at TA-54-38 WEST to have increased storage capacity to facilitate and expedite off-site shipment of TRU mixed waste to WIPP and enable DOE/NNSA to meet the obligations set forth under the Framework Agreement.”

The PMR states that the increased capacity of approximately 400% “represents the maximum quantity of waste that could physically be stored at the unit within safety basis requirement limitations”; that it is “consistent with the maximum capacity basis that exists at other container storage units at LANL (i.e., the total storage area at the unit)”; and that “[i]t ensures that capacity at the units directly relate to the physical capacities of the units, thus decreasing the likelihood that storage volumes will lead to noncompliance with the permit conditions.”

The PMR proposes that although the Permittees expect an increase in the number of shipments per week of approximately 200%, “[t]he ability to store a volume of TRU mixed waste that is greater than the number of shipments expected to be completed within a week is vital to expediting the loading/shipping of waste to WIPP” and that “[i]ncreased storage capabilities might be essential due to [un]expected events that impact the ability of LANL to ship TRU waste off-site such as delay or shutdown due to transport issues, storm events, security concerns, and receipt facility delays of as short as two weeks.”

The PMR complies with the requirements at 40 CFR 270.42(b), and adequately addresses the information required by 270.13 through 270.15.

40 CFR 270.42(b)(1)(iii) requires the Permittees to explain why the modification is needed. The PMR justifies a 400% increase in the capacity at RANT by stating that:

- This increase is “consistent with the maximum capacity basis that exists at other container storage units at LANL”;

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- The Permittees may need increased storage capabilities in the event that shipping delays occur that are beyond the Permittees' control; and
- The increased capacity is necessary to meet the shipping goals set forth in the Framework Agreement, as well as shipping needs into the future.

A. Consistency with maximum capacity basis at other units

The PMR states that the capacity requested "represents the maximum quantity of waste that could physically be stored at the unit within safety basis requirement limitations." The Permittees have not provided the safety basis for the RANT because it is not a requirement for RCRA permits; nor have they provided any other information to support this argument. Therefore, the Department cannot consider this information in making a decision.

B. Need for increased storage capabilities in case of unexpected shipping delays

The Department recognizes that unexpected events may "impact the ability of LANL to ship TRU waste off-site such as delay or shutdown due to transport issues, storm events, security concerns, and receipt facility delays of as short as two weeks." The Department received the following comment from Southwest Research and Information Center (SRIC): "Only if NMED believes that additional "flexibility" should be provided, up to the requested 42,570 gallons (774 DE), would SRIC suggest that the additional 14,850 gallons (270 DE) (42,570 gallons – 27,720 gallons) could be allowed as "surge storage," somewhat similar to what is provided in the WIPP Permit Section 3.1.2.3 and Table 3.1.2." Under this option, the Permittees would notify the Department, providing a justification for the surge storage, and send an email to stakeholders. The Department has determined that this is a reasonable option, and has approved a "normal" storage capacity at the outdoor CSU of 29,160 gallons with an "excess" storage capacity of 13,410 gallons. For a more thorough discussion of this option, see Section II, *Excess Storage Capacity*, below.

SRIC's comments also mention that during a phone call the Permittees stated another reason for the large increase is the potential for a "major problem in [TA-54 Material Disposal] Area G that would preclude moving waste to RANT for such a significant period of time." This is not discussed in the PMR, and the Department is not aware of any problems at Area G that would require transfer of waste to RANT, and therefore agrees with SRIC that this is not a valid justification for the increased capacity.

C. The increased capacity is necessary to meet the goals of the *Framework Agreement* and future shipping needs.

This claim is not adequately justified by the PMR. As noted in SRIC's comments, "almost 1,800 cubic meters of Area G waste is being handled in the 12 months of Federal Fiscal Year 2013 (that also included the WIPP maintenance outage) without the RANT capacity expansion." Based on the Permittees' quarterly status reports for the Framework Agreement, by October

2013 there will only be 1,106 cubic meters of the 3,706 left to ship. This equates to about 126 full shipments of 55-gallon drums, or about three shipments per week between October 2013 and June 2014. Even with a scheduled winter WIPP maintenance outage of up to six weeks, the Permittees should be able to accomplish this goal without an increase in storage capacity at RANT.

SRIC proposes "an increase to 27,720 gallons (504 DE), which would provide enough storage for the equivalent of 36 TRUPACT-IIs with 55-gallon drums. Along with the 6 TRUPACT-IIs of DEs that can be stored in the Indoor Unit, RANT could store 42 TRUPACT-IIs-worth of waste at any one time or 32,670 gallons... Such a large amount of storage should be more than sufficient for foreseeable circumstances and is a reasonable, justifiable increase."

NMED agrees, in principle, that a lesser increase in capacity is reasonable under normal operating conditions. The Department is therefore approving an increase in capacity to 29,160 gallons at the outdoor unit, with an option to store up to 13,410 additional gallons of waste as "excess storage capacity." For a more thorough discussion of this option, see Section II, *Excess Storage Capacity*, below.

II. Excess Storage Capacity

The Department is approving the PMR with the following modifications, adding excess storage capacity to Permit Section 3.12.1, Section A.4.3.2 in Attachment A, and Table J-1 in Attachment J:

- **3.12 TA-54 CONTAINER STORAGE REQUIREMENTS**

3.12.1 General Operating Conditions

TA-54 West

The Permittees may store mixed TRU wastes in sealed Nuclear Regulatory Commission (NRC) certified Type-B shipping containers at the TA-54 West Outdoor permitted unit without secondary containment and weather protection.

The Permittees may use the Outdoor Pad excess storage capacity listed in Attachment J, Table J-1, only as specified in Permit Attachment A, Section A.4.3.2 (see 40 CFR § 270.32(b)(2)).

The Permittees shall send a notification to the Secretary upon using the excess storage capacity that provides justification for its use. The Permittees shall send the notification to the e-mail notification list as specified in Permit Section 1.13.

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• **A.4.3.2 TA-54 West Outdoor Pad**

The Permittees shall coordinate shipments with WIPP in an attempt to minimize the use of excess storage capacity at the outdoor pad. However, the Permittees may utilize excess storage capacity for up to 59 days as specified in Attachment J, Table J-1, when at least one of the following unexpected events occur that impacts the Permittees' ability to transport waste to WIPP:

- Unexpected delays or shutdowns at WIPP;
- Storm events;
- Security concerns; or
- Other transportation issues (e.g., TRU waste shipping containers unavailable)

The Permittees must notify the Secretary and those on the e-mail notification list (as specified in Permit Sections 1.13 and 3.12.1) upon using the excess storage capacity and provide justification for its use (see 40 CFR § 270.32(b)(2)).

• **Table J-1**

Unit Identifier	Process Codes	Operating Capacity	General Information	Type of Unit
TA-54-38 West Outdoor Pad	S01	~~7,920~~ 29,160 gal	Includes loading dock and Pad surrounding Total square footage – 37,900	Outdoor (not associated with a regulated unit)
<u>TA-54-38 West Outdoor Pad</u>	<u>S01</u>	<u>13,410 gal</u>	<u>Excess storage capacity</u> <u>Included in total square</u> <u>footage above</u>	<u>Outdoor (not</u> <u>associated with</u> <u>a regulated unit)</u>

The calculations for “normal” versus “excess” capacity are as follows:

Assuming that all waste at the RANT is stored in standard waste boxes (SWBs), based on information in the PMR each shipment would be 2,430 gallons. The normal capacity at the outdoor CSU would be 29,160 gallons, which is equivalent to 12 shipments of waste ($29,160 / 2,430 = 12$). The excess capacity would be 13,410 gallons, which is equivalent to approximately $5 \frac{1}{2}$ shipments ($13,410 / 2,430 = 5.519$). Coupled with the indoor capacity of 4,950 gallons,

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which is equivalent to approximately two shipments of SWBs, the Permit would allow storage of 14 shipments of SWBs under normal operating conditions and 19 ½ shipments of SWBs if excess storage capacity is used.

In 55-gallon drum equivalents (DE), the indoor storage capacity would be 90 DE; the normal outdoor storage capacity would be approximately 530 DE; and the approximate excess capacity would be an additional 244 DE.

The Department has determined this is a reasonable approach that meets both the needs of the Permittees and the concerns of the stakeholders.

Upon approval of the PMR, the Permittees shall submit a revised Part A Application Form reflecting these changes, to be incorporated into Permit Attachment B.

II. Protection of Human Health and the Environment

The PMR adequately addresses all the requirements in 40 CFR 270.42(b) and the Department has determined that the increased storage capacity at RANT will not adversely impact human health and the environment.

The Department received comments from SRIC and Nuclear Watch New Mexico (NWNM) regarding increased risk associated with radionuclides. The comments from NWNM acknowledge “that, in the complicated Department of Energy (DOE) regulatory environment, the New Mexico Environment Department (NMED) has no authority over radionuclides.” The Department regulates hazardous and mixed waste only at LANL.

Regarding comments about the safety basis, the Department has no regulatory authority, and the Permittees are not required to submit that documentation as part of any PMR. The Department does, however, encourage the Permittees to provide that information when requested by stakeholders.

SRIC commented that they know “that there is risk from managing waste at RANT, and the request certainly has not provided any risk assessment, let alone one that shows no risk or no increased risk from having more mixed waste at the site at any one time.” 40 CFR 270.14(b)(8) requires the Permittees describe procedures, structures, and equipment used to: prevent hazards in unloading operations; prevent runoff from hazardous waste handling areas to the environment; prevent contamination of water supplies; mitigate effects of equipment failure and power outages; prevent undue exposure of personnel to hazardous waste; and prevent releases to the atmosphere. The PMR, combined with existing language in the Permit, adequately describe these controls.

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III. Part A Application

The Permittees submitted a revised Part A Application Form during the public comment period, updating Amendment 12.0 of the Form "to include the increase in the operating capacities for both the TA-54- 38 West Indoor Unit and the TA-54-38 West Outdoor Pad." Amendment 12.0 was submitted on August 26, 2013, as a Class 1 permit modification, and was subsequently withdrawn by the Permittees on September 13, 2013. On the same date, the Permittees submitted Amendment 14.0 as a Class 1 permit modification.

Upon approval of the PMR, the Permittees shall submit a revised Part A Application Form to update Amendment 14.0 reflecting the approved changes to the RANT operating capacities, which will be incorporated into Permit Attachment B.

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Technical Area 54, Building 38, West
Class 2 Permit Modification Request
Response to Comments Matrix

No.	Location	Comment	Response	Change
1	General	SRIC appreciates that the permittees provided a draft request and held a pre-application meeting on March 14, 2013 that included telephone conferencing through which SRIC participated. As SRIC has stated repeatedly with such meetings on proposed Waste Isolation Pilot Plant (WIPP) modification requests, SRIC believes that such pre-submittal meetings are useful and supports continuing that "standard" practice in the future. SRIC also appreciates that the permittees state that the request: "incorporates changes to address informal comments made during the pre-submittal meeting on March 14, 2013 from the public and NMED-HWB on March 18, 2013." Enclosure 1, page 2.	Comment noted. The Department agrees that providing draft permit modification requests (PMRs) is a good practice and encourages the Permittees to continue this practice with future PMRs.	N/A
2	General	SRIC supports the decision to withdraw the May 2 version and re-submit the request to comply with public notice requirements. SRIC also notes and appreciates receiving the powerpoint slides used at the July 31 public meeting and also receiving further information in two phone calls; one on August 20 with Mark Haagenstad and Luciana Vigil-Holterman and the second on August 22 with Scott Miller, Mark Haagenstad, and Luciana Vigil-Holterman. SRIC's basic comments on the request were also conveyed on those phone calls.	Comment noted. The Department encourages the Permittees to continue working with stakeholders to increase public participation.	N/A
3	3.12.1 A.4.3.2 Table J-1	SRIC believes that the permittees have sufficiently complied with the requirements of 20.NMAC 4.1.900 (incorporating 40 CFR §270.42(b)) that NMED may approve the class 2 modification request, with changes, as allowed by 40 CFR §270.42(b)(6)(i)(A). The changes are required because of some deficiencies in the request, especially related to what capacity is needed at the Outdoor Unit and what are the "safety basis requirements."	Comment noted. The Department is approving the PMR with modifications as allowed by 40 CFR §270.42(b)(6)(i)(A). See the Department's response regarding " Excess Storage Capacity " in the document titled General Response to Comments.	Yes
4	General	First, 20.NMAC 4.1.900 (incorporating 40 CFR §270.42(b)(1)(iii)) requires that the request explain why the modification is needed. The request seeks to explain the need for increased storage capacity at both the Indoor and Outdoor Units in the cover letter, and in Enclosure 1, Section II. However, the request does not adequately justify the specific increased amounts. The Indoor Unit capacity would be increased from 3,740 gallons (or 68 55-gallon drum	Comment noted. See the Department's response regarding " Purpose and Necessity for the Permit Modification Request " in	N/A

Technical Area 54, Building 38, West
Class 2 Permit Modification Request
Response to Comments Matrix

No.	Location	Comment	Response	Change
		equivalents [DE]) to 4,950 gallons (90 DE), an approximately 33 percent increase. The Outdoor Unit capacity would be increased from 7,920 gallons (144 DE) to 42,570 gallons (774 DE), an approximately 438 percent increase.	the document titled General Response to Comments.	
5	General	TA-54, Building 38, West (RANT) is for transuranic (solid) waste stored in 55-gallon drums or Standard Waste Boxes (SWB) and shipped primarily in TRUPACT-II containers, which provide maximum capacities. Thus, SRIC believes that changes approved should also be understood using such measurements to be more consistent with actual practice. As regards the Indoor Unit, which has total square footage of 4,560 square feet, the proposed increase would allow storage of 90 55-gallon drums (six full TRUPACT-IIs, plus six drums) or twelve SWBs (six full TRUPACT-IIs). Based on the phone conversations, SRIC understands that using one crane allows two TRUPACT-IIs to be loaded at one time on one trailer. A third TRUPACT-II can then be loaded, so that one full trailer can be processed at a time in the High Bay. The stated reason given on the phone calls for having the equivalent of three more TRUPACT-IIs of waste storage capacity in the Low Bay is so that during inclement winter weather waste containers can be managed so that a second trailer can be loaded more quickly in the High Bay from the waste prepared in the Low Bay. SRIC notes that rationale is not stated in the request, but the justification is sufficient to approve the capacity increase in the Indoor Storage Unit.	Comment noted. The Department is approving the capacity for the Indoor Unit as requested in the PMR.	No
6	General	As regards the Outdoor Unit, which is 37,900 square feet, the request would allow 55 TRUPACT-IIs of 55-gallon drums or 52 TRUPACT-IIs of SWBs. At seven shipments per week, that is more than two and a half weeks worth of shipments being stored in the Unit. Such a large amount of storage is not adequately justified in the request. Nor is SRIC satisfied that it is needed for any kind of major problem in Area G that would preclude moving waste to RANT for such a significant period of time, which is the reason for the large increase stated on the phone calls. Further, the entire fleet of WIPP TRUPACT-IIs numbers 84, and there is no basis provided in the request and no reason to believe that more than 60 percent of the fleet could be at RANT at any one time. On the August 22 call, Scott Miller acknowledged that number of TRUPACT-IIs would never be at RANT. Even though waste containers need not be stored in TRUPACT-IIs, the full amount of the proposed capacity increase in the Outdoor Unit	Comment noted. See the Department's response regarding " Purpose and Necessity for the Permit Modification Request " in the document titled General Response to Comments.	N/A

Technical Area 54, Building 38, West
Class 2 Permit Modification Request
Response to Comments Matrix

No.	Location	Comment	Response	Change
		has not been justified. As to the justified increase, the need for the RANT expanded capacity relates to meeting the requirements of the Framework Agreement and the 3706 Campaign. As of October 1, 2013, the amount of waste remaining in the 3706 Campaign should be no more than 1,106 cubic meters. That amount is less than 150 shipments during nine months, or an average of about five shipments per week, even taking into account the WIPP winter maintenance outage. When almost 1,800 cubic meters of Area G waste is being handled in the 12 months of Federal Fiscal Year 2013 (that also included the WIPP maintenance outage) without the RANT capacity expansion, the significantly lesser amount of waste remaining can be handled with some RANT expansion less than the maximum requested. Certainly, to accomplish seven shipments per week during the 3706 Campaign, there would be no situation in which several weeks worth of TRUPACT-IIs would be at LANL. As another comparison, the Parking Area Unit (PAU) at WIPP is 137,050 square feet and has a maximum capacity of 50 TRUPACT-IIs. Thus, the WIPP PAU has more than 3.5 times larger area than the RANT, but is limited to slightly fewer TRUPACT-IIs than proposed for the RANT Outdoor Unit.		
7	Table J-1	Thus, SRIC does not support increasing the Outdoor Unit to 42,570 gallons (774 DE), because the need for such a large increase has not been justified. Instead, SRIC suggests an increase to 27,720 gallons (504 DE), which would provide enough storage for the equivalent of 36 TRUPACT-IIs with 55-gallon drums. Along with the 6 TRUPACT-IIs of DEs that can be stored in the Indoor Unit, RANT could store 42 TRUPACT-IIs-worth of waste at any one time or 32,670 gallons. That quantity accommodates shipments for two weeks at 7 shipments per week and almost three weeks of shipments at 5 shipments per week. That increase amounts to a 250% increase in the capacity in the Outdoor Unit. Such a large amount of storage should be more than sufficient for foreseeable circumstances and is a reasonable, justifiable increase. There are other reasons that suggested amount is reasonable. While the suggested amount is a somewhat more intensive use of the Outdoor Area than provided in the WIPP PAU, it is substantially less than proposed in the request. Those quantities suggested by SRIC also are slightly higher than the specific calculations included in the request in Enclosure 1, page 8. Therefore, those quantities are fully consistent with, and more generous than, calculated amounts included in the request. Thus, the SRIC suggested amounts appear reasonable.	Comment noted. See the Department's response regarding " Purpose and Necessity for the Permit Modification Request " in the document titled General Response to Comments.	Yes

Technical Area 54, Building 38, West
Class 2 Permit Modification Request
Response to Comments Matrix

No.	Location	Comment	Response	Change
8	3.12.1 A.4.3.2 Table J-1	Only if NMED believes that additional “flexibility” should be provided, up to the requested 42,570 gallons (774 DE), would SRIC suggest that the additional 14,850 gallons (270 DE) (42,570 gallons – 27,720 gallons) could be allowed as “surge storage,” somewhat similar to what is provided in the WIPP Permit Section 3.1.2.3 and Table 3.1.2. SRIC does not believe that such storage is justified or would ever be required, just as the WIPP surge storage has not been used during the seven years the provision has been in effect. Consequently, SRIC does not support such surge storage at LANL, since it is not needed and has not been justified. But if NMED seeks to provide the full amount of requested Outdoor Storage capacity, such a provision, as in the WIPP Permit, would allow LANL to use the storage and require notification and justification to NMED, as is done in WIPP Permit Section 3.1.2.4. That notification and justification should also be provided to the e-mail list, as provided in LANL Permit Section 1.13. SRIC suggested the “surge storage” option on the August 22 telephone call with LANS officials.	Comment noted. The Department is approving the PMR with modifications as allowed by 40 CFR §270.42(b)(6)(i)(A). See the Department’s response regarding “ Excess Storage Capacity ” in the document titled General Response to Comments.	Yes
9	General	Second, the capacity expansions are stated to allow “the maximum quantity of waste that could physically be stored at the unit within safety basis requirement limitations.” However, the request includes no further detail and no citation to documentation regarding those limitations. Thus, the margins of safety allowed are not described, nor is the technical basis demonstrated for such limitations. Such lack of detail and absence of supporting documentation is totally insufficient to support the proposed large capacity increases, especially in the Outdoor Unit. Allowing the “maximum quantity of waste” provides less safety margin than a lesser amount. The lesser capacity limit in the Outdoor Unit, suggested by SRIC, would apparently provide more protection of public health and the environment, as compared with the “maximum quantity.” In the two telephone calls, SRIC requested receiving the TA 54, Building 38 West safety basis documents, but they have not been provided. Mere assertions as to meeting “safety basis requirements” are not sufficient justification for the requested expansion amounts. In future requests, LANL must provide such reference documents as part of its justification.	Comment noted. See the Department’s response regarding “ Protection of Human Health and the Environment ” in the document titled General Response to Comments.	No
10	General	Third, SRIC further notes that other important statements in the request are not adequately supported.	Comment noted. See the Department’s response	No

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Technical Area 54, Building 38, West
Class 2 Permit Modification Request
Response to Comments Matrix

No.	Location	Comment	Response	Change
		“Additionally, the overall level of risk from radionuclides at the units will not be increased as a result of this permit modification. The maximum quantity of radionuclides that can be present or reasonably anticipated at the permitted units in accordance with safety basis requirements will not be increased at the RANT facility to allow for an increase in the hazardous waste capacity.” Enclosure 1, page 10. That statement is, at best, misleading insofar as risk is concerned, and it appears to be inaccurate. The large capacity expansion proposed in the request would substantially increase the quantity of radionuclides that are present at any one time. Indeed, to allow more radionuclides and hazardous chemicals at RANT at any one time is precisely the purpose of the request – so that that mixed transuranic waste can be removed more quickly from LANL through RANT and to WIPP. Thus, the calculated risk from a larger amount of radionuclides and hazardous chemicals at TA-54-38 at any one time should be higher than the current risk assessment, unless it is deemed that there is no risk of any release under any circumstances. SRIC knows that there is risk from managing waste at RANT, and the request certainly has not provided any risk assessment, let alone one that shows no risk or no increased risk from having more mixed waste at the site at any one time.	regarding “ Protection of Human Health and the Environment ” in the document titled General Response to Comments.	
11	General	The permittees apparently believe that no additional waste would go through RANT during its lifetime, which may be true. The permittees presumably believe that the safety basis provides sufficient margin so that public health and the environment is not increasingly endangered. But, again, the permittees have not provided documentation of the safety basis or otherwise demonstrated that there is no increased level of risk from the large capacity expansions proposed in the Outdoor Unit.	Comment noted. See the Department’s response regarding “ Protection of Human Health and the Environment ” in the document titled General Response to Comments.	No
12	3.12.1 A.4.3.2 Attachment B Table J-1	In summary, SRIC requests that the class 2 modification request be approved, with changes. The Indoor Unit Capacity would be allowed 4,950 gallons, as requested, which would be incorporated into Permit Attachment J. The Outdoor Pad capacity would be changed to 27,720 gallons, which would be incorporated into Attachment J. The total capacity of 32,670 gallons would be incorporated into the Revised Part A Application. If the new capacities change the estimated annual quantities of waste in Section 9 of the Part A, LANL should submit a further revised Part A to reflect such quantities.	Comment noted. The Department is approving the PMR with modifications as allowed by 40 CFR §270.42(b)(6)(i)(A).	Yes

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Class 2 Permit Modification Request
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No.	Location	Comment	Response	Change
			See the Department's response regarding " Excess Storage Capacity " and " Part A Application " in the document titled General Response to Comments.	
13	General	Appendix D of the May 2008 Final Site-Wide Environmental Impact Statement for Continued Operation of Los Alamos National Laboratory, Los Alamos, New Mexico (SWEIS) lists the Radioassay and Nondestructive Testing Facility (RANT), which is also known as TA-54-38 West, as one of the facilities at Los Alamos that has the worst potential accident scenarios resulting in some of the highest risk to workers and members of the public. Table D-27 lists a "Lightning Strike Area Fire" at TA-54-38 as having the potential of releasing a 410-rem dose to a member of the public at the nearby (402 meters away) Pueblo boundary. The Table gives an estimate of 1,900-rem dose to a "noninvolved worker" who might be up to 100 meters away. A footnote of the Table clarifies that "Individual radiation doses in excess of a few hundred rem would result in acute (near-term) health effects or even death from causes other than cancer. In some cases, medical intervention may be effective in reducing the dose, mitigating health impacts, or both. The listed doses are calculated assuming that the exposed individual takes no protective action during the period of exposure and that no subsequent medical intervention occurs." (see Appendix D at http://nnsa.energy.gov/aboutus/ouoperations/generalcounsel/nepaoverview/nepa/laso-nepa/nepasweis)	Comment noted. See the Department's response regarding " Protection of Human Health and the Environment " in the document titled General Response to Comments.	No
14	General	This Permit Modification Request (PMR) proposes to increase the storage capacity of transuranic waste at two of the units of TA-54-38 by a total of up to four times. We understand that, in the complicated Department of Energy (DOE) regulatory environment, the New Mexico Environment Department (NMED) has no authority over radionuclides, but we take exception to the statement below from this Permit Modification Request (PMR):	Comment noted. See the Department's response regarding " Protection of Human Health and the Environment " in the document titled General	No

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		Additionally, the overall level of risk from radionuclides at the units will not be increased as a result of this permit modification. The maximum quantity of radionuclides that can be present or reasonably anticipated at the permitted units in accordance with safety basis requirements will not be increased at the RANT facility to allow for an increase in the hazardous waste capacity. Although a greater number of hazardous waste containers will be stored at the units, all activities at the units must still be within the boundaries of the risk threshold. The risk associated with the storage of waste at the RANT facility must take into consideration the hazardous waste storage capacity at the units and the nuclear facility safety basis analysis that has identified the conditions, safe boundaries, and hazard controls necessary to protect the workers, the public, and the environment from adverse consequences from the work performed at the facility. (Pg. 10) We are unclear what the first sentence above means. Increasing the amount of nuclear waste stored at a facility has to increase the risk at that facility. Currently, the Permit allows for a certain amount of transuranic waste to be stored as it awaits shipment. This Permit modification allows for four times more of that waste to be stored there. That would increase the overall level of risk. If the language is implying that this proposed increase is "bounded" by some previous document, then that needs to be clearly explained. What is exactly meant by the term "risk threshold"? We know that (also from above) the "...risk associated with the storage of waste at the RANT facility must take into consideration the hazardous waste storage capacity...", but will it? We are unclear what the last sentence is trying to say. Just because the Lab plans to follow its own Safety Basis and to follow DOE regulations does NOT mean that the risks do not increase when four times the amount of radioactive waste is stored at the facility. This PMR describes doubling the number of weekly shipments from five up to ten. This, in itself, is enough to increase the risks over a set period of time. Just because the Permit and this PMR may not cover radionuclides is no reason not to describe all the risks clearly.	Response to Comments.	
15	General	Page two of this PMR stated, "No members of the public attended the meeting held on May 22, 2013." On May 22, there was a Northern New Mexico Citizen's Advisory Board (NNMCAB) bi-monthly meeting that kept us from attending the PMR public meeting. The next PMR public meeting was on July 31, which was the same night as the NNMCAB bi-	Comment noted. The Department encourages the Permittees to continue working with stakeholders	No

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		monthly meeting. This caused us to miss the end of the NNM CAB meeting. Please try to avoid scheduling meetings on the same nights as NNM CAB Meetings.	to increase public participation.	
16	General	Page nine of this PMR states: Pajarito Road has an average daily traffic volume of 4,555 vehicles per day in the northwest portion of the corridor and 4,373 vehicles per day in the southeast portion of the corridor as measured in the traffic study. The study estimated that there would be approximately 100 dirt hauls per day and an additional 100 personal vehicles parked at the CMRR project site and that all 200 of these vehicles will access the project site via Pajarito Road. Please remove any references to the CMRR, which has been delayed for at least 4 more years, which is long after the 3706 Campaign will be over.	Comment noted. The PMR adequately describes traffic patterns and volumes, as required by 40 CFR 270.14(b)(10). Removing references to traffic related to the CMRR would not have a significant impact on traffic patterns or volumes for the RANT.	No
17	Attachment B	This transmittal letter and enclosure presents updated changes to Attachment B of the Permit, Part A Application, that reflect all revisions included in the amended Class 1 permit modification submitted in August 2013 (Amendment 12.0) and adds the changes to the form requested within the Class 2 permit modification request for the TA-54 West container storage units. Per a NMED-HWB request, these comments provide the most up-to-date Part A Application form for consideration as part of the Class 2 permit modification request. Specifically, Permit Attachment B, Part A Application, has been revised to include the increase in the operating capacities for both the TA-54- 38 West Indoor Unit and the TA-54-38 West Outdoor Pad. The process design capacity has. Been increased from 11,660 gallons (- 211 DE) to 47,520 gallons (864 DE) to reflect the proposed storage capacity for both of the permitted units at TA-54 West. The estimated annual quantity of waste for the EPA Part A Application form was also increased because the larger storage capacity requested will result in increases in the annual volume for individual EPA Hazardous Waste Numbers stored at the permitted units. Each of these quantities was increased by a factor of four to account for the capacity increase. All changes within the form have been highlighted in the enclosed document.	Comment noted. See the Department's response regarding " Excess Storage Capacity " and " Part A Application " in the document titled General Response to Comments.	Yes

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No.	Location	Comment	Response	Change
		Please accept this correspondence as comments to the Permittees' Class 2 permit modification request submitted on June 26, 2013. The updated Part A Application form represents a replacement for the Part A in Attachment 2 of the permit modification request.		

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