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Sent: Friday, September 04, 2009 3:40 PM
To: Pullen, Steve, NMENV; david.cobrain@state.nm.us; Kieling, John, NMENV
Subject: Re: EPA's LANL Draft RCRA Permit Comments
Attachments: LAN Permit comments 72109.doc; LAN Permit comments 72109.pdf

See attachments below.

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EPA's Draft LANL Hazardous Waste Permit Comments

General Comment: The draft permit has numerous inconsistencies requiring correction, particularly in the use of character fonts, numeral notation, regulatory citations, cross references, date notation, paragraph numbering, formatting, and the use of italics.

General Comment: The draft permit has numerous references to figures (particularly in Attachment A) and other sections of the permit requiring correction.

General Comment: The draft permit has numerous typographical errors requiring correction.

General Comment: The phrase "hazardous constituents" is defined differently at Section 9.4.7.1 (page 100, line 20) compared to the definition at Permit Section 1.8 (page 17, line 13). Please revise.

Section 1.10, Page 26, Information Repository: EPA recommends that the Informational Repository at a minimum be a physical repository to allow access for individuals without internet capability

Section 1.10.1, Page 27, RACER: EPA would like a clarification statement indicating that the RACER is a requirement of the permit; however, not all of the data in the RACER meets the NMED data quality criteria and may not be considered in the decision making process.

Section 2.13.1, Page 61, Line 19: Typically in the permitting process, the permittee (LANS) should have already submitted an acceptable closure cost estimate before the permit was drafted by the regulator.

Section 2.14., Page 62, Financial Assurance for Closure: Typically in the permitting process, the permittee (LANS) should have already demonstrated one or more instruments of financial assurance for the closure costs of all hazardous waste management units before the permit was drafted.

Section 2.15, Page 63, Liability Requirements: What is the timeframe for the permittee, LANS, to be in compliance with this permit provision. EPA assumes that it is the effective date of the permit. Please clarify.

Section 3.7.1 (4), Page 68, Containers with Free Liquids: The permit requires that the facility maintain, in their operating record, certification that coatings and/or sealants used as a secondary containment system were applied and maintained in accordance with manufacturer's specifications. EPA recommends that a condition be added to the permit requiring LANL to submit a certification to NMED (within fifteen days of the effective date). This is a highly overlooked item during inspections and would ensure that the certification is being performed in a timely manner.

Section 3.7.1 (5), Page 6, Containers with Free Liquids: The permit requires that the facility maintain, in their operating record, certification that all flexible liners, being used as a secondary containment systems, were installed and maintained in accordance with the manufacturer's specifications. EPA recommends that a condition be added to the permit requiring LANL to submit a certification to NMED (within fifteen days of the effective date). This is a highly overlooked item during inspections and would ensure that the certification is performed in a timely manner.

Section 3.12.2, Page 72, Domes 153 and 283, and Storage Shed 8: EPA recommends that a condition be added to the permit requiring LANL to submit a certification to NMED (within fifteen days of the effective date of the permit) regarding the repair of the curbs.

Section 3.12.3, Page 73, Secondary Containment: EPA recommends that a condition be added to the permit requiring LANL to submit a certification to NMED (within fifteen days of the effective date) regarding the storage areas that are required (in the draft permit) to have a chemical resistant epoxy and protective coating.

Part 5 (reserved): Is this part reserved for the open detonations units? EPA recommends that after the draft permit is final/effective that the open detonation units be added expeditiously to the permit.

Part 6, Attachments B and C: These attachments appear to have contradictory limits on which wastes, waste constituents, or waste codes may be treated at TA-16. See Section 6.2, the TA-16 portion of Attachment B, including Table C.

Section 6, Treatment by Open Burning: EPA recommends a condition be placed in the permit stating that if the baseline soil sampling report for the open burning units indicates grossly contaminated soils, then operation of the units may be suspended or modified as required.

Section 6.1., Page 81, Line 7: There are several explosive constituents (RDX, HMX, TNT) that are not mentioned as a constituent to be burned in the Waste Analysis Plan (WAP) at TA-16. Please have LANL revise the WAP to include **all explosive constituents** associated with the explosive wastes to be burned at TA-16.

Section 6.1.3, Page 81, Line 30: EPA recommends re-wording the asbestos condition to the following: "Only HE-contaminated equipment containing *de minimus* quantities/concentrations of asbestos may be treated".

Section 6.1.3, Page 82, Line 1: What test method will LANL use to determine the % volume of high explosives in liquids?

Section 6.1.3, Page 82, Lines 8 & 13: It appears the requirements are the same for both types of waste burns. Please clarify.

Section 6.1.3 (page 85, line 23): Please include a condition in the permit that requires the Permittees to document routine maintenance in the operating record.

Section 6.4, Page 86, line 26: EPA recommends that LANL submit an alternative assessment report much sooner than eight years, since they have been operating both units under interim status for over 25 years.

Page 87, Soil Sampling, Line 1: EPA recommends that LANL begin the soil sampling at the open burning units within 30 days of the permit becoming effective. The original draft permit has been “available” to the public for over a year and LANL does not need additional time to perform the soil sampling at both units. Also, EPA could not locate the soil sampling plan which establishes the baseline conditions for each open burning unit. However, EPA did locate the soil sampling locations under Figure 19. From reviewing the Figure, it appears that only 13 soil samples are required for characterizing the baseline conditions at both units.

EPA recommends that LANL perform the multi-increment sampling (MIS) approach for establishing the baseline conditions at both open burning units (see EPA’s comments from Laurie King dated January 11, 2008). The MIS approach can be found in the Appendix of EPA SW-846, method 8330(b). However, EPA would recommend that for the analysis of the metals, semi-volatile organics, perchlorates, and dioxins/furans that the soil samples not be ground, as is required for explosives. Also, EPA believes that there is very little chance of finding volatile organics in the 0-2 inch soil interval from open burning, unless there are spills of the waste from the trays. EPA recommends that **if** volatile organic soil samples (discrete) are required, that the samples be taken near the trays or the unloading areas.

Section 6.5.1, Page 87, lines 25 or 26: The EPA Guidance for ecological risk assessment is: *Ecological Risk Assessment Guidance for Superfund: Process for Designing and Conducting Ecological Risk Assessments (EPA/540/R-97/006)*.

Section 6.5.2, Page 87, Figure 19: EPA recommends a larger map be included for the sampling locations at TA-16 open burning units.

Section 6.5.2, Page 88, Line 8: What analytical methods will be used for the surface water samples taken? Also, VOC analysis for stormwater samples were omitted (from the prioritization scheme) from the permit condition for surface water. Maybe that was intentional, due to the low probability of finding volatile organics from open burning. In addition, line 9 should be revised to read as follows: “Department within 90 days of completion of each sampling event”.

Section 6.5.2., Page 87, Surface Water Monitoring Requirements, Lines 37 and 38: EPA recommends listing exactly what a “measurable storm event” means in the draft Hazardous Waste Permit, otherwise this may cause confusion on the permittee's side.

Part 9: This part is inconsistent regarding there being a clean closure performance standard for regulated units. The section on regulated units, Section 9.1.1, references the closure performance standards.

Section 9.1, Page 93, Line 5: Are all of the disposal units at MDA's G, H, and L considered RCRA regulated units or are only certain disposal units considered RCRA units? This should be clarified in the permit and clearly depicted on a Figure.

Section 9.1.1, Page 93, Lines 22 & 23: It appears that Section 9.2 does not mention the "regulated units" as needing to meet the closure performance standards but does mention the indoor and outdoor units; therefore, the reference to the closure performance standard in Permit Section 9.2 can be deleted.

Section 9.3, Page 93, Line 7: EPA was under the impression that the Permit would address the closure and post-closure of all RCRA regulated units and that the Compliance Order on Consent would address the SWMUs and AOCs. However, the permit indicates in this section that the consent order is where the closure and post-closure care requirements for the Material Disposal Areas will be addressed. However, in Section 9.5 the permit requires a closure certification report for all permitted units. Please clarify. This section appears to be in conflict with Section 9.5.

If Closure and Post-Closure care of the MDAs are to be addressed under the Order on Consent, then NMED should assure the same requirements (Closure and Post-Closure) in the Order as would be required in the permit.

Section 9.4.7.1.ii.a, Page 102, line 13: EPA is not sure what is meant by "One sample at all secondary containment areas". Under line 9 in the same section, there is a requirement for "1 sample for every 900 square feet under the pad". Is the sample to be taken underneath the curb or wall of the storage unit? Please clarify in the permit.

Section 9.2.1, Page 94, Line 21: EPA does not see the difference between the standards of "Clean Closure" and the standard under line 27, "Inability to Achieve Clean Closure Performance Standards". They appear to be the same standards.

Section 9.4.7.1: This references 9.4.7.1.ii(c), which does not exist. Please revise.

Section 11.3.1., Groundwater Monitoring: EPA recommends that the Interim Facility Wide Groundwater Monitoring Plan be attached to the permit unless there is a public comment period under the Consent Order where the public can comment on this plan.

Section 11.11.2.3, Page 163, Water Rotary and Mud Rotary: EPA recommends that mud rotary methods not be used at LANL due to the well documented problems identified over the past 5 years. Additives may be used in intervals above the target zone if telescoping casing constructions are used and the hole is adequately cleaned before drilling the final footage within the interval to be screened.

TA-16 Closure Plan for the Open Burning Units, Attachment G: The closure soil sampling plan does not specifically indicate the types of samples to be taken; discrete or the multi-increment sampling (MIS) approach. EPA recommends that the MIS approach be used. However, if the MIS approach is not used, then **many** discrete samples (more than 4) are needed to adequately characterize the site for closure.

Attachment A, Page 32, line 18 and Page 33 line 5: These lines references figures (H-3, H-4, H-5) that do not exist. Please revise.

Attachment I (Compliance Schedule): The attachment incorrectly references Section 2.5 as including a requirement to submit particular figures.

Attachment I (Compliance Schedule): The incorrectly omits the Section 6.5.2 requirement to submit annual storm water sampling report.

Attachment A: Section A.5.2 references “Figure X” (page 24, line 27), which does not appear in the Permit.

Attachment G, Closure Plan: There were no closure plans included for MDA’s H, L, and G.

Closure Cost Estimates for Financial Assurance, Attachment M: The total cost for closure should be \$26,452, 303.00. This is number EPA got when totaling the closure costs for each hazardous waste unit in Attachment M. (Please note that the cents column was not added when totaling the costs). Please revise accordingly. Also, please note that the closure costs for the MDA’s were not included.

Attachment N: Some of the figures are not in numerical order.

Attachment O, Long-Term Maintenance and Monitoring Plans: When is this section to be completed and what hazardous waste units are to be included? Does the post-closure plan cover the same requirements as this attachment?