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Associate Laboratory Directorate for Environment, Safety, Health, & Quality

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Submitted via NMED online comment portal

Sandra Ely, Chair
New Mexico Environmental Improvement Board (EIB)
1190 St. Francis Drive, Suite N4050
Santa Fe, NM 87505

Subject: EIB 25-81 – Proposed Amendments to 20.4.1 NMAC and 20.4.3 NMAC of the Hazardous Waste Regulations and the Adoption of 20.13.3 NMAC

Dear Hearing Officer, Chair Ely, and Board Members:

Triad National Security, LLC (Triad) appreciates the opportunity to provide comments to the New Mexico Environmental Improvement Board (EIB or Board) with respect to the New Mexico Environment Department (NMED or Department) *Petition to Amend 20.4.1 NMAC and 20.4.3 NMAC of the Hazardous Waste Regulations and to Adopt 20.13.3 NMAC and Request for Hearing.*

Triad manages and operates the Los Alamos National Laboratory (LANL or Laboratory) on behalf of the United States Department of Energy (DOE) National Nuclear Security Administration (NNSA) Los Alamos Field Office. The Laboratory solves national security challenges through breakthroughs in science and technology. We execute work across numerous missions including national security, science, energy, and artificial intelligence. The Laboratory's work is essential to the safety and reliability of the nation's nuclear stockpile. In mission execution, the Laboratory is committed to complying with all applicable environmental requirements and to identifying and reducing environmental risk.

After first learning that per- and polyfluoroalkyl substances (PFAS) were considered pollutants of emerging concern, the Laboratory made efforts within our environmental monitoring capabilities to research areas where there might have been impacts from the usage of chemicals containing PFAS compounds. This first took the form of monitoring through our Soils, Foodstuffs and Biota Program, which is a proactive mechanism to evaluate cutting edge environmental impacts from Laboratory operations on the ecology surrounding the LANL footprint. Initially, PFAS sampling was incorporated into routine monitoring events of soil, vegetation, small mammals, fish, deer, elk, a wide variety of foodstuffs, and more. The program has since expanded scope to further investigate PFAS in a variety of sample types around areas of interest at the Laboratory. The proactive PFAS monitoring at LANL has been recognized as noteworthy by DOE Headquarters.

As we continued to conduct site-wide identification of Aqueous Film-Forming Foam (AFFF) with PFAS, we ceased certain practices (i.e. discharging preventive maintenance wastewaters from fire suppression systems into our sanitary collection system), as well as begun evaluating industrial wastewaters to determine if there are additional sources to mitigate.

Regulatory requirements have evolved to include monitoring within our groundwater and surface water discharge permits for initial data collection, and happily we are able to report that we have not observed any exceedances of monitoring criteria (for water quality – other areas are still under development), and do not expect to have an issue with compliance based on the information we have regarding upcoming changes to regulatory requirements.

Most groundwater and RCRA soils compliance is the responsibility of our sister contractor, N3B (the contractor working for the DOE Environmental Management – Los Alamos Field Office). Triad does periodically encounter areas that require cleanup but has worked closely with NMED on those efforts to ensure that regulatory expectations are met.

The Laboratory has an established track record of proactively addressing environmental, safety, and health concerns. Triad presents the following three comments for consideration:

Comment 1 – Listing PFAS as a hazardous constituent or hazardous waste pertaining to corrective action lacks authority: The proposed amendment to 20.4.1.201 (E) & 20.4.1.201 (F) NMAC adds used and unused AFFF containing PFAS hazardous constituents to the adopted 40 CFR 261 Appendices VII and VIII. Federal hazardous waste regulations have not been finalized associated with amending the regulation under the Resource Conservation and Recovery Act (RCRA) to add nine specific PFAS, their salts, and their structural isomers, the lists of hazardous constituents. The proposed additions at 20.4.1.201 (E) & 20.4.1.201 (F) NMAC are also not consistent with the listing proposed by the U.S. Environmental Protection Agency (EPA). The 23 constituents listed by the Department do not encompass all nine of those proposed by the EPA and include additional compounds without any information or background information as to the toxicity of these compounds as required for inclusion within the lists. The authority provided to the EIB under House Bill 140 was limited to adding “AFFF containing intentionally added PFAS” to the definition of hazardous waste. The proposed changes go beyond that direction and incorporates sentiments into the regulations that have not been finalized by the EPA while using the requirement for the EIB to “require the cleanup of discarded firefighting foam pursuant to the Hazardous Waste Act [Chapter 74, Article 4 NMSA 1978]”. The Department provides no basis for the listing of compounds included within the proposed amendment.

Additionally, the EIB lacks authority under the New Mexico Hazardous Waste Act to list these specific PFAS as hazardous waste. “[E]xcept as authorized by Sections 74-4-3.3 and 74-8-2 NMSA 1978[1], the board shall not identify or list any solid waste or combination of solid wastes as a hazardous waste that has not been listed and designated as a hazardous waste by the federal environmental protection agency pursuant to the federal Resource Conservation and

[1] The exceptions do not appear to be applicable herein.

Recovery Act of 1976, as amended." Section 74-4-4. A(1) NMSA. EPA has not listed and designated any PFAS as hazardous waste.

Triad, therefore, requests that the Board deny the Department's Petition to Amend 20.4.1 NMAC and 20.4.3 NMAC of the Hazardous Waste Regulations and to Adopt 20.13.3 NMAC with respect to listing AFFF containing PFAS as a hazardous waste or hazardous constituent.

Comment 2 – The proposed amendment improperly eliminates business confidentiality protection: The amendment at 20.4.1.101(C) (2) NMAC adds 40 C.F.R. Section 260.2 to the list of federal regulatory provisions omitted from section 20.4.1.100 NMAC. With this omission, the right to claim business confidentiality and corresponding procedures established in 40 C.F.R. Section 260.2 will be unduly taken away. No statutory authority is provided by the Department to eliminate this protection. There is no basis in HB140 or summary documents to support why this omission is necessary "for federal reauthorization of New Mexico's state administer hazardous waste program". NMED provides no explanation for the omission in the proposed rule. Removing this protection from the regulations may affect a facility's ability to protect confidential information should the Department assert there is insufficient publicly available information in the record. The Laboratory is particularly concerned about the lack of protection of confidential business information, given the national security implications for our operations and the security requirements to maintain confidentiality.

Triad urges the Board to deny the Department's petition to add 40 C.F.R. Section 260.2 to the list of federal regulatory provisions omitted from section 20.4.1.100 NMAC.

Comment 3 – EPA Method 1633 is not appropriate for Land Disposal Restrictions Treatment Standards: The original amendment to NMAC 20.4.1.801(C) published December 23, 2025, lists treatment standards utilizing EPA Method 1633. This method is not a method listed in in the Hazardous Waste Test Methods / SW-846. Instead, it is the EPA's Office of Water, in partnership with the Department of War's (DoW) Strategic Environmental Research and Development Program, published method "to test for 40 PFAS compounds in wastewater, surface water, groundwater, soil, biosolids, sediment, landfill leachate, and fish tissue"[2]. Including a "non-detect" result as the Land Disposal Restriction standard for AFFF containing PFAS wastes is not appropriate and is not consistent with the federal regulations for treatment standards included in 40 CFR Part 268.

Triad notes that in the version published March 24, 2026, within NMED Exhibits 1 and 2, the NMED proposes the treatment technology standards for carbon absorption, combustion, and incineration in addition to the concentration treatment standard for the treatment of AFFF containing PFAS. Triad supports the addition of these appropriate treatment technology standards for AFFF containing PFAS.

[2] https://www.epa.gov/cwa-methods/cwa-analytical-methods-and-polyfluorinated-alkyl-substances-pfas

Triad appreciates the Board's consideration of these comments in response to NMED's proposed rule. If you or other Board members have any questions or need additional information, please do not hesitate to contact me or Andrew Thiros, Esquire at thiros@lanl.gov.

Sincerely,

STEVEN A. COLEMAN (Affiliate)
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