

PROPOSED SANDIA HSWA PERMIT

MODULE IV. SPECIAL CONDITIONS PURSUANT TO THE 1984
HAZARDOUS AND SOLID WASTE AMENDMENTS (HSWA) TO
RCRA FOR SANDIA NATIONAL LABORATORY, EPA I.D.
NUMBER NM5890110518

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A. DEFINITIONS

For purposes of these special conditions pursuant to the 1984 Hazardous and Solid Waste Amendments to RCRA, the following definitions shall apply:

"Administrative Authority" means the Director of the New Mexico Environment Department (NMED), or his/her designee, or, in the case of HSWA provisions for which the State is not authorized, the United States Environmental Protection Agency (EPA).

"NMED" means the New Mexico Environment Department.

"CMS" means Corrective Measures Study.

"EPA" means the United States Environmental Protection Agency.

"Facility" means all contiguous property under the control of the owner or operator seeking a permit under Subtitle C of RCRA.

"HSWA" means the 1984 Hazardous and Solid Waste Amendments to RCRA.

"Hazardous constituent" means any constituent identified in Appendix VIII of 40 CFR Part 261, or any constituent identified in Appendix IX of 40 CFR Part 264.

"Hazardous waste" means a solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed. The term hazardous waste includes hazardous constituent.

"off-site" means off of the boundaries of areas utilized by Sandia, including areas owned by DOE and used under permit or transfers by DOE."

"Operable Unit" means a grouping of Solid Waste Management Units (SWMUs) which, because of geographic proximity to one another or type of waste disposed, are treated under a single ADS. A single RCRA Facility Investigation and Corrective Measures Study is written for the grouping of SWMUs

"Permit" means the conditions embodied in these special conditions pursuant to the 1984 Hazardous and Solid Waste Amendments to RCRA.

"Permittee" means Sandia National Laboratories, Albuquerque and the Department of Energy, EPA I.D. Number NM5890110518.

"RCRA" means the Resource Conservation and Recovery Act of 1980 as amended by HSWA in 1984.

"RCRA Permit" means the full permit, with RCRA and HSWA portions.

"RFA" means RCRA Facility Assessment.

"RFI" means RCRA Facility Investigation.

"Release" means any spilling, leaking, pouring, emitting, emptying, discharging, injecting, pumping, escaping, leaching, dumping, or disposing of hazardous wastes (including hazardous constituents) into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing hazardous wastes or hazardous constituents).

"Solid Waste Management Unit" (SWMU) means any discernible unit at which solid wastes have been placed at any time, irrespective of whether the unit was intended for the management of solid or hazardous waste. Such units include any area at a facility at which solid wastes have been routinely and systematically released.

If, subsequent to the issuance of this permit, regulations are promulgated which redefine any of the above terms, the Administrative Authority may, at its discretion, apply the new definition to this permit.

B. STANDARD CONDITIONS

1. Dust Suppression

Pursuant to 40 CFR 266.23 (b), the Permittee shall not use waste or used oil or any other material which is contaminated with dioxin, or any other hazardous waste (other than a waste identified solely on the basis of ignitability), for dust suppression or road treatment.

2. Permit Modification

a. If at any time for any of the reasons specified in 40 CFR 270.41, the Administrative Authority determines that modification of this Permit is necessary, the Administrative Authority shall request a permit modification per Module IV.B.2.b or may initiate a modification according 40 CFR 124.5, as follows:

1) The Administrative Authority, when initiating such 270.41-related modifications, shall prepare a draft permit under 124.6 incorporating the proposed changes.

2) Notify the Permittee in writing by certified mail of the proposed modification and the date by which comments on the proposed modification must be received (not less than 30 days).

3) Publish a notice of the proposed modification in a locally distributed newspaper, broadcast the notice over a local radio station, mail a notice to all persons on the facility mailing list maintained according to 40 CFR 124.10(c)(1)(ix), and place a notice in the facility's information repository (a central source of all pertinent documents concerning the remedial action, usually maintained at the facility or some other public place in the vicinity of the permitted facility, such as a public library).

4) If the Administrative Authority receives no written comment on the proposed modification within 30 days, the modification shall become effective five (5) calendar days after the close of the comment period. The Administrative Authority shall:

a) Notify the Permittee in writing of the final decision.

b) Notify individuals on the facility mailing list in writing that the modification has become effective and shall place a copy of the modified permit in the information repository, if a repository is required for the facility.

5) If the Administrative Authority receives written comment on the proposed modification, the Administrative Authority shall make a final determination concerning the modification after the end of the comment period. The Administrative Authority shall:

a) Notify the Permittee in writing of the final decision.

b) Provide notice of the final modification decision in a locally distributed newspaper and place a copy of the modified permit in the information repository, if a repository is required for the facility.

b. The Permittee may initiate permit modifications proceeding under 40 CFR 270.42. All applicable requirements and procedures as specified in 40 CFR 270.42 shall be followed.

c. Modifications of the Permit do not constitute a re-issuance of the Permit. If modifications that are initiated and finalized by the Administrative Authority according to this process are not agreed to by the Permittee, after all attempts to resolve the differences, closure of the matter will be sought through the alternative dispute resolution process.

3. Permit Review

Nothing in this section shall preclude the Administrative Authority from reviewing and modifying the Permit at any time during its term.

4. Compliance with Permit

Compliance with this Permit during its term constitutes compliance, for the purposes of enforcement, with 40 CFR Parts 264 and 266 only for those management practices specifically authorized by this Permit. The Permittee is also required to comply with Parts 260, 261, 262, and 263 as applicable.

5. Specific Waste Ban

a. The Permittee shall not place in any land disposal unit the wastes specified in 40 CFR 268 after the effective date of the prohibition unless the Administrator has established disposal or treatment standards for the hazardous waste and the Permittee meets such standards and other applicable conditions of this Permit. Notwithstanding the foregoing, the Permittee may land dispose hazardous waste restricted by 40 CFR 268 which does not meet treatment standards if:

1) A variance from the treatment standards has been granted pursuant to 40 CFR 268.44;

2) A petition has been granted on a case-by-case extension to the effective date, pursuant to 40 CFR 268.5; or;

3) A "no-migration" petition has been granted pursuant to 40 CFR 268.6.

b. The Permittee may store wastes restricted under 40 CFR 268 solely for the purpose of accumulating quantities necessary to facilitate proper recovery, treatment, or disposal provided that it meets the requirements of 40 CFR 268.50(a)(2) including, but not limited to, clearly marking each tank or container.

c. The Permittee is required to comply with all requirements of 40 CFR 268.7 as amended. Changes to the waste analysis plan will be considered permit modifications at the request of the Permittee, pursuant to 40 CFR 270.42.

d. The Permittee shall perform a waste analysis at least annually or when a process changes, to determine whether the waste meets applicable treatment standards. Results shall be maintained in the operating record (40 CFR 264.73).

e. The Permittee must comply with requirements restricting placement of hazardous wastes in or on land which become effective by statute or promulgated under Part 268, regardless of requirements in the Permit. Failure to comply with the regulations may subject the Permittee to enforcement action under Section 3008 of RCRA.

6. Information Submittal

Failure to comply with any condition of the Permit, including relevant information submittal, constitutes a violation of the Permit and is grounds for enforcement action, permit amendment, termination, revocation, suspension, or denial of permit renewal application. Misrepresentation of any relevant information is grounds for termination of this Permit (40 CFR 270.43).

The Permittee shall ensure that all plans, reports, notifications, and other submissions to the Administrative Authority required in this Permit are signed and certified in accordance with 40 CFR 270.11. A summary of the planned reporting requirements pursuant to this Permit is found in Table 1. Two (2) copies and one (1) 3.5" IBM compatible

disk copy each of these plans, reports, notifications or other submissions shall be submitted to the Administrative Authority by Certified Mail or hand delivered to:

U.S. EPA, Region 6
Hazardous Waste Management Division
1445 Ross Avenue
Dallas, Texas 75202-2733

and

New Mexico Environmental Department
1190 St. Francis Drive
Harold Runnels Building
Santa Fe, New Mexico 87503

7. Plans and Schedules Incorporation Into Permit

All plans and schedules required by this Permit are, upon approval by the Administrative Authority, incorporated into this Permit by reference and become an enforceable part of this Permit. since required items are essential elements of this Permit, failure to submit any of the required items or submission of inadequate or insufficient relevant information may subject the Permittee to enforcement action under Section 3008 of RCRA which may include fines, suspension, or revocation of the Permit. Any noncompliance with approved plans and schedules shall be termed noncompliance with this Permit. Written requests for extensions of due dates for submittals may be granted by the Administrative Authority in accordance with Module IV.B.2.

If the Administrative Authority determines that actions beyond those provided for, or changes to what is stated herein, are warranted, the Administrative Authority shall modify this Permit according to procedures in Module IV.B.2 of this Permit.

8. Data Retention

All raw data, such as laboratory reports, drilling logs, bench-scale or pilot-scale data, and other supporting information gathered or generated during activities undertaken pursuant to this Permit shall be maintained at the facility during the term of this Permit, including any reissued Permits.

C. SPECIAL CONDITIONS

Within the designated timeframes the Permittee shall undertake the following measures, or be bound to the following conditions concurrent with the RCRA Facility Investigation required in Module IV I. Any required submittals shall be clearly referenced as to the requirement which is being fulfilled.

1. Program Implementation Plan

Due to the large number of SWMUs identified in this permit and the need to prioritize, schedule, and manage the performance of RCRA Facility Investigations, the Permittee shall submit to the Administrative Authority for approval a Program Implementation Plan. The Program Implementation Plan shall contain, at a minimum: (1) a Project Management Plan (which will incorporate the Project Schedule for five (5) years beginning with the current fiscal year); (2) a Quality Assurance Project Plan; (3) a Health and Safety Plan; and (4) a Community Relations Plan. This Program Implementation Plan shall be submitted to the Administrative Authority within one hundred eighty (180) days of the effective date of this permit then updates annually thereafter. After the Permittee submits the Program Implementation Plan, the Administrative Authority will approve, disapprove or modify the plan. Upon approval of the plan, the Permittee shall immediately initiate implementation of the plan according to the schedule contained therein.

2. Installation-wide Hydrogeologic Environment

Within one hundred eighty (180) days of the effective date of this permit, and annually thereafter, the Permittee shall submit to the Administrative Authority a report describing the current knowledge of the installation-wide hydrogeological environment. This report shall be a summary description of the major features and conceptual interrelationships of the hydrogeological environment. It shall address the regional and installation-wide geologic setting and hydrologic characteristics, and their associated uncertainties, affecting the occurrence, movement, and interaction of surface and subsurface water with a view toward a quantitative understanding of potential pathways for transport of contaminants. An annual update shall be prepared that will incorporate the major findings of installation-wide significance from studies conducted under the RCRA Facility Investigation performed pursuant to Section I of this permit.

3. Voluntary Corrective Measures

At any time, if the Permittee identifies a corrective measure that, if implemented before final corrective measures have been identified, would reduce impacts to human health and the environment, reduce cost and/or reduce overall schedule, the Permittee is encouraged to request a permit modification or request temporary authorization for the activities. In the request for a permit modification (or a temporary authorization) the Permittee must include: (1) a description of the remediation initiative, including the details of the unit or activity that is subject to permit requirements; and (2) an explanation of how the proposed action is consistent with the overall corrective action objectives and requirements. The Administrative Authority will screen the cleanup proposal to ensure that it would not pose unacceptable risks to human health and the environment or interfere with attainment of the final remedy at the SWMU. Where a permit modification is approved under these circumstances, the modification will make clear that the voluntary activities initiated for corrective action purposes may not be the final remedy, and that those activities will not absolve the Permittee from further cleanup responsibilities at a later date.

4. Department of Energy Integrated Demonstration Program

The Department of Energy has established an Integrated Demonstration (ID) Program to advance Environmental Restoration assessment and remediation technologies in support of the investigation and corrective action of releases from SWMUs. This ID Program will bring advanced technologies that will be fielded and evaluated during the RCRA Facility Investigation (RFI) /Corrective Measure Study (CMS) /Corrective Measure Implementation (CMI) process. The implementation of the ID Program is supported by the Administrative Authority and will not require the submission and approval of RFI type Workplans and reports. When the ID Program has identified successful technologies that will support the assessment or corrective action of releases, the Permittee will provide such information to the Administrative Authority. The Administrative Authority will consider such information in a determination of the adequacy of the RFI Report (for assessment technologies), the approval of Voluntary Corrective Measures or in the approval of Corrective Measures identified in the Corrective Measures Study.

5. Protection of Regional Aquifer

The Permittee shall, as part of the RFI, undertake measures to detect and/or predict any future movements of contaminants toward the regional aquifer from the SWMUs and through the regional aquifer to any potential receptors. These measures include, but are not limited to, monitoring of temperature, pressure and moisture in the vadose (unsaturated) zone, moisture and vapor flux investigations and numerical simulations. Where the Permittee believes that source characteristics and/or site conditions do not warrant such measures, evidence supporting this conclusion must be submitted as part of the RFI report.

6. System for Decision Support.

A Decision Support System (DSS) is under development by Sandia National Laboratories to aid in the assessment of SWMUs. The DSS will be proposed through the Implementation Plan and the annual updates to that Plan. The DSS is designed to assist the technical investigator in optimizing assessment strategies at a given SWMU, particularly with respect to hydrogeologic characterization and monitor well locations. The development of the DSS is supported by the Administrative Authority and will not require the submission and approval of RFI type Workplans and reports. Prior to implementation of the DSS (expected in FY 92), the Permittee will submit a technical report to the Administrative Authority describing the system and the intended application to SWMUs covered under this permit. The Administrative Authority will consider such information in approving or disapproving the application of the system to assessment activities. In addition, the Permittee shall work with the Administrative Authority to develop quantitative measures where subjective approaches have traditionally been used, thus minimizing the potential for dispute.

7. Alternative Dispute Resolution

During the process of investigating releases and studying remedies for SWMUs covered under this permit, disagreements between the Permittee and the Administrative Authority may arise regarding various technical or procedural issues. Such disagreements will be resolved through negotiations between the Permittee and the Administrative Authority to the extent possible. For situations where the requirements at issue are clearly defined in the permit schedule of compliance, but where the Permittee refuses, or otherwise demonstrates an unwillingness to comply with the requirements, the

Administrative Authority would utilize enforcement options (e.g. section 3008(a) of RCRA) to compel appropriate action by the Permittee. Where the permit provides no clear definition of compliance requirements, such as would be the case for technical issues, a neutral, third party mediation team will be utilized as a first alternative to resolution of the matter in the context of a time-limited, nonbinding negotiation process. If resolution is still not achieved, then elevation of the dispute to higher and higher levels within the Parties' organizations would follow.

All parties to this permit shall make reasonable efforts to informally resolve disputes at the Project Manager or immediate supervisor level. If resolution cannot be achieved informally, the following procedures shall be implemented to resolve a dispute:

A. Within thirty (30) days after: (1) the period established for review of a draft final primary document, of (2) any action which leads to or generates a dispute, the disputing Party shall submit to the other Party a written statement of dispute setting forth the nature of the dispute, the work affected by the dispute, the disputing Party's position with respect to the dispute and the information the disputing Party is relying upon to support its position.

B. Prior to any Party's issuance of a written statement of dispute, the disputing Party shall engage the other Party in informal dispute resolution among the Project Managers and/or their immediate supervisors. During this informal dispute resolution period the Parties shall meet as many times as are necessary to discuss and attempt resolution of the dispute.

C. If informal negotiations fail, a neutral, third party mediation team will be formed, made up of three independent experts from related government organizations (e.g. the U.S. Geological Survey) and academia. Two of the experts will be chosen by the EPA with the remaining expert chosen by the Permittee. The Permittee will be responsible for summarizing the issue in dispute and providing all of the supporting data. The EPA will then review this summary, edit the summary if necessary, and provide the summary to the mediation team. The team will have thirty (30) days from the time the EPA provides them with a summary of the disputed issue to review the issue in dispute. Immediately following this review period a hearing will be held to allow the Parties to present and defend their respective position on the disputed issue. Following the hearing, the mediation team will have fifteen (15) days to provide the EPA with their recommendation for dispute resolution. If agreement still cannot be reached on the issue(s) within this dispute resolution process, the

disputing Party shall forward the written statement of dispute to the Dispute Resolution Committee (DRC) thereby elevating the dispute to the DRC for resolution.

D. The DRC will serve as a forum for resolution of disputes for which agreement has not been reached through the neutral, third party process. The Parties shall each designate one individual and an alternate to serve on the DRC. The individuals designated to serve on the DRC shall be employed at the policy level (SES) or equivalent or be delegated the authority to participate on the DRC for the purposes of dispute resolution under this permit. The EPA representative on the DRC is the Waste Management Division Director of EPA's Region VI. The DOE's designated member is the DOE/AL Environmental Restoration Project Office Manager. Written notice of any delegation of authority from a Party's designated representative on the DRC shall be provided to all other Parties.

E. Following elevation of a dispute to the DRC, the DRC shall have twenty-one (21) days to unanimously resolve the dispute and issue a written decision. If the DRC is unable to unanimously resolve the dispute within this twenty-one (21) day period the written statement of dispute shall be forwarded to the Senior Executive Committee (SEC) for resolution.

F. The SEC will serve as the forum for resolution of disputes for which agreement has not been reached by the DRC. The EPA representative on the SEC is the Regional Administrator of EPA Region VI. The DOE's representative on the SEC is the DOE Operations Manager. The SEC members shall, as appropriate, confer, meet and exert their best efforts to resolve the dispute and issue a written decision. If unanimous resolution of the dispute is not reached within twenty-one (21) days, EPA's Regional Administrator shall issue a written position on the dispute. The DOE may, within twenty-one (21) days of the Regional Administrator's issuance of EPA's position, issue a written notice elevating the dispute to the Administrator of EPA for resolution accordance with all applicable laws and procedures. In the event that the DOE elects not to elevate the dispute to the Administrator within the designated twenty-one (21) day escalation period, the DOE shall be deemed to have agreed with Regional Administrator's written position with respect to the dispute.

G. Upon escalation of a dispute to the Administrator of EPA pursuant to part F above, the Administrator will review and resolve the dispute within twenty-one (21) days. Upon request, and prior to resolving the dispute, the EPA Administrator shall meet and confer with the Secretary of the

DOE to discuss the issue(s) under dispute. Upon resolution, the Administrator shall provide the DOE with a written final decision setting forth resolution of the dispute.

H. The pendency of any dispute under this Part shall not affect the DOE's responsibility of timely performance of the work required by this permit, except that the time period for completion of work affected by such dispute shall be extended for a period of time usually not to exceed the actual time taken to resolve any good faith dispute in accordance with the procedures specified herein. All elements of the work required by this permit which are not affected by the dispute shall continue and be completed in accordance with the applicable schedule.

I. When dispute resolution is in progress, work affected by the dispute will immediately be discontinued if the Hazardous Waste Division Director for EPA's Region VI requests, in writing, that work related to the dispute be stopped because, in EPA's opinion, such work is inadequate or defective, and such inadequacy or defect is likely to yield an adverse effect on human health or the environment, or is likely to have a substantial adverse effect on the remedy selection or implementation process. To the extent possible, EPA shall give the DOE prior notification that a work stoppage request is forthcoming. After stoppage of work, if the DOE believes that the work stoppage is inappropriate or may have potential significant adverse impacts, the DOE may meet with the Division Director to discuss the work stoppage. Following this meeting, and further consideration of the issues, the Division Director may immediately be subjected to formal dispute resolution. Such dispute may be brought directly to either DRC or the SEC, at the discretion of the DOE.

J. Within twenty-one (21) days of resolution of a dispute pursuant to the procedures specified in this Part, the DOE shall incorporate the resolution and final determination into the appropriate plan, schedule or procedures and proceed to implement this permit according to the amended plan, schedule or procedures.

K. Resolution of a dispute pursuant to this Part of the permit constitutes a final resolution of any dispute arising under this permit. The DOE shall abide by all terms and conditions of any final resolution of dispute obtained pursuant to this Part of this permit.

8. Funding

It is the expectation of the Permittee and the Administrative Authority that all obligations of the Permittee under this permit will be fully funded through Congressional appropriations. Consistent with Congressional limitations on future funding, the Permittee shall take all necessary steps and use its best efforts to obtain timely funding to meet its obligations under this permit, including but not limited to submission of timely and sufficient budget requests.

In order to assure that the Permittee and the Administrative Authority adequately communicate and exchange information about funding concerns that affect the implementation of this permit, the following conditions apply:

A. The Permittee and the Administrative Authority project managers shall meet periodically throughout each fiscal year to discuss activities being funded in the the current fiscal year, the status of the current year projects, and events causing or expected to cause significant changes to any milestone, or activity within such milestone. The frequency of such meetings will depend upon circumstances, and therefore cannot be specified. However, meetings will be held at least annually. The Permittee shall provide information for these meetings that shows, to the extent possible, projected and actual costs of accomplishing requirements under this permit.

B. The Administrative Authority may comment annually on the Permittee's cost estimate for the corresponding negotiated activities established under this permit for each budget year. The Permittee will consider any comments received before including these cost estimates in submittals for funding for the relevant budget year.

C. In or about January of each year, the Permittee shall provide the Administrative Authority with current five-year planning cost estimates based upon revisions to the Permittee's Five-Year Plan. These estimates will be based on the Activity Data Sheet (ADS) level. This submission shall include a general correlation of relevant ADSs with requirements of this permit.

D. The DOE will provide the Administrative Authority a copy of the President's Budget Request to the Congress and sections of the DOE Congressional Budget Request pertaining to the Environmental Restoration Program.

E. Whenever the DOE proposes a reprogramming, requests a supplemental appropriation, or transfers funds in a manner that is likely to or will affect the ability of the Permittee

to meet requirements under this permit, the DOE shall notify the Administrative Authority of its plans and, prior to such a transfer of funds or the submittal of the reprogramming or supplemental appropriation request to Congress, shall consult with them about the effect that such an action is likely to or will have on the requirements of this permit.

F. In accordance with Section 120(e)(5)(B) of CERCLA, 42 U.S.C. Subpart 9620(e)(5)(B), the DOE shall include in its annual report to Congress the specific cost estimates and budgetary proposals associated with the implementation of this permit.

G. After appropriations have been received from the Congress, the Permittee and the Administrative Authority project managers will review the level of available appropriated funds and the most recent estimated cost of meeting requirements under the permit. If appropriated funds are not available to fulfill the Permittee's obligations under this permit, the parties shall attempt to agree upon appropriate adjustments to the dates that require the payment or obligation of such funds. Subject to the terms of this permit, if no agreement on appropriate adjustments can be reached, the Administrative Authority reserves the right to initiate any other action which would be appropriate absent this permit. Initiation of any such actions shall not release the parties from their other obligations under this permit. Acceptance of these conditions under Funding, however, does not constitute a waiver by the Permittee that its obligations under this permit are subject to the provisions of the Anti-Deficiency Act, 31 U.S.C. Subpart 1341. In any action by the Administrative Authority to enforce any provision of this permit, the Permittee may raise as a defense that its failure or delay was caused by the unavailability of appropriated funds.

H. If appropriated funds are available to the DOE's Office of Environmental Restoration (or other equivalent offices) to fulfill the Permittee's obligations under this permit, the DOE shall obligate the funds in amounts sufficient to support the requirements specified in this permit unless otherwise directed by the Congress or the President, or unless those requirements are modified in accordance with provision of this permit.

I. The participation by the Administrative Authority under these conditions is limited solely to the aforementioned and is in no way to be construed to allow the Administrative Authority to become involved with the internal DOE budget process, nor to become involved in the Federal budget process as it proceeds from DOE to the Office of Management and Budget

and ultimately to Congress through the President's submittal. Nothing herein shall affect DOE's authority over its budgets and funding level submissions.

9. Prioritization of Operable Units (OUs) for Assessment and Remediation

Prioritization of OUs shall be performed in accordance with DOE's risk-based ER Priority System. Under this system, OUs will be re-prioritized annually based on updated risk assessments performed in concurrence with the DOE ER Five-Year Plan. The Installation-Wide Hydrogeologic Environment Study will provide information to support the DOE ER Priority System.

10. Community Involvement Regarding Environmental Restoration Activities

The Permittee, as part of the Community Relations Program (CRP), shall attend meetings of, but is not required to be a signatory to, the Greater Albuquerque/Kirtland Environmental Working Group. This working group has been established under the Kirtland Air Force HSWA permit (effective November 14, 1990). This requirement is in addition to the establishment of a CRP under this permit.

11. Contaminant Cleanup Levels for Underground Storage Tank Remediation

The Permittee will remediate any hydrocarbon contamination associated with releases from USTs, in connection with the remediation of any USTs shown in Table 2 to the Total Petroleum Hydrocarbon levels specified under the New Mexico UST regulations.

D. CORRECTIVE ACTION

Sandia National Laboratories, Albuquerque, is implementing the ER Program as a number of Operable Units (OU). Each operable unit constitutes one or more specific sites located within a given geographic area. RFI/CMS documents are prepared with respect to each OU. The Program Implementation Plan (see Special Permit Conditions, C.1) is the umbrella plan under which the ER Program is conducted and under which all ER OUs are managed. Depending on site-specific findings during the Corrective Action Plan process, a site within an OU may be removed by a determination that no further action is

necessary. The prioritization of a site for assessment and corrective action measures may change, and therefore the OU prioritization may change (see Special Permit Conditions, C.9). Any changes in OU prioritization, or removal of a site from further action will be processed annually, if appropriate, as a major permit modification, subject to the approval of the Administrative Authority.

The SNLA implementation schedule, contained in the SNLA Program Implementation Plan, shall be updated annually, as appropriate. The implementation schedule shall be depicted on a time scale format, and will be five (5) years in length. The implementation schedule shall be updated, at a minimum, annually with the primary purpose to expand the new current fiscal year and follow-on year, and add an additional year at the end. In addition, any approved schedule changes shall be incorporated at this time, if not previously incorporated. This annual update shall be performed in the first quarter of the current fiscal year, but subject to receiving final Budget Authority. The implementation schedule may be revised at any time during the year for significant changes (e.g. major change in prioritization or funding). The annual updates to the implementation schedule, or revisions due to significant changes, shall require new approval by the Administrative Authority.

The Permittee proposes as equivalent to requirements under RCRA the applicable portion of the ongoing DOE Environmental Restoration (ER) Program, and that the DOE ER Program also complies with the major elements of the CERCLA remedial process. The Sandia Program Implementation Plan shall contain comparison tables to demonstrate equivalency to RI/FS documents.

1. Corrective Action for Releases

Section 3004 (u) of RCRA, as amended by HSWA, and 40 CFR 264.101, require that permits issued after November 8, 1984, address corrective action for releases of hazardous waste including hazardous constituents from any SWMU at the facility, regardless of when the waste was placed in the unit.

2. Releases Beyond Facility Boundary

a. The Permittee shall notify the Administrative Authority verbally, within 24 hours of discovery, as evidenced by quality controlled, quantified data, of any release of hazardous waste or hazardous constituents.

b. Section 3004(v) of RCRA as amended by HSWA, and Federal regulations promulgated as 40 CFR 264.101(c), require corrective actions beyond the facility property boundary, where necessary to protect human health and the environment, unless the Permittee demonstrates that, despite the Permittee's best efforts, the Permittee was unable to obtain the necessary permission to undertake such actions. The Permittee is not relieved of all responsibility to clean up a release that has migrated beyond the facility boundary where off-site access is denied. On-site measures to address such releases will be determined on a case-by-case basis.

E. REPORTING REQUIREMENTS

1. The Permittee shall submit, in accordance with Module IV.B.6, signed quarterly progress reports of all activities (i.e., RFI, CMS) conducted pursuant to the provisions of this Permit beginning no later than ninety (90) calendar days from the effective date of this Permit. These reports shall contain:
 - a. A description of the work completed and an estimate of the percentage of work completed;
 - b. Summaries of all findings, including summaries of laboratory data;
 - c. Summaries of all problems or potential problems encountered during the reporting period and actions taken to rectify problems;
 - d. Projected work for the next reporting period;
 - e. Summaries of contacts pertaining to corrective action with representatives of the local community, public interest groups or State government during the reporting period;
 - f. Changes in key project personnel during the reporting period; and
 - g. Summaries of all changes made in implementation during the reporting period.
2. Copies of other reports (e.g., inspection reports), drilling logs and laboratory data shall be made available to the Administrative Authority upon request.

3. In addition to the written reports, at the request of the Administrative Authority, the Permittee shall provide status review through semi-annual briefings with the Administrative Authority.

F. NOTIFICATION REQUIREMENTS FOR AND ASSESSMENT OF NEWLY-IDENTIFIED SWMUs

Sandia, as part of its ongoing ER Program, has established a pro-active system to identify, track and prioritize new sites. Internal Sandia communications channels as well as external notification through the public media are utilized to periodically solicit information on old disposal sites for which records may no longer exist. When a new site is discovered, it is tracked and prioritized according to a process outlined in the Program Implementation Plan. As part of the plan for identification, tracking and prioritizing new sites, the Permittee will:

1. Notify the Administrative Authority, in writing, of any newly-discovered SWMU (i.e., a unit not specifically identified during previous investigations or studies), discovered in the course of ground water monitoring, field investigations, environmental audits, or other means, no later than thirty (30) calendar days after discovery. The notification shall include the following items, to the extent available:
 - a. The location of the newly-identified SWMU.
 - b. The type of the unit;
 - c. The general dimensions of the unit (supply any available drawings)
 - d. The period during which the unit was operated;
 - e. The specifics, to the extent available, on all wastes that have been or are being managed at the SWMU; and
 - f. Results of any sampling and analysis required for the purpose of determining whether releases of hazardous waste including hazardous constituents have occurred, are occurring, or are likely to occur from the unit.
2. Within 30 days after notification, the Permittee shall also submit in writing to the Administrative Authority, a subjective assessment of the risk of this release compared to the other SWMUs listed in this permit. This subjective assessment shall propose whether interim corrective measures

are necessary to mitigate the risk of this release and, if interim corrective measures are not necessary, the priority and schedule for investigation of the newly-identified SWMU performed pursuant to Section I.

G. NOTIFICATION REQUIREMENTS FOR NEWLY-DISCOVERED RELEASES AT SWMUs

The Permittee shall notify the Administrative Authority in writing, no later than fifteen (15) calendar days after discovery, of any release(s) of hazardous waste or hazardous constituents discovered during the course of ground water monitoring, field investigation, environmental auditing, or other activities undertaken after the commencement of the RFI. Such newly-discovered releases may be from newly-identified units or from units for which, based on the findings of the RFA, the Administrative Authority had previously determined no further investigation was necessary.

H. INTERIM MEASURES

1. If during the course of any activity initiated under this Permit, the Administrative Authority determines that, based on consideration of factors specified in 40 CFR 264.540(b), or, based on site-specific circumstances a release or potential release of hazardous constituents from a SWMU poses a threat to human health and the environment, the Administrative Authority may require interim measures. The Administrative Authority shall determine the specific measure(s) or require the Permittee to propose a measure(s). The interim measure(s) may include a permit modification, a schedule for implementation, and a written plan. The Administrative Authority shall notify the Permittee in writing of the requirement to perform interim measures. The Administrative Authority shall modify this Permit according to Module IV.B.2 to incorporate interim measures into the Permit.
2. The following factors will be considered by the Administrative Authority in determining the need for interim measures:
 - a. Time required to develop and implement a final remedy;
 - b. Actual or potential exposure of nearby populations or environmental receptors to wastes;

- c. Actual or potential contamination of drinking water supplies or sensitive ecosystems;
- d. Further degradation of the medium which may occur if remedial action or interim measures are not initiated expeditiously;
- e. Presence of hazardous wastes in containers that may pose a threat of release;
- f. Presence and concentration of hazardous waste including hazardous constituents in soils, largely at the surface, that may migrate;
- g. Weather conditions that may cause wastes to migrate or be releases;
- h. Risks of fire, explosion, or potential for exposure to wastes (including hazardous constituents) as a result of an accident or failure of a container or handling system, and;
- i. Other situations that may pose threats to human health and the environment.

I. RFI WORKPLAN

1. The RFI Workplan submittal schedule is as follows:
 - (a) The Permittee shall submit draft RFI Workplans, within 1 year of of the effective date of the permit, for 10% of those SWMUs listed in Table 2.
 - (b) The Permittee shall submit draft RFI Workplans, within 2 years of the effective date of the permit, an additional 25% (cumulative total 35%) of those SWMUs listed in Table 2.
 - (c) The Permittee shall submit draft RFI Workplans, within 3 years of the effective date of the permit, for an additional 25% (cumulative total 60%) of those SWMUs listed in Table 2.
 - (d) The Permittee shall submit draft RFI Workplans, within 4 years of the effective date of the permit, for an additional 20% (cumulative total 80%) of those SWMUs listed in Table 2.
 - (e) The Permittee shall submit draft RFI Workplans, within 10 years of the effective date of the permit, for the balance (20%, cumulative total 100%) of those SWMUs listed in Table 2.

2. The Permittee shall submit to the Administrative Authority for approval RFI Workplans following the format outlined in the applicable RFI/CMS guidance documents. RFI Workplans are developed at the OU level, which may include one or more SWMUs. The scope of the RFI Workplans shall address all necessary actions to verify and determine the nature and extent of releases of hazardous waste or hazardous constituents from solid waste management units. As appropriate and with the approval of the Administrative Authority, the RFI Workplans may be developed and implemented using the phased approach as described in EPA Corrective Action Plan guidance documents. Information obtained during the preceding phase shall be incorporated in the modified RFI Workplan for the subsequent phase. After the Permittee submits an RFI Workplan, the Administrative Authority will approve, disapprove, or modify the plan. If the Administrative Authority approves the plan, the Permittee shall immediately initiate implementation of the plan according to the schedule contained therein. The timeframe requirements imposed by the schedule on the Permittee shall commence to begin upon approval of the RFI Workplan by the governing Administrative Authority. Workplans approved prior to the effective date of this permit are incorporated into this permit as approved Workplans. The schedule of RFI Workplans to be submitted in each period for which this permit is effective is given in Section I.1.

The Workplan shall describe the objectives of the investigation and the overall technical and analytical approach to completing all actions necessary to characterize the direction, rate, movement, and concentration of releases of hazardous waste or hazardous constituents from specific units or groups of units, and their actual or potential receptors. The RFI Workplan shall detail all proposed activities and procedures to be conducted at the facility and the schedule for implementing and completing such investigations.

- a. The RFI Workplan shall describe sampling, data collection quality assurance, and data management procedures, including formats for documenting and tracking data and other results of investigations, and health and safety procedures.
- b. The Permittee shall prepare the RFI Workplans and undertake the facility investigation in accordance with the following:

- (1) Development of the RFI Workplans and reporting of data shall be consistent (not taken to mean word-for-

word equivalency, but consistent with the technical aims of the guidance) with the RCRA Facility Investigation Guidance Document (EPA OSWER Directive 9502.00-6c), or the equivalent thereof;

(2) EPA and the NMED reserve the right to split samples with the Permittee. The Permittee shall notify EPA and the NMED at least 10 days prior to any sampling activity which has been identified from the field sampling plan by EPA or NMED for split sampling;

(3) When developing groundwater related investigations, the Permittee shall follow, to the extent possible, the RCRA Groundwater Monitoring Technical Enforcement Document (EPA OSWER Directive 9950-1, September, 1986) or the equivalent thereof to determine methods and materials that are acceptable to EPA. In the event the Permittee chooses not to follow this directive, the Permittee will notify the EPA in writing specifying the particular issue and the related technical justification for the variance, and;

(4) Any schedule deviations from the approved RFI Workplan which are necessary during implementation for the facility investigation shall be fully documented and described in the quarterly reports and in the draft RFI report. Technical deviation from the approved RFI Workplan shall be fully documented and described in the draft RFI report.

The Permittee shall submit a draft RFI Workplan to the Administrative Authority. An extension of the time required to submit the draft RFI Workplan may be obtained only through the Permittee's written request and the written approval of the Administrative Authority.

After the Permittee submits the RFI Workplan, the Administrative Authority will either approve or disapprove it. If the Administrative Authority disapproves, the Administrative Authority shall specify the deficiencies and the Permittee shall have thirty (30) days to submit a modified report. If this report is not approved, the Administrative Authority and the Permittee will negotiate, through the process described under Section C.7, Alternative Dispute Resolution, any modifications to the report.

3. The Administrative Authority shall review for approval as part of the RFI Workplan or as a new workplan any plans developed pursuant to Module IV.F addressing further

investigations of newly-identified SWMUs, or Module IV.G addressing new releases from previously-identified SWMUs.

J. RFI FINAL REPORT AND SUMMARY

1. Within sixty (60) calendar days after the completion (completion being defined as that point in time when the Permittee has acquired all necessary data, performed all required analysis, prepared a final report and is ready to begin the process of remediation selection) of the RFI, the Permittee shall submit an RFI Final Report and Summary. The RFI Final Report shall describe the procedures, methods, and results of all investigations as described in Module IV.P. This includes SWMUs and their releases, the type and extent of contamination at the facility, sources and migration pathways, and actual or potential receptors. The RFI Final Report shall present all information gathered under the approved RFI Workplan. The RFI Final Report must contain adequate information to support further corrective action decisions at the facility. The Summary shall summarize the RFI Final Report.
2. After the Permittee submits the RFI Final Report and Summary, the Administrative Authority shall either approve or disapprove them in writing.

If the Administrative Authority approves the RFI Final Report and Summary, the Permittee shall mail the approved Summary to all individuals on the facility mailing list established pursuant to 40 CFR 124.10(c)(1)(ix), within fifteen (15) calendar days of receipt of approval.

If the Administrative Authority determines the RFI Final Report and Summary do not fully meet the objectives stated in Module IV.P, the Administrative Authority may disapprove the RFI Final Report and Summary. If the Administrative Authority disapproves the Report, the Administrative Authority shall notify the Permittee in writing of the Report's deficiencies and specify a due date for submittal of a revised Final Report and Summary. Once approved, the Summary shall be mailed to all individuals on the facility mailing list as specified above.

K. DETERMINATION OF NO FURTHER ACTION

1. Based on the results of the RFI and other relevant information, the Permittee may submit an application to the Administrative Authority for a Class III permit modification under 40 CFR 270.42(c) to terminate the RFI/CMS process for a specific unit. This permit modification application must contain information demonstrating that there are no releases of hazardous waste including hazardous constituents from a particular SWMU at the facility that pose threats to human health and/or the environment, as well as additional information required in 40 CFR 270.42(c).

If, based upon review of the Permittee's request for a permit modification, the results of the RFI, and other information, including comments received during the sixty (60) day public comment period required for Class III permit modifications, the Administrative Authority determines that releases or suspected releases which were investigated either are non-existent or do not pose a threat to human health and/or the environment, the Administrative Authority will grant the requested modification.

2. If necessary to protect human health or the environment, a determination of no further action shall not preclude the Administrative Authority from requiring continued or periodic monitoring of air, soil, ground water, or surface water, when site-specific circumstances indicate that releases of hazardous waste or hazardous constituents are likely to occur.
3. A determination of no further action shall not preclude the Administrative Authority from requiring further investigations, studies, or remediation at a later date, if new information or subsequent analysis indicates a release or likelihood of a release from a SWMU at the facility that is likely to pose a threat to human health or the environment. In such a case, the Administrative Authority shall initiate a modification to the Permit according to Module IV.B.2.

L. CORRECTIVE MEASURES STUDY (CMS) PLAN

1. If the Administrative Authority has reason to believe that a SWMU has released concentrations of hazardous constituents which exceed action levels as defined under 40 CFR 264.521, or if the Administrative Authority determines that contaminants present a threat to human

health or the environment given site-specific exposure conditions, the Administrative Authority may require a CMS and shall notify the Permittee in writing. The notification may also specify remedial alternatives to be evaluated by the Permittee during the CMS.

2. The Permittee shall submit a CMS Plan to the Administrative Authority within ninety (90) calendar days from notification of the requirement to conduct a CMS. The Scope of Work for a CMS Plan is in Module IV.P.

The CMS Plan shall provide the following information:

- a. A description of the general approach to the investigation, and potential remedies;
 - b. A definition of the overall objectives of the study;
 - c. Specific plans for evaluating remedies to ensure compliance with remedy standards;
 - d. Schedules for conducting the study; and
 - e. The proposed format for the presentation of information.
3. After the Permittee submits the draft CMS plan, the Administrative Authority will either approve or disapprove the plan. If the plan is not approved, the Administrative Authority will notify the Permittee in writing of the plan's deficiencies and specify a due date for submittal of the revised plan. If this plan is not approved, the Administrative Authority and the Permittee will negotiate, through the process described under Section C.7, Alternative Dispute Resolution, any modifications to the plan.

If the Administrative Authority approves the CMS Plan, the Permittee shall implement the plan per Module IV.M.

In the event of disapproval (in whole or in part) of the CMS Plan, the Administrative Authority shall specify deficiencies in writing. The Permittee shall modify the plan to correct these within the time frame specified in the notice of deficiency. The modified CMS Plan shall be submitted in writing to the Administrative Authority for review. Should the Permittee take exception to all or part of the disapproval, the Permittee shall submit a written statement of the grounds for the exception within 10 days of receipt of the disapproval per Module IV.F.

M. CMS IMPLEMENTATION

No later than fourteen (14) calendar days after the Permittee has received written approval from the Administrative Authority for the CMS Plan, the Permittee shall implement the Corrective Measures Study according to the schedules specified and in accordance with the approved CMS Plan. All approved plans become incorporated into this Permit as per Module IV.B.7.

N. CMS FINAL REPORT AND SUMMARY

1. Within sixty (60) calendar days after the completion of the CMS, the Permittee shall submit a CMS Final Report and Summary. The Summary shall summarize the Final Report. The CMS Final Report shall discuss the results of investigations of each remedy studied and of any bench-scale or pilot tests conducted. It must include an evaluation of each remedial alternative. The CMS Final Report shall present all information gathered during the CMS, and must contain adequate information to support the remedy selection process. In the CMS Final Report, the Permittee shall propose a corrective action program that shall:
 - a. attain compliance with corrective action objectives for hazardous constituents in each medium, as established in Module IV.P;
 - b. control sources of releases;
 - c. meet acceptable waste management requirements; and
 - d. protect human health and the environment.
2. After the Permittee submits the CMS Final Report and Summary, the Administrative Authority will either approve or disapprove them in writing.

If the Administrative Authority approves the CMS Final Report and Summary, the Permittee shall mail the approved Summary to all individuals on the facility mailing list established pursuant to 40 CFR 124.10(c)(1)(ix), within fifteen (15) calendar days of receipt of approval.

If the Administrative Authority determines the CMS Final Report and Summary do not fully meet the objectives stated in Module IV.P, the Administrative Authority may disapprove the CMS Final Report and Summary. If the Administrative Authority disapproves the Report, the Administrative

Authority shall notify the Permittee in writing of the Report's deficiencies and specify a due date for submittal of a revised Final Report and Summary. If this report is not approved, the Administrative Authority and the Permittee will negotiate, through the process described under Section C.7, Alternative Dispute Resolution, any modifications to the plan. Once approved, the Summary shall be mailed to all individuals on the facility mailing list as specified above.

3. Based on the CMS Final Report, the Administrative Authority may require the Permittee to evaluate additional remedies or particular elements of one or more proposed remedies.

O. CORRECTIVE MEASURE (REMEDY) SELECTION AND IMPLEMENTATION

Within fifteen (15) calendar days from receipt of approval of CMS Final Report and Summary, the Permittee shall submit a Permit Modification request according to Module IV.B.2, for corrective measure (remedy) selection, based on the approved CMS Final Report. The resultant modified permit will include schedules for remedy implementation.

P. RFI /CMS SCOPE OF WORK

The Scope of Work shall consist of two (2) tasks. These tasks are: (1), Preparation of a Program Implementation Plan, and, (2), RFI/CMS Workplans for each Operable Unit (OU). The Permittee shall prepare a single installation-wide Program Implementation Plan, which shall be updated annually. The installation-wide Program Implementation Plan shall contain, at a minimum: (1) a Project Management Plan, (2), a Quality Assurance Project Plan, (3), a Health and Safety Plan, and (4), a Community Relations Plan.

With respect to task 2, the Permittee shall formulate the RFI/CMS Workplans in accordance with guidance given in: (1), EPA RCRA Corrective Action Plan (EPA 530-SW-88-028, June 1988), (2), Interim Final RFI Guidance, EPA 530/SW-89-031, May 1989), and/or (3), any relevant formal guidance document promulgated during the life of this permit. The Administrative Authority will review each RFI/CMS Workplan submitted for conformance to the applicable guidance document, taking into account any site-specific conditions. The Permittee, at the written request of the Administrative Authority, shall provide in writing, within sixty (60) calendar days of the request, any substantiating evidence for deviations or deficiencies in these plans noted by the Administrative Authority.

Table 1: RFI/CMS SUBMISSION SUMMARY

<u>Facility Submission Requirements</u>	<u>Due Date</u>
Verbal notification of newly-discovered releases	24 hours after release discovery
Written notification of newly-identified SWMUs	Thirty (30) calendar days after discovery
Written notification of newly-discovered releases	fifteen (15) calendar days after discovery
Risk Assessment of newly-discovered SWMUs	thirty (30) calendar days after discovery
Quarterly Progress Summary Reports	quarterly, no later than one hundred eighty (180) calendar days from effective date of permit
Program Implementation Plan	one hundred eighty (180) calendar days from effective date of permit then updated annually thereafter. Any permit modifications will require a re-submittal of a revised Program Implementation Plan, regardless of the time at which the modification occurs
Site-Wide Hydrogeologic Environment Report	one hundred eighty (180) calendar days from effective date of permit, then annually thereafter
Waste Minimization Plan	Annually, on December 1

Interim Measures Corrective Action Plan	thirty (30) calendar days after notification for interim actions required after permit issuance
Revised Interim Measures Corrective Action Plan	as determined
Voluntary Corrective Measures Plan	as circumstances dictate
Integrated Demonstration Technology Application Plan	Upon successful demonstration of applicable technologies
RFI Operable Unit draft Workplans	as specified in Section J of this permit
Revised RFI Operable Unit Workplans	as determined by Administrative Authority, usually within 30 days of receipt of NOD
RFI Report	sixty (60) calendar days after completion of RFI
Revised RFI Report	as determined by the Administrative Authority, but not less than thirty (30) calendar days after notification of deficiency
RFI Draft Report	according to schedule in the Program implementation Plan
CMS Plan	ninety (90) calendar days after notification of requirement to perform CMS

Revised CMS Plan

as determined

CMS Report

sixty (60) calendar
days after
completion of CMS

Revised CMS Report

as determined by the
Administrative
Authority, but not
less than thirty
(30) calendar
days after
notification of
deficiency