



BRUCE KING  
GOVERNOR

**ENVIRONMENT DEPARTMENT**

Harold Runnels Building  
1190 St. Francis Drive, P.O. Box 26110  
Santa Fe, New Mexico 87502  
(505) 827-2850

ENTRUSTED  
JUDITH M. ESPINOSA  
SECRETARY

RON CURRY  
DEPUTY SECRETARY

RED  
May 5, 1992

TO: Judith M. Espinosa

THROUGH: Kathleen Sisneros, Division Director, WWMD.  
Benito Garcia, Chief, HRMB.  
Edward L. Horst, RCRA Program Manager.

FROM: Herb Grover, RCRA Permit Supervisor.

RE: Synopsis of Public Hearing on DOE/Sandia Labs. Operating Permit.

The following is a summary of the principal issues concerning the Hazardous Waste Facility permit for DOE/Sandia National Laboratories that was the subject of a public hearing on March 20, 1992. The general tenor of the meeting was professional and cooperative. Mr. Gilbert did an excellent job of organizing the proceedings and was effective in keeping the discussion on-track. Mr. Tracy Hughes was extremely helpful in preparing me for the hearing, and in representing the positions of the NMED.

There was no opposition to the permit. The public was concerned, however, that certain aspects of the permit be clearly expressed. Specifically, the public did not wish DOE/Sandia to have the option of accepting large quantities of wastes from other DOE facilities. The public was also concerned that DOE/Sandia not be allowed to change waste volumes or waste codes without careful justification followed by attentive review and approval by NMED.

DOE/Sandia's principal concerns focused on certain aspects of the permit that, in their interpretation, exceeded NMED's authority to regulate hazardous waste management activities. As you know, DOE/Sandia National Laboratories is a government owned, contractor operated facility. As such, DOE and Sandia Corp. both sign the permit documents. This creates some confusion in defining the permittee. It is HRMB's position that the contractual relationship between DOE and Sandia defines the permittee as the new entity created by this arrangement. The modified draft permit proposed by HRMB for issuance (submitted into the record on April 6, 1992) contains a definition of permittee (permit condition I.D.) which reflects this position.

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DOE has also continued to raise the issue of off-site waste acceptance. They wish to retain the option of accepting wastes from other DOE facilities. In the permit application, no mention was made specifying a request to accept off-site wastes, therefore, HRMB drafted the permit to restrict off-site waste acceptance to those wastes generated by the "permittee", as defined in the permit. Thus, if DOE/Sandia scientists performed experiments at another physical location, they would be able to handle any hazardous wastes that they produce through the DOE/Sandia hazardous waste management facility. DOE/Sandia has the option to apply for a permit modification to allow off-site waste acceptance after the permit is issued, but this would probably result in considerable public attention that DOE/Sandia would rather avoid.

DOE also requested language in the permit recognizing the primacy of the Atomic Energy Act of 1954. The position of HRMB is that NMHWMR 74-4-3.1 clearly recognizes the Atomic Energy Act, and the 40 CFR does not provide for any other type of variance. HRMB considers the NMHWMR language sufficient to cover the contingencies of concern to DOE.

On April 6, 1992, HRMB submitted into the public hearing record a modified draft permit that incorporates public and applicant comments and updates several attachments to the draft permit. HRMB considers this to be a comprehensive, protective, and enforceable permit.

Overall, HRMB feels that the public hearing process, although lengthy and cumbersome at times, has in this case resulted in an improved permit.

If you have any questions please call me at your convenience at ext. 4300.