

**REOPENING OF PUBLIC COMMENT PERIOD
AUTHORIZATION TO DISCHARGE TO WATERS OF THE UNITED STATES,
NPDES PERMIT NO. NM0028355**

On November 28, 2019, the U.S. Environmental Protection Agency (EPA) noticed for public comment the reissuance of NPDES Permit NO. NM002835 for the Los Alamos National Laboratory (LANL) facility in Los Alamos, New Mexico to Triad National Security, LLC (Triad) and the Department of Energy as co-permittees under Section 402 of the Clean Water Act (CWA or “the Act), 33 U.S.C. § 1251. The proposed permit authorizes LANL to discharge from various sanitary and/or industrial outfalls, including a discharge of treated radioactive liquid waste from the Radioactive Liquid Waste Treatment Facility (RLWTF) through Outfall 051 into Mortandad Canyon. After several extensions, the public comment period on reissuance of the permit formally ended on November 2, 2020.

During the comment period, EPA received data and information that appears to raise substantial new issues related to permit reissuance, including information and data regarding authorization of discharges from Outfall 051 and other outfalls that do not regularly discharge, pollutants in discharges related to the Radioactive Liquid Waste Treatment Facility (RLWTF), the RCRA exemption for discharges regulated under NPDES permits and the permit renewal application.

On November 12, 2020, Triad, which is the operator of LANL facility, and was only privy to the content of public comments after the comment period closed, requested that EPA reopen the comment period to allow submittal of additional information on the Record to address information provided in comments believed by Triad to be incomplete, misleading, or technical inaccurate that would help EPA in responding to those comments and make a final permit decision.

40 CFR 124.14 (b)(3) allows EPA to reopen the comment period “if any data information or arguments submitted during the public comment period ... appear to raise substantial new questions concerning a permit...” in order “to give interested persons an opportunity to comment on the information or arguments submitted.”

40 CFR 124.14 (c) states that “comments filed during the reopened comment period shall be limited to the substantial new questions that caused its reopening. The public notice under §124.10 shall define the scope of the reopening.”

In accordance with the regulations cited above, EPA is granting Triad’s request to reopen the public comment period related to EPA’s reissuance of NPDES Permit NO. NM0028355 for an additional 30 days in order to allow interested persons, including Triad, to comment on and respond to substantial new information and data submitted during the original comment period.

Accordingly, the scope of the re-opened comment period is limited to the following:

1. Legal and factual issues pertaining to EPA's jurisdiction to issue an NPDES permit for Outfall 051.
2. Legal and factual issues pertaining to the applicability of the wastewater treatment unit exemption for the RLWTF [radioactive liquids waste treatment facility].
3. Factual issues concerning historical discharges from all outfalls covered by the permit application.
4. Derivation of the flow estimates for Outfall 051 or other outfalls that were provided in the renewal application.
5. Misc. factual issues (i.e., past permit application information vs. current; current discharges; permitting of outfalls that may discharge or discharge infrequently).

EPA is soliciting comments and supporting data as to the above issues ONLY. The additional 30-day public comment period begins on **January 30, 2021** and ends on **February 28, 2021**.

Note: CWA §401 Certification of the permit was provided by the New Mexico Environment Department on November 30, 2020, to meet a deadline of Sunday November 29, 2020, consistent with 40 CFR 124.20(c). EPA is unable to further extend the deadline for Certification, which as provided by 40 CFR 121.6(a) cannot exceed one year from the initial request for Certification. NMED is not reopening the State's comment period on CWA §401 Certification of the permit.

Because of COVID-19 response, access to the Region 6 EPA building is limited. Therefore, we request that all comments be submitted via email to:

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