

**Natural Resources Defense Council
Nuclear Watch New Mexico
Savannah River Site Watch
Tri-Valley CAREs**

FOR IMMEDIATE RELEASE January 9, 2020

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**Watchdog Groups Claim Nuclear Agency is Moving Forward to
Manufacture New Plutonium Bomb Cores in Violation of
National Environmental Law and an Existing Court Order**

The Department of Energy's semi-autonomous National Nuclear Security Administration (NNSA) has formally announced that it is proceeding with aggressive plans to expand the production of plutonium pits without required nation-wide "programmatic" public review. The Natural Resources Defense Council, Nuclear Watch New Mexico, Savannah River Site Watch and Tri-Valley CAREs assert this is in direct violation of the legal requirements of both the National Environmental Policy Act and a 1998 court order that stipulates that DOE must prepare a "programmatic environmental impact statement" (PEIS) when it plans to produce more than 80 pits per year. Plutonium pits are the radioactive cores or "triggers" of nuclear weapons.

As background, U.S. industrial-scale plutonium bomb core production ended in 1989 when the FBI raided the Rocky Flats Plant near Denver while investigating environmental crimes. In 1997, the Department of Energy formally relocated the pit production mission to the Los Alamos National Laboratory (LANL) in northern New Mexico after completing the *Stockpile Stewardship and Management Programmatic Environmental Impact Statement*. At that time, the agency explicitly capped production at 20 pits per year.

In May 2018 the Defense Department and NNSA announced that they plan to increase pit production at LANL to at least 30 pits per year. In addition, the agency plans to establish redundant production of at least 50 pits per year at the Savannah River Site (SRS) in South Carolina by repurposing the partially built MOX Fuel Fabrication Facility, a boondoggle that has already cost American taxpayers ~\$7 billion. At the same time, LANL has had chronic nuclear safety problems that shut down operations at its main plutonium facility for three years - - the same facility now slated for expanded operations.

Expanded pit production will cost at least \$43 billion over the next 30 years. Yet the Defense Department and NNSA have never explained why expanded plutonium pit production is necessary to begin with. More than 15,000 existing plutonium pits are stored at NNSA's Pantex Plant near Amarillo, TX. Independent experts have concluded that plutonium pits have reliable lifetimes of at least 100 years (the average pit age is less than 40 years old), with no specified end date. Crucially, there is no pit production scheduled to maintain the safety and reliability of the existing nuclear weapons stockpile. Instead, proposed future pit

production is for speculative new-design nuclear weapons. In the past, this was for a “Reliable Replacement Warhead” and more recently an “Interoperable Warhead” that NNSA claimed to Congress was the centerpiece of a transformed nuclear weapons stockpile and production complex. Both proposed new-design nuclear warheads were subsequently canceled.

NNSA’s latest rationale for new plutonium pit production is for a future “W87-1” warhead for the Air Force’s intercontinental ballistic missiles. But whereas the W87 is an existing type of plutonium pit, according to NNSA budget documents the agency plans to produce future “W87-like” pits, leaving much room for possible heavy modifications. That could adversely impact national security because newly produced plutonium pits cannot be full-scale tested given the global nuclear weapons testing moratorium, or alternatively could push the U.S. back into testing with serious international proliferation consequences.

The National Environmental Policy Act (NEPA) clearly requires that proposed major federal actions be subject to public environmental review, which federal executive agencies must undertake early in their decision-making processes. Since 2003 NNSA has tried through two supplemental PEISs and two LANL Site-Wide Environmental Impact Statements to expand plutonium pit production but failed each time because of citizen opposition and lack of clear mission need.

This perhaps explains why NNSA now refuses to prepare a new supplemental programmatic environmental impact statement for expanded pit production. The four watchdog groups contend that is clearly required for three simple reasons: 1) NNSA must formally raise the pit production cap established in the 1996 PEIS; 2) a second site ~1,500 miles from LANL is now involved (i.e., the Savannah River Site); and 3) more than ample precedent exists for programmatic NEPA review of expanded plutonium pit production. And above all is the clear requirement in the 1998 court order that DOE must prepare a supplemental PEIS when it plans on producing more than 80 pits per year.

Tri-Valley CAREs’ Executive Director Marylia Kelley noted, “NNSA’s refusal to complete programmatic environmental review before plunging ahead with plans to more than quadruple the production authorization for plutonium bomb cores flies in the face of our country’s foundational environmental law, the National Environmental Policy Act, and a standing federal court order mandating that the government conduct such a review. The order was obtained in prior litigation by Natural Resources Defense Council on behalf of itself, Tri-Valley CAREs, and additional plaintiffs. Today, I find myself shocked but not surprised that NNSA would so flagrantly flout the law. Moreover, use of a speculative untested pit in a new Livermore Lab-design warhead will degrade, not enhance, the safety and reliability of the U.S. stockpile. My group stands ready to uphold NEPA and the specific court order.”

“There’s a long legal history here,” said NRDC Senior Attorney Geoff Fettus. “But suffice it to say, it’s in everyone’s interest to carefully, and most of all publicly, assess whether it’s a good idea to aggressively expand the manufacturing of key components of nuclear weapons. There is a Federal Court order that directly addresses this issue. We have yet to see a meaningful response by NNSA to that order.”

Tom Clements of SRS Watch added, “NNSA is potentially facing a legal challenge for refusing to prepare the legally required over-arching environmental review of expanded pit production at Los Alamos and at the Savannah River Site, which has no previous pit manufacturing

experience. Pursuit of the proposed Plutonium Bomb Plant at SRS is not only on shaky legal ground but the authorization and funding by Congress of all new pit production will be challenged this year and in subsequent years. The repurposing of the poorly constructed MOX plant for nuclear weapons production is guaranteed to run off the rails as DOE has repeatedly demonstrated that it is incapable of properly managing the budgets and schedules of such complex projects.”

Jay Coghlan of Nuclear Watch New Mexico concluded, “We need to find smart ways to face the world’s renewed nuclear arms race. Unnecessary expanded production of questionable plutonium bomb cores is not the way to do it. Instead of aggressively modifying nuclear weapons the U.S. should carefully preserve its existing, reliable, extensively tested nuclear weapons stockpile while working toward a future world free of them. It’s that kind of analysis and consideration of credible alternatives that the National Environmental Policy Act should give Americans instead of the nuclear weaponeers rubber stamping their self-interested agenda of nukes forever at the taxpayer’s expense.”

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NNSA’s Federal Register Notice of Availability for the final Supplement Analysis is available at <https://www.govinfo.gov/content/pkg/FR-2020-01-08/pdf/2020-00102.pdf>
It provides succinct background.

NNSA’s *Final Supplement Analysis of the Complex Transformation Supplemental Programmatic Environmental Impact Statement* is available at <https://www.energy.gov/sites/prod/files/2020/01/f70/final-supplement-analysis-eis-0236-s4-sa-02-complex-transformation-12-2019.pdf>

The 1998 court order that requires DOE to prepare a supplemental PEIS when it plans to produce more than 80 pits per year is available as *Natural Resources Defense Council v. Pena*, 20 F.Supp.2d 45, 50 (D.D.C. 1998), <https://law.justia.com/cases/federal/district-courts/FSupp2/20/45/2423390/>