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Department of Energy
Albuquerque Operations Office
Los Alamos Area Office
Los Alamos, New Mexico 87544



OCT 29 1996

CERTIFIED RECEIPT REQUESTED

Ms. Janice Archuleta
Hazardous and Radioactive Materials Bureau
New Mexico Environment Department
2044 Galisteo Street, Bldg. A
P. O. Box 26110
Santa Fe, NM 87505-2100

Dear Ms. Archuleta:

Subject: Los Alamos National Laboratory's Federal Facility Compliance Order
(October 4, 1995), Request for Amendment

The purpose of this letter is to request amendments to the Los Alamos National Laboratory (LANL) Federal Facility Compliance Order (Order) issued October 4, 1995. Pursuant to Section XII of the Order, the Parties may amend the Order by mutual agreement, providing the amendment is in writing, signed by the Parties, and approved in writing by the Secretary. We are requesting that the New Mexico Environment Department (NMED) consider these proposed amendments to the Order, which will make the process for submitting changes to volumes and treatability groups more efficient, while assuring that NMED continues to have full information about the volumes, location, and treatment of the wastes. Further, we are proposing these amendments because we think they will help make our implementation and NMED's oversight of the STP less administratively burdensome and more focused on treating the waste to meet the goals of the Federal Facility Compliance Act (FFCA Act).

Since issuance of the Order, the Department of Energy and the University of California (DOE and UC), collectively the Respondents, have been working diligently to meet the milestones incorporated in the Site Treatment Plan (STP) and to adhere to the terms of the Order. When the Order was issued, all parties understood that modifications would be needed to adjust to new information and changed circumstances as we worked off the waste in storage. During the past year we have encountered a number of practical problems with implementing some of the requirements of the Order which are described in more detail below:

1. Revisions/Additions

Section VIII.A. requires Respondents to seek a revision to add new covered waste to the STP. Additionally, Section X.B.4. requires the use of the revision process if there is an

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increase in volume in a treatability group in the STP. These two provisions taken together may require the Respondents to seek and NMED to process numerous and continual revisions over the next few years, as the sorting and treatment of waste in storage proceeds.

As wastes are sorted, surveyed and analyzed for treatment, several situations arise which may make it necessary to transfer the waste to another treatability group, or add quantities of newly identified wastes to a treatability group. These situations may be illustrated by the following examples:

- a. When a drum is opened it may be determined to contain wastes which more appropriately belong in another treatability group.
- b. Portions of waste in a treatability group may not meet the waste acceptance criteria of a treatment facility that employs the technology specified for wastes in that treatability group.
- c. A waste item is discovered which was not reported to be in the container or in the STP inventory. Such items may appear to fit in the same or in a different treatability group than that represented by the other items in the container. Newly identified waste have, to date, generally been found in very small quantities that can be managed, in most cases, by their being incorporated into an existing treatability group and treated in accordance with its existing compliance dates.
- d. To ensure that an adequate volume of waste material is available for sampling, and/or to maximize the cost effectiveness of sampling or off-site waste shipment activities, some lab-packed and other waste items need to be bulked into larger volume containers. Such items may belong to the same or a different treatability group than that represented by the other items in the container. In such instances, all RCRA waste codes will be transferred to the bulked wastes to ensure correct RCRA categorization is maintained.

Newly identified waste have to date been found only in very small quantities and can be managed in an existing treatability group and treated in accordance with existing compliance dates. Some of these situations require transfer of wastes to another treatability group and a resultant increase of volume in a treatability group which would trigger a revision under Section X.B.4. of the Order as currently written. Repeated submission of such revisions to NMED is time consuming and inefficient for all parties.

In order to make the process more efficient for all parties, we propose that the present Section X.B.4., which requires a revision if there is any increase in volume in a treatability group, be replaced by a new Section X.B.4. which states:

“An increase in volume in a treatability group in the STP that will cause a delay in a compliance date; or”

Sections X.B. 1-3 and 5 would be unchanged. This change would give us the flexibility to transfer wastes from one treatability group to another to accommodate situations such as those described above, while still meeting the compliance dates set forth in the STP. As long as we can still meet these deadlines for treating the wastes, a revision seems unwarranted. Instead, we would provide NMED full information in the Annual Update regarding changes in volumes and waste transfers among groups. (Newly generated waste which requires new compliance dates would continue to be a revision.)

If you accept the proposed amendment, then we believe it is necessary to make a conforming amendment to Section VIII.A. as underlined below:

A. All waste which Respondents request to be included in the Compliance Plan Volume of the STP as a covered waste under this Order shall be proposed for NMED's approval as a revision if it falls within the definition of a revision found in Section X.B. (Additions of wastes, or transfer of wastes among treatability groups which do not cause any of the events listed in Sections X.B.1-5 to occur are not revisions, but must be reported in the Annual Update in order to be included in the Compliance Plan Volume.)

This provision simply makes it clear that revisions to the STP are required for additions of waste which meet the definition of Section X.B., and that other changes in volumes not amounting to a revision must be included in the Annual Update.

2. Deletions/Revisions

We have also found Section IX. of the Order, "Deletion of Waste", somewhat confusing and difficult to implement. Section IX.A. requires that "all" waste which Respondents request to be deleted from the STP as a covered waste under this Order shall be proposed for NMED's approval as a revision. Section IX.B of the Order then describes three specific instances where waste may be deleted. There are a number of situations other than the three described in Section IX.B. which will occur regularly as waste is worked off and presently require a deletion of waste, but which we do not believe warrant a revision. Additionally, we suggest that Section IX.B.1. be deleted from the Order for the reasons described below:

The necessity to remove wastes from coverage under the STP may occur for many reasons. For example, wastes may be treated in accordance with the STP. The Order requires a revision for deletion of wastes treated at an offsite facility (IX.B.1) but is silent about deletion of wastes treated on-site. The rationale for the distinction between off-site and on-site shipment is unclear. It seems unnecessary to expend time and resources of the State and the Respondents to process numerous revisions throughout the year on waste which is treated in accordance with the STP, especially since NMED is being notified of all off-site shipments in compliance with other provisions of the Order. Furthermore, Section ~~X~~C.1. of the Order requires Respondents to report to NMED within ten days of completing an activity required under the STP. The Annual Update

provision found at Section VII.2 requires Respondents to describe treatment progress and any changes or deletions to the STP. Since NMED has approved treatment in accordance with the STP, and NMED will be fully informed of the volumes treated, it seems unnecessarily redundant to also require a revision to delete from the STP the wastes treated in accordance with the STP. For these reasons, we propose that Section IX.B.1. be deleted from the Order.

There are other circumstances which arise which necessitate removing waste from coverage under the STP. Because Section IX.A. requires that "all" waste that is to be deleted go through the revision process and Section IX.B. seemingly limits deletions to three situations, we are uncertain how to proceed to remove these wastes from STP coverage. For example, as we open drums for sorting we are finding that in a small number of cases some waste was misreported and is not actually present in the container, or that extra items are present that were not accounted for in the waste description or the STP inventory. Sometimes benign solid wastes like soda cans and food waste are found in the drums. These wastes are not subject to the Order but were nonetheless reported in the volumes contained in the STP.

These are simply data base errors which were carried over in the original submittal of volumes. We believe that these types of corrections do not warrant a revision and are made most efficiently through the Annual Update. Other wastes may need to be removed from the STP inventory because they have been treated pursuant to an appropriate treatability study or will be recycled. Since these are all appropriate RCRA waste management techniques which apparently do not fall within the deletion provisions of Section IX.B., we propose that removal of these wastes from the STP be accomplished by reporting them as "changes" to the STP reported in the Annual Update pursuant to Section B., *Compliance Plan Volume*.

If you agree with this approach, we recommend that the following changes be made to Section IX. of the Order:

1. Delete Section B.1. and renumber Sections B.2. and B.3. as B.1 and B.2.
2. Revise Section IX.A. to read as follows:

"All waste which Respondents request to be deleted from the Compliance Plan Volume of the STP as a covered waste under this Order pursuant to Sections IX. B. 1. & 2 shall be proposed for NMED's approval as a revision pursuant to the procedures in Section X (Revisions). All other deletion of waste, including hazardous waste or radioactive waste addressed under this Order pursuant to Section V.B. (Covered Matters), shall be reported in the Annual Update pursuant to Section VII.B. Compliance Plan Volume."

Incorporating these changes into the Order will keep NMED fully informed of the disposition of these wastes while clarifying that it is unnecessary to process numerous

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revisions for relatively minor corrections to the STP. If, after NMED has reviewed the Annual Update, NMED believes that a particular deletion requires a revision, it can direct us to submit a revision pursuant to Section X.B.5 of the Order.

We believe that the changes described above will help make the STP implementation process much more efficient while meeting NMED's need to oversee the Order and keep fully informed of the Respondents' management of wastes covered by the STP. We respectfully request that you consider these proposed amendments to the Order and would appreciate the opportunity to discuss them with you as soon as possible. A Certification statement is enclosed. Please contact me at (505) 665-5042 if you have any questions.

Sincerely,



H. L. "Jody" Plum

Office of Environment and Projects

LAAMEP:3JP-022

Enclosure

cc w/enclosure:

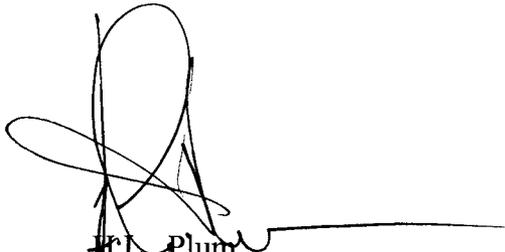
Benito Garcia, Bureau Chief
Hazardous and Radioactive Materials Bureau
New Mexico Environment Department
2044 Galisteo Street, Bldg. A
P. O. Box 26110
Santa Fe, New Mexico 87505

CERTIFICATION

I certify that I am the project manager responsible for overseeing the implementation of the Site Treatment Plan for the Los Alamos National Laboratory. To the best of my knowledge and belief, the information in this document is true, accurate, and complete.

Ken Hargis
Project Manager, EM/WM Programs
Los Alamos National Laboratory
Operator

Date Signed



F.L. Plum
Regulatory Permitting and Compliance Manager
Los Alamos Area Office
U.S. Department of Energy
Albuquerque Operations
Owner/Operator

Date Signed 10/29/96