

RED UANL FFCO/97

NEW MEXICO ENVIRONMENT DEPARTMENT
OFFICE OF GENERAL COUNSEL

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TO Janice Archuleta

FROM S McMICHAEL

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MESSAGE:

Here you go - please review ① X.B.4 OK
 we need to talk about ② IX.A. 1. (deletion of No, KEEP
 ③ IX.B. change as was
 eg had contam } ④ addy a process provision for Section U.B

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**STATE OF NEW MEXICO
ENVIRONMENT DEPARTMENT**

**IN THE MATTER OF
U.S. DEPARTMENT OF ENERGY
AND REGENTS OF THE UNIVERSITY OF CALIFORNIA
LOS ALAMOS, NEW MEXICO**

**COMPLIANCE ORDER
NMHWA**

RESPONDENTS.

**AMENDMENT NO. 1
TO THE
FEDERAL FACILITY COMPLIANCE ORDER
(LOS ALAMOS NATIONAL LABORATORY)**

On October 4, 1995, the New Mexico Environment Department (NMED) issued a Federal Facility Compliance Order (Order) to require compliance by the United States Department of Energy (DOE) and the Regents of the University of California (LANL) with a Site Treatment Plan for the treatment of mixed waste at the Los Alamos National Laboratory pursuant to the New Mexico Hazardous Waste Act (HWA) NMSA 1978, §§74-4-1 *et. seq.* (Repl. Pamp. 1993) and Section 3021(b) of the Resource Conservation and Recovery Act (RCRA) 42 U.S.C. §6939(c), as amended by the Federal Facility Compliance Act of 1992, Pub. L. 102-386, 106 Stat. 1505 (1992)(FFC Act). The parties have agreed that the Order should be amended to eliminate potential duplication, provide further clarity and flexibility in implementing the Order. Pursuant to Section XII of the Order, the October 4, 1995 Order is hereby amended as follows:

1. Section V (Covered Matters)

B. Other Matters Covered in this Order. Respondents anticipate that as they characterize, sort and survey mixed waste in storage at LANL at the time this Order is executed, they will determine that certain waste previously identified as mixed waste is actually hazardous waste without a radioactive component or radioactive waste without a hazardous component. ~~In either case, Respondents shall provide NMED all information required for deleted waste under Section IX, E (Deletion of Wastes). In those cases where the waste is determined to be a hazardous waste without a radioactive component which is subject to LDR treatment standards, NMED will consider such waste as a covered waste for a period of ninety (90) days upon approval by NMED of Respondents' written determination that the waste is a hazardous waste which is not a mixed waste. NMED will consider such waste as a covered waste only if they receive Respondents' written determination within fourteen (14) days after Respondents first identify hazardous waste without a radioactive component. Upon approval by NMED, in either case, the waste shall be deleted from the treatability group in the Compliance Plan Volume of the STP and shall no longer be subject to the terms of this Order.~~

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Janice
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2. Section X.B. (Revisions).

B. A revision is:

- 4. An increase in volume ~~in excess of 10% or greater than one cubic meter~~ in a treatability group in the STP, ~~whichever is greater;~~

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- 5. ~~Any addition of waste which Respondents request to be covered as a new waste under Section VIII A. (Addition of New Covered Waste).~~
- 6. Any other amendment to the Compliance Plan Volume of the STP which NMED determines is of such significance as to warrant public comment.

All other provisions of Section X.B. of the Order shall remain unchanged and in effect.

3. Section IX (Deletion of Waste)

- A. ~~All waste which Respondents request to be deleted from the Compliance Plan Volume of the STP under this Order shall be proposed for NMED's approval to be deleted as follows:~~
 - 1. ~~NMED determines that the wastes have been treated in accordance with the Compliance Plan Volume of the STP or are not subject to LDR under the HWA or 20 NMAG 4.11. or~~
 - 2. changes to applicable statutes or state regulations cause a mixed waste or waste category to be no longer subject to the LDR requirements of the HWA.
- B. ~~Respondents' request for deletion shall include the following information: a detailed description of the waste to be deleted including the applicable waste code, waste form and volumes, the treatability group and corresponding section of the Compliance Plan Volume and~~

~~any other relevant changes, and, as applicable to wastes covered under
Section VII.B above, characterization methodology used, along with
supporting information and any other relevant information regarding the
deleted waste.~~

Janice
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All other provisions of Section IX shall remain unchanged and in effect.

B. Other Matters Covered in this Order. Respondents anticipate that as they characterize, sort and survey mixed waste currently in storage at LANL ~~at the time this Order is executed~~, they will determine that certain waste previously identified as mixed waste is actually hazardous waste without a radioactive component or radioactive waste without a hazardous component. In ~~either case, Respondents may request NMED approval to delete such waste from the Compliance Plan Volume of the STP under Section IX.B (Deletion of Waste) by providing NMED all information required for deleted waste under Section IX.B~~ those cases where the waste is determined to be a radioactive waste without a hazardous component, Respondents shall provide to NMED all information required for deleted waste under Section IX.C (Deletion of Waste). Upon approval by NMED, ~~in either case, the waste shall be deleted from the treatability group in the Compliance Plan Volume of the STP and shall no longer be subject to the terms of this Order.~~ In those cases where the waste is determined to be a hazardous waste without a radioactive component which is subject to LDR treatment standards, NMED will consider such waste as a covered waste for a period of ninety (90) days upon approval by NMED of Respondents' written determination that the waste is a hazardous waste which is not a mixed waste. NMED will consider such waste as a covered waste only if they receive Respondents' written determination within fourteen (14) days after Respondents first identify hazardous waste without a radioactive component. Respondents' written determination shall include ~~all the information required for deleted waste under Section IX.C (Deletion of Waste).~~ ~~Upon approval by NMED, such waste shall be deleted from the Compliance Plan Volume of the STP and shall no longer be subject to the terms of this Order.~~

3. Section IX (Deletion of Waste)

A. ~~With the exception of hazardous waste or radioactive waste addressed under this Order pursuant to Section V.B. (Covered Matters), all waste which Respondents request to be deleted from the Compliance Plan Volume of the STP as a covered waste under this Order shall be proposed for NMED's approval to be deleted as follows as a revision pursuant to the procedures in Section X (Revisions).~~

B. ~~Mixed waste may be deleted as a covered waste under this Order when:~~

1. ~~documentation is provided to NMED that the waste has been received at an off-site facility for treatment, disposal, or storage pending treatment or disposal;~~

2. ~~NMED determines that the wastes have been treated in accordance with the Compliance Plan Volume of the STP or are not subject to LDR under the HWA or 20 NMAC 4.11 or~~

3. ~~changes to applicable statutes or state regulations cause a mixed waste or waste category to be no longer subject to the LDR requirements of the HWA.~~

B. ~~Respondents' request for deletion shall include the following information: a detailed description of the waste to be deleted including the applicable waste code, waste form and volumes, the treatability group and corresponding section of the Compliance Plan Volume and any other relevant changes, and as applicable to wastes~~

OK w/ me any reasons to keep it?

covered under Section VII B above, characterization methodology used
along with supporting information and any other relevant information
regarding the deleted waste.