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April 2, 1997

Sheila Brown, Esq.
Los Alamos National Labs
P.O. Box 1663
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Los Alamos, New Mexico 87544



RE: DRAFT AMENDMENT NO. 1 TO THE FEDERAL FACILITY COMPLIANCE ORDER
IN THE MATTER OF U.S. DEPARTMENT OF ENERGY
AND LOS ALAMOS NATIONAL LABORATORIES

Dear Sheila:

Pursuant to your request, I have enclosed the original of Amendment No. 1 to the Federal Facility Compliance Order (FFCO) issued by the New Mexico Environment Department to Respondents in the above entitled matter. Amendment No. 1 reflects and incorporates the changes we discussed on March 31, 1997.

If Amendment No. 1 meets your approval, please have the appropriate representative sign and return to me for execution pursuant to Section XII of the FFCO. After the Secretary approves the amendments, we will forward you a copy of the fully executed and docketed Amendment for your files.

If you have any questions, do not hesitate to call.

Sincerely,

Susan McMichael
Assistant General Counsel

Enclosures

cc: Benito Garcia, HRMB



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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 IV (Definitions)

N. "Order" means this document and all Attachments to this document referred to herein, including the STP in two volumes, as amended and revised.

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

2. Section V (Covered Matters)

B. Other Matters Covered in this Order. Respondents anticipate that as they characterize, sort and survey mixed waste currently in storage at LANL, they will determine that certain waste previously identified as mixed waste in the Compliance Plan Volume of the STP is not mixed waste, but is either hazardous waste without a radioactive component or radioactive waste without a hazardous component. In either case, Respondents may request NMED approval to delete the waste from the Compliance Plan Volume of the STP under Section IX.A (Deletion of Waste) by providing NMED all information required for deleted waste under Section IX.B. 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.

All other provisions of Section V 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. 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, or no longer, subject to LDR under the HWA or 20 NMAC 4.1.;
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; or
4. NMED approves the deletion of wastes under Section V.B. (Other Matters Covered in this Order).

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, if applicable, characterization methodology used along with supporting

information regarding the deleted waste, including schedules for the treatment of hazardous waste, subject to LDR standards, which was previously identified as mixed waste covered by this Order; and any other relevant information regarding the deleted waste.

- C. Upon approval by NMED, any waste deleted from a treatability group in the Compliance Plan Volume of the STP shall no longer be subject to the terms of this Order.

4. 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 Order, whichever is greater;
- 5. Any addition of waste which Respondents request to be new covered waste under Section VIII.A. (Addition of New Covered Waste); or
- 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 of the Order shall remain unchanged and in effect.

NEW MEXICO ENVIRONMENT DEPARTMENT

BY

ED KELLEY, Division Director
Water and Waste Management Division

UNITED STATES DEPARTMENT OF ENERGY

BY

G. THOMAS TODD, Area Manager
Los Alamos Area Office

REGENTS OF THE UNIVERSITY OF CALIFORNIA

BY

TOM BACA, Division Director
Environmental Management

APPROVED BY

MARK E. WEIDLER, SECRETARY