



General

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Deputy Secretary

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED
P 965 484 513**

March 21, 1989

Mr. Harold E. Valencia
DOE Area Manager
Los Alamos Area Office
Los Alamos, N.M. 87544

RE: NM 0890010515

Dear Mr. Valencia:

Thank you for your letter of February 14, 1989, informing the State that the Batch Treatment System (BTS) is now operational. We support your efforts to effectively treat hazardous wastes to render them non-hazardous but we do not agree that you can release all effluents from the unit to the Industrial Wastewater Treatment System (IWTS) under the conditions stated in your letter.

Please note that the following references are to the 5th edition of the state hazardous waste regulations which became effective on October 30, 1988. The definition of hazardous waste at HWMR-5, Part II, Section 261.3, includes a section commonly called the mixture rules at HWMR-5, Part II, Section 261.3(a)(2)(iv), a portion of which you quoted in your letter. Within the quoted citation is a phrase "... (except by application of paragraph (a)(2)(i) or (ii) of this section)..." which operates to retain section (a)(2)(i) and (ii) criteria. Section 261.3(a)(2)(ii) specifies that listed wastes may be excluded in accordance with certain petition processes. This then leads to the conclusion that listed wastes remain regulated until excluded by petition and the resultant mixture is also listed. This conclusion is further supported by HWMR-5, Part II, Sections 261.3(c) and 261.3(d) which clearly state that mixtures are regulated until excluded by the petition process.

The regulation citation made in your letter is applicable to mixtures of certain hazardous wastes with the facility wastewater. This does not apply to the residues of treatment of hazardous wastes which are specifically addressed in HWMR-5, Part II, Section 261.3(c)(2)(i).

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Your cite applies to minor quantities of actual chemical species commingled with the facility wastewater system. The exclusions are based on facility usage of these species compared to the wastewater quantity, not on the mixture concentration after treatment compared to the wastewater quantity as stated in your letter. In order for LANL to apply the cited exclusion, the demonstration required at HWMR-5, Part II, Section 261.3(a)(1)(iv) is necessary, using the full volume of treatment residues. The volume of the residual listed waste, as proposed in your letter, is not an appropriate measure to use in documenting this exclusion.

In summation, the BTS after treatment of characteristic wastes as defined in HWMR-5, Part II, Subpart C, may discharge the resultant residues to the IWTS if they no longer meet the listing criteria for characteristic wastes. The residues from treatment of listed wastes as defined in HWMR-5, Part II, Subpart D, remain listed wastes and may not be summarily discharged to the IWTS. These residues must be disposed of as hazardous wastes.

I trust this clarifies the regulatory status of the waste treatment by the BTS. If you have any questions please call me at 827-2923.

Sincerely,



C. Kelley Crossman
Supervisor
Hazardous Waste Section

CKC/vga

cc: Richard Mitzelfelt, Director
Kathy Sisneros, Chief, Surface Water Bureau
Janie Hernandez, U.S. EPA Region VI (6H-HS)
Gini Nelson, Office of General Counsel
Boyd Hamilton, Program Manager, Hazardous Waste Section
Jack Ellvinger, Chief, Hazardous Waste Bureau