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HSWA LANL 5/16/97

April 28, 1997

Ms. Kim Hill
Hazardous and Radioactive Materials Bureau
New Mexico Environment Department
2044 Galisteo, Bldg. A
Santa Fe, New Mexico 87502

Dear Ms. Hill:

SUBJECT: PROPOSED RELEASE NOTIFICATION FORM

As we discussed at the February Monthly Technical Meeting, several LANL employees involved in the reporting of spills and releases had comments regarding the NMED's proposed "Release Notification Form". NMED has requested that the Laboratory use this form to report releases covered under various regulatory requirements including Section 1-203 of the NM Water Quality Control Commission Regulations, and Modules II and VIII of the Laboratory's HSWA permit. I have assembled the majority of these comments in the attached list. We request your review and consideration of these comments and would like to discuss them with interested NMED personnel in further detail at the next Monthly Technical Meeting scheduled for early May.

If you have any questions regarding this matter, please feel free to contact me at 667-4882 or Pat Shanley at 667-0663. Thank you for your time and attention in this matter.

Sincerely,

Alex A. Puglisi

Alex A. Puglisi
Hazardous & Solid Waste Group

AAP:em

TC

Cy: G. Saums, NMED, Surface Water Quality Bureau
B. Hoditschek, NMED, Surface Water Quality Bureau
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B.Koch, DOE/LAAO, MS A316
J. Plum, DOE/ LAAO, MS A316
ESH-19 Circ. File, MS K490
CIC-10, MS A150

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Release Notification Issues

Content of Notification

1. In the past, EPA did not request or require notification at locations which were known to be contaminated as identified in the SWMU Reports or RFI Work Plans or Reports. Although the rationale was never provided in writing, it seemed that EPA considered a release as something that occurs today, not a historical release.

2. This interpretation of Module VIII is exceedingly broad and would even require routine notification for any discovery of a contaminant at an ER Site regardless of the concentration when contamination is found. This seems to be an unreasonable and non-productive requirement. Some bounds on what is "reportable" are needed or the ER Program will have to devote a large portion of its time and effort to contacting NMED and writing 15-day notifications. LANL does not believe 24 hour reporting should be done as ER investigates the nature and extent of contamination.

3. Reporting requirements in 1990 Proposed Subpart S and 1996 Advanced Notice of Proposed Rulemaking do not require this type of stringent reporting requirement for existing releases. Although these proposed rules are not final, they seem to portray the direction of the Environmental Protection Agency's policies with regard to this subject.

4. Since ER is constantly getting data in from all sites, this release notification format could put the Laboratory in a constant mode of notification. For example, LANL notifies NMED of the results for samples taken for Volatile Organic Compounds at a particular site after these results have been validated by our laboratory. After the entire notification is complete, we receive the validated results for metals. Do we repeat the notification process? This same scenario could be repeated every time validated data is received for each particular contaminant of concern.

5. The Model HSWA module and the Sandia HSWA Module do not require reporting of anything found at existing SWMUs unless they were previously identified as requiring no further action.

6. Module VIII requires notification only for releases at statistically significant increases over background while Module II requires a notice of release for a hazardous waste, fire or explosion that threatens human health or the environment. There is a disconnect between the seriousness of the threat for reporting criteria in the two modules.

7. The qualifiers in each portion of the permit are different. While a Module VIII release may threaten human health and the environment, it may seldom be a serious threat and therefore should not be inextricably linked to the same type of notification found in the proposed release form.

8. When first started, discussions on an appropriate "release reporting form" emphasized methods of universal notification through an appropriate point of contact at the NMED. This emphasis seems to have shifted to providing universal notification to all NMED bureaus, not a single point of contact. This increases the reporting burden on LANL.

9. More stringent interpretations of release notification requirements by NMED will result in more paperwork for LANL to generate and maintain, and for NMED to review and maintain. This appears to be counter to the concept of an accelerated corrective action process.

Form (Applicable Sections Underlined)

1. Responsible Facility/User Group: This would not apply to ER as they are not a "Responsible Facility" or "User Group". ER would be better identified as a Responsible Party.

2. Release/Discharge: What is the difference between these two terms? Both seem to imply something occurring today.

3. Release/Discharge Occurred/Stopped: - Will an explanation form be provided that indicates that these blanks do not need to be completed if this is for a historic site?

4. Release/Discharge Discovered: - What about situations where either the SWMU Report or RFI Work Plan indicate a release has occurred in the past? Isn't this double reporting? The information has been in the public domain, sometimes since 1988, and now LANL is required to perform a 24-hour notification and 15 written notification? This seems to be an unnecessary and duplicative requirement.

5. Material(s) Released/Discharged: The explanation for this form should provide the user with the opportunity to indicate that, in some case (i.e., ER sites), this information may either be unknown at this time, or may be an informed opinion based solely on the constituent(s) detected. The concern is that some individuals may feel that they are compelled to complete all blanks on the form in some manner regardless of the extent or reliability of the information available. For example, a person may indicate that a release consisted of F-listed solvents because acetone was detected when, in fact, there may be insufficient information to determine whether or not a listed RCRA waste was released.

6. Release/Discharge Mitigation Method: If the release has just occurred, it is reasonable to require a facility to undertake immediate mitigation. However, many Potential Release Sites (PRS) have been out in the environment for decades. The imposition of time frames on the mitigation of releases from such units is not reasonable when that objective is already being systematically addressed under the RCRA corrective action process.

7. Weather conditions: This seems highly irrelevant to ER sites as they have been present during a wide variety of weather conditions over a period of several years.

8. Nearest Watercourse/Canyon: By what regulation or authority is this information requested by NMED? Note that this information is in the RFI Work Plans which are readily available to NMED.

9. PRS relationship to Release/Discharge: Many times the "release" will be the PRS under investigation. Twenty four hour verbal notifications for such sites seems burdensome and unnecessary since any characterization of the site will be included in the RFI Report.

10. ESH-18/DOE /EPA under POC: EPA is not required by Module VIII to be notified of releases. The permit specifies the Administrative Authority, which is NMED. The designated ESH-18 and DOE Point of Contacts may be decided internally on a case-by-case basis and is not something which should be permanently designated on the form.

11. Depth to first water, type of well, etc.: Under which regulation or authority is this information required? Note that this type of information is already included in the RFI Work Plans and is readily available to NMED for "releases" associated with a PRS.

12. Administrative Authority: The Administrative Authority is not Dennis Erickson on release notifications involving a PRS. Tom Baca is the responsible Laboratory person and he has delegated this authority to Jorg Jansen. Similarly, Tom Todd has delegated his DOE authority to Ted Taylor.

13. 24-hour Release Notifications - HRMB: Module VIII requires that Administrative Authority be contacted. Is John Kieling the Administrative Authority for HRMB?

14. 24-hour Release Notifications - EPA: Is there a reason for notifying the Environmental Protection Agency of all spills/releases in consideration that the State of New Mexico now has primacy for corrective action (RCRA). Most releases are reported pursuant to Section 1203 of the NM Water Quality Control Commission Regulations and not as a requirement of LANL's NPDES Permit. Even the EPA Region 6 Water Enforcement Section has indicated in the past that they are only interested in those releases which involve an NPDES permitted facility.

15. 24-hour Release Notifications - General: Why is NMED's Surface Water Quality Bureau and Hazardous and Radioactive Materials Bureau requiring this documentation demonstrating that other bureaus/agencies have been notified? Where is this requirement mandated for releases reported pursuant to the RCRA permit or Section 1203? In fact, Section 1203 only requires that the Chief of the Ground Water

Bureau be contacted for spills and releases with a potential to impact surface or ground water.