

Gene
Los Alamos
NATIONAL LABORATORY

memorandum

Office of the Laboratory Counsel

To/MS: Distribution *EW*

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Phone/FAX: 7-3970/5-2301

Symbol: LC:97-057

Date: July 18, 1997

Subject: Inspections for Environmental Compliance

During the course of the annual hazardous waste (RCRA) inspection, a number of inquiries have been directed to Laboratory Counsel and/or ESH Division regarding the rights and obligations of employees in their interactions with the inspectors. This memorandum is in response to those inquiries and is also intended to provide some general guidelines for such interactions.

It is Laboratory policy to fully cooperate with inspectors so that the inspectors can function efficiently and do their duty in accordance with the law. At the same time, inspectors are bound by the same safety, security and classification rules that govern Laboratory employees. Nothing in this memorandum should be construed to authorize you to waive any safety, security or classification rules.

If the inspectors request copies of documents that are in your custody, assist them in locating and copying the documents they are seeking. These documents should be transmitted to the inspectors through the appropriate ESH group, depending upon the media (17 for air, 18 for water, 19 for waste), so that the Laboratory can track document requests and inventory what has been agreed to be provided and what has been provided. You are not required to turn over the only copy of a given document, or to allow the inspector to remove files from Laboratory premises for the purpose of inspection and copying and return. You should also ensure that no documents are removed from your custody without your knowledge.

With regard to interviews by inspectors, it is Laboratory, University and DOE policy that Laboratory employees cooperate fully with such inspectors. Nonetheless, an employee, based on his or her individual decision, has the right to have someone present during an interview and the right to refuse to submit to or to terminate an interview. Because environmental regulatory compliance issues can be confusing and complex, an employee may request that an environmental attorney or a representative from the appropriate ESH group be present during an interview.

In view of the fact that the employees are obligated to cooperate to the fullest extent possible, a refusal to be interviewed or a decision to terminate an interview should be exercised with due consideration. Employees should be aware that many regulatory bodies have the power to serve with a subpoena to compel testimony.

It may happen in the course of an interview or at the end of the interview that the inspector requests a written statement from you, or your signature on a set of notes or statements drafted on the basis of the interview. Employees have no obligation to either sign or not sign any such statements. Employees also have the right to ask for a reasonable period of time - usually no more than 24 or 48 hours - within which to review and amend the document to ensure its accuracy. Employees have



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the right within the agreed upon review period to have the document reviewed by a representative of the appropriate ESH group and/or environmental attorney. This latter review is highly recommended but is not required, and if the employee intends to use this right, he or she should so state to the inspector. A copy of any such signed statement should be obtained from the inspector and furnished as soon as possible to the appropriate ESH group for record keeping purposes.

Of course, you have the right to consult with your management, Laboratory Counsel, or counsel of your choosing in any of the situations described in this memorandum. In the event that you have any questions about any of the matters contained in this memorandum, please direct your inquiry to the environmental attorneys at the Office of General Law at 7-3766.

ECW:JBR:mah

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