

12/28/99

NEW MEXICO ENVIRONMENT DEPARTMENT
STATE OF NEW MEXICO

In the Matter of UNITED STATES
DEPARTMENT OF ENERGY and
REGENTS OF THE UNIVERSITY
OF CALIFORNIA. Los Alamos,
New Mexico, EPA Identity No.
NM0890010515,

COMPLIANCE ORDER
HRM 99-01 (CO)
(1998 Inspection)

Respondents.

ADMINISTRATIVE COMPLIANCE ORDER

The Secretary of the New Mexico Environment Department ("NMED"), acting through the Director of the Water and Waste Management Division of NMED, issues this Administrative Compliance Order ("Order") to the United States Department of Energy ("DOE") and the Regents of the University of California ("UC") (collectively referred to as "Respondents") pursuant to the New Mexico Hazardous Waste Act ("HWA"), NMSA 1978 § 74-4-10 (Repl. Pamp. 1993).

FINDINGS OF FACT

1. NMED is the executive agency within the government of the State of New Mexico charged with administration and enforcement of the HWA, NMSA 1978, §§ 74-4-1 to 74-4-14 and the New Mexico Hazardous Waste Management Regulations ("HWMR"), 20 NMAC 4.1.
2. Respondents are DOE and UC, who notified the Environmental Protection Agency ("EPA") of their hazardous waste generation activities on November 19, 1980.
3. DOE is an agency of the federal government and is the owner and co-operator of Los Alamos National Laboratory ("LANL").
4. UC is a public educational institution of the State of California. UC is the



16765

management and operating contractor for LANL pursuant to a contract with DOE and is a co-operator of LANL.

5. LANL is principally located in Los Alamos County, New Mexico, approximately 60 miles northeast of Albuquerque and 25 miles northwest of Santa Fe. The LANL site encompasses approximately 43 square miles.

6. LANL was the site chosen for development of the atomic bomb during World War II. The facility was established as a military reservation and operations began in 1943. Since 1943, the primary mission of LANL has been nuclear weapons research and development. In addition, the facility conducts work in magnetic and internal fusion, nuclear fission, nuclear safeguards and security, laser isotope separation, and medical isotope development.

7. In association with the activities identified above, LANL generates, treats, and stores hazardous waste and mixed hazardous and radioactive wastes. LANL has applied for and has received a HWA permit from NMED for the storage and management of hazardous wastes and of mixed hazardous and radioactive wastes.

8. From 1992 through 1996, NMED issued numerous compliance orders against Respondents pursuant to the HWA and the HWMR. In 1992, 1993 and 1994, NMED inspected LANL, discovered violations of HWMR-7 (the predecessor to 20 NMAC 4.1), and issued compliance orders against Respondents (*i.e.*, compliance orders 93-01, 93-02, 93-03, 93-04, 94-09, 94-12), which sought compliance and assessed civil penalties. In 1995, NMED inspected LANL, discovered violations of HRMW, 20 NMAC 4.1, and issued compliance orders against Respondents (*i.e.*, compliance orders 95-03, 95-08), which sought compliance and assessed civil penalties. In 1996, NMED inspected LANL, discovered violations of the HWMR, 20 NMAC 4.1, and issued a letter of violation. In 1997, NMED inspected LANL, discovered violations of

HRMW, 20 NMAC 4.1, and issued a compliance order against Respondents (*i.e.*, compliance order 99-03), which seeks compliance and assesses civil penalties.

9. The violations cited in the enforcement actions set forth above included, but were not limited to the following: failure to perform hazardous waste determinations (94-09, 95-03), failure to keep a hazardous waste container closed (93-04, 94-09, 95-03, 95-08), failure to label hazardous waste containers (93-04, 94-09, 95-03, 95-08), failure to provide decontamination equipment at a less than ninety day storage area (93-04, 94-09, 95-03, 95-08), exceeding storage time limits for hazardous waste (93-04, 94-09), failure to comply with manifest requirements (93-04, 94-09), land disposal restriction ("LDR") violations (based a 1993 EPA multi-media inspection of LANL), failure to comply with training requirements (93-04, 94-09, 95-03), accumulation of waste not under the control of the generator (94-09, 95-03), and failure to label accumulation start date (95-03, 95-08).

10. As a result of the compliance orders described above, Respondents entered into administrative orders on consent based on the 1992, 1993, 1994 and 1995 inspections, and agreed to a schedule of compliance and payment of civil penalties.

11. Between August 10, 1998 and September 18, 1998, NMED performed the annual compliance evaluation inspection ("FY 98 Inspection") of LANL to determine LANL's compliance with the HWA and HWMR, 20 NMAC 4.1. Based on the FY 98 Inspection, NMED discovered the following violations at TA-3, TA-15, TA-16, TA-22, TA-35, TA-46, TA-53, TA-54, TA-55, TA-59, and TA-60.

TA-3

12. TA-3 generates hazardous waste.

13. Five containers of hazardous waste were not labeled with the date upon which the

accumulation of the waste began at the less than 90 day storage area at TA-3, Building 29, Room 4167.

14. Respondents failed to maintain any operating records at TA-3, Building 29, Room 9030.

TA-15

15. TA-15 generates hazardous waste.

16. Emergency fire control equipment was not readily available at the less than 90 day storage area at TA-15, Building 183, Room 136.

TA-16

17. TA-16 generates hazardous waste.

18. According to LANL training records, three employees at TA-16 failed to take part in an annual review of the initial training on how to comply with 40 C.F.R. § 264, Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities. The three employees were given their annual review training thirty-one days late.

19. According to LANL records, Respondents failed to maintain adequate operating records at TA-16, Burn Grounds. For example, records from TA-16 did not set forth the EPA Hazardous Waste Codes.

20. There was no decontamination equipment, *i.e.*, eye wash, readily available at the less than 90 day storage area at TA-16, Building 340.

21. A 30 gallon container of hazardous waste (oil containing barium, cadmium and chromium) was not labeled with the words "Hazardous Waste" at the less than 90 day storage area at TA-16, Bldg. 7.

22. LANL records show that 2 containers of hazardous waste were accumulated in

excess of 90 days without a permit at the less than 90 day storage area at TA-16, Bldg. 7.

TA-22

23. TA-22 generates hazardous waste.
24. A container containing hazardous waste at a less than 90 day storage area at TA-22, Building 96, Room 3 was not labeled with the words "Hazardous Waste."
25. There was no communication device capable of summoning emergency assistance available at the less than 90 day storage area at TA-22, Building 96.

TA-35

26. TA-35 has a hazardous waste satellite storage area.
27. Respondents failed to make a hazardous waste determination on 5 containers of hazardous waste stored in a refrigerator at a satellite accumulation area at TA-35, Building 421, Site ID 1877.
28. The same 5 containers of hazardous waste were not labeled with the words "Hazardous Waste" or other words which identify the contents at the satellite accumulation point at TA-35, Building 421, Site ID 1877.
29. Respondents failed to make a hazardous waste determination on 5 sheets of glass with crystals of unknown contents at the satellite accumulation point at TA-35, Building 421, Site 141.
30. Respondents failed to make a hazardous waste determination upon a 1 pint container of unknown contents at the satellite accumulation area at TA-35, Building 2, Room C-18.

TA-46

31. TA-46 has a hazardous waste satellite store area.

32. At least 1 container of hazardous waste was accumulated in excess of 90 days without a permit at the less than 90 day storage area at TA-46, Building 184. At the time of the FY 98 Inspection, the container had been stored 6 days in excess of the 90 day limit.

TA-53

33. TA-53 generates hazardous waste.

34. Based on LANL records and interviews with LANL personnel, Respondents did not perform 2 weekly inspections to look for leaks and for deterioration caused by corrosion or other factors at the less than 90 day storage area at TA-53, Building 1180 where containers of hazardous waste are accumulated. Inspections were not performed for the weeks of November 10, 1997 through November 16, 1997 and December 15, 1997 through December 21, 1997.

35. Respondents failed to perform an adequate hazardous waste determination on 4 containers at the less than 90 day storage area at TA-53, Building 2.

36. The same 4 containers were accumulated in excess of 90 days without a permit at the less than 90 day storage area at TA-53, Building 2. At the time of the FY 98 Inspection, the containers had been stored approximately 2 months beyond the 90 day limit.

37. Respondents accumulated 3 containers of hazardous waste in excess of 90 days without a permit at TA-53, Building 1180, Site ID 1236. One container was stored 4 days in excess of the 90 day limit and 2 containers were stored 10 days in excess of the 90 day limit.

TA-54

38. TA-54 is a permitted hazardous waste storage area.

39. The LDR notice for Uniform Hazardous Waste Manifest number 98168 did not list the EPA Hazardous Waste Code D040 at TA-54.

40. Respondents failed to sign and date the Lab Pack certification for Uniform

Hazardous Waste Manifest number 98085 at TA-54.

41. Respondents failed to keep hazardous waste under the control of the operator at TA-54. Specifically, an operator moved from the building on May 1, 1998 and left one 5 gallon container of pyridine, which was not under the control of a operator.

TA-55

42. TA-55 generates hazardous waste.

43. According to LANL training records, one employee at TA-55, Chester Smith, failed to take part in an annual review of the initial training on how to comply with 40 C.F.R. § 264, Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities. Mr. Smith was given the annual review training approximately 4 months late; it should have been given by June 20, 1997, but instead was not given until October 16, 1997.

44. Respondents failed to perform a hazardous waste determination on a 5 gallon container of used oil of unknown hazardous constituents at TA-55, Building PF-4, Room B-40.

45. According to LANL records, Respondents failed to keep adequate operating records at TA-55, Building PF-4, Area 1, Room B-40.

46. According to LANL records, Respondents failed to keep adequate operating records at TA-55, Building PF-4, Basement Site ID 479. For example, operating records at this site did not include the EPA Hazardous Waste Code and quantities of the waste.

TA-59

47. TA-59 generates hazardous waste.

48. There was no communication device capable of summoning emergency assistance available at the less than 90 day storage area at TA-59, Building 1804.

49. Respondents did not perform weekly inspections to look for leaks and for

deterioration caused by corrosion or other factors at a less than 90 day storage area at TA-59, Building 1, Room 120 where containers of hazardous waste are accumulated. Inspections were not performed during the weeks of October 27-31, 1997; November 24-28, 1997; March 2-6, 1998; and March 23-27, 1998.

TA-60

50. TA-60 generates hazardous waste.

51. A container in a flammable storage cabinet containing hazardous waste at a less than 90 day storage area in TA-60, Bldg. 85 was not labeled with the words "Hazardous Waste."

52. There was no decontamination equipment, *i.e.*, eye wash, at the less than 90 day storage area located at TA-60, Building 85.

CONCLUSIONS OF LAW

53. Paragraphs 1 through 52 are incorporated herein by reference.

54. Respondents are each a "person" as defined in Section 74-4-3(K) of HWA and 20 NMAC 4.1.100, which incorporates with a few exceptions 40 CFR § 260.10.

55. Respondents manage "hazardous waste" as defined in Section 74-4-3(I) of HWA and 20 NMAC 4.1.101, which incorporates with a few exceptions 40 CFR § 260.10.

56. Respondent DOE is an "owner" and "co-operator" of an "existing hazardous waste management facility" as defined in 20 NMAC 4.1.101, which incorporates with a few exceptions 40 CFR § 260.10.

57. Respondent UC is an "operator" of an "existing hazardous waste management facility" as defined in 20 NMAC 4.1.101, which incorporates with a few exceptions 40 CFR § 260.10.

58. Respondents engage in the "disposal," "storage," and "treatment" of hazardous

waste as defined in Section 74-4-3(C), (N) and (Q) of the HWA and 20 NMAC 4.1.100, which incorporates with a few exceptions 40 CFR § 260.10.

Violations 1 to 4:
Hazardous Waste Accumulated in Excess of 90 Day Storage Limit

59. Respondents accumulated hazardous waste contained in 2 containers without a permit in excess of 90 days at the less than 90 day storage area at TA-16, Building 7 in violation of 20 NMAC 4.1.300 (incorporating 40 CFR § 262.34(b)).

60. Respondents accumulated hazardous waste without a permit in excess of 90 days at the less than 90 day storage area at TA-46, Building 184 in violation of 20 NMAC 4.1.300 (incorporating 40 CFR § 262.34(b)).

61. Respondents accumulated hazardous waste without a permit in excess of 90 days at the less than 90 day storage area at TA-53, Building 2 in violation of 20 NMAC 4.1.300 (incorporating 40 CFR § 262.34(b)).

62. Respondents accumulated 3 containers hazardous waste without a permit in excess of 90 days at the less than 90 day storage area at TA-53, Building 1180 in violation of 20 NMAC 4.1.300 (incorporating 40 CFR § 262.34(b)).

Violations 5 to 8:
Failure to Perform Hazardous Waste Determination

63. Respondents failed to perform a hazardous waste determination on 5 containers of hazardous waste at TA-35, Building 421, Site ID 1877 in violation of 20 NMAC 4.1.300 (incorporating 40 CFR § 262.11).

64. Respondents failed to perform a hazardous waste determination on 5 sheets of glass with crystals at the satellite accumulation point at TA-35, Building 421, Site 141 in violation of 20 NMAC 4.1.300 (incorporating 40 CFR § 262.11).

65. Respondents failed to perform a hazardous waste determination on a 1 pint container of unknown contents at TA-35, Building 2, Room C-18 in violation of 20 NMAC 4.1.300 (incorporating 40 CFR § 262.11).

66. Respondents failed to perform a hazardous waste determination on the contents of a 5 gallon container of contaminated used oil at TA-55, Building PF-4, Room B-40 in violation of 20 NMAC 4.1.300 (incorporating 40 CFR § 262.11).

Violation 9:
Failure to Perform Adequate Hazardous Waste Determination

67. Respondents failed to perform an adequate hazardous waste determination on the contents of 4 containers at the less than 90 day storage area at TA-53, Building 2 in violation of 20 NMAC 4.1.300 (incorporating 40 CFR § 262.11).

Violations 10 to 11:
Failure to Perform Weekly Inspections

68. Respondents failed to perform 2 weekly inspections to look for leaks and for deterioration caused by erosion or other factors at the less than 90 day storage area at TA-53, Building 1180 where containers of hazardous waste are accumulated in violation of 20 NMAC 4.1.300 (incorporating 40 CFR § 262.34(a)(1)(i), which in turn incorporates 40 CFR § 265.174).

69. Respondents failed to perform the weekly inspections to look for leaks and for a deterioration caused by corrosion or other factors at the less than 90 day storage area at TA-59, Building 1, Room 120 where containers of hazardous waste are accumulated in violation of 20 NMAC 4.1.300 (incorporating 40 CFR § 262.34(a)(1)(i), which in turn incorporates 40 CFR § 265.174).

Violation 12:
Failure to Mark Accumulation Date

70. Five containers of hazardous waste were not labeled with the date upon which the

accumulation of the waste began at the less than 90 day storage area at TA-3, Building 29. Room 4167 in violation of 20 NMAC 4.1.300 (incorporating 40 CFR § 262.34(a)(2)).

Violations 13 to 16:
Improper Labeling

71. Respondents failed to label a container of hazardous waste with the words "Hazardous Waste" at the less than 90 day storage area at TA-16, Building 7 in violation of 20 NMAC 4.1.300 (incorporating 40 CFR § 262.34(a)(3)).

72. Respondents failed to label a container of hazardous waste with the words "Hazardous Waste" at the less than 90 day storage area at TA-22, Building 96, Room 3 in violation of 20 NMAC 4.1.300 (incorporating 40 CFR § 262.34(a)(3)).

73. Respondents failed to label 5 containers of hazardous waste with the words "Hazardous Waste" or other words which identify the contents at the satellite accumulation point at TA-35, Building 421, Site ID 1877 in violation of 20 NMAC 4.1.300 (incorporating 40 CFR § 262.34(c)(1)(ii)).

74. Respondents failed to label a container of hazardous waste with the words "Hazardous Waste" at the less than 90 day storage area at TA-60, Building 85 in violation of 20 NMAC 4.1.300 (incorporating 40 CFR § 262.34(a)(3)).

Violations 17 to 18:
Violations of LDR Notices

75. Respondents failed to list the EPA Hazardous Waste Code D040 on the LDR notice for Uniform Hazardous Waste Manifest number 98168 at TA-54 in violation of 20 NMAC 4.1.800 (incorporating 40 CFR § 268.7(a)(1)(i)).

76. Respondents failed to certify the Lab Pack certification for Uniform Hazardous Waste Manifest number 98085 at TA-54 in violation of 20 NMAC 4.1.800 (incorporating 40

CFR § 268.7(a)(8)).

Violations 19 to 20:
Failure to Provide Decontamination Equipment

77. Respondents failed to provide readily available decontamination equipment at the less than 90 day storage area at TA-16, Building 340, Room 114 in violation of 20 NMAC 4.1.300 (incorporating 40 CFR § 262.34(a)(4), which in turn incorporates 40 CFR § 265.32(c)).

78. Respondents failed to provide decontamination equipment at the less than 90 day storage area at TA-60, Building 85 in violation of 20 NMAC 4.1.300 (incorporating 40 CFR § 262.34(a)(4), which in turn incorporates 40 CFR § 265.32(c)).

Violations 21 to 22:
Failure to Provide Emergency Communication Device

79. Respondents failed to provide a communication device capable of summoning emergency assistance at the less than 90 day storage area at TA-22, Building 96, Room 3 in violation of 20 NMAC 4.1.300 (incorporating 40 CFR § 262.34(a)(4), which in turn incorporates 40 CFR § 265.32(b)).

80. Respondents failed to provide a communication device capable of summoning emergency assistance at the less than 90 day storage area at TA-59, Building 1804 in violation of 20 NMAC 4.1.300 (incorporating 40 CFR § 262.34(a)(4), which in turn incorporates 40 CFR § 265.32(b)).

Violation 23:
Failure to Provide Emergency Fire Equipment

81. Respondents failed to provide readily available emergency fire control equipment at the less than 90 day storage area at TA-15, Building 183, Room 136 in violation of 20 NMAC 4.1.300 (incorporating 40 CFR § 262.34(a)(4), which in turn incorporates 40 CFR § 265.32(c)).

Violations 24 to 25:
Failure to Provide Timely Annual Review Training

82. Respondents failed to ensure that facility personnel took part in an annual review of the initial training on how to comply with 40 CFR § 264, Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities, at TA-16 in violation of Respondents' Hazardous Waste Storage Permit Module II.F and 20 NMAC 4.1.500 (incorporating 40 CFR § 264.16(c)) or, alternatively, in violation of 20 NMAC 4.1.600 (incorporating 40 CFR § 265.16(c)).

83. Respondents failed to ensure that facility personnel took part in an annual review of the initial training on how to comply with 40 CFR § 264, Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities, at TA-55 in violation of Respondents' Hazardous Waste Storage Permit Module II.F and 20 NMAC 4.1.500 (incorporating 40 CFR § 264.16(c)) or, alternatively, in violation of 20 NMAC 4.1.600 (incorporating 40 CFR § 265.16(c)).

Violations 26 to 29:
Failure to Maintain Adequate Records

84. Respondents failed to maintain adequate operating records at TA-3, Building 29, Room 9030 in violation of 20 NMAC 4.1.500 (incorporating 40 CFR § 264.73(b)) or, alternatively, 20 NMAC 4.1.600 (incorporating 40 CFR § 265.73(b)).

85. Respondents failed to maintain adequate operating records at TA-16, Burn Grounds in violation of 20 NMAC 4.1.500 (incorporating 40 CFR § 264.73(b)) or, alternatively, 20 NMAC 4.1.600 (incorporating 40 CFR § 265.73(b)).

86. Respondents failed to maintain adequate operating records at TA-55, PF-4, Area 1, Room B-40 in violation of 20 NMAC 4.1.500 (incorporating 40 CFR § 264.73(b)) or,

alternatively, 20 NMAC 4.1.600 (incorporating 40 CFR § 265.73(b)).

87. Respondents failed to maintain adequate operating records at TA-55, PF-4, Basement Site 479 in violation of 20 NMAC 4.1.500 (incorporating 40 CFR § 264.73(b)) or, alternatively, 20 NMAC 4.1.600 (incorporating 40 CFR § 265.73(b)).

Violation 30:
Failure to Keep Hazardous Waste Under Control of Operator

88. Respondents failed to keep hazardous waste under the control of the operator at TA-54 in violation of 20 NMAC 4.1.300 (incorporating 40 CFR § 262.34(c)).

History on Noncompliance

89. Based on the history of noncompliance with 20 NMAC 4.1 as set forth above, Respondents are high priority violators of 20 NMAC 4.1.

CIVIL PENALTY

90. Section 74-4-10 of the HWA authorizes assessment of a civil penalty of up to \$10,000 per day for each violation of the HWA or regulations promulgated thereunder. NMED hereby assesses a civil penalty of eight hundred forty-five thousand nine hundred and ninety dollars (\$845,990) against Respondents. Each penalty calculation for each violation is based on the seriousness of the violations, the lack of good faith efforts on the part of Respondents to comply with the applicable requirements, any economic benefit resulting from noncompliance accruing to Respondents, and such other matters as justice may require. The penalty amounts are calculated pursuant to the NMED's Hazardous Waste Penalty Policy. The penalty for each violation is:

<u>Violation</u>	<u>Amount</u>
¶ 59 Accumulation of hazardous waste over 90 days	\$27,600
¶ 60 Accumulation of hazardous waste over 90 days	\$ 6,300

¶ 61	Accumulation of hazardous waste over 90 days	\$54,600
¶ 62	Accumulation of hazardous waste over 90 days	\$22,200
¶ 63	Failure to perform hazardous waste determination	\$22,600
¶ 64	Failure to perform hazardous waste determination	\$ 2,400
¶ 65	Failure to perform hazardous waste determination	\$54,600
¶ 66	Failure to perform hazardous waste determination	\$ 2,400
¶ 67	Failure to perform adequate hazardous waste determination	\$54,600
¶ 68	Failure to perform weekly inspections	\$38,100
¶ 69	Failure to perform weekly inspections	\$11,700
¶ 70	Failure to mark accumulation date	\$10,125
¶ 71	Failure to label "hazardous waste"	\$27,675
¶ 72	Failure to label "hazardous waste"	\$ 3,375
¶ 73	Failure to label "hazardous waste"	\$22,600
¶ 74	Failure to label "hazardous waste"	\$27,675
¶ 75	Failure to list hazardous waste code on LDR notice	\$ 1,470
¶ 76	Failure to certify LDR certification	\$21,390
¶ 77	Failure to provide decontamination equipment	\$91,500
¶ 78	Failure to provide decontamination equipment	\$52,500
¶ 79	Failure to provide emergency communication device	\$16,500
¶ 80	Failure to provide emergency communication device	\$ 4,500
¶ 81	Failure to provide emergency fire equipment	\$27,675
¶ 82	Failure to provide timely annual review training	\$29,400
¶ 83	Failure to provide timely annual review training	\$43,800

¶ 84	Failure to maintain adequate operating records	\$43,680
¶ 85	Failure to maintain adequate operating records	\$22,140
¶ 86	Failure to maintain adequate operating records	\$43,680
¶ 87	Failure to maintain adequate operating records	\$43,680
¶ 88	Failure to keep hazardous waste under control of operator	\$15,525

Payment shall be made to the State of New Mexico Hazardous Waste Emergency Fund by certified check, bank draft, or other guaranteed negotiable instrument, and mailed to or hand-delivered to Greg Lewis, New Mexico Environment Department, 1190 St. Francis Drive, P.O. Box 26110, Santa Fe, New Mexico 87502-6110.

SCHEDULE OF COMPLIANCE

91. Based on the foregoing Findings of Fact and Conclusions of Law, Respondents are ordered to comply with the following Schedule of Compliance:

a. Within 30 calendar days from receipt of this Order, Respondents shall perform adequate hazardous waste determinations for all wastes identified in paragraphs 63-67. Respondents shall provide documentation of analyses or proper disposition within 45 calendar days from receipt of this Order.

b. Within 30 calendar days from receipt of this Order, Respondents shall label the hazardous waste containers identified in paragraphs 71, 72, and 74. Respondents shall provide documentation of this action within 45 calendar days from receipt of this Order.

c. Within 30 calendar days from receipt of this Order, Respondents shall provide the required decontamination equipment, communication devices and emergency fire control equipment at the less than 90 day areas identified in paragraphs 77-81. Respondents shall provide documentation of this action within 45 calendar days from receipt of this Order.

d. Within 1 calendar day from receipt of this Order, Respondents shall place the accumulation start date on the container identified in paragraph 70, and provide documentation of this action within 30 calendar days.

e. Within 30 calendar days from receipt of this Order, Respondents shall provide documentation of the corrective actions taken to ensure that the required inspections are performed at the less than 90 day storage areas identified in paragraphs 68-69.

f. Within 30 calendar days from receipt of this Order, Respondents shall provide documentation of the corrective actions taken and final disposition of wastes accumulated in excess of 90 days without a permit at the locations identified in paragraphs 59-62.

g. Within 30 calendar days from receipt of this Order, Respondents shall provide documentation that the required annual training has been provided to facility personnel as identified in paragraphs 82-83.

h. Within 1 calendar day from receipt of this Order, Respondents shall properly label the containers at the satellite accumulation point identified in paragraph 73 with the words "Hazardous Waste" or other words which identify the contents, and provide documentation of this corrective action within 30 calendar days.

i. Within 30 calendar days from receipt of this Order, Respondents shall provide documentation of the corrective action taken to correct the deficiencies in the facility operating records identified in paragraphs 84-87.

j. Within 30 calendar days from receipt of this Order, Respondents shall provide documentation of corrections to the deficiencies on all LDRs identified in paragraphs 75-76.

k. Within 30 calendar days from receipt of this Order, Respondents shall ensure that the hazardous waste identified in paragraph 88 is under the control of the operator. Respondents shall provide documentation of this action within 45 days from receipt of this Order.

NOTICE

92. If Respondents fail to comply timely with the Schedule of Compliance, the Secretary may assess additional civil penalties of up to \$25,000 for each day of continued noncompliance pursuant to Section 74-4-10(C) of the HWA.

NOTICE OF OPPORTUNITY TO ANSWER AND REQUEST A HEARING

93. Respondents have a right to request a hearing pursuant to Section 74-4-10(H) of the HWA and 20 NMAC 1.5.200 of NMED's Adjudicatory Procedures by filing a written request for hearing with the hearing clerk within 30 calendar days after receipt of this Order. The request for hearing shall include an answer. The answer shall:

1. Admit or deny each of the findings of fact and conclusions of law contained in the Order. Where Respondents assert they have no knowledge of a particular allegation, the allegation shall be deemed denied. Any allegation in the Order not specifically denied shall be deemed admitted.
2. Allege any affirmative defenses upon which Respondents intend to rely. Any affirmative defense not asserted in the request for hearing, except a defense asserting lack of subject matter jurisdiction, shall be deemed waived.
3. Be signed under oath that the information contained therein is true and correct to the best of the signatory's knowledge; and
4. Attach a copy of the Order.

A hearing upon the issues raised by the Order and answer shall be held upon the request of the

Respondents. NMED's Adjudicatory Procedures shall govern all hearing and pre-hearing procedures. Respondents may contact the hearing clerk for a copy of these regulations. The hearing clerk's name and address is: Tammy Gonzales, Hearing Clerk, New Mexico Environment Department, P.O. Box 26110, 1190 St. Francis Drive, Harold Runnels Building, N4075, Santa Fe, New Mexico 87502-6110, (505) 827-2425.

FINALITY OF ORDER

94. This Order shall become final unless Respondents filed a written request for hearing and answer within 30 calendar days of receipt of the Order. Failure by Respondents to file an answer constitutes an admission of all facts alleged in the Order and a waiver of Respondents' right to a hearing under Section 74-4-10 of the HWA.

SETTLEMENT CONFERENCE

95. Whether or not Respondents file an answer and request for hearing, Respondents may confer with NMED concerning settlement. A request for settlement conference does not extend the 30 day period during which the answer and request for hearing must be submitted. The settlement conference may be pursued as an alternative to or simultaneously with the hearing proceedings. Respondents may appear at the settlement conference or be represented by counsel.

96. Any settlement reached by the parties shall be approved by a stipulated final Order of the Secretary of NMED pursuant to the conditions set forth in 20 NMAC 1.5.601. The issuance of such an order shall serve to resolve all issues raised in the Order, shall be final and binding on all parties to the Order, and shall not be appealable.

97. To explore the possibility of settlement in this matter, contact Ms. Debbie Brinkerhoff, Bureau Chief, RCRA Enforcement Bureau, New Mexico Environment Department,

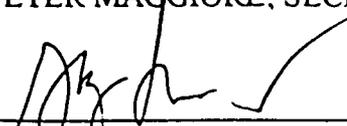
P.O. Box 26110, 1220 St. Francis Drive, Santa Fe, New Mexico 87501, telephone number (505) 827-1512.

TERMINATION

98. Compliance with the requirements of this Order does not relieve Respondents of their obligation to comply with all applicable laws and regulations. This Order shall terminate when Respondents certify that all requirements of the Order have been completed and NMED has approved such certification in writing or when the Secretary approves a stipulated final order.

PETER MAGGIORE, SECRETARY

By



Greg Lewis
Director, Water and Waste Management
Division

Certificate of Service

I hereby certify that the foregoing Administrative Compliance Order was mailed postage prepaid, return receipt requested, on December 28th, 1999 to the following:

Mr. David A. Gurule, Area Manager
United States Department of Energy
Los Alamos Area Office
528 35th Street, MS A316
Los Alamos, New Mexico 87544

Dr. John C. Browne, Director
Los Alamos National Laboratory
P.O. Box 1663, MS A100
Los Alamos, New Mexico 87544



Assistant General Counsel