



U.S. DEPARTMENT OF
ENERGY

OFFICE OF
**ENVIRONMENTAL
MANAGEMENT**



Environmental Management Cleanup Forum

Hexavalent Chromium Plume Update Revised 2016 Compliance Order on Consent



ENVIRONMENTAL MANAGEMENT
SAFETY ♦ EFFICIENCY ♦ TRANSPARENCY

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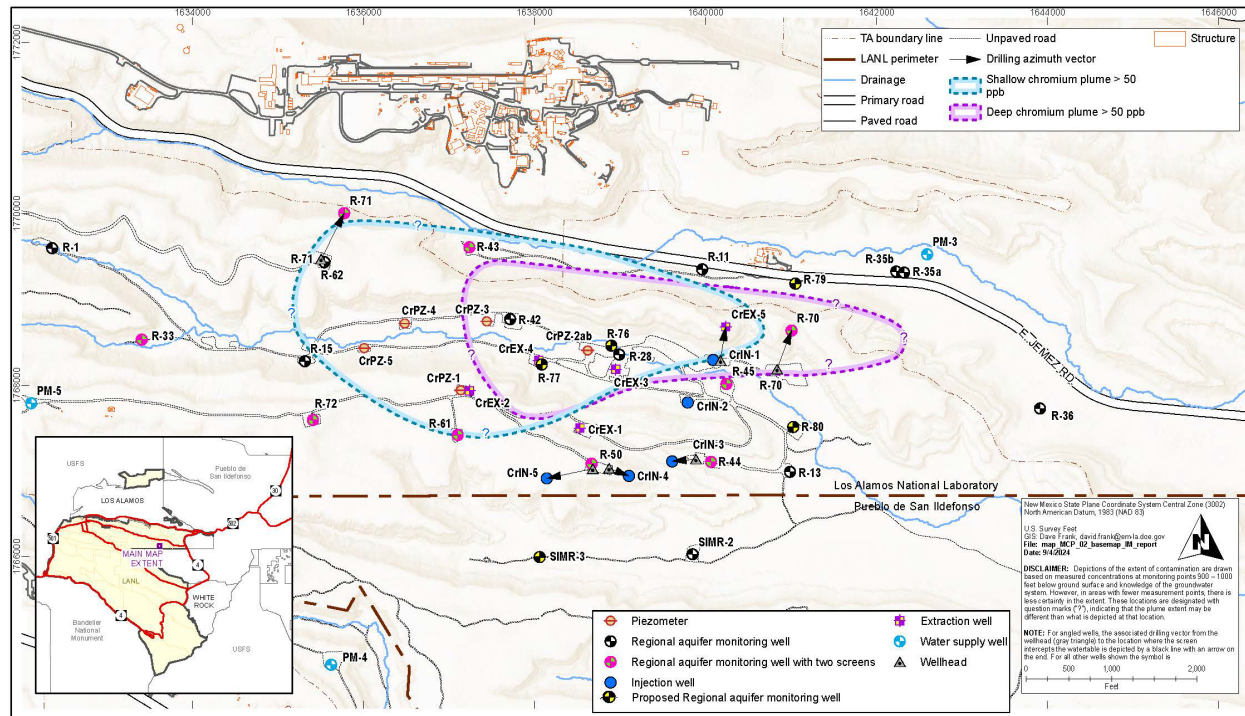
Hexavalent Chromium Plume



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- On September 30, 2024, EM-LA resumed partial operation of the Chromium Interim Measures (IM)
- Chromium IM will be operated with three Injection wells (CrIN-3, CrIN-4 and CrIN-5) and three Extraction wells (CrEx-2, CrEx-4 and CrEx-5)



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- EM-LA and NMED commenced an Expert Technical Review Team to evaluate five charge questions ranging from the efficacy of the Chromium IM to well design
- Draft report is undergoing factual accuracy reviews by EM-LA and NMED
- Final report is anticipated by the end of this calendar year
- Public meetings to present the recommendations will be scheduled when report is finalized





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Revised 2016 Compliance Order on Consent





On August 30, 2024, the U.S. Department of Energy (DOE) and the New Mexico Environment Department (NMED) executed a Settlement Agreement:

- Resolves litigation regarding 2016 Compliance Order on Consent (Consent Order)
- Revises, but does not supersede, 2016 Consent Order
- Intended to compromise disputed claims; it does not constitute an admission of any wrongdoing, noncompliance, or liability
- On September 30, 2024, DOE and NMED executed the revised Consent Order, which includes Appendices A, B, and C, for FY 2025





Major Revisions to 2016 Consent Order

- Section 8: Campaigns, Five-Year Schedules, and Annual Planning Process [Pages 25-35]
- Section 11: Deferred Sites [Pages 41-45]
- Section 23: Preparation/Review/Comment on Documents [Pages 41-45]
- Appendix D: NMED Document Approval List and Review Timeframes (New) [Pages 60-66]
- Section 25: Dispute Resolution [Pages 67-71]
- Section 34: Public Participation, Pueblo and Local Government Conferrals, Independent Audits, and 10 Year Reviews [Pages 79-81 & Appendix G]
- Section 36: Stipulated Penalties [Pages 83-87]





Section 8: Campaigns, Five-Year Schedules, and Annual Planning Process

- Establishes process for setting Campaign Completion Dates for each Campaign
- Clarifies process for prioritizing Campaigns
- Divides Campaigns into Class A and Class B Campaigns
 - Class A Campaigns: Campaigns with sufficient clarity on cleanup that a 5 year schedule can be developed. DOE and NMED establish: (1) Milestones for upcoming fiscal year and following fiscal year; and (2) a Campaign Completion Date (which could be beyond 5 year schedule). DOE is subject to stipulated penalties for missed Milestones and Campaign Completion Dates
 - Class B Campaigns: Too uncertain to establish a Campaign Completion Date at this time. DOE and NMED establish Milestones only for upcoming fiscal year, as well as nonbinding Targets for following two fiscal years. DOE is subject to stipulated penalties for missed Milestones





Section 11: Deferred Sites

- Specifies 4 circumstances when a site may be deferred:
 - Located within testing hazard zone of active firing sites at LANL
 - Associated with active LANL operations
 - Inaccessible due to land access issue
 - Another reason not addressed in the other 3 circumstances (subject to NMED approval)
- For sites deferred for active firing sites or facility operations, DOE must provide notice to NMED, confer with neighboring Pueblos and local governments, and notify public
- DOE to provide an annual report on status of all deferred sites





Section 25: Dispute Resolution

- Disputes classified as either “technical” or “non-technical”
- Process differs depending on whether the dispute is “technical” or “non-technical”
 - **Technical Disputes:** Scientific or engineering disagreements
 - Seek resolution among first-tier officials at NMED and DOE
 - Referral to technical expert selected by mutual agreement
 - Expert decision is final and binding
 - **Non-Technical Disputes:**
 - Seek resolution among first-tier officials at NMED and DOE
 - NMED and DOE engage in non-binding mediation
 - Referral to agreed-upon third-party adjudicator
 - NMED or DOE may pursue judicial review of third-party adjudicator decision





Section 34: Public Participation, Pueblo and Local Government Conferrals, Independent Audits, and 10 Year Reviews

- Identifies public participation opportunities in Consent Order
- DOE hosts public meetings at least once per quarter
- DOE maintains email address for public comments or suggestions
- Distinguishes public meetings from Pueblo and local government conferrals
- Provides for independent audits (Appendix G details procedures for independent audits)
- DOE and NMED to conduct a review of Consent Order every ten years





Appendix A: Solid Waste Management Unit (SWMU) / Area of Concern List (AOC)

- Updated during annual planning process
- Contents:
 - Status of corrective action activities for SWMU/AOC
 - Campaign to which SWMU/AOC is assigned
 - Date NMED issued Certificate of Completion for SWMU/AOC (if Applicable)
- Also includes summary tables that detail:
 - Number of SWMUs/AOCs for each corrective action activity status
 - Number of SWMUs/AOCs in each Campaign
 - List of Deferred sites

Number of SWMUs/AOCs per Status (column E)

0 CME in Progress
 2 CME Submitted to NMED
 2 CMI Reports submitted to NMED
 94 COC with Controls
 293 COC without Controls
 148 Deferred Sites
 394 Pre-Investigation
 221 Request for COC Submitted to NMED

43 RFI or Field Work in Progress (IM, ACA)
 208 RFI or Field Work Rpt Submitted to NMED

Number of SWMUs/AOCs per Campaign (column G)

0 Hexavalent Chromium Campaign
 58 Historical Properties Completion Campaign
 2 Royal Demolition Explosives (RDX) Campaign
 142 Supplemental Investigation Reports Campaign
 38 TA-21 Cleanup Campaign
 0 Known Cleanup Sites (Above SSLs) Campaign
 1 Material Disposal Area A Remedy Campaign
 8 Material Disposal Area T Remedy Campaign
 76 Southern External Boundary Campaign
 1 Material Disposal Area C Remedy Campaign
 64 Sandia Canyon Watershed Campaign
 169 Pajarito Watershed Campaign
 258 Upper Water Watershed Campaign
 5 Material Disposal Area AB Remedy Campaign
 1 Material Disposal Area H Remedy Campaign
 11 Material Disposal Area G Remedy Campaign
 1 Material Disposal Area L Remedy Campaign
 35 Other





Appendix B: Milestones

- Updated during annual planning process
- Contains Milestones for Campaigns
- Milestones:
 - Represent only a portion of corrective action activities for a Campaign
 - Are intended to demonstrate progress on a Campaign
 - Provide accountability mechanism if they are not met by certain dates
 - Do not constitute all deliverables submitted by DOE to NMED for a Campaign
- A Milestone is not required for each Campaign each FY
- Key assumptions underlying Milestones may be specified. If a key assumption proves incorrect, a new date for affected Milestones may be agreed
- No more than 12 Milestones in a FY for all Campaigns





Appendix C: Campaigns

- May be updated during annual planning process

17 Campaigns

- 1 Complete
- 14 In Progress
- 2 Not Started

Contents:

- Campaigns identified as Class A Campaigns or Class B Campaigns
- Five-Year Schedule for each Class A Campaign (after DOE and NMED establish Five-Year Schedule for Campaign)
- Campaign Completion Date for each Class A Campaign (after DOE and NMED establish Five-Year Schedule, and DOE and NMED have agreed to Campaign Completion Date for Campaign)
- Explanation for the ordering of each Campaign in Appendix C





- DOE and NMED agreed to Appendices A, B, and C for FY 2025, understanding they do not yet reflect the September 2024 revisions to the Consent Order
- DOE and NMED are working together to align Appendices A, B, and C for FY 2026 with the September 2024 revisions to the Consent Order

Links on EM-LA Website:

[Fully Executed Revised 2016 Consent Order](#)

[Fully Executed Settlement Agreement \(w. unexecuted Attachment A\)](#)

[Overview of Revisions to the 2016 Compliance Order on Consent](#)

Email Cleanup Questions and Comments to:

LegacyCleanupFeedback@em-la.doe.gov

