NEW MEXICO
ENVIRONMENT DEPARTMENT

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CERTIFIED MAIL - RETURN RECEIPT REQUESTED

ESHID-603501

August 20, 2019

Doug Hintze
Manager
DOE Environmental Management Field Office
1900 Diamond Dr.
Los Alamos, NM 87544

W. Steve Goodrum
Manager
DOE/NNSA Los Alamos Field Office
3747 West Jemez Road, MS A316
Los Alamos, NM 87544

RE: NOTICE OF VIOLATION WITH PROPOSED PENALTIES
LOS ALAMOS NATIONAL LABORATORY
EPA ID# NM0890010515

Dear Messrs. Hintze & Goodrum:

Beginning April 29, 2019, the New Mexico Environment Department ("NMED") conducted a hazardous waste Compliance Evaluation Inspection ("Inspection") at Los Alamos National Laboratory ("LANL"), located at Bikini Atoll Road, SM-30, Los Alamos, New Mexico ("Facility"). Based on observations and review of the information obtained, NMED has determined that LANL is the following:

- a large quantity generator of hazardous waste,
- a transporter of hazardous waste;
- a hazardous waste transfer facility;
- a large quantity handler of universal wastes;
- a mixed waste generator; and
- a permitted hazardous waste treatment and storage facility.

Furthermore, NMED has determined that LANL has violated the New Mexico Hazardous Waste Management Regulations ("HWMR") 20.4.1 New Mexico Administrative Code ("NMAC") or LANL's RCRA Hazardous Waste Operating Permit ("Permit") as specified below.

NMED inspectors observed the following violations:

1. Failure to store hazardous waste for less than one year from the date that the wastes were first placed into storage, which is a violation of Permit Condition 2.3.1. Specifically, NMED Inspectors observed one 55-gallon drum storing hazardous waste gasoline and contaminated absorbents in TA-54, Building 8 with an accumulation start date of 1/30/2018.

Corrective Action: LANL must provide NMED documentation that the drum has been properly disposed.

2. Failure to remedy within 24 hours any deterioration or malfunction of equipment or structures discovered during an inspection which may lead to an environmental or human health hazard, which is a violation of Permit Condition 2.6.2. Specifically, NMED Inspectors observed numerous significant cracks in the asphalt and concrete base in TA-54, Area G, Pad 10.

Corrective Action: LANL must provide NMED with documentation/pictures that the cracks have been repaired.

3. Failure to store hazardous waste in containers with all applicable EPA Hazardous Waste Numbers, which is a violation of Permit Condition 3.6(1). Specifically, NMED Inspectors observed one 55-gallon container in TA-54, Building 8 storing hazardous waste gasoline and contaminated absorbents without a D018 (benzene) waste number.

Corrective Action: LANL must provide NMED with documentation/pictures demonstrating that the container has been labeled with the appropriate hazardous waste number.

4. Failure to ensure that containers of hazardous waste that are stored outdoors and are not being actively managed, are protected from contact with precipitation using weather protective equipment (*e.g.,* containment shell, secured tarp) or are protected by the design of the equipment, which is a violation of Permit Condition 3.5.1(5). Specifically, NMED Inspectors observed numerous containers in TA-54, Domes 230 and 229 with rain water on top of them.

Corrective Action: LANL must provide NMED with documentation/pictures demonstrating that the containers mentioned above will not be in contact with precipitation in the future.

5. Failure to properly characterize waste stored in TA-54, Area L, Bldg. 39, which is a violation of Permit Condition 2.4.1. Specifically, NMED Inspectors observed containers W838404, W838405, W838992, and W846065, which had previously been described in a letter from LANL dated December 10, 2018, as containing Trace High Explosives ("HE"); however, the labels on

the containers during the inspection described different contents. The operating record as well as the labels observed do not identify the waste as containing Trace HE.

Corrective Action: LANL must provide NMED with documentation/pictures demonstrating that the above containers have been appropriately characterized.

6. Failure to conduct an accurate waste determination, which is a violation of 20.4.1.300 NMAC, incorporating 40 Code of Federal Regulation ("CFR") 262.11. Specifically, NMED Inspectors observed in TA-54, Building 501, Site ID 3725: one 5-gallon bucket labeled non-hazardous "Draeger tubes"; one 5-gallon bucket labeled non-hazardous "pending analysis"; and one 5-gallon bucket labeled non-hazardous "testing fluid". Waste profiles were provided for the containers, but they lacked specific information to make an accurate waste determination.

Corrective Action: LANL must provide NMED with documentation demonstrating that the above waste streams have accurate waste determinations.

7. Failure to maintain records supporting hazardous waste determinations, which is a violation of 20.4.1.300 NMAC, incorporating 40 CFR 262.11(f). Specifically, NMED Inspectors observed a 5-gallon container storing waste nitric acid (W849655) in a Central Accumulation Area ("CAA"), located in TA-60, Bldg. 17, Site ID #6672. The label identified the hazardous waste number as D002; however, nitric acid is also an oxidizer and must also have the D001 hazardous waste number. The Waste Profile for W849655 does not include the D001 hazardous waste number.

Corrective Action: LANL must provide NMED with documentation that the records supporting the hazardous waste determination for the waste stream listed above is maintained.

8. Failure to identify/mark containers of hazardous waste with the applicable EPA Hazardous Waste Numbers, which is a violation of 20.4.1.300 NMAC, incorporating 40 CFR 262.11(g). Specifically, in TA-60, Bldg. 17, Site ID#6672 NMED Inspectors observed one 5-gallon container of waste oxidizing liquid (W849517) labeled as D002 and D011; however, the hazard indicator label on the container included an oxidizer. The Waste Profile for W849517 also indicates the waste is an oxidizer. Based on this information, the hazardous waste number D001 should have been included on the container.

Corrective Action: LANL must provide NMED with documentation/pictures that the above containers have been properly labeled.

9. Failure to maintain a satellite accumulation area ("SAA") at or near the point of generation, which is a violation of 20.4.1.300 NMAC, incorporating 40 CFR 262.15(a). Specifically, in TA-16, Bldg. 263, Site ID #2014 NMED Inspectors observed that the point of generation is several hundred feet from the SAA.

Corrective Action: LANL must provide NMED with documentation/pictures demonstrating that the SAA has either been moved closer to the point of generation or converted into a CAA.

10. Failure to indicate the hazards of the contents of the waste, which is a violation of 20.4.1.300 NMAC, incorporating 40 CFR 262.15(a)(5)(ii). Specifically, in TA-9, Bldg. 32, SI# 5898 NMED Inspectors observed one 5-gallon poly container storing hazardous waste which did not have the hazards marked on the container.

Corrective Action: LANL must provide NMED with documentation/pictures demonstrating that the container has been properly labeled.

11. Failure to separate or protect by any practical means incompatible hazardous waste containers stored in a SAA, which is a violation of 20.4.1.300 NMAC, incorporating 40 CFR 262.15(a)(3)(iii). Specifically, in TA-3, Bldg. 40 NMED Inspectors observed the following:

a) Site ID 3763, acids and bases stored adjacent to one another in a cabinet. The wastes were not separated in separate secondary containment or any other visible means.

b) Site ID 592, sulfuric acid and liquid sodium hydroxide stored adjacent to one another in a cabinet. The wastes were not separated in separate secondary containment or any other visible means.

Corrective Action: LANL must provide NMED with documentation/pictures that the above waste streams have been properly separated or protected.

12. Failure to take precautions to prevent the accidental reaction of reactive wastes, which is a violation of 20.4.1.300 NMAC, incorporating 40 CFR 262.17(a)(1)(vi)(B). Specifically, in TA-60, Bldg. 17, Site ID# 6672 NMED Inspectors observed, one 5-gallon container of water-reactive liquid waste. Site personnel, as well as documentation provided, indicated that the fire suppression system uses water, not foam. The container was not segregated or protected from potential exposure to water if the fire suppression system was activated.

Corrective Action: LANL must provide NMED with documentation or a plan of correction for the water reactive waste streams located in Building 17.

13. Failure to separate incompatible hazardous waste containers stored in an CAA by means of a dike, berm, wall or other device, which is a violation of 20.4.1.300 NMAC, incorporating 40 CFR 262.17(a)(1)(vii)(C). Specifically, in TA-3, Bldg. 3074, Site ID 6578 NMED Inspectors observed that one 10-gallon container of caustic hydroxide was located on top of a 10-gallon container of waste muriatic and sulfuric acids.

Corrective Action: LANL must provide NMED with documentation/pictures demonstrating proper segregation of incompatible wastes in the CAA.

14. Failure to mark or label containers of hazardous waste with an indication of the hazards of the contents, which is a violation of 20.4.1.300 NMAC, incorporating 40 CFR 262.17(a)(5)(i)(B). Specifically, at TA-60, Site ID #6672 NMED Inspectors observed the following:

a) One 5-gallon container of waste corrosive liquid (W849061) with the waste numbers D001, D002, D004, D006, D007, D008, D010, and D011. The container was labeled with hazard indicators oxidizer and corrosive, but not for toxicity due to heavy metal contamination. The Waste Profile for W849061 indicates that the waste exhibits the hazardous waste toxicity characteristics for arsenic, cadmium, chromium, lead, selenium and silver.

b) One 5-gallon container of waste flammable liquid (W849562) with the waste numbers D001, D009, D010, D018, and F003. The container was labeled with a flammable liquid hazard indicator, but not for toxicity due to heavy metal contamination. The Waste Profile for W849562 indicates that the waste exhibits the hazardous waste toxicity characteristics for mercury, selenium and benzene.

c) One 5-gallon container of waste flammable liquid (W849465) with the waste numbers D001, D008, and F003. The container was labeled with the flammable liquid hazard indicator, but not for toxicity due to lead content. The Waste Profile for W849465 indicates that the waste exhibits the hazardous waste toxicity characteristic for lead.

d) One 5-gallon container of waste oxidizing liquid with the waste numbers D002 and D011. The container was labeled with the oxidizer hazard indicator; however, it was not labeled with a corrosive or toxicity label, as indicated by the waste codes on the label.

e) One 5-gallon container of waste water-reactive liquid (W849651) with the waste numbers D001 and D003. The container was labeled with the dangerous when wet hazard indicator, but not for flammability. The Waste Profile for W849651 indicates that the waste contains dimethyl sulfoxide and tetrahydrofuran, which are flammable liquids.

f) One 5-gallon container of waste corrosive liquid (W849464) with the waste numbers D002 and D010. The container was labeled with the corrosivity hazard indicator, but not for toxicity for selenium. The Waste Profile for W849464 indicates that the waste exhibits the toxicity characteristic for selenium.

At TA-3, Site ID #1948 NMED Inspectors observed the following:

g) One 5-gallon container of waste acetone with the waste numbers D001 and F003. The container was labeled with the toxicity hazard indicator (which is not applicable) but not for flammability.

Corrective Action: LANL must provide NMED with documentation/pictures demonstrating that the above containers have been properly labeled.

15. Failure to mark or label tanks containing used oil with the words "Used Oil" or with similar wording to identify the contents, which is a violation of 20.4.1.1002 NMAC, incorporating 40 CFR 279.22(c)(1) and 20.4.2.1003.A NMAC. Specifically, at TA-3 at the compressor site near the LANL Power Plant, Bldg. 22, NMED Inspectors observed an unlabeled 500-gallon above ground used oil tank.

Corrective Action: LANL must provide NMED with documentation/pictures demonstrating that the tank has been labeled

16. Failure to mark or label fill pipes used to transfer used oil into underground storage tanks, which is a violation of 20.4.1.1002 NMAC, incorporating 40 CFR 279.22(c)(2). Specifically, at TA-3, at the CGTG site near the LANL Power Plant, Bldg. 22, NMED Inspectors observed one 2000-gallon underground used oil tank in which the fill pipes were not labeled with the words "Used Oil".

Corrective Action: LANL must provide NMED with documentation/pictures demonstrating that the fill pipes have been labeled.

NMED is requesting that LANL provide to NMED within thirty (30) days of receipt of this letter a written description of the actions taken by LANL to address the violations described above or a schedule for implementation of corrective actions not yet completed.

In accordance with NMSA 1978, Section 74-4-10, NMED may: (1) issue a Compliance Order requiring compliance immediately or within a specified time period or assess a civil penalty for any past or current violations of up to $10,000 per day of non-compliance for each violation, or both; or (2) commence a civil action in District Court for appropriate relief, including a temporary or permanent injunction.

Due to the nature and severity of the violations listed above, and LANL's past history of noncompliance with 20.4.1 NMAC, NMED will propose a civil penalty for these violations in a separate Notice of Proposed Penalty letter, which is a settlement privileged document.

Any action taken in response to this letter does not relieve LANL of its obligation to comply with any other applicable laws and regulations. If you have any questions regarding this letter, please contact Don Meyer of my staff at (505) 476-6021 or by email at don.meyer@state.nm.us. Please address any written response to the attention of Don Meyer at the address on the letterhead.

Sincerely,

John E. Kieling
Chief
Hazardous Waste Bureau

JEK:dm

cc: Janine Kraemer, NMED HWB
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