



ESHID-603711

MICHELLE LUJAN GRISHAM
GOVERNOR

JAMES C. KENNEY
CABINET SECRETARY

CERTIFIED MAIL - RETURN RECEIPT REQUIRED

July 26, 2022

Theodore Wyka
Manager
National Security Administration
Los Alamos National Laboratory
3747 West Jemez Road, MS A316
Los Alamos, NM 87544

Michael Mikolanis
Manager
Los Alamos Field Office
1200 Trinity Drive, Ste. 400
Los Alamos, NM 87545

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

Dear Messrs. Wyka and Mikolanis:

Beginning on August 10, 2020, 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. 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 ensure that containers holding free liquids have a "free liquids" label, which is a violation of Permit Condition ("PC") PC 3.6(2). Specifically, NMED inspectors identified

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containers at TA-54 Area G: # S814739 located in Dome 232; S841075 and S815017 were located in Bldg. 153; LA0000068369 and LA0000068364 were located in Dome 49 and were observed to be containing free liquids and not labeled as such.

Corrective Action: LANL responded via email on 12/3/20 that the above containers had been labeled free liquids.

2. Failure to provide secondary containment for containers of hazardous waste with free liquids, which is a violation of PC 3.7.1(1). Specifically, NMED Inspectors observed the failure to provide adequate secondary containment for containers with free liquids stored at TA-54 area G; S841598 located at Bldg. 153; LA0000068369 and LA0000068364 located in Dome 49 had D002 waste codes and were not on secondary containment.

Corrective Action: LANL responded via email on 12/3/20 that the above containers had been placed on secondary containment.

3. Failure to label or mark SAA containers with an indication of the hazards of the waste, which is a violation of 20.4.1.300 NMAC incorporating 40 CFR 262.15(a)(5)(ii). Specifically, NMED Inspectors observed the following:

- 1) At TA-35, Site ID#1210, NMED observed a 5-gallon plastic container storing silver-contaminated waste Lab solids that was not marked with an indicator of toxicity.
- 2) At TA-59, Site Id # 6481 NMED observed a container without a hazard indicated on the container.

Corrective Action: LANL must provide to NMED documentation/photos that the above containers have been labeled.

4. Failure to mark or label a container of hazardous waste with an indication of the hazards of the waste, which is a violation of 20.4.1.300 NMAC incorporating 40 CFR 262.17(a)(5)(i)(B). Specifically, NMED Inspectors observed one blue 30-gallon poly container located in a Central Accumulation Area ("CAA") that was observed without a hazard indicated on the container. The container was located at TA-53 Site Id # 5790.

Corrective Action: None – corrected at the time of the inspection.

5. Failure to mark or label a container of Universal Waste batteries with the words "Universal Waste – Batteries" or other phrases, which is a violation of 20.4.1.1000 NMAC incorporating 40 CFR 273.34(a). Specifically, NMED Inspectors observed one 1-gallon container storing waste batteries that was observed to be without a label. The container was located at TA-55 Site Id # 6636.

Corrective Action: LANL must provide to NMED documentation/photos that the above container has been labeled.

6. Failure to fully characterize hazardous waste in accordance with the requirements of 40 CFR 264.1, which is a violation of PC 2.4.1. Specifically, on March 12, 2021, NMED was notified that six containers were mis-characterized and potentially contained reactive hazardous wastes that are prohibited from disposal at WIPP. The mischaracterization was discovered on February 26, 2021, during an incident with HEPA filters contaminated with air reactive titanium particles. The containers were LA00000073611, LA00000072668, LA00000074392 and LA00000074720. Two additional containers which had already been delivered to WIPP: LA00000073445 and LA00000073609.

Corrective Action: LANL must provide to NMED documentation/photos that the above containers have been adequately characterized.

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 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.

Pursuant to the NMED Delegation Order dated May 24, 2021, the Cabinet Secretary has delegated the authority to issue Notices of Violation under the Hazardous Waste Act and HWMRs to the Chief of the Hazardous Waste Bureau. If you have any questions regarding this letter, please contact Don Meyer of my staff at (505) 690-5373 or by email at

Messrs. Wyka and Mikolanis
July 26, 2022
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don.meyer@state.nm.us. Please address any written response to the attention of Don Meyer at the address on the letterhead.

Sincerely,

Rick Shean

Digitally signed by Rick
Shean
Date: 2022.07.26
13:48:11 -06'00'

Rick Shean
Chief
Hazardous Waste Bureau

RS:dm

cc: Don Meyer, NMED HWB
Frank Rodarte, NMED HWB
Neelam Dhawan, NMED HWB
Thomas X. Vigil, NMED District II Manager (Acting)

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