



SUSANA MARTINEZ
Governor
JOHN A. SANCHEZ
Lieutenant Governor

State of New Mexico
ENVIRONMENT DEPARTMENT
Hazardous Waste Bureau

2905 Rodeo Park Drive East, Building 1
Santa Fe, New Mexico 87505-6313
Phone (505) 476-6000 Fax (505) 476-6030
www.env.nm.gov



BUTCH TONGATE
Cabinet Secretary
J. C. BORREGO
Deputy Secretary

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

July 20, 2017

Pete Maggiore
Acting Chief of Staff Manager
Los Alamos Site Office
Department of Energy
3747 W. Jemez Rd., MS-A316
Los Alamos, NM 87544

Michael T. Brandt
Associate Director
Environment, Safety, Health, & Quality
Los Alamos National Security, LLC
Los Alamos Research Park
P.O. Box 1663, MS K491
Los Alamos, NM 87545

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

Dear Messrs. Maggiore & Brandt:

On April 17, 2017, the New Mexico Environment Department (NMED) conducted a hazardous waste Compliance Evaluation Inspection at Los Alamos National Laboratories (LANL), located at Bikini Atoll Road, SM-30, Los Alamos, NM. Based on that inspection and review of the information obtained, NMED has determined that your facility 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.

NMED has further determined that your facility has violated the New Mexico Hazardous Waste Management Regulations (20.4.1 NMAC) or LANL's RCRA Hazardous Waste Operating Permit (Permit) as specified below.

The Permit is organized into modules and attachments. For the purposes of this Notice of Violation, the module requirements are referred to as "permit conditions" or PCs, and attachment requirements are referred to as "attachment conditions" or ACs.

U1701091

NMED inspectors observed the following violations:

1. Failure to make a hazardous waste determination for the following:
 - a. One 30-gallon metal drum storing waste gasoline labeled as non-hazardous waste, the drum was located at the 501 Area (outside of Area G).
 - b. Bio Flex Sheath Fluid was observed being managed as a non-hazardous waste at TA-43, Bldg. 1, SAA SI# 6268. Sodium Azide (P105) is the sole active ingredient in the fluid and should be managed as a P-listed waste.
 - c. One 500-gram unlabeled container of lanthanum nickel hydride, which was located in TA-55-4-113. Specifically, the material in the container ignited when incorrectly identified as graphite. This caused a release and required an emergency permit to treat the reactive waste.
 - d. Flammable waste gas cylinders (or lecture bottles) were being disposed of as non-hazardous waste under an expired exemption. The bottles were hazardous for flammability (D001) and were being disposed of under a comparable fuels exemption that was rescinded on April 8, 2015.

These are violations of 20.4.1.300 NMAC, incorporating 40 CFR 262.11.

Corrective Action: Item "a." was corrected at the time of the inspection. The corrective action for Items "b and d" includes LANL providing updated waste profiles and disposal documentation for the Sheath Fluid and the cylinders. Item "c." was corrected after the incident on April 19, 2017.

2. Failure to keep a container of hazardous waste closed. Specifically, one 4-L bottle containing hydrofluoric acid was observed to be open. The bottle was located at TA-35, Bldg. 213, Rm. 107A, SI# 6358. This is a violation of 20.4.1.300 NMAC, incorporating 40 CFR 262.34(c)(1)(i), which references 40 CFR 265.173(a).

Corrective Action: LANL corrected the violation at the time of the inspection.

3. Failure to mark containers of hazardous waste at a Satellite Accumulation Area (SAA) with the words Hazardous Waste. The SAAs were located at:
 - a. TA-3, Bldg. 1819, SI# 1372. A 5-quart Ziploc bag labeled "Solid Waste" was found to contain hazardous waste.
 - b. TA-35, Bldg. 85E, Rm. 108, SI# 6147. One 5-gallon glass container that was used to distill hexane was found without a label when the distiller was not in process.

These are violations of 20.4.1.300 NMAC, incorporating 40 CFR 262.34(c)(1)(ii).

Corrective Action: LANL must label the above containers appropriately and provide NMED with documentation/photographs that the containers have been labeled properly.

U1701091

4. Failure to conduct hazardous waste training for the following employees; Casey O'Donaghue, Rob Bustos, Patrick Guteriz, Tomoa Martinez, Robert Archuleta, Stanley Hayes, Art Fabeck and Antonio Robero (spelling may not be correct). This is a violation of 20.4.1.600 NMAC, incorporating 40 CFR 265.16(a)(1).

Corrective Action: LANL must provide documentation that the above employees have been adequately trained.

5. Failure to maintain personnel training records. Specifically, employees at TA-72 were signing hazardous waste manifests and handling hazardous waste. NMED inspectors observed incomplete training records for the employees at the Gun Range. This is a violation of 20.4.1.600 NMAC, incorporating 40 CFR 265.16(d).

Corrective Action: LANL must provide documentation that the employees listed in Violation 5 have been adequately trained.

6. Failure to maintain a facility to minimize the possibility of a fire, explosion or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil or surface water which could threaten human health or the environment. Specifically, a container of reactive waste was improperly managed and caused an incident on April 19, 2017 at TA-55. This is a violation of 20.4.1.600 NMAC, incorporating 40 CFR 265.31.

Corrective Action: LANL must provide documentation of hazardous waste management training to any employees managing hazardous waste including all Operational Responsible Supervisor-Research Technologists.

7. Failure to submit an incident report within 15 days of the incident. Specifically, a fire occurred on April 19, 2017 and a report was not received by NMED until May 25, 2017. Any implementation of the contingency plan requires an incident report. This is a violation of 20.4.1.600 NMAC, incorporating 40 CFR 265.56(i).

Corrective Action: LANL provided the report on May 25, 2017.

8. Failure to label a universal waste container and demonstrate the length of time that the universal waste was accumulated. Specifically, one box of 4-ft spent fluorescent lamps was observed without a label and LANL could not demonstrate the length of time that the universal waste was accumulated. The box was located at TA-16, Bldg. 926 SI# 5284. This is a violation of 20.4.1.1000 NMAC, incorporating 40 CFR 273.34(e) and 273.35(c) respectively.

Corrective Action: Violation was corrected at the time of the inspection.

NMED requires 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 and a schedule for implementation of corrective actions not yet completed.

In accordance with 74-4-10 NMSA 1978, 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

U1701091


Messrs. Maggiore & Brandt
July 20, 2017
Page 4

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. Any such order may include a suspension or revocation of any permit issued by NMED.

Due to the nature of the violations listed above and LANL's history of noncompliance with 20.4.1 NMAC, NMED will propose a civil penalty for these violations in the Notice of Proposed Penalty letter, which is a separate 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
Don Meyer, NMED HWB
Robert Italiano, NMED District II Manager

file: Library #2390

U1701091