



State of New Mexico
ENVIRONMENT DEPARTMENT
Hazardous Waste Bureau



SUSANA MARTINEZ
 Governor
 JOHN A. SANCHEZ
 Lieutenant Governor

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
 BRUCE YURDIN
 Acting Deputy Secretary

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

ESHID-603298

November 5, 2018

Pete Maggiore
 Deputy Assistant Manager
 National Nuclear Security Administration
 Los Alamos Field Office
 3747 W. Jemez Rd., MS-A316
 Los Alamos, NM 87544

William R. Mairson
 Associate Director
 Environment, Safety, Health Directorate
 Los Alamos National Laboratory
 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 & Mairson:

On December 19, 2017, the New Mexico Environment Department (“NMED”) sent a Request for Information (“RFI”) letter to Los Alamos National Laboratories (“LANL”), located at Bikini Atoll Road, SM-30, Los Alamos, New Mexico (“Facility” or “Property”). A follow up RFI was sent to LANL on June 29, 2018. LANL responded to the RFIs on March 29, 2018 and August 29, 2018.

NMED has determined that your facility has violated the New Mexico Hazardous Waste Management Regulations (20.4.1 NMAC) and LANL’s Hazardous Waste Operating Permit (“Permit”), as specified below.

The following violations have been determined from information provided in response to the two RFIs:

1. Failure to notify NMED within three (3) days of a hazardous waste characterization discrepancy, which is a violation of Permit Condition 2.4.7(4). Specifically, LANL did not notify the NMED within three days of the following discrepancies:

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a.) In an April 14, 2015 email, staff at LANL state that “[t]he first item references drum W822155. It is IPA (isopropyl alcohol) and potassium hydroxide. PH was 13 and the mixture contained 5% water. The LANL profile 40785 needs to include D002 and the psn changed to flammable liquid, corrosive”

The email indicates that the container was transported off-site on March 26, 2015; however, no manifests were provided by LANL and NMED was not notified of the discrepancy.

b.) In an April 14, 2015 email, staff at LANL state that “[t]he next item refers to drum W822194 and W822454 and profile 21791 and 41407 respectively. The material is profiled as silica gel with solvents, one with trace HE (high explosives). Verification showed these were dirt??”

The email indicates that the containers were transported off-site on March 26, 2015; however, no manifests were provided by LANL and NMED was not notified of the discrepancy.

c.) Containers W820765 and W82000774 were listed on manifest 006640577FLE as having waste codes D001 and F003. The treatment, storage and disposal facility (“TSDF”) that received the containers from LANL conducted a total metals analysis, which indicated that the waste stream also contained lead, which is waste code D008. The discrepancy was listed in the Waste Management Shipping Issues Summary as well as on Veolia (a permitted treatment, storage and disposal facility) Manifest/Generation Information Document, Discrepancy ID 5848.

d.) Container W841013 was listed on manifest 006649924FLE as Flammable. Liquids, Toxic, with waste codes D001, D004, D006, D010, D011, D019, D022, F002, F003, F005. After the waste was received by Veolia, LANL determined the container had the incorrect container number and label. Specifically, the container number should have been W841043, Waste Corrosive, Acidic waste code D002. An email dated December 12, 2017 explained that the label for W841013 had been placed over the label for W841043. The discrepancy was also listed on Veolia, Manifest/Generation Information Document, Discrepancy ID 6711.

Corrective Action: Veolia sent discrepancy reports to LANL and corrected the manifests.

2. Failure to conduct preliminary characterization of a waste stream prior to actual generation and generate a Waste Profile Form (“WPF”), which is a violation of Permit Attachment C.3. Specifically, LANL failed to characterize the following waste streams prior to generation:

a.) Procedure for Pause/Stop Work, Attachment A, dated December 6, 2017, described a failure to characterize waste before shipping for waste generated at TA-16- 204. Eight

roll-off bins of construction debris from a re-roofing project were sent to the Santa Fe Landfill prior to the generation of a WPF. Additionally, an email dated November 22, 2017 also describes the violation.

b.) Surveillance Report, dated January 4-January 16, 2018, described a failure to characterize waste before shipping for waste generated at TA-16-205 and 450. Specifically, approximately fifteen demolition bins and eight miscellaneous dumpsters were sent to the Santa Fe Landfill prior to the generation of a WPF.

c.) An email dated September 13, 2017 indicated that hazardous waste generated at TA-16 Pedestrian Portal had not had a characterization prior to beginning the demolition process. Subsequent documents indicated approximately 265 tons of waste concrete and 240 tons of waste asphalt were sent to the Los Alamos Landfill from April 2017 to November 2017 prior to the generation of a WPF.

d.) ADPM Action Closure Form, dated January 8, 2018, described a failure to characterize waste before shipping for waste generated at TA-40-115. Specifically, on September 6, 2017 multiple 20-yard bins of waste asphalt were sent to a disposal facility in Albuquerque. The bins were not tested for high explosives prior to demolition activities or and no WPF was generated prior to disposal.

e.) Procedure for Pause/Stop Work, Attachment A, dated December 6, 2017, described a failure to characterize waste before shipping for waste generated at TA-50. Approximately 40 tons of concrete and 18,000 cubic yards ("cy") of soil from a renovation project between March 13, 2016 and December 12, 2016 was excavated prior to the generation of a WPF and was later determined to be Low Level Waste ("LLW").

f.) Procedure for Pause/Stop Work, Attachment A, dated December 6, 2017, described a failure to characterize waste before shipping for waste generated at TA-69. Beginning on September 5, 2017, a water tank was sandblasted in order to remove potentially lead-based paint and generated nine 55-gallon drums of paint sludge and sandblasting material. A WPF was not generated prior to the sandblasting.

Corrective Action: LANL must submit a corrective action plan to ensure that future construction projects are not mis-characterized.

3. Failure to properly complete a hazardous waste manifest by following the instructions in 40 C.F.R. § 262 Appendix, which is a violation of 20.4.1.300 NMAC, incorporating 40 CFR 262.20(a)(1). Specifically, NMED inspectors observed the following errors on hazardous waste manifests:

a.) Manifest 006648785FLE was received by Veolia on May 5, 2016. On the Manifest, container W850247 had an incorrect UN identification number and incorrect proper shipping name ("PSN"). Specifically, the manifest identified "UN3267 Waste Corrosive

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Liquid, Basic n.o.s. (Sodium Hydroxide)” on line 1; however, it should have been “UN1780 Waste Corrosive Liquids, n.o.s. (Sodium Hydroxide)”.

b.) Manifest 006648791FLE was received by Veolia on May 5, 2016 and had an incorrect PSN on line 7. Specifically, “Waste Mercury, 8, (6.1)” should have been listed as “Waste Mercury contained in manufactured articles”.

c.) Manifest 006648777FLE was received by Veolia on May 5, 2016 and had an incorrect PSN on line 5. Specifically, “Hazardous waste liquid n.o.s. (lead)” should have been listed as “Hazardous waste solid n.o.s. (lead)”.

d.) Manifest 006648829FLE was received by Veolia on June 2, 2016 and had incorrect PSNs on the following lines:

- i. Line 5 - “Waste Methanol” should have been “Waste Flammable Liquids, Toxic (Methanol).
- ii. Line 19 - “Waste mercury” should have been “Mercury contained in manufactured articles”.
- ii. Lines 21 thru 31 - “Waste sodium hydroxide solution” should have been “Waste corrosive liquid, inorganic n.o.s. (sodium hydroxide)”.
- iii. Line 40 - “Lithium ion batteries, universal waste” should have been “Lithium metal batteries”.

e.) Manifest 006640866FLE was received by Veolia on December 13, 2016 and had incorrect PSNs on the following lines:

- i. Line 27 - “Waste mercury” should have been “Hazardous Waste, solid, n.o.s. (Mercury).
- ii. Lines 85 to 90 – “Non-regulated solids, (petroleum contaminated soils)”, should have been PCB with concentration of 50-500 ppm.

f.) Manifest 006649840 FLE was receive by Veolia on October 4, 2017 and had incorrect PSN on line 11. Specifically, “Waste Carbon, Activated, should have been “Waste Flammable Solid, Inorganic n.o.s”.

Corrective Action: Veolia sent discrepancy reports to LANL and corrected the manifests.

Please note: The current version of the NMED Hazardous Waste Management Regulations do not encompass the new generator rules promulgated by EPA on May 30, 2017. Currently, 20.4.1 NMAC incorporates by reference the 2008 version of the Code of Federal Regulations, which is reflected in the citations included above.

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

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

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 the Notice of Proposed Penalty letter, which will follow as a separate, 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
Don Meyer, NMED HWB
Neelam Dhawan, NMED HWB
Robert Italiano, NMED District II Manager

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**State of New Mexico
ENVIRONMENT DEPARTMENT**

Hazardous Waste Bureau
2905 Rodeo Park Drive East, Building 1
Santa Fe, New Mexico 87505-6303

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ZIP 87505
011E11676654

William R. Mairson
Associate Director
Environment, Safety, Health Directorate
Los Alamos National Laboratory
P.O. Box 1663, MS ~~K404~~ *Also*
Los Alamos, NM 87545

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NAME Ailin Costa
Z# 218707
DATE 11-7-18 NOV 7 '18 PM 12:24