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CERTIFIED MAIL – RETURN RECEIPT REQUESTED

August 26, 2014

Charles F. McMillan, Director
Los Alamos National Laboratory
P.O. Box 1663, MS K499
Los Alamos, NM 87545

Kimberly Davis Lebak, Manager
Los Alamos Field Office
U.S. Department of Energy
3747 West Jemez Road, MS A316
Los Alamos, NM 87544

RE: REQUEST FOR INFORMATION
TREATMENT OF WASTE WITHOUT A PERMIT AND FAILURE TO REEVALUATE ACCEPTABLE KNOWLEDGE
LOS ALAMOS NATIONAL LABORATORY
EPA ID#NM0890010515

Dear Dr. McMillan and Ms. Davis Lebak:

Pursuant to NMSA 1978, Section 74-4-4.3(A) of the New Mexico Hazardous Waste Act ("HWA"), the New Mexico Environment Department ("NMED") hereby requests that the United States Department of Energy ("DOE") and Los Alamos National Security, LLC ("LANS"; collectively, with DOE, the "Permittees") provide NMED the below-listed information concerning activities associated with nitrate salt-bearing waste containers at the Los Alamos National Laboratory ("LANL") no later than September 30, 2014.

Section 74-4-4.3(A)(1) of the HWA provides that "[f]or the purposes of developing or assisting in the development of any rules, conducting any study, taking any corrective action or enforcing the provisions of the Hazardous Waste Act, upon request of the secretary or his authorized representatives: any person who generates, stores, treats, transports, disposes of or otherwise handles or has handled hazardous wastes shall furnish information relating to such hazardous wastes…."

On July 1, 2014, the Permittees submitted to NMED an Addendum to the Los Alamos National Laboratory Hazardous Waste Facility Permit Reporting on Instances of Noncompliance and Releases for Fiscal Years 2012 and 2013 ("Addendum"). In the Addendum, the Permittees identified two instances of noncompliance with the LANL Hazardous Waste Facility Permit ("Permit"): 1) Unpermitted Treatment (40 CFR §§ 264.1(g)(6) and (10)); and 2) Failure to

Reevaluate Acceptable Knowledge Determination (Permit Section 2.4.7 and 40 CFR §§ 264.13(b)(4).

The Addendum states that the Permittees neutralized and absorbed liquid in a glove-box located at Technical Area 50, Building 69 (TA-50-69) "outside the permit exemptions for treatment activities required by NMED rules incorporating 40 CFR §§ 264.1(g)(6) [and] (10) and 40 CFR §§ 270.1(c)(2)(iv) and (vii)." The Addendum states that under LANL Procedure EP-WCRR-WO-DOP-0233, glove-box operators tested the pH of liquids, neutralized liquids as necessary, and added absorbents to "liquids at different locations, including bag-out stubs, a catch-pan located on the floor of the glove-box, the daughter drum(s), and into the parent drum."

The Addendum also states that LANL failed to comply with Permit Section 2.4.7, which requires the Permittees to "[r]echaracterize hazardous wastes whenever there is a change in the waste-generating processes which includes a change in the status of the waste for purposes of Land Disposal Restrictions or when analytical results indicate a change in the waste stream." The Addendum continues: "During the processing of the nitrate salt-bearing waste drums…operators conducted pH tests and determined that some of the liquids decanted from the parent drum(s) had a pH of less than 2 and were corrosive for D002" and that the Permittees "had an obligation to reevaluate the unconsolidated nitrate salt-bearing waste to assess the accuracy of the initial waste characterization in accordance with Permit Section 2.4.7(2)."

In the July 3, 2014 response to NMED's June 16, 2014 Information Request, the Permittees provided several procedures related to packaging waste, repackaging waste, absorbing liquids, and neutralizing waste at LANL facilities, including three procedures for TA-54, Area G, and one procedure for the glove-box at TA-50-69, that include steps to perform pH tests, document pH values, neutralize liquids, and absorb free liquids.

To determine the extent of noncompliance, as described in the Addendum, with the Permit, the HWA and the Hazardous Waste Management Regulations, at 20.4.1 NMAC, NMED hereby requests that the Permittees furnish the following information:

1. Provide the dates that the following procedures were revised to include steps to perform pH tests, document pH values, neutralize liquids, and absorb free liquids:
    a. EP-AREAG-WO-DOP-1084
    b. EP-AREAG-WO-DOP-1085
    c. EP-AREAG-WO-DOP-1091
    d. EP-WCRR-WO-DOP-1198

2. Provide all revisions of the above procedures since they were revised to include the steps identified in Item 1 above (including the revisions in which those steps were first introduced).

3. Provide a list of nitrate salt-bearing waste containers (both parent and daughter) that were remediated using one or more of the procedures listed in Item 1 above after the procedure was revised to include the steps to perform pH tests, document pH values, neutralize liquids, and absorb free liquids. Include the following information for each container:
    a. Container Identification Number
    b. Waste Stream Identification Number
    c. Complete list of associated RCRA hazardous waste numbers prior to the date of remediation
    d. Date of remediation
    e. Location where the remediation occurred
    f. pH of liquid prior to neutralization
    g. pH of liquid after neutralization
    h. Reagent(s) used to neutralize liquid
    i. Absorbent(s) used to absorb free liquid
    j. Timing and location of the addition of the absorbent(s) to the waste, or the waste to the absorbent, with respect to when the waste was first placed in the container (e.g., absorbent added to waste in bag-out stubs, glove-box floor catch pans, daughter drums, or parent drums before or after waste was placed in containers)
    k. Current location of the container

4. If not already included in the list of containers in Item 3 above, provide a list of LA-CIN01.001 containers to which the Permittees added absorbent(s) to waste that was already in a container.

5. Provide the most recent Central Characterization Project (CCP) Real Time Radiography (RTR) videos and Batch Data Reports (BDRs) for all 707 nitrate salt-bearing waste containers. If no BDR or video exist, provide other documentation of the contents of each drum, including any liquid.

6. Provide all LANL and CCP procedures – including all revisions – that address the characterization of free liquids discovered in containers assigned to nitrate salt-bearing waste containers.

7. Provide all documentation associated with the reevaluation of Acceptable Knowledge, including the characterization of free liquids, for nitrate salt-bearing waste containers.

8. Provide a description of how LANL characterizes the liquid in nitrate salt-bearing waste containers that CCP certifies to contain less than 1% liquid.

Your compliance with this information request is mandatory. Failure to respond fully and truthfully within the time specified herein, or adequately justify such failure to respond, may result in an enforcement action by NMED pursuant to Section 74-4-10 of the HWA. The HWA provides for the imposition of civil penalties for noncompliance. Section 74-4-12 of the HWA provides that any person who violates any provision of HWA "may be assessed a civil penalty not to exceed ten thousand dollars ($10,000) for each day during any portion of which a violation occurs." *See also* §§ 74-4-10(A) and (B). The HWA also provides for criminal fines and imprisonment for knowingly omitting material information or making a false statement or representation in any document used for compliance with Section 74-4-11(A)(3).

The Permittees may claim confidentiality for any information required by this information request pursuant to the requirements of sections 74-4-4.3(D) and (F) of the HWA, and 20.4.1.100 NMAC (incorporating 40 CFR 260.2).

The Permittees must submit their response to me at the address on this letterhead by **September 30, 2014**. If you have any questions regarding the information request, please contact NMED at (505) 476-6035.

Sincerely,

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for Ryan Flynn
Secretary
New Mexico Environment Department

cc: T. Blaine, Director NMED EHD
J. Kendall, NMED OGC
J. Kieling, NMED HWB
D. Cobrain, NMED HWB
S. Pullen, NMED HWB
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J. Mousseau, LANS

File: Reading and LANL 2014 – RCRA Info Request, Treatment of Waste Without a Permit and Failure to Reevaluate Acceptable Knowledge