



Department of Energy
Carlsbad Field Office
P. O. Box 3090
Carlsbad, New Mexico 88221

MAY 8 2015

Mr. John E. Kieling, Bureau Chief
Hazardous Waste Bureau
New Mexico Environment Department
2905 Rodeo Park Drive East, Building 1
Santa Fe, NM 87508-6303

Ms. Kathryn Roberts, Division Director
Resource Protection Division
Harold Runnels Building
1190 Saint Francis Drive, Room 4050
Santa Fe, NM 87502-5469

Subject: Written Notice Regarding Application and Removal of EPA Hazardous Waste Number D001 to Nitrate Salt Bearing Waste Containers

Dear Mr. Kieling and Ms. Roberts:

The purpose of this letter is to provide you written notice that the U. S. Department of Energy, Carlsbad Field Office (CBFO) and Nuclear Waste Partnership LLC (NWP), Permittees of Hazardous Waste Facility Permit NM4890139088-TSDF (Permit), are provisionally applying EPA Hazardous Waste Number (code) D001 for the characteristic of ignitability to 72 additional nitrate salt bearing waste containers that have been disposed at the Waste Isolation Pilot Plant (WIPP) facility. The Permittees are also removing the D001 code from 22 containers that have been determined by Los Alamos National Laboratory (LANL) to not contain unconsolidated nitrate salts. This is a follow-up to the verbal notification provided to you on April 25, 2015, at approximately 11:00 A.M.

The additions apply specifically to three containers (LA00000090872, LA00000090883, and LA00000090931) from LANL waste stream LA-MIN04-S.001 (one located in Panel 6, Room 1, and two located in Panel 6, Room 3) and 69 containers from LANL waste stream LA-MHD01.001 (23 located in Panel 6, Room 2; 39 located in Panel 6, Room 3; six located in Panel 6, Room 4; and one located in Panel 6, Room 5). Enclosure 1 contains a listing, by container number, of the 72 containers to which the D001 code provisionally applies.

The application of this code is based on information provided to the Permittees by LANL resulting from ongoing extent of condition evaluations at LANL, continuing investigations into the cause of the February 14, 2014, radiological release, and the re-evaluation of Acceptable Knowledge (AK) information as required by the WIPP Permit, Attachment C4, *TRU Mixed Waste Characterization using Acceptable Knowledge*, pursuant to 40 CFR 20.4.1.500 (incorporating 40 CFR §264.13). The regulations in 40 CFR §264.13 require the Permittees to ensure that waste characterization information is accurate and up to date. The Permittees have reason to believe that the nitrate salt bearing waste in the containers described above is an oxidizer pursuant to 40 CFR 20.4.1.200 (incorporating 40 CFR §261.21(4)), and, therefore, the D001 code should be applied to the respective containers per the updated AK information.

Because the evaluations and investigations are ongoing, the application of the D001 to these containers is considered provisional and may change to include and/or remove containers and/or waste streams in the future. Subsequent to this written notification, the Permittees will provide an additional supplement to the "Report of Implementation of the WIPP RCRA Contingency Plan" and additional information describing the records that will be updated to reflect the application of the D001 code.

The most recent revised nitrate salt-bearing waste inventory submitted to the NMED by LANL does not include 22 containers from LANL waste stream LA-MIN02-V.001, to which the Permittees had previously provisionally applied the D001 code. On July 30, 2014, the Permittees notified the NMED that they were provisionally applying the D001 code to disposed waste containers from LA-MIN02-V.001 pending further evaluation of the Acceptable Knowledge by LANL. The 22 containers have been disposed in Panel 6, Rooms 1 and 2, and consist of solidified oils which do not contain unconsolidated nitrate salts. The Permittees are removing the D001 code from these 22 containers since LANL has determined that they do not contain unconsolidated nitrate salts. Enclosure 2 contains a listing, by container number, of the 22 containers to which the D001 code no longer applies.

In accordance with Item 17 of the New Mexico Environment Department's (NMED's) written comments on the WIPP Nitrate Salt Bearing Waste Container Isolation Plan, dated August 5, 2014, the Permittees are required to provide updates regarding the identification of other waste streams or drums that have been identified by WIPP, LANL, NMED, or any other regulatory agency as requiring isolation. Pursuant with the August 5, 2014, letter the Permittees will provide the applicable updated information in a separate letter and will include the following: description of the discrepancy, discrepancy resolution, specific location of the currently identified waste containers that have the "provisional" assignment of EPA hazardous waste number D001, and discrepant hazardous waste manifests for the affected waste shipments.

The Permittees are continuing to operate the WIPP underground in filtration mode pursuant to the WIPP Nitrate Salt Bearing Waste Container Isolation Plan partially approved by the NMED on August 7, 2014 and March 30, 2015 so that a release from any nitrate salt bearing waste containers, should it occur, will not pose a threat to human health or the environment. In addition, the Permittees are working to expedite closure of Panel 6 in order to isolate this waste.

We certify under penalty of law that this document and all attachments were prepared under our direction or supervision according to a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on our inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of our knowledge and belief, true, accurate, and complete. We are aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

If you have any questions, please contact Mr. George T. Basabilvazo at (575) 234-7488.

Sincerely,

Original Signatures on File

Jose R. Franco, Manager
Carlsbad Field Office

Robert L. McQuinn, Project Manager
Nuclear Waste Partnership LLC

Enclosures

cc: w/enclosures
R. Maestas, NMED *ED
N. Stone, EPA Region 6 ED
CBFO M&RC
*ED denotes electronic distribution