



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

APR 07 2005



Mr. James P. Bearzi, Chief
Hazardous Waste Bureau
State of New Mexico Environment Department
2905 Rodeo Park Drive East, Building 1
Santa Fe, NM 87505-6303

Subject: NMED Approval of the NTS/CCP Final Audit Report, Audit A-05-02, WIPP,
EPA I.D. No. NM4890139088

Dear Mr. Bearzi:

I am responding to your April 1, 2005, approval of Audit A-05-02. In your approval, you expressed concern about the closure of Corrective Action Report (CAR) 05-003 with respect to the reworking of certain audio/video tapes. You went on to state,

... NMED reserves the right to take enforcement action for any emplaced waste containers from NTS/CCP where the characterization method reported the WWIS was "Visual Examination in lieu of RTR" and the container was previously identified as having incomplete audio.

Any New Mexico Environment Department (NMED) enforcement action as a result of the audit is unwarranted.

As you are aware, the CAR and our planned corrective actions were thoroughly discussed with Mr. Steve Zappe and others of your staff on November 17, 2004, following the Recertification Audit on October 5-8, 2004. We also complied with a further request from NMED to expand our search into the matter and provided additional tapes for your review. Thus, you and your staff knew or had reason to know of our planned course of action.

Furthermore, the Waste Analysis Plan (WAP) does not support an enforcement action. Section B1-3b(3), provides the requirements for Visual Examination (VE) and states as follows:

Visual examination shall be conducted to describe all contents of a waste container, and includes estimated or measured weights of the contents. The description shall clearly identify all discernible waste items, residual materials, packaging materials, or waste material parameters.



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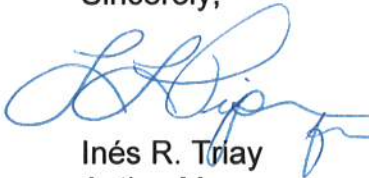
The WAP does not specify the level of audio necessary to support written records. Rather, section B1-3b(5) requires that "written records of visual examination shall be supplemented with the audio/video recording." The written VE records were in fact supplemented with audio/video recordings. However, because of a mechanical defect in the recording equipment, certain portions of the tapes were inaudible. The audio/video tapes, even without the subsequent audio rework, clearly and unequivocally confirm the contents of the drums and verify compliance with applicable permit requirements.

Moreover, when the failure of some portions of the audio was discovered, we used appropriately qualified VE experts to re-record the missing audio sections while watching the appropriate portion of the video tape. As required by the permit, these individuals were trained in the specific waste generating processes, typical packaging configurations, and expected waste material parameters for this particular site. The audio they provided while reviewing the video tape is a function of this training, the level of detail provided is at their discretion. Your letter implies that this work cannot be accomplished without a significant level of communication between the expert providing the audio and the operators handling the waste. This is normally not the case. Most communication between these individuals consists of the VE expert asking the operators to reposition items for the video.

Once the discrepancy was identified, we responded in strict accordance with section B3-13 of the WAP (non-conformances). A CAR was issued, the situation was corrected, and appropriate actions were taken to prevent recurrence.

In summary, CAR 05-003 was resolved in accordance with the WAP. There is no basis for an enforcement action. Please contact me at (505) 234-7300 or Mr. R. D. Raaz at (505) 234-7400 to further discuss this matter.

Sincerely,



Inés R. Triay
Acting Manager

Mr. James Bearzi

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cc:

K. Watson, CBFO	*ED
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M. Rose, CBFO	ED
M. Leavitt, NMED	ED
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