



SUSANA MARTINEZ
Governor

JOHN A. SANCHEZ
Lieutenant Governor

**NEW MEXICO
ENVIRONMENT DEPARTMENT**

Hazardous Waste Bureau

2905 Rodeo Park Drive East, Building 1

Santa Fe, New Mexico 87505-6303

Phone (505) 476-6000 Fax (505) 476-6030

www.nmenv.state.nm.us



DAVE MARTIN
Secretary

RAJ SOLOMON, P.E.
Deputy Secretary

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

January 21, 2011

Edward Ziemianski, Acting Manager
Carlsbad Field Office
Department of Energy
P.O. Box 3100
Carlsbad, New Mexico 88221-3100

Farok Sharif, President
Washington TRU Solutions LLC
P.O. Box 2078
Carlsbad, New Mexico 88221-5608

**RE: NMED INSPECTION OF CHANGES TO PERMITTED FACILITY TO SUPPORT TRUPACT-III ACTIVITIES
WASTE ISOLATION PILOT PLANT
EPA I.D. NUMBER NM4890139088**

Dear Messrs. Ziemianski and Sharif:

On September 20, 2010, the New Mexico Environment Department (NMED) received a notification of planned change dated September 16, 2010 from the Department of Energy Carlsbad Field Office (CBFO) and Washington TRU Solutions LLC (the Permittees) regarding plans to perform three categories of changes at the Waste Handling Building at the Waste Isolation Pilot Plant (WIPP) in support of preparing the facility to use the TRUPACT-III shipping container. The notification stated that these changes were planned to occur between September 2010 and March 2011, and consisted of:

1. Installing a new pallet stand in the contact-handled waste bay (CH Bay) during the winter shutdown between November 2010 and January 2011.
2. Performing a variety of modifications in Room 108, such as removing a concrete pad, installing a hood ventilation system, bolting robot, bolt and cover/lid rack, pallet dispenser, payload transfer station, and VOC monitoring system, and performing electrical work, beginning in October 2010 and continuing into 2011.

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3. Installing an engineered insert to level the floor in the Conveyance Loading Room during the winter shutdown between November 2010 and January 2011.

On January 11, 2011, NMED received a second notification of planned change dated January 10, 2011 regarding 21 wall penetrations throughout the Waste Handling Building necessary to install conduit that will be used to connect various components of the electrical, communications, and monitoring systems associated with the TRUPACT-III project. The notification included a table and figure identifying the number, size, and general location of the penetrations, and noted that some of the penetrations were not in the Permitted Facility but had been included for completeness. This second notification also stated that these modifications were in addition to those changes identified in the September 16, 2010 notification.

On January 18, 2011, NMED received a certification by a New Mexico Registered Professional Engineer (PE) in support of the TRUPACT-III project, stating that the four referenced projects were constructed in a manner that will allow waste handling operations to occur in the affected areas in compliance with the WIPP Hazardous Waste Facility Permit. This PE certification was submitted, signed, and certified by the Permittees in compliance with the reporting requirements of Permit Section 1.7.11.2, which states in relevant part:

...The Permittees shall not store or dispose TRU mixed waste in any modified portion of the facility (except as provided in 20.4.1.900 NMAC (incorporating 40 CFR §270.42)) until the following conditions specified in 20.4.1.900 NMAC (incorporating 40 CFR §270.30(l)(2)) are satisfied:

- i. The Permittees have submitted to the Secretary, by certified mail or hand delivery, a letter signed by the Permittees and a New Mexico registered professional engineer stating that the facility has been constructed or modified in compliance with this Permit, and:*
- ii. The Secretary has either inspected the modified portion of the facility and finds it is in compliance with the conditions of this Permit; or waived the inspection or, within 15 calendar days of the date of submission of the letter required above, has not notified the Permittees of his intent to inspect.*

NMED conducted an inspection on January 18, 2011 of the following projects identified in the PE certification:

- Leveling of the Conveyance Loading Room floor
- Pallet Stand 41-T-W4 installation in Room 103 (identified in the Permit as the CH Bay, Building 411)
- Damper installation between Room 103 and Room 108 wall
- Installation of conduit wall penetrations in Building 411

During the inspection, NMED identified discrepancies between the number and size of installed penetrations and those listed in the table provided in the January 10, 2011 notification. CBFO subsequently submitted a revised "Table Listing of TRUPACT-III required penetrations" in a letter dated January 19, 2011 to address these discrepancies.

Based upon a review of the information provided in the certification and obtained during the inspection, NMED finds that the four referenced projects identified in the PE Certification were constructed in compliance with the requirements of the Permit. The Permittees may now resume TRU mixed waste storage activities in the portions of the Waste Handling Building that may have been affected by these facility modifications.

NMED further notes that any changes described in the notification of planned change dated September 16, 2010 that were limited solely to Room 108 have not been completed, and neither the PE certification nor the inspection evaluated compliance of those changes with respect to Permit requirements. The Permittees may not manage TRU mixed waste in Room 108 of the Waste Handling Building until NMED takes final agency action on the pending Class 2 permit modification request, the Permittees submit a PE certification for these changes, and NMED has either inspected the modified portion of the facility, waived the inspection, or not notified the Permittees of NMED's intent to inspect with 15 days of receipt of the PE certification.

If you have any questions regarding this matter, please contact Steve Zappe of my staff at (505) 476-6051.

Sincerely,



James P. Bearzi
Chief
Hazardous Waste Bureau

cc: Steve Zappe, NMED HWB
Thomas Kesterson, NMED DOEOB
Laurie King, EPA Region 6
Tom Peake, EPA ORIA
Connie Walker, Trinity Engineering
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