



**Allen, Pam, NMENV**

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**From:** Kliphuis, Trais, NMENV  
**Sent:** Thursday, April 19, 2012 9:56 AM  
**To:** Allen, Pam, NMENV  
**Subject:** FW: AK Converstion with Connie Walker

For the record

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**From:** Kliphuis, Trais, NMENV  
**Sent:** Monday, April 16, 2012 10:50 AM  
**To:** 'Chavez, Rick - RES'; 'McCauslin, Susan - DOE'  
**Cc:** Kieling, John, NMENV; Kehrman, Bob - RES; 'Basabilvazo, George - DOE'  
**Subject:** FW: AK Converstion with Connie Walker

Good morning,

Here is the latest language and email that I mentioned in our meeting showing where we seem to be stuck. As I stated then, I still have to get final internal agreement that the language I am proposing is OK. But if it works for you, I will push ahead. The language is at the end of the email. Please let me know what you think. Thanks.

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**From:** Kliphuis, Trais, NMENV  
**Sent:** Friday, March 23, 2012 4:50 PM  
**To:** 'Conniewalk@aol.com'  
**Subject:** RE: Memo for you

Newest in blue. Thanks for helping with this.

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**From:** [Conniewalk@aol.com](mailto:Conniewalk@aol.com) [<mailto:Conniewalk@aol.com>]  
**Sent:** Friday, March 23, 2012 3:57 PM  
**To:** Kliphuis, Trais, NMENV  
**Subject:** Re: Memo for you

And mine are in Red!

In a message dated 3/23/2012 3:33:13 P.M. Mountain Daylight Time, [trais.kliphuis@state.nm.us](mailto:trais.kliphuis@state.nm.us) writes:

Thanks Connie, my comments in green below.

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**From:** [Conniewalk@aol.com](mailto:Conniewalk@aol.com) [<mailto:Conniewalk@aol.com>]  
**Sent:** Friday, March 23, 2012 2:46 PM  
**To:** Kliphuis, Trais, NMENV  
**Cc:** [conniewalk@aol.com](mailto:conniewalk@aol.com)  
**Subject:** Re: Memo for you

Hi Trais

I didn't see this specific edit of the permit you propose, sorry, but I did understand that you intended to only tweak the internal sentence of the current language (sorry if MY memo wasn't clear on that).



I understand what you're trying to do (change the language so the SRS CAR isn't a violation of the permit). – Not exactly – I am trying to clarify the permit so that only violations of the permit would trigger cease shipment. I do not think NMED has the authority to require cease shipment through authority of the HW permit for other CARs that are not RCRA related. Agreed. I think we always interpreted this to mean CARs associated with permit areas, but clarification would be good! While the exact activity/issue the auditors had trouble with (check box inconsistency) isn't specified in the permit, the procedure is CCPs interpretation of "how to" comply with the permit, so a devil's advocate COULD say that since the CAR specifically points out an issue with AK compilation and the permit specifically spells out AK compilation CARs as triggers to non-shipment then the language of the CAR still triggers the issue, even with the edits proposed to the permit. - I do not understand why. As I understand, the language I propose would clarify that not all AK CARs are triggers to non-shipment, only AK CARs that are violations of the permit – the AK CAR's that would trigger non-shipment would only be violations of the permit for other reasons not just because they are AK CARs. Would this help the goal I clarify above? The permit says that if you have a CAR associated with AK compilation, shipment of the SCG ceases. Regardless of the additional language about permit noncompliance, AK compilation CARs ARE still violations of the permit because it says so IN the permit (does it say this somewhere else other than the language we are looking at?)-- that is, without removing the mention of compilation we still have this statement in the permit (see the clarification below by adding that, does this help?), so the language of the CAR is critical. If you took OUT mention of AK compilation and JUST had the permit violation elements, then it would work! But I don't know if this can be a Class 1. What if we leave it but clarify that it has to be associated with a permit noncompliance CAR as it appears the original proposed language intended?

What if you add "that"?

If acceptable knowledge procedures do not exist, or the required information is not available (i.e., C4-2), or corrective actions (i.e., CARs) issued as a result of (or in response to?) noncompliance with this permit that are identified associated with acceptable knowledge compilation (i.e., C4-3b and C4-3c), and/or hazardous waste characterization, the Permittees will not manage, store, or dispose TRU mixed waste for the subject waste summary category.

This might work, but I'm not sure its a class 1. Regardless, how they word their CARs is critical-- if they say it's a permit violation, then they're putting themselves into the loop:

If corrective actions (i.e., CARs) issued as a result of (or in response to?) noncompliance with Sections C-C7 of this permit are identified, the Permittees will not manage, store, or dispose TRU mixed waste for the subject waste summary category.

Not all CARs are violations of the permit and not all AK CARs are permit violations. For example, a CAR issued with respect to AK radiological data would not be a permit violation. I haven't seen the CAR in questions (SRS), so I assume it states AK compilation as the reason for issuing the CAR. Could you send that CAR to me, as perhaps I'm just operating on hearsay, and need to see the real McCoy! If my understanding of the CAR language is correct, had the CAR had been worded to state "the condition, if uncorrected, could have a serious (future) effect on regulatory compliance demonstration", then the CAR would have been justified based on their own internal QAPD, without specifically stating that the issue violated the permit. I believe it is a matter of semantics best solved by a tweak at their end, but I'm not in the loop on everything!

Did you see the final page of the memo sent? – Yes. It might be best to edit the entire clause to better reflect what's happening and to do exactly what you'd like to do through the edits: indicate that only CARs associated with permit violations could trigger the stop shipment. However, this is clearly a Class 2 effort! – Yes, this would be a better solution and I like how your proposal eliminates the redundancy. However, we are trying to accommodate their request to clarify what can be clarified though a Class1. Understood. It's been a struggle-- in my experience, if it's a struggle to find Class 1 language, then we could be challenged as to whether it's a class 1. Are they really reluctant to consider a language change in their own documentation (CAR)? That would be the simplest approach.

I'm looking forward to the OR audit-- should be an interesting experiment in audit performance! – Yes, thanks for helping with this.

thanks

Connie

In a message dated 3/23/2012 1:58:20 P.M. Mountain Daylight Time, [trais.kliphuis@state.nm.us](mailto:trais.kliphuis@state.nm.us) writes:

Thanks Connie,

It seems we missed a step in our communication somehow. The language I was considering was from what I send Tuesday morning, not total reversion back to the original language. i.e. -

If acceptable knowledge procedures do not exist, or the required information is not available (i.e., C4-2), or corrective actions (i.e., CARs) issued as a result of (or in response to?) noncompliance with this permit are identified associated with acceptable knowledge compilation (i.e., C4-3b and C4-3c), and/or hazardous waste characterization, the Permittees will not manage, store, or dispose TRU mixed waste for the subject waste summary category.

If the AK CAR did not trigger a violation of the permit, wouldn't this help address the problem? As I understand, are all AK CAR's are not violations of the permit....?

Trais Kliphuis

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**From:** [Conniewalk@aol.com](mailto:Conniewalk@aol.com) [<mailto:Conniewalk@aol.com>]

**Sent:** Friday, March 23, 2012 11:39 AM

**To:** Kliphuis, Trais, NMENV

**Cc:** [conniewalk@aol.com](mailto:conniewalk@aol.com)

**Subject:** Memo for you

Hi Trais

As we discussed, attached is a brief memo that goes through your proposed language changes and explains pluses/minuses associated with using the term "finding", etc. Hope you find this useful!

thanks

Connie