



Department of Energy
Carlsbad Field Office
P. O. Box 3090
Carlsbad, New Mexico 88221
02 AUG 2001

ENTERED



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

RE: WAGS Assayed INEEL Waste Stored at the WIPP
EPA No. NM4890139088

Dear Mr. Bearzi:

The United States Department of Energy Carlsbad Field Office (CBFO) and Westinghouse TRU Solutions LLC (WTS) are in receipt of the New Mexico Environment Department (NMED) letter issued by your signature and dated July 27, 2001. This letter responded to the July 18, 2001, CBFO correspondence to NMED requesting a one-time, 90-day extension to the 60-day container storage time limit specified for the Waste Handling Building Container Storage Unit (WHB Unit) in WIPP Hazardous Waste Facility Permit (HWFP), Module III.A.1.e. Our letter also identified actions taken by CBFO and WTS regarding waste received from the Idaho National Engineering and Environmental Laboratory (INEEL) that had been radio assayed utilizing the Waste Analysis Gamma Spectrometer (WAGS). As requested in a July 9, 2001, letter from the United States Environmental Protection Agency (EPA) Office of Radiation and Indoor Air, we temporarily suspended shipments of INEEL waste assayed with the WAGS and are holding previously shipped INEEL waste assayed with the WAGS in the WHB Unit until EPA issues their final determination on the WAGS system. Waste shipments from other generator/storage sites as well as shipments of INEEL waste assayed with systems previously approved by the EPA have continued. Normal waste handling operations have not been interrupted as a result of storing the WAGS assayed INEEL waste.

As first stated in our July 18, 2001, letter to NMED and reaffirmed herein, the aforementioned actions were implemented at the request of EPA. They are aware of the WHB Unit 60-day storage limit and have committed to resolve the status of the WAGS system as expeditiously as possible. Presently, all waste handling activities at the WIPP are proceeding in full compliance with the provisions of the HWFP. There are 20 7-pack assemblies of INEEL transuranic mixed waste identified with administrative hold tags in storage at the WIPP pending EPA's decision on the WAGS system. These contain 87 55-gallon drums assayed with the WAGS, 44 drums assayed on the EPA certified INEEL gamma-counting system and 9 dunnage drums.



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All of these drums were characterized, certified, and shipped to WIPP in accordance with the applicable provisions of the HWFP Waste Analysis Plan. Storage of these drums within the WHB Unit for a period not exceeding 60 days does not constitute an off-normal condition.

The CBFO and WTS would like to correct inaccurate information contained in our July 18, 2001, letter to NMED regarding the dates when the WAGS assayed INEEL waste will exceed the WHB Unit 60-day container storage time limit. In that letter we identified August 26, 27 and 28, 2001, as the dates the storage time limit would be exceeded. The latter two dates are incorrect. The correct dates on which the WAGS assayed INEEL waste will exceed the storage time limit are:

August 26, 2001, for 8 7-pack assemblies from INEEL shipments IN010093 and IN010094 processed into the WHB Unit June 27, 2001;

September 7, 2001 for 8 7-pack assemblies from INEEL shipments IN010096 and IN010097 processed into the WHB Unit July 9, 2001; and

September 8, 2001 for 4 7-pack assemblies from INEEL shipment IN010095 processed into the WHB Unit July 10, 2001.

Your letter expressed NMED concerns regarding our compliance with HWFP Attachment M1 (container storage), Section M1-1d (Container Management Practices) and Attachment F (Contingency Plan), Section F-1 (General Information, Off-Normal Events). You also wrote, "NMED is concerned that the continued shipment of waste during the off-normal event may result in the future violation of the storage time limit requirements of the Permit, Module III.A.1.e."

The intent of our July 18, 2001, letter to NMED was to report anticipated noncompliance if EPA could not provide a positive response on the WAGS system and the waste was not returned to INEEL prior to the end of the WHB 60-day container storage time limit (HWFP Module 1.E.11.b.); provide updated information subsequent to earlier telephone conferences and discussions between NMED and CBFO; request a 90-day temporary storage time extension for the WHB Unit; and request storage at the TRUDOCKS on facility pallets for up to 3 days. CBFO is now withdrawing our prior requests to NMED for temporary storage time increase for the WHB Unit and storage on facility pallets at the TRUDOCKS. CBFO and WTS strongly believe that all waste management decisions and subsequent actions associated with the WAGS assayed INEEL waste have been made in compliance with the HWFP. Receiving waste from INEEL assayed on the EPA certified gamma-counting system and other generator/storage sites certified waste while storing WAGS assayed waste in compliance with the HWFP conditions specified in Module III.A.1 does not constitute an off-normal event. Consequently, there is no basis to suspend shipments under Attachment M, Section M1-1d or Attachment F, Section F-1 of the HWFP.

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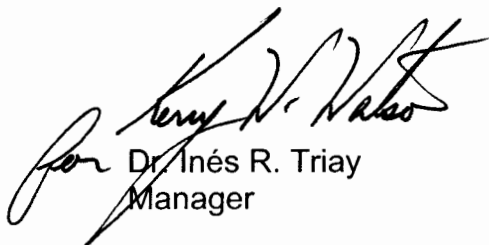
If the EPA cannot or does not provide a positive response on the status of the WAGS system by 4:00 P.M. August 9, 2001, we will initiate 14-day advanced shipping notification to the governor's office in each state along the shipping route, pursuant to agreement with the Western Governors' Association. We will commence loading operations on August 20, 2001, and will dispatch the first two shipments of WAGS assayed INEEL waste to INEEL on or before 11:59 P.M. August 25, 2001, if the EPA has not approved the WAGS system. EPA approval of the WAGS system after 12:00 P.M. August 25, 2001, will not allow time for us to unload the TRUPACT II shipping packages and emplace the waste in the WIPP underground prior to 11:59 P.M. If this scenario were to occur, we will still dispatch the waste to INEEL rather than exceed the WHB Unit container storage time limit.

We will initiate the 14-day advanced shipping notifications for the second two shipments of WAGS assayed INEEL waste no later than 4:00 P.M. August 22, 2001 if EPA has not provided a prior positive response. We will begin loading operations on September 2, 2001, and we will dispatch the second two shipments of WAGS assayed INEEL waste to INEEL on or before 11:59 P.M. September 6, 2001, if the EPA has not approved the WAGS system. EPA approval received after 12:00 P.M. September 6, 2001, will not allow time for emplacement in the WIPP underground prior to 11:59 P.M.; therefore, the shipments will be dispatched to INEEL.

If a positive EPA response has not been received by August 23, 2001, notifications to the governors' offices will be initiated for the final shipment of WAGS assayed INEEL waste no later than 4:00 P.M. of that date. Loading operations will start on August 30, 2001, and we will dispatch the final shipment of WAGS assayed INEEL waste to INEEL on or before 11:59 P.M. September 7, 2001, if the EPA has not approved the WAGS system. EPA approval received after 3:00 P.M. September 7, 2001, will not allow time for unloading and emplacement in the WIPP underground prior to 11:59 P.M. The shipment would be dispatched to INEEL to ensure WHB Unit container storage time limits are not exceeded.

If you have any questions regarding this matter please contact me at (505) 234-7300 or Mr. Kerry Watson of my staff at (505) 234-7357 or (505) 361-0265 (preferred).

Sincerely,



Dr. Inés R. Triay
Manager

Mr. James Bearzi

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cc:

S. Zappe, NMED

P. Maggiore, NMED

D. Huizenga, DOE-HQ

L. Smith, DOE-HQ

P. Detwiler, DOE-HQ

K. Watson, CBFO

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S. Monroe, EPA

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G. Barnes, WTS