



June 27, 2002

Steve Zappe
New Mexico Environment Department
2905 Rodeo Park Drive, Building 1
Santa Fe, NM 87505

Regarding WIPP Drum Age Criteria (DAC) Draft Permit Modification

Dear Mr. Zappe,

Nuclear Watch of New Mexico (NWNM) requests that NMED deny the DAC permit modification as it is neither needed nor supported on a technical level.

The New Mexico Hazardous Waste Act (20 NMAC 4.1.900, incorporating 40 CFR 270.42(c)(6)), provides that NMED may deny a Class 3 modification. NWNM requests that NMED reconsider its position and revise it so as to not support the modification.

If such a revision does not take place, NWNM requests that a public hearing take place on this matter. In addition to this request for a hearing, NWNM also requests that any public hearing be postponed past the tentatively announced date of August 26 for the following reasons:

- Given the fact that there are several other pending Class 3 permit modifications such as the Centralized Confirmation Facility (CCF), and the Remote-Handled Waste (RH-TRU) modification, these hearings should be consolidated. The purpose for consolidation is for the simple fact that these modifications are interrelated, the CCF being especially so. In addition to this, consolidating these hearings will assist in the efficient use of resources and will be in the public's interest of health and safety.
- In order to become adequately prepared for such a hearing, extensive preparations will be required. However, the permittees are planning to submit a large volume of permit modification requests (in a variety of classifications) in the coming weeks that NWNM, along with other stakeholders, plan to comment on. This is an unnecessary, and even inconsiderate, burden for stakeholders. The permittees should be required to decide which of their modification requests they find the most important. If it is the DAC, then their current interests in submitting the new modification requests should be delayed as to allow stakeholders an appropriate amount of time to prepare for the hearing. If it is the new permit modifications requests that the permittees wish to pursue, then the DAC hearing should be delayed. As stated above, however, NWNM feels that it would be inappropriate to hold several hearings on several interrelated modification

requests, and would again suggest that NMED have the Class 3 modification request hearings consolidated and scheduled with enough time to allow citizen review of the permittees documents so that the public's health and safety will be kept in mind.

- The current DAC permit modification request is lacking sufficient information. The July 29th date for a notice of intent for technical testimony is not enough time for that information to be provided. Therefore, the date for notice of intent should be delayed and hence the hearing should also be delayed.

Rationale for Denial

The Permit Modification Is Not Supported Technically

There is no underlying technical basis for the modification that is adequately presented in the permit modification request.

1. Data. The permittees have neither provided data on actual sampling results nor have they presented data on the actual effectiveness of venting and filtration of their drums. Effectiveness would include information on filter failures, diffusivity values, the VOC amounts "lost" from different filter vents of various sizes and the various "air tight" sampling techniques. Hydrogen gas generation information in drums should also be provided. This data should be provided with respect to all container sizes and types. This data must be provided within at least 30 days in advance of the time required for notice of intent to present technical testimony.

The modeling information and actual data from generating and storage sites are essential for the DAC modification. NWNM believes that without this information and data that there is no adequate technical basis for any changes in the DAC, let alone the reduced requirements included in the request and the draft permit modification.

Finally, the permittees have made no substantial argument to show that the existing DAC have produced incorrect results or that the current process is endangering public health or the environment. In addition to this, the permittees have not shown that the modified DAC will be more protective of human health or the environment than the current DAC. In actuality, the proposed DAC appears to be less protective.

2. Modeling

The 1995 Lockheed Idaho Technologies Company study and the 2000 BWXT study are different and inconsistent to one another. There are a number of discrepancies that need to still be addressed in the studies. Because of this, NWNM feels that this is not an ade-

quate technical basis for the proposed changes in the DAC.

The permittees must provide additional information with respect to this modeling and include all studies done to verify the modeling results. This information, of course, must be provided in advance of the time of the notice of intent to present technical testimony. In addition, if that information is ample, as we would expect, NWNM and other stakeholders will require additional time to study the information.

NWNM also requests that NMED present their own analysis of the modeling results and provide witnesses at the public hearing to discuss its modeling analysis.

Additional Data/Information Is Required

NWNM does not believe that the three scenarios for packaging configuration groups necessarily take into account all configurations. Data should be provided that shows that the proposed DAC are conservative for all possible packaging configurations and not simply for the configurations shown in the three scenarios. Without such data, this modification should be denied or changed to allow for any other packaging configuration to abide by the existing DAC.

Permit Attachment B1 provides that if additional packaging configurations are identified, additional modification requests may be submitted. NWNM does not agree with this open-ended provision and believes that it should be deleted. The permittees may submit permit modifications as per the Hazardous Waste Act regulations and therefore no such provision should be made in the permit. NWNM believes that packaging configurations should be known and the basis of this modification be reported. If NMED or the permittees understand that there are other configurations they should be included in the modification request. In addition to this, if there are other packaging configurations then they should comply with the existing DAC.

The Permit Modification Is Unnecessary

The New Mexico Hazardous Waste Act regulations (20 NMAC 4.1.900, incorporating 40 CFR 270.42(c)(1)(iii)), requires that the request “[e]xplains why the modification is needed.” In this modification, the permittees do not explain the justification for the requested modification. Since the permittees have failed to meet this elementary request, NMED should deny the request as unnecessary.

The original iteration of this modification was as a Class 1 modification request on November 13, 2000, to assist the Idaho National Engineering and Environmental

Laboratory (INEEL) in reaching its 3,100m³ of waste shipped to WIPP by December 31, 2002. As this revised modification will not be made by the time INEEL is in need of it, the INEEL contingency cannot be a valid argument for why this modification is required.

For the reasons stated above that Nuclear Watch of New Mexico believes that NMED must deny this permit modification request.

Thank you for your consideration of this matter.

Sincerely,

Geoff Petrie
Nuclear Watch of New Mexico

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