



November 2, 2001

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Dear Mr. Zappe,

Nuclear Watch of New Mexico (NWNM) offers these comments regarding the Class 2 permit modification to the Waste Isolation Pilot Plant permit requested by DOE on August 28, 2001 and then revised on September 28, 2001 to change headspace gas analysis, change the visual examination (VE) requirements, and change the procedure for headspace gas sampling.

NWNM strongly opposes this modification request and urges the New Mexico Environment Department to deny it.

Regulations under the New Mexico Hazardous Waste Act (20 NMAC 4.1.900, incorporating 40 CFR 270.42(b)(7)) provides that the NMED may deny any Class 2 modification for any of the following reasons:

1. the modification request is incomplete;
2. the modification does not comply with other regulations covering the operating standards for hazardous waste storage and disposal facilities; or
3. the conditions of the modification fail to protect human health and the environment

In this current Class 2 permit modification request, as seen in others in the past, the permittees have submitted this modification request while it remains incomplete, shows little concern for the safety of human health or the environment, nor does it comply with the above regulations. For these reasons the NMED should deny this permit modification.

Item 1

Using Composite Headspace Gas Data and Compositing up to 20 Samples

This proposed modification to the WIPP permit is in a word ridiculous. Even someone with a limited background in laboratory research can see that DOE's intended change in headspace gas compositing is lacking logic and, more importantly, is dangerous.

By changing their current practices from five 5 ml sample composition in a 25 ml syringe to twenty 12.5 ml sample composition in a 250 ml SUMMA[®] canister, they are introducing variables which they apparently cannot comprehend. While the current method of headspace gas composition is flawed, the suggested modification is even more so.

For example: As the practice currently stands, by taking a 5 ml sample from five different drums and compositing them in a 25 ml syringe, they are still running the risk of missing potential problems. Let us assume for a moment that four of the five drums from which they take a sample have no problems with respect to volatile organic compounds (VOCs) or tentatively identified compounds (TICs). But for arguments sake, let us imagine that the fifth drum which they take their sample from has a high level of both. In the current procedure, they would find one of two things:

1. The sampling comes up high, but no action is taken because the numbers state that they are still within regulation standards; or
2. They decide that this sample is of concern because of the high numbers and they are forced to look at the drums in more depth before they proceed with the certification of the waste.

Ideally it is the second of the two that DOE will embark upon, for if their goal is for human health and environmental safety then they would. In addition to that, because of the limited number of composited samples they would be able to narrow their field of concern to only five drums! However, with the proposed modification to this compositing, the DOE would more than likely not have that choice.

Take for example nearly the same scenario. 19 out of 20 drums have little if any VOCs or TICs. The sampling is performed on the twentieth drum which, unbeknownst to them, has very high levels of both. By compositing 20 drums their results would show that the composited sample has numbers compliant to the permit requirements. However, this is not the case, and the twentieth drum is actually unacceptable to be buried. In this case, the second option, as shown above, would not be considered simply because no anomalies are discovered through this sort of compositing and sampling. Added to this is the fact that if some sort of anomaly is found they will be forced to assess 20 drums as opposed to only five in the current regulations. This increase of 15 more drums must certainly factor into concern for human health and safety of the environment, in addition to the additive cost factor to these extra drums that they must sample once again!

Outside of this common sense method of contesting this proposed permit modification, NWNM also notes that the DOE states that this modification request will improve both efficiency and safety at the generating/storage sites. This justification for the requested modification is inadequate because any modification should be based on the safety of WIPP, the disposal site. Without any proven benefits to the health and environment of New Mexicans the justification for this proposed modification is not in the least adequate.

Furthermore, DOE's information submitted in Attachment B of the modification request is based only on comparisons of the headspace gas sampling at INEEL and Rocky Flats, but this proposed modification would be applied to all sites. The very limited analysis of wastes at INEEL and Rocky Flats is not adequate to show that it is comprehensive for the wastes at those two sites.

The permittees have not shown that the changed methods of composite sampling are protective to human health and the environment. Because of this lack of data in their submission they are not meeting the requirements of 40 CFR 264.13 or the requirements of 40 CFR 264.31. Additionally, the request does not protect the environment or human health since they do not demonstrate that all TICs will be identified and reported and that headspace gas sampling will be performed according to the permit.

Item 2 Establishing Safety Conditions for Visual Examination (VE) of Waste Containers

In this modification the request to change the procedures for VE of waste containers should be denied because the request is incomplete, does not protect human health and the environment, and it does not comply with regulations.

In this portion of the modification request DOE shows no justification for any change to the permit as it stands. As the proposed modification currently stands, the DOE shows no evidence that the current permit is inadequate without this modification. In fact, the examination of drums which radiography has shown to contain unusual items or conditions provides an important assessment of radiography and should be performed as often as needed instead of removed.

The documentation provided by DOE shows that only one drum has spawned this need for a modification of the permit. This is outrageous. In addition to this ridiculous lack of evidence there is no evidence that the drum was subject to VE and that any worker was in danger just because of this one drum. This shows how this modification request is without any justification. This requested modification continues to show that it is not complete again and again. It does not explain why out of more than 11,000 drums that have been characterized under the current permit why only one drum is reason to change the permit. NWNM believes that one drum out of more than 11,000 drums from Rocky Flats is not anywhere near sufficient reason to modify the permit.

By changing the permit with respect to VE, the DOE will have modified the permit so that containers will no longer be subjected to VE on a randomly sampled basis. In fact the case will now be that DOE will be able to exclude drums that have been randomly selected for VE. This is a change that is entirely against important safety aspects of the Waste Analysis Plan, i.e., requirements for verification of radiography. NWNM notes that historically DOE has always been weak in its implementation of quality assurance practices.

Additionally, this request does not protect public health or the environment since there is no evidence to suggest that VE will be carried out in accordance with the permit.

Item 3

Taking Samples of Headspace Gas through Existing Filter Vent Holes

Once again, this modification request should be denied because it is incomplete, does not comply with regulations, and it does not protect public health or the environment.

The basis for this modification request is to provide an extra headspace gas sampling method. However, the discussion indicates that the reason for this modification request is simply a matter of the pipe overpack containers (POC) found at Rocky Flats.

The POC is a problem that DOE has brought upon itself. The development of the POC was to assist in the transportation of highly radioactive residues from Rocky Flats to WIPP. This container and the wastes that are being shipped in it are not specifically discussed within the permit application. As a result the public has not had the opportunity to fully analyze all aspects of the POC. This modification request is not complete by virtue of the fact that it does not contain the necessary documentation to show the public what the implications of the use of POCs are. Additionally, DOE shows no reason why there are concerns over the current method of headspace gas sampling with the POC.

Finally, this requested modification would not only affect the POCs, this new method of headspace gas sampling would be implemented on all containers. DOE has not offered any data on what the implications would be if this method of headspace gas sampling would be performed on other containers, not just the POCs. In absence of additional data, this requested permit modification shows inadequate justification and a haphazard approach to permit modification. There is no way to tell what the implications may be on characterization.

In one last note, NWNM has observed that this proposed Class 2 permit modification is simply one to create DOE efficiency in order to get waste to WIPP at a faster rate, ignoring the environmental and health risks along the way. Obviously the NMED cannot approve this permit modification because of this reason.

It is because of the above stated reasons that this modification request should be denied.

Thank you for your consideration of these comments.

Sincerely,

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