



October 3, 2002

Mr. Steve Zappe  
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**Regarding: Waste Isolation Pilot Plant Permit Modification Request – Add Waste Containers**

Dear Mr. Zappe,

**Nuclear Watch of New Mexico** (NWNM) requests that the New Mexico Environment Department (NMED) deny the above mentioned permit modification request.

As you know, regulations under the New Mexico Hazardous Waste Act (20 NMAC 4.1.900 incorporating 40 CFR §270.42(b)(7)) provides that NMED may deny any Class 2 permit modification request for the following reasons:

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

NWNM is strongly opposed to this modification as it is a threat to human health and the environment, and it is technically incomplete.

The following reasons will support our request to deny.

The permittees give remarkably little information on why this permit modification request (PMR) is necessary. The permittees are attempting to instigate a massive number of changes to the Waste Isolation Pilot Plant's (WIPP) Permit, but leave many questions unanswered.

With the changes in the use of the 85-gallon overpack, the ten-drum overpack, and the introduction of the 100-gallon drum the permittees leave little room for error. The permittees make no mention as to what their response will be if an overpack is required for these drums. By using these drums as a direct load, there is no contingency in place if a problem is found. Where is the permittees' plan if an overpack is needed for a ten-drum direct load, or for the other drums?

In addition to this, there is no mention of why these additions are necessary. In fact, the permittees even suggest that there are problems with their own PMR by stating that the 85-gallon drum is not

authorized as a shipping container in the TRUPACT-II Authorized Methods for Payload Control (TRAMPAC). How can the permittees assume that the TRAMPAC will be revised according to their own requirements? While reasons why these additions need to be made is not necessary in the Permit itself, these reasons certainly should be in the PMR as to allow the public the opportunity to understand the permittees' logic and give the public the ability to assess the PMR appropriately. The permittees do not seem to understand that when they submit incomplete PMRs they are cheating themselves out of the opportunity to have their PMR approved!

Furthermore, it is common sense to assume that many of the characterization, confirmation and verification techniques will become more difficult with the addition of these waste containers. One such problem that seems clear is the use of radiography on the 100-gallon drums. Again the permittees do not deal with this issue in any way.

The permittees do not deal with how these drums will be used if the HalfPACT PMR they have submitted is approved. Are the permittees planning on submitting another PMR if the HalfPACT PMR is approved? Please note: As stated in other comments, NWNM is strongly opposed to the HalfPACT PMR.

By not addressing the concerns of radiography and how overpacking would be dealt with, the permittees have not addressed the possible adverse affect that this PMR would have on human health and the environment. In fact, there is simply no mention of the environment and health in the PMR except to state that there is no impact. This is unacceptable. Because of this lack of documentation, NMED must deny this PMR.

Finally, there are a number of reasons why this PMR should be denied outright, but if NMED decides not to do so, they should reclassify this PMR as a Class 3. First, this PMR deals with far too many aspects of the WIPP Permit to not fall under the purview of a Class 3 PMR. Second, there are a number of issues at stake with respect to the Waste Handling Building (WHB). The permittees claim that this PMR should be considered a Class 2 PMR as it falls under 40 CFR 240.42 Appendix 1 F.2.a "Modification of a container unit without increasing the capacity of the unit." However, it appears that this is contradicting 40 CFR 240.42 Appendix 1 F.1.a "Resulting in greater than 25% increase in the facility's container storage capacity..." The permittees have not explained how the addition of these containers will be accounted for in the WHB and clearly there will be the possibility of exceeding the WHB's capacity. If this is the case, and there is currently no way to tell as the permittees do not address this, then this PMR would have to be a Class 3 as any change to the WIPP Permit that falls under 40 CFR 240.42 Appendix 1 F.1.a is required to be a Class 3.

In conclusion, **Nuclear Watch of New Mexico** recommends that the New Mexico Environment Department deny the WIPP permit modification request to Add Waste Containers. This PMR is technically incomplete, is a threat to human health and the environment, and is incorrectly classified.

Once again, the permittees are attempting to change the WIPP Permit without providing substantial reasoning as to why. Time and time again the permittees have stated that they will work to create useable permit modification requests. This is yet another example of their continued submittal of incomplete, improperly classified and unusable PMRs! NMED has more than enough reason to deny this

PMR and should also remind the permittees of their past promises not to submit something that barely passes for a permit modification request.

Thank you for your careful consideration of our comments.

Sincerely,

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