

COMMENTS OF
NUCLEAR WATCH OF NEW MEXICO
on the
PROPOSED CLASS 2 MODIFICATIONS OF THE
WASTE ISOLATION PILOT PLANT HAZARDOUS WASTE PERMIT



submitted by

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1. Headspace gas sampling

Waste generators cannot serve as the sole source of information about the contents of the waste barrels. Bomb-making waste streams are not homogenous as waste streams in industry tend to be. Process knowledge for nuclear weapons work is a waste characterization method fraught with error. This is the reason that regulators have insisted on back-up characterization processes for process knowledge such as RTR and sampling. Moreover, we have glaring examples of human error in the process knowledge documentation. For example, during the hearing, DOE's documentation of the sample barrels used as evidence of the waste characterization process was shown to be inaccurate and misleading. And so, despite good faith efforts by NMED to check process knowledge records, without back-up

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sampling, the lost, missing, incomplete, inaccurate or altered records will inevitably lead to acceptance of unacceptable organic compounds which produce unacceptable headspace VOC's. The problem of human error at the process knowledge and waste acceptance stages will escalate as one after another generator site passes its audit inspections. Assembly line practices begin to pour waste into WIPP. The expectation of an uninterrupted flow of waste transport sets the stage for waste characterization permit violations. Unless NMED preserves multiple back-up systems for waste characterization, waste that violates the permit either accidentally or intentionally will slip through regulatory checks and end up at WIPP.

DOE cites worker safety as its justification for reducing the number of containers required to be sampled for headspace gas. DOE argues that barrels that contain solids such as concrete or graphite, which are thought to be contaminated only with radionuclides, need not be sampled for VOC's. The argument is disingenuous at best. DOE knows how to safeguard workers from the known radioactivity. Only unpredicted gases would pose a threat to waste examiners. If workers are at risk because unpredicted gases containing VOC's may exist within the waste containers, then, that in itself indicates the need for thorough sampling.

Waste characterization is hardly the place to save time and money. Waste that is irretrievably sealed into a collapsed facility can never again be assayed. Failure to characterize the waste accurately and thoroughly could, in fact, result in accidents and worker exposure scenarios that could hasten closure of the facility or compromise its ability to meet its mandate. DOE is an agency whose record offers countless examples of cut corners and inadequate attention to health and safety concerns. In light of DOE's refusal to take responsibility for financial assurance in the closure of WIPP we ask ourselves: Is it NMED's responsibility to save time and money for DOE?

2. Thermal processes

In principle, we do not oppose the elimination of sampling for wastes that have undergone thermal processes that are hot enough to eliminate organic compounds that would produce VOC's. Our concern is the quality assurance of the thermal processes and NMED's responsibility to verify that the worker training, technical and mechanical systems and audits meet stringent standards. Therefore, NWNM believes that thermal processes used to eliminate VOC's must have undergone quality assurance audits at the facilities. A separate audit must be mandated under the permit for any

instances where this exemption would be granted. Any waste stream subjected to a thermal process at the generator facility prior to the audit, would, of course, be subject to the back-up sampling procedures.

NWNM believes that the permit modification proposed language should be changed, adding the audit requirement for thermally treated waste and changing the “or” that connects numbers one and two, to an “and.” These changes would correct the unfounded reliance on process knowledge and provide some regulatory review for the thermal processes.

3. Calibration adjustments

NWNM does not have any inherent objections to the modification that would allow revised criteria for evaluation of the methods and instruments used to measure semi-volatile organic compounds (SVOCs). Moreover, the question of the creosol and pyridine measurements appears to be no more than an error in the original permit. However, we note that without an opportunity for cross-examination and request for further information, our acceptance of this change is a blind one.

In principle, we believe that any change in the permit that allows an inclusion of a larger envelope of wastes in WIPP should be subject to a Class III modification. The change also raises the larger question of how many other instances of faulty calibrations may have been incorporated into

the permit. A Class III modification with the requisite public scrutiny would allow us to comment on the figures in a meaningful way and would provide some assurance that erroneous standards are not codified permanently into the permit.

4. General Comments

NMED must safeguard against errors that could render the permit ineffectual. Class I modification requests do not set in motion a review process sufficiently stringent to safeguard scrutiny of the substance and implications of the change. For example, NMED's acceptance of DOE's request to change the language of section IV. B. 2. b. undercuts the State's authority to regulate WIPP under the permit. Having allowed wastes not characterized under the permit to be emplaced in Panel 1, NMED cannot know that the mixed waste in Panel 1 meets the standards NMED is charged to uphold. Thus, NMED has willingly abdicated its primary regulatory responsibility by caving in to DOE's request for this Class I modification.

DOE's blatant attempt to undermine the permit process by eroding the definitions of modification categories is a dangerous precedent for New Mexico and should not have been condoned by NMED. WIPP is a facility that invokes matters of far reaching regional, national and international public concern. The level of dialogue that NMED considers normal in the

process of arriving at a permit for private, smaller-scale enterprise may be deemed inappropriate in the case of WIPP. At this time the public is sufficiently alarmed at the specter of WIPP's stated mission being subverted to allow for future emplacement of such inappropriate waste streams as spent fuel rods, that it is of crucial importance that NMED retain a strong vision of its independent role in protecting life and the environment from the dangers posed by intended, not to mention, unintended uses of this unproven facility. The environmental consequences of DOE's failures to practice effective self-regulation are evident at every location where nuclear design, manufacture, storage, testing and waste handling has been done.

The public in New Mexico fought long and hard to reverse DOE's historic negligence by insisting that DOE should not self-regulate at WIPP. We are proud of our role and the resulting independent regulation that resulted. Don't let this be a pyrrhic victory. Please, regulate DOE.