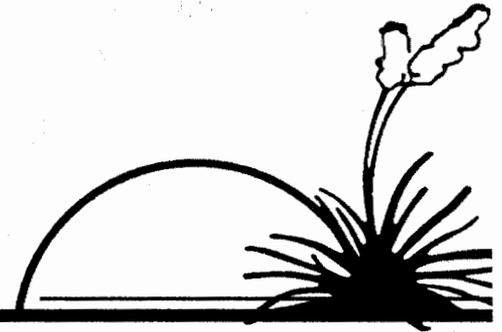


# CARD

Citizens For Alternatives To Radioactive Dumping

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JUN 2000  
RECEIVED



Steve Zappe  
New Mexico Environment Department  
2044A Galisteo Street  
Santa Fe, New Mexico 87505

**Re: Comments on the Department of Energy's (DOE's) Modifications to the Operating Permit for the Waste Isolation Pilot Plant (WIPP)**

## **Changes to section IV.B.2.b.**

As a party to the original WIPP hazardous waste permitting process, Citizens for Alternatives to Radioactive Dumping (CARD) was very disappointed to find out the New Mexico Environment Department (NMED) had accepted DOE's modification of section IV.B.2.b. as a class 1 modification. As CARD's representative during the permitting procedure, I participated in all four weeks of the Santa Fe hearing and wrote the *Findings of Fact* and other documents required by this procedure, including the special clarification requested by the Secretary on section IV.B.2.b before he issued his *Final Order* on October 27, 1999. In fact, all the parties to that hearing are aware, including the DOE, NMED regulators and the Secretary himself, that section IV.B.2.b was highly controversial and the language was extensively discussed both orally and in written form at that time.

The language of this modification is **not** "...consistent with the NMED's intent...expressed in the October 27, 1999 *Final Order of the Secretary of the New Mexico Environment Department...*" as claimed by DOE in their 5/31/00 *Notification of Class 1 Permit Modifications* but was **rejected** by NMED and the Secretary at that time. This modification completely changes the meaning and intent of this section of the permit without a public hearing, public comment or even public notification before the fact. Acceptance of this modification as a class 1 modification runs completely against both the letter and intent of the regulations and makes a mockery of both the hearing process that we went through and the modification process today.

CARD is adamantly opposed to changing the language of section IV.B.2.b. from that in the permit as issued in October of 1999. Because of the importance and controversial nature of this section, the Secretary's approval of this change as a class 1 modification must be withdrawn and the modification needs to be reclassified as a class 3 modification with full public notification and comment.

## **Class 2 Modifications**

### **Changes in determining how many waste containers must be opened for visual examination.**

During the hearing DOE tried by various means to lower the number of containers they would need to open for visual examination (VE). That is, to lower their miscertification rate at the generating facilities. This modification is simply another way to get around this permit requirement by mixing numerous waste streams together and therefore examining fewer containers. In fact, DOE has not shown great ability in this area of characterization. They were unable even to present a properly characterized drum of waste used as an example during the hearing. They showed a drum of debris waste which they had certified as sludge or homogeneous solids.

As was testified to during the hearing, DOE also has a history of miscertifying 58% of containers under requirements that were substantially the same as those of the permit. This was only discovered because 100% of those containers were visually examined.

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Each waste stream is substantially different; that is the reason the waste is divided into waste streams. Unsolidified powdered residues, for instance, are not the same as solidified sludge, yet both are categorized as homogeneous solids. Therefore, visual examination must continue to be based on waste streams, not on summary category groups.

NMED has already allowed WIPP to receive waste without the usual "fingerprinting" process of checking waste received at the facility to verify characterization done at the generating sites. By essentially lowering the miscertification rate, this modification would further weaken the already weak review of the characterization process that exists in the permit as issued. If anything, the permit should instead be modified to strengthen this verification process.

Also, DOE has not yet established any track record on characterizing waste under the requirements of the permit. They have, in fact, characterized only a very small number of waste streams and containers within those waste streams. It is far too early even to be considering lowering requirements. If DOE wants this modification, they should reapply after they have characterized a substantial number of containers and waste streams so that NMED can be assured of what their abilities are and what their miscertification rates really will be.

**No sampling for VOCs in the headspace of containers if information about the waste generating process shows that the waste doesn't contain VOC-related hazardous wastes.**

Several experts at the hearing both from DOE and the Environmental Evaluation Group, testified to the lack of historical information pertaining to the hazardous content of the WIPP waste. In fact, even the radionuclide content of the waste is unknown for approximately 15% of the contact-handled waste and 80% of the remote-handled waste destined for WIPP. Information on the hazardous content of the waste is even less since this was often ignored in records historically. Therefore, records on a waste stream might lead one to believe there were no VOCs generated in the waste stream when in fact, they are present. DOE estimated a certain amount of hydrogen would be generated by various processes in the WIPP waste (both from processes that generated the waste and from processes that acted on the waste after it was packaged). They found the hydrogen generation rates in reality were higher than expected when they actually checked the containers while venting them under the TWISP program.

Limiting the amount of VOCs in the waste rooms is a critical factor in protecting the health and safety of both the workers and the general public near WIPP. This modification would jeopardize this protection. And again, it is far too soon even to be considering this type of modification since DOE has not shown that they can make proper determinations of what is in the waste from process knowledge over time and under true operating conditions.

Sincerely,



Deborah Reade  
CARD