



CCNS

Concerned Citizens for Nuclear Safety

ENTERED

February 9, 2001

BY FAX TO (505) 827-1544
AND MAIL

Mr. Steve Zappe
New Mexico Environment Department (NMED)
2044A Galisteo Street
Santa Fe, NM 87505



Re: Drum Age Criteria
Proposed Modification to WIPP Operating Permit

Dear Mr. Zappe:

Concerned Citizens for Nuclear Safety (CCNS) respectfully requests that the New Mexico Environment Department (NMED) deny the Department of Energy's (DOE's) proposed Class 2 Drum Age Criteria modification to the operating permit for the Waste Isolation Pilot Plant (WIPP). CCNS requests such denial by NMED because the proposed modification does not meet the requirements for such modifications. The application is incomplete because it does not include additional changes to the permit that would be necessary to address the major changes in headspace gas sampling requirements, including how each DOE site would accurately determine the numbers of plastic bags and liners in each drum. The change would not protect public health and the environment because if implemented, it could result in substantial quantities of toxic chemicals being disposed at WIPP without adequate measurement.

In addition:

1. Regulations under the New Mexico Hazardous Waste Act (40 CFR 270.42(b)(7)) provide that NMED may deny any Class 2 modification for any of the following reasons:

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

DOE's requested modification fails to meet any of those standards; therefore NMED should deny the requested modification.



A. The modification is incomplete because it would make major changes in one aspect of the Waste Analysis Plan (WAP); specifically, how to sample headspace gas. The modification does not make other changes in the WAP necessary to ensure that the new sampling procedures give accurate results. For example, the modification would change the existing permit requirement of a 142-day waiting period before headspace gas sampling is done on debris waste to as little as 4 days, if the drum has no liner and no bags. If the drum has some bags or liner, the waiting period can vary from 8 to 46 days. However, the existing permit has no procedures to determine whether a drum has a liner or not, the type of liner(s) in a drum, or the number of bags in the drum. Under the current permit, such a determination is not necessary since all debris waste drums have the 142-day waiting period. In order to change the waiting period, the permit would need to be modified to ensure that it contains procedures to ensure that each drum's liners and bags can be identified and that there are quality assurance and quality control procedures and visual examination checks. DOE's permit modification contains no such procedures.

B. The modification does not meet the operational standards regulations (40 CFR 264). For example, the waste analysis requirements mandate adequate information about the hazardous waste constituents in any facility. The WIPP permit requires that in order to determine the amount of volatile organic compounds (VOCs) in each drum, it must undergo headspace gas sampling to ensure that the amount of VOCs that could be released from WIPP would not endanger public health and the environment. If drums are not sampled, or if the sampling results are inaccurate and underestimate the amounts of VOCs, the waste analysis requirements are not met. Under the DOE permit modification, there could be large underestimates of the amounts of VOCs disposed at WIPP, since the headspace gas sampling might not capture amounts of VOCs contained in bags inside a drum which take several weeks to accumulate in the headspace. There could be many thousands of drums that have such inaccurate sampling.

C. The modified headspace gas sampling would not protect public health and the environment. Because of the likelihood of inaccurate sampling, increased quantities of VOCs could be brought to WIPP than estimated. The increased quantities of VOCs could endanger public health and the environment.

2. The proposed Drum Age Criteria modification would put even more reliance on DOE acceptable knowledge (AK) at the generator/storage sites. DOE would use its AK records about each drum to make the determination as to how long the waiting period would be, based on what the records say about the liner(s), bags, and related matters. But those records are frequently wrong, and should not be relied upon.

3. DOE Science Then and Now. The 142-day waiting period for debris waste and 225 days for other wastes was based on DOE's permit application and specifically a 1995 study at the Idaho National Engineering and Environmental Laboratory (INEEL)

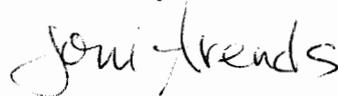
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regarding how long it takes a drum to reach equilibrium so that headspace gas can be accurately sampled. While those waiting periods were assumed to be conservative, none of the waiting periods for debris waste drums under the requested modification are at all close to 142 days. The drums and their contents and the processes by which VOCs are created have not changed since 1995. DOE must explain why its science was so wrong in 1995; something that is not discussed in the permit modification.

On the contrary, it is DOE's current science that must be questioned. The proposed Drum Age Criteria are very complex and do not include all of the types of debris waste drums. The criteria are clearly designed to address a "problem" at INEEL in which that site does not have drums ready to ship to WIPP because headspace gas sampling has not occurred. The criteria have not been shown to give accurate headspace gas sampling results for debris waste an INEEL, yet they would apply to all sites. While DOE asserts that a "survey" was done of generator sites, that survey is not included in the modification request of the reference documents. Thus, there has been no showing that all sites have been surveyed and that the three scenarios cover all types of debris waste drums included in the modification request.

Thank you for your consideration of our comments. Should you have any questions or comments, please contact me.

Sincerely,



Joni Arends
Waste Programs Director

cc: Mary Kruger, U.S. EPA
Charles Byrum, U.S. EPA