



## ENVIRONMENTAL EVALUATION GROUP



AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER

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April 27, 2001



Mr. Steve Zappe  
New Mexico Environment Department  
P.O. Box 26110  
Santa Fe, NM 87502

Dear Mr. Zappe:

Attached are the EEG's comments on the March 6, 2001 *Request for Class 2 Permit Modification in Accordance with WIPP Permit Condition I.B.1* submitted by the WIPP Permittees. The EEG believes that all five of the proposed modifications are reasonable changes to the WIPP Hazardous Waste Facility Permit, though additional changes may be needed to completely integrate the new hazardous waste numbers into the permit. In several cases more justification and documentation should have been provided in the proposed modification request by the Permittees.

Sincerely,

Matthew K. Silva  
Director

MKS:js  
Enclosure

cc: Inés Triay/CBFO

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**EEG Comments on March 6, 2001, Request for Class 2 Permit Modification in Accordance with WIPP Permit Condition I.B.I**

The EEG believes that all five Items in the March 6, 2001 *Request for Class 2 Permit Modification in Accordance with WIPP Permit Condition I.B.I* submitted by the WIPP Permittees are reasonable modifications to the HWFP. The following comments address each of the individual Items. Note that for Item 4, concerning addition of hazardous waste numbers, more alterations to the HWFP may be necessary to fully incorporate some of the new compounds into the current HWFP.

**Item 1 - Dropping Inspection Forms From the HWFP**

There appears to be no particular need to keep the inspection forms within the HWFP, and the EEG believes the operating record can be used provide sufficient control of inspection forms. 40 CFR 270.14(b)(4) states that the schedule for inspections is to be included in a hazardous waste facility permit, and lists specific portions of 40 CFR 264 to be included, but this list does not include inspection forms. It is clear that the NMED can require inspection forms to be in the HWFP (§270.32(b)(1)) but unless the NMED has a compelling reason for doing so, the removal of the forms from the HWFP will simplify the permit and reduce resources necessary to create or modify the forms.

However, there appears to be a “process” issue related to Item 1. Table 1 of the proposed modification (p. 2) indicates that Item 1 was submitted as a Class 2 modification under the 40 CFR 270.42 Appendix I B.5. This portion of Appendix 1 specifies a Class 2 modification for a change in a training plan “That affect the type or decrease the amount of training given to employees”. Removing inspection forms from the HWFP is clearly not this training issue.

Appendix I Section B.3, “Changes in procedures for maintaining the operating record”, is the closest Appendix I specification to the proposed modification (and would be a Class 1 modification). However, the consideration in Item 1 is the removing of the inspection forms from the HWFP, so Appendix I does not appear to offer a modification classification for eliminating permit requirements.

40 CFR 270.42(d) states that when a modification is not explicitly listed in appendix I of 40 CFR 270.42, the permittee may either submit a Class 3 modification request or request that the modification should be reviewed and approved as a Class 1 or 2 modification. In the latter case, the permittee is required to provide the necessary information to support the requested classification. There is no evidence that the Permittees have made a request for classification as a Class 2, or included any supporting information for such a request, with this submission.

**Item 2 - Reducing the Frequency of Firefighter 1 Refresher Training**

The EEG agrees that a monthly 8-hour “refresher” training for what was initially only a 40-hour

course would not seem to be an efficient use of resources, and sees no reason why the WIPP should provide more refresher training than is required by the State. However, the following issues with Item 2 are noted:

1. The "Basis" section of Item 2 states that (p. A-8):

To comply with the National Fire Protection Association (NFPA) requirements the DOE is requesting a change to allow the refresher training to occur on a quarterly basis.

Since the current WIPP requirement is for the refresher training to take place on a monthly basis, the WIPP is already in compliance with the NFPA requirement for quarterly refresher training. This proposed modification is not to attain compliance but to relax a requirement while still meeting the minimum necessary for compliance. The NMED should encourage the Permittees to accurately state what modification requests are meant to accomplish.

It seems likely that the same change has been made in the NFPA requirements since the HWFP came out. If so, the Permittees would have enhanced this proposed modification by stating so.

2. The "Discussion" section of Item 2 states (p. A-8):

The New Mexico Fire Code and the State Fire Marshall's office policy are consistent with the NFPA in regards to training and refresher training guidelines.

The appropriate portions of the New Mexico Fire Code and Fire Marshall's office policy should have been quoted or properly cited (as the NFPA code sections are). The NMED should confirm that the altered requirements meet applicable state criteria before approving Item 2.

### **Item 3 - Dropping Excess Requirements for Radiation Control Technician Training**

The EEG agrees that the requirement to train WIPP's Radiation Control Technicians (RCTs) in liquid scintillation, gamma spectroscopy, and alpha spectroscopy appears to be unnecessary provided such analyses is being conducted by employees other than the RCTs.

### **Item 4 - Addition of New Hazardous Waste Numbers**

The EEG agrees that addition of the hazardous waste numbers (HWNs) for the compounds listed in Item 4 to the HWFP will likely not significantly impact human health or the environment.

However, note the qualifying word "likely". The modification request would have been enhanced, by clearly stating why the numbers are to be added, and the amounts likely to be included, and providing support for the statements about these compounds.

For example, the explanation for the addition of U134 for hydrofluoric acid (HF) from the INEEL is the most complete description provided (pp. A-20 and A-21). The description indicates, however, that all of the HF would be removed by chemical reaction in processing, leaving the question of why the HWN would need to be added? One inference is that trace amounts might still be present in measurable amounts, and to ensure compliance with 40 CFR 261.33(f) the HWN needs to be added. This inference is logically the most likely from the material presented, but if so the proposed modification submittal should have said so. Another inference might be that the INEEL is uncertain that the chemical process was performed on all of the waste, and there might be kilogram amounts of HF in the solidified matrix. A simple statement as to why addition of the HWN is proposed would have clarified this potential issue.

The proposed modifications to the HWFP necessary to accommodate the addition of some of these compounds may not be complete. For example, no changes are proposed to HWFP Table B-1, Summary of Hazardous Waste Characterization Requirements For Transuranic Mixed Waste, which contains lists of the chemicals to be analyzed for. HF would seem to be one important compound that should be added to these lists (perhaps restricted to INEEL solid waste analysis); 1,2-dichloroethylene, discussed on page A-15, might also be added. SRS wastes will now possibly include formaldehyde (discussed on p. A-16 of the proposed modification), but footnote "b" to the current Table B-1 states that formaldehyde need only be checked for in homogeneous solids and soil/gravel wastes from LANL. The NMED should ensure that Tables B-1, B-3, B-4, and perhaps other parts of the WAP will include these new compounds as appropriate before approving Item 4.

As with other portions of this proposed modification, documentation or references are not provided to support assertive statements. For each of the SRS additional HWNs the statement is made that:

During the application phase of the permitting process [name of chemical] was one of the compounds evaluated relative to the performance of the underground repository. No adverse affects [sic] from management of [name of chemical] were found.

However, this statement is unsupported by any references or even an indication of the content of the evaluation. The EEG has assumed that the compatibility study described in Appendix C-1 of the permit application (*Resource Conservation and Recovery Act Part B Permit Application*, DOE/WIPP 91-005, Revision 6.1 or later) is the principal referenced evaluation. The NMED should ensure that there is adequate information to support the statements concerning the safety of these chemicals before approving this portion of the proposed modification.

**Item 5- Extension in the Time Allowed for Reporting of Groundwater Monitoring Data  
From 60 to 120 days**

The EEG does not believe that increasing the time allowed for reporting of groundwater monitoring data will significantly affect activities under the HWFP. In a worst-case scenario of a discovery of contamination at one of these wells, a difference of 60 days in officially reporting the results would not be likely to greatly alter the handling of the problem, or significantly reduce the effect on human health and the environment. The Permittees provide a rationale and timetable that indicate a 120-day reporting requirement is a more appropriate time period than the current 60-day one.