



CCNS

Concerned Citizens for Nuclear Safety



RECEIVED

May 14, 2001

By fax to (505) 827-1544
and email to steve_zappe@nmenv.state.nm.us

Mr. Steve Zappe
NMED
2044A Galisteo Street
Santa Fe, NM 87505

Dear Steve:

Concerned Citizens for Nuclear Safety (CCNS) provides the following comments on the request for class 2 modifications to the hazardous waste permit for the Waste Isolation Pilot Plant (WIPP) that the Department of Energy (DOE) submitted to the New Mexico Environment Department on or about March 6, 2001. CCNS understands that each of the 5 items submitted by DOE to NMED are separate modification requests and that NMED may deny all or none of the proposed modifications.

Item 2 - Change the frequency of Firefighter 1 refresher training. NMED should not modify the current requirements for Firefighter 1. In fact, the permit should require specific training for fighting fires in the WIPP underground as well as fighting fires involving the receipt of burning drums arriving at WIPP inside a TRUPACT-II container. National TRU Waste Management Plan, Rev. 2, p. 34.

While CCNS understands that the firefighter workforce has been stable for the past 14 months, it is uncertain from the permit requirements when a new hire Firefighter 1 is required to take the refresher training for the first time. CCNS strongly recommends that the permit be modified to require a Firefighter 1 to take the entire course before beginning work.

The permit requires a 40-hour refresher training course. With training 8 hours per month, a Firefighter 1 will review the training materials about twice a year, which is important for new hires. Under DOE's proposed modification, a Firefighter 1 will review these same materials once every 1 1/4 years. This is unacceptable and will not protect public health and the environment. Because WIPP is the first of its kind facility, a Firefighter 1 should be required to participate in monthly training with special emphasize on fires at the WIPP site. Therefore, NMED should deny the Item 2 modification request because conditions of the modification fail to protect public health and the environment.

010518



Item 3 - Change the requirements for Radiation Control Technician training. It is unclear who is responsible for operating the liquid scintillation counter as well as the alpha and gamma spectroscopy systems. The information sheet indicates that the equipment was transferred to the Radiochemistry Laboratory. In reviewing the permit, we are unable to find the requirements for the Radiochemistry Laboratory. This permit modification should be denied because the modification request is incomplete.

Item 4 - Add new hazardous waste numbers to the existing Hazardous Waste Facility Permit (HWFP). CCNS believes that Item 4 of the requested modification is a major modification of the permit, and therefore, a public hearing is required. Thus, CCNS urges NMED to deny that requested modification.

Under the New Mexico Hazardous Waste Act (HWA), Section 74-4-4.2(H) and (I) NMSA, 1978, there are 2 types of permit modifications: major and minor. The requested modification would result in the addition of 26 hazardous waste codes to Part A (Attachment O) and to the Waste Analysis Plan (WAP). These are substantial and major changes to the permit, including allowing prohibited hazardous chemicals to be disposed at WIPP. Such changes are significant in number, scope, complexity, and effect on the permit and must be considered as a major modification. Any such modification should be subject to the public hearing requirements for a major modification.

The requested modification is also not correctly classified as a class 2 modification under 20 NMAC 4.1.900 (incorporating 40 CFR 270), nor does it meet the requirements for approval under 40 CFR 270.42(b)(6). The EPA regulations in 40 CFR 270.42(b)(6) provide that NMED may approve the request, deny the request, or determine that the modification must follow class 3 modification requirements. Among the reasons that NMED may deny the modification request are that it is incomplete, or that it does not comply with 40 CFR 264, or that the conditions of the modification fail to protect public health and the environment. 40 CFR 270.42(b)(7). CCNS believes that all three reasons for denial exist regarding the requested modification.

The modification request is significantly incomplete. The regulations require that the modification explain why it is needed. 40 CFR 270.42(b)(iii). The request does not provide such an adequate explanation. As basis for the modification, the request states that "three generator/storage sites ... have recently requested the addition of hazardous waste numbers" and that the new numbers would "ensure compliant management of TRU mixed waste." (p. A-10). That explanation is inconsistent with the actual modification request which changes Module II.C.4 and Attachment O for all sites, not just the three sites listed (p. A-23-24). Further, the explanation should provide information about why the need for the additional codes has only now been discovered at those three sites.

The recent discovery of these chemicals at the three sites raises serious questions about the acceptable knowledge at those sites. The request should explain how the chemicals were discovered and why they had not previously been identified. If particular characterization processes being used at those sites revealed that the chemicals are present, have similar practices been undertaken at all other sites? The discovery of

these chemicals could also affect other portions of the WIPP permit, but the request provides no information regarding that matter.

The request does not provide adequate information about the processes that use the specified chemicals. If there are unique processes at each of the sites such that those chemicals are used only at those sites, the request should provide such an explanation. If the chemicals and processes are used at several sites, the request is incomplete because it provides no information about those other sites and the numbers of containers containing such chemicals. For example, the addition of hydrofluoric acid (U134) from INEEL mentions a zirconium dissolution process (p. A-20). Is that process unique to the Idaho National Engineering and Environmental Laboratory (INEEL)? Was it a process used at Rocky Flats where the INEEL wastes were generated? If so, why has Rocky Flats not requested a modification to include U134?

The request is incomplete because it does not include actual data to support the assertion that "the addition of these numbers will not adversely impact the performance of the waste repository nor will it have any deleterious effect on human health or the environment." (p. A-10). The request provides no demonstration that DOE has even identified that amount of such chemicals in the waste coming to WIPP, let alone done studies to show that their release would not be injurious, nor that there are no synergistic effects.

The request is incomplete because it does not modify Table B-1 of Attachment B to include all of the chemicals in the characterization requirements. With no characterization procedures in place for some of the chemicals, neither the site, WIPP, nor NMED will know whether the specified chemicals are in drums, nor have any basis to calculate the amounts of such hazardous chemicals that would be placed into WIPP. Without such information, no adequate technical analysis of the effects of such chemicals on human health and the environment can be performed. Such an analysis is certainly not included in the request.

Moreover, DOE's March 15, 2001 Fact Sheet "Addition of Hazardous Waste Numbers" sent to the WIPP mailing list states: "Addition of the new waste numbers would be specific to waste containers in temporary storage at Los Alamos National Laboratory, the Idaho National Environmental and Engineering Laboratory, and the Savannah River Site." However, the requested modification provides no such limitation. Thus, the request is incomplete because it does not limit the permit changes in the Part A and in Module II.C.4 to those three sites. Alternatively, the request is inaccurate and should be rejected because of such misinformation.

Because DOE did not provide the necessary information, the requested modification does not comply with 40 CFR 264. Given the inadequate data, DOE has not shown that the addition of these codes in fact would protect public health and the environment, as is specifically required by the permit, statute, and regulations.

Moreover, DOE and Westinghouse are interested in even more substantial changes to the permit as part of its centralized characterization project (CCP) at WIPP. That intent has been officially expressed in its class 2 modification request submitted in July 2000 and withdrawn on September 29, 2000, in the amended DOE Record of Decision, issued

on December 29, 2000 (65 Fed. Reg. 82985-82988), and in the National TRU Waste Management Plan, Revision 2, issued in January 2001. These modification appear to be directly related to the CCP in that it relates to chemicals for which characterization is required.

Under these circumstances, NMED and the public should consider the entire package of modifications that DOE wants, not in a piecemeal manner. DOE is proceeding in a manner that does not provide complete information to justify such requests, as required by regulations, and does not afford the public the required public hearing process, including public comment, testimony and cross examination of witnesses and related procedures. The current piecemeal approach also badly strains the public's resources, including those of CCNS, and presumably puts additional burden on NMED.

The piecemeal approach has also resulted in this technically deficient request. As NMED previously told the permittees, such requests run the risk of being denied, as occurred with the Drum Age Criteria modification request. NMED Final Determination Letter on March 26, 2001.

Once again, CCNS urges NMED to deny the requested class 2 modification for Items 2, 3 and 4. If DOE wants to proceed with the Item 4 modification, it should combine it with other changes that it desires as part of its centralized characterization project, submit those changes with technically adequate bases as a class 3 modification for public comment and for public hearing.

Thank you for your careful consideration of these comments.

Sincerely,



Joni Arends
Waste Programs Director

cc: Environmental Protection Agency