



**Subject: Re: Class 1 Proposed Permit Modification, Remove Cis-1,2-Dichloroethylene As A Required Analytical Parameter**

**Date:** Thu, 20 Dec 2001 11:51:03 -0700

**From:** Steve Zappe <Steve\_Zappe@nmenv.state.nm.us>

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**To:** Draft.ModificationResponse@wipp.ws

**CC:** Will Fetner <William\_Fetner@nmenv.state.nm.us>,  
Steve Holmes <Steve\_Holmes@nmenv.state.nm.us>,  
Phillis Stevens <Phillis\_Stevens@nmenv.state.nm.us>, Kerry.Watson@wipp.ws

Hello -

You don't want to submit this (Remove Cis-1,2-Dichloroethylene As A Required Analytical Parameter) as a Class 1 modification. The example provided as justification (NASA WSTF Part A) is irrelevant, since the cis-1,2-dichloroethylene was \*not\* a typographical error covered by 40 CFR §270.42 Appendix I.A.2.

The inclusion of cis-1,2-dichloroethylene in the permit was not simply due to one typographical error on Table C-3 of the original permit application. I could just as easily argue that you incorrectly typed the CAS number, and that you really meant to put 156-59-2 instead.

In fact, the preponderance of evidence supports my contention that you indeed meant to characterize for cis-1,2-dichloroethylene, based upon review of the TRU Waste Quality Assurance Program Plan (CAO-94-1010), the TRU Waste Characterization Sampling and Analysis Methods Manual (DOE/WIPP-91-043), and the RCRA Part B Permit Application (DOE/WIPP-91-005). In the permit application, see Tables C-3 (the only instance listing the CAS number as 156-60-5, which is the trans isomer), C-8, C-9, C2-1, C2-3, C2-4, C8-2 (listing CAS correctly as 156-59-2), D13-1 (listing the CAS number as 540-59-0, which is the unspecified isomer), and D13-2. In the Methods Manual, see Procedure 430.1, Tables 1 (listing CAS correctly as 156-59-2), 4, 5, 9, 10; Procedure 430.2, Tables 1 (listing CAS correctly as 156-59-2), 4, 5, 7, 9, 10; Procedure 430.7, Table 1 (listing CAS correctly as 156-59-2); and Procedure 440.1, Table 2 (listing the CAS number as 540-59-0). If I had a copy of the old TRU Waste QAPP in front of me, I could probably identify more examples. Even the WWIS Headspace Gas Concentration Report currently lists the CAS for cis-1,2-dichloroethylene correctly as 156-59-2.

I suspect that this whole matter only came to light when you asked NMED to modify the permit for inclusion of EPA code U079, and as a result we also added trans-1,2-dichloroethylene to several tables in Attachment C. However, I must remind you that your application went through the public hearing process, and nobody, especially myself, viewed this as a typographical error. I did note it and puzzled over it when developing the draft permit in 1998, realizing that cis-1,2-dichloroethylene was not a RCRA constituent. However, I was not about to challenge DOE's

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decision to include it as a target analyte when it was so pervasive throughout all your other documents and it appeared to have been part of the TRU waste characterization program since at least the early 1990's with the Test Phase.

I won't argue that this is a relatively minor issue, but in no way can removing a hazardous waste code be viewed as a Class 1 modification. In my mind, this can be nothing less than an "other change" to waste sampling or analysis methods listed in §270.42 Appendix I.B.1.d, which is a Class 2 modification. However, I'm willing to consider any rebuttal arguments for a different classification you may wish to present.

I am sending this message to Kerry Watson for his records as well.

Steve Zappe  
NMED WIPP Project Leader

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