

June 27, 2002

By email to: Steve_Zappe@nmenv.state.nm.us
And U.S.P.S.

Steve Zappe
New Mexico Environment Department
2905 Rodeo Park Drive, Building 1
Santa Fe, NM 87505



Re: WIPP Drum Age Criteria (DAC) Draft Permit Modification

Dear Mr. Zappe:

Concerned Citizens for Nuclear Safety (CCNS) requests that the New Mexico Environment Department (NMED) deny the Waste Isolation Pilot Plant (WIPP) proposed Class 3 permit modification for drum age criteria (DAC) because it is unnecessary and not adequately supported technically. Regulations under the New Mexico Hazardous Waste Act (20 NMAC 4.1.900, incorporating 40 CFR 270.42(c)(6)) provide that NMED may deny a Class 3 modification. CCNS requests that NMED revise its position and deny the modification.

If NMED does not deny the modification, CCNS requests a public hearing on the matter. CCNS further requests that any public hearing be postponed from the currently announced date of August 26 for several reasons:

1. As the following comments indicate, there is a need for further information to be provided before the hearing. Such information cannot be provided sufficiently in advance to allow adequate time for review before July 29, when notices of intent for technical testimony are due. Thus, the date for submission of notices of intent must be delayed, and consequently, the hearing date must also be postponed.
2. During the next two months extensive preparations for the hearing would be required. During the same time, the permittees are planning to submit numerous Class 1, 2, and 3 permit modifications, which CCNS and other interested persons will comment on, thereby imposing a huge, and unnecessary burden on CCNS and other members of the public. The large number of modifications and the volume of material related to the requests cannot be adequately analyzed while preparing for the hearing. The problem is created by the permittees, and they should choose their priorities. If it is the DAC permit modification, then the other modifications should be delayed until after the hearing process on the DAC is completed. If the permittees' priorities are other modifications, they should agree to a delay in the hearing on the DAC.
3. As NMED is well aware, CCNS and other concerned groups have long maintained that for reasons of public health and safety, interrelationships of various proposed modifications, and efficient use of resources that public hearings on Class 3 modifications be consolidated so that

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**concerned citizens
for nuclear safety**

**107 Cienega St.
Santa Fe, NM 87501
505-986-1973 Tel
505-986-0997 Fax
ccns@nuclearactive.org
www.nuclearactive.org**

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3. As NMED is well aware, CCNS and other concerned groups have long maintained that for reasons of public health and safety, interrelationships of various proposed modifications, and efficient use of resources that public hearings on Class 3 modifications be consolidated so that there are not separate hearings on various modifications every few months. Given that there are other pending Class 3 modifications -- the Centralized Confirmation Facility (CCF) and the Remote-Handled Waste modification -- any public hearing on the DAC should be delayed and consolidated with the hearings on those other modifications. Particularly, the CCF modification is directly related to the DAC since at least some of the activities, such as radiography included in the DAC modification, could be conducted at WIPP if the proposed CCF is allowed.

The DAC permit modification is unnecessary. The New Mexico Hazardous Waste Act regulations (20 NMAC 4.1.900, incorporating 40 CFR 270.42(c)(1)(iii)) require that the request "[e]xplains why the modification is needed." The request does not do so, and thus, the modification request should be denied, and it should be deemed to be unnecessary.

Since November 13, 2000, when the permittees first proposed changing the DAC as a Class 1 modification, the major reason for the modification was to facilitate waste characterization at that the Idaho National Engineering and Environmental Laboratory in order to meet a deadline of shipping 3,100 cubic meters of waste to WIPP by December 31, 2002. Since a final decision on the modification cannot be made in time to assist in that effort, that INEEL situation certainly cannot provide the need for the modification.

Southwest Research and Information Center (SRIC) raised this issue of need in their December 12, 2000 letter to Greg Lewis which contributed to NMED reversing its decision to grant a temporary authorization for the DAC. The most detailed discussion of the need is the reply letter of December 28, 2000 from Dr. Inés Triay to Greg Lewis that focused on the then supposed problems caused by not having the DAC revisions. Given the fact that the need for this modification has been at issue for more than 18 months, it is unacceptable that a detailed basis for the need has not been provided and that the only stated rationale is 18 months old and was inadequate at that time and is irrelevant to the existing situation.

CCNS supports the June 27, 2002 comments made by SRIC on the proposed DAC permit modification. Based on those comments, CCNS believes that the permit modification is not adequately supported technically.

Thank you for your careful consideration of these comments. Should you have any questions or comments, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Joni Arends". The signature is written in black ink and is positioned to the left of the typed name.

Joni Arends
Waste Programs Director