



**Department of Energy**

Carlsbad Field Office  
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January 14, 2004



Mr. Steve Zappe, Project Leader (WIPP)  
Hazardous Waste Permits Program  
Hazardous Waste Bureau  
New Mexico Environment Department  
2905 E. Rodeo Park Drive, Building 1  
Santa Fe, New Mexico 87505-6303

**Subject: Response to Comments on the Los Alamos National Laboratory Sealed Sources Waste Streams Headspace Gas Sampling and Analysis Requirements Permit Modification Request**

Dear Mr. Zappe:

This letter responds to the issues raised by the New Mexico Environment Department (NMED) in meetings held between NMED and the Permittees after the denial of the referenced Permit Modification Request (PMR) on September 11, 2003. This PMR was resubmitted to NMED on November 16, 2003. This also responds to Stakeholder comments on the November 16, 2003, PMR.

The majority of these comments were previously addressed in the response to the NMED by the Permittees dated July 28, 2003, but have been restated in this document.

If you have any questions or comments, please contact Mr. Jody Plum at (505) 234-7462.

Sincerely,

Lloyd L. Piper, Acting Manager  
Carlsbad Field Office

S. D. Warren, General Manager  
Washington TRU Solutions LLC

Enclosure

cc: w/o enclosure  
S. Martin, NMED  
T. Hughes, NMED



## **Response to Comments on the Sealed Sources Permit Modification Request**

The following comments are from the NMED and their contractor which are paraphrased and are not verbatim comments. The Permittees believe that we have already responded to these comments in the comment response package submitted to NMED on July 28, 2003. Listed below each comment/question from NMED will be the Permittees original response to that comment and the comment number from the July 28<sup>th</sup> submittal.

Question 1. The reliance on and inclusion of regulatory requirements from several other Agencies into the permit can complicate the compliance process

Response: The standards referenced in the sealed sources PMR are the source of the sealed sources technical specifications only. The RCRA regulations were intended to be implemented in a manner that is compatible with other regulations.

NMED has already agreed that other regulations are acceptable as technical standards within the HWFP (NFPA, MSHA, SARA and other non-RCRA portions of the CFR).

Question 2 Comment 5.2 from EEG states that NMED should obtain some assurances that VOC generation from a loaded drum (containing packaging materials and sealed sources) would be no greater than VOC generation from packaging materials alone.

Response: The assurances for this are implicit in the basic understanding that it is physically impossible for a sealed source to be a VOC generator or a source for radiolysis if the source is sealed. There is data in Attachment D of the PMR in the Section entitled "Potential VOCs from Radiolysis". (Comment 40 of July 28<sup>th</sup> submittal)

Comment 5.5 - EEG states in part that the Permittees should address any non-radioactive constituents of the sources that have the potential to exhibit characteristics of reactivity, toxicity, corrosivity, etc.

Response: The sealed source waste stream destined for disposal at WIPP is a non-mixed, non-hazardous waste stream that will not be considered reactive as indicated in the response to the NMED letter of May 8, 2003. (Comment 50 of July 28<sup>th</sup> submittal)

Comment 5.9 - EEG states in part that the PMR must address hazardous constituents in waste, not packaging material. This emphasis was discussed with the Permittees in meetings following the PMR denial, but it unclear as to whether the Permittees intended to address this concern in the new PMR.

Response: The current sealed source waste stream destined for disposal at WIPP is a non-

mixed, non-hazardous waste stream that will not be considered reactive as indicated in the response to the NMED letter of May 8, 2003. This PMR is solely intended to remove the requirement for headspace gas sampling and analysis of non-VOC bearing sealed sources. Any other form of hazardous waste would still have to be identified and characterized by the generator site in accordance with the HWFP.(Comment 50 of July 28<sup>th</sup> submittal)

Comment 7.1 - DOE (as well as numerous other public comments) states, in part that the PMR itself is too complex to be considered a Class 2 PMR. While a clear presentation of AK data could help mitigate this issue, the public will likely continue to raise concerns in this regard.

Response: The DOE considers this a very simple modification because there is no source of VOCs in the waste. The PMR is very straightforward and the requirements suggested in the PMR place the burden on the generator site to show, through the audit and waste stream profile process, that sufficient AK is available. It is not clear how this could be considered a “complex” PMR.

Comment 7.4 - DOE addresses the detection of leaking sealed sources, but does not specify what shall be done with those sealed sources.

Response: Any leaking sealed source will be contained in a special form capsule to meet DOT and NRC requirements. (Comment 34 on July 28<sup>th</sup> submittal)

Listed below are comments received from the New Mexico Attorney General’s Office.

Comment 1 from the NMAG - The PMR still contains references to other regulatory requirements.

Response: Please see response to Question 1 above. The regulatory standards referenced in the PMR are technical standards by which LANL personnel assess and package sealed sources at the generator site. They are mentioned in the PMR only so that NMED is aware of the technical standards which must be applied to these sources.

Comment 2 from the NMAG - There appears to be an error in the last bullet in proposed sec B-3a(1)(iii); the word “change” or the equivalent is omitted after “significant”.

Response: The Permittees request that NMED add the word “change” after the word “significant” in the last bullet of Section B-3a(1)(iii).

Comment 3 from NMAG - How are leaking sealed sources managed.

Response : See response to Comment 7.4 above.

Comment 3 from NMAG - The Permittees list of acceptable knowledge documentation does not include integrity test data. Testing should be current and not historical.

Response: Sealed sources are checked for leakage at the time of packaging. Attachment E, Appendix 6 of the PMR entitled "Swipe Data on Sources" shows that these sources are not leaking.

Comment 4 from NMAG - It should be noted that the waste stream to which this modification relates was not identified as part of the waste inventory at the time the permit was issued. We believe that this PMR will conflict with the agency-initialed modification now underway and this PMR should be denied.

Response: NMED's proposed modification has not yet been approved, nor has NMED had an opportunity to consider comments regarding the proposal from the Permittees and the public. Therefore, the Permittees believe that it cannot and should not serve as a basis for rejection of the modification regarding sealed sources. To do so would give the proposed modification regulatory effect before it has been considered at a hearing or approved by the Secretary of the NMED.

NMED's proposed modification could greatly impede the National Nuclear Security Administration's ability to recover and dispose of unwanted and excess radioactive sealed sources that have the potential to be used in a radiological dispersion device or "dirty bomb".