

# United States Senate

February 9, 2004



The Honorable Nils Diaz  
Chairman  
The Nuclear Regulatory Commission  
Washington, D.C. 20555-0001



Dear Commissioner Diaz:

My office recently received a briefing by your staff regarding the NRC's rulemaking to license single walled TRUPACT III transuranic waste containers. I understand the commission's motivation to harmonize TRU containers with those specified by the IAEA, and the rationale that any such proposed container would still have to meet the leakage and safety requirements of all Type B containers in 10 C.F.R Part 70.

Since New Mexico contains the nation's only repository for transuranic defense wastes at the Waste Isolation Pilot Plant, WIPP, I have had a long history of attention to the safety of such wastes traversing the borders of New Mexico. My first encounter with the safety of WIPP started in my position as the Attorney General of New Mexico, more than 24 years ago. In this regard, I have serious reservations about the NRC's decision that would ultimately allow TRU waste to be shipped to WIPP in single walled containers until there is full scale testing of the proposed containers by the licensee. In the 1987, the Department of Energy tried to justify a similar single walled container to transport TRU waste. At that time, Governor Carruthers, Senator Domenici, then Congressman Richardson and I went on record opposing the single walled container in favor of the TRUPACT II double walled container – which the Department ultimately accepted.

It is our understanding that a license for TRUPACT III container may demonstrate that it meets the safety requirements of 10 C.F.R. Part 70 in a number of ways, either through advanced computer modeling, subscale or full scale testing. But, given the importance of this licensing activity to the safety of New Mexico's citizens, the TRUPACT II's long history to gain public acceptance, and the surrounding states through which this new container must traverse, I respectfully request that any future license submittal for a TRUPACT III demonstrate that it meets the requirements for Type B containers in 10 C.F.R. Part 70 through a mutually verifiable computational and full scale testing program, whose results are open to the public. It is my understanding that full scale testing was performed for the TRUPACT II double walled containers. It seems only reasonable to me that the TRUPACT III, which only has a single wall, receive the same if not more rigorous examination.

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It is only through full scale testing that the citizens of New Mexico can adequately be assured that the new TRUPACT III design is safe to transit across our border. The increased cost associated with any full-scale test, verified by computer models, is justified to provide confidence to the citizens of New Mexico that the new TRUPACT III containers will meet safety requirements.

My point of contact for this effort is Dr. Jonathan S. Epstein.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Bingaman". The signature is stylized and cursive, written over the printed name and title.

Jeff Bingaman  
United States Senator