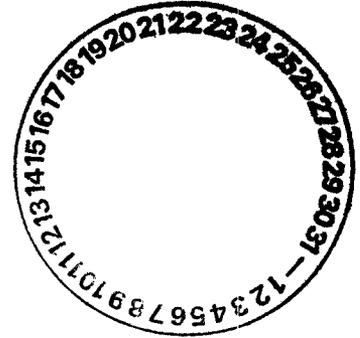




Department of Energy
Carlsbad Field Office
P. O. Box 3090
Carlsbad, New Mexico 88221

MAR 19 2004



Mr. Steve Zappe
New Mexico Environment Department
Hazardous Waste Bureau
2905 Rodeo Park Drive East, Building 1
Santa Fe, NM 87505

Subject: Response to Stakeholder and EEG Comments on the Permit Modification
Request Entitled "Container Management Improvements"

Dear Mr. Zappe:

Enclosed are the responses to stakeholder and Environmental Evaluation Group (EEG)
comments for the Container Management Improvements permit modification request.

If you have any questions, please contact me at (505) 234-7300.

Sincerely,

Chuan F. Wu for
R. Paul Detwiler
Acting Manager

Enclosure

cc: w/enclosure
J. Plum, CBFO
R. Chavez, WRES
CBFO M&RC



Response to Comments on the Container Management Improvements Permit Modification Request

Public Meeting Comments:

February 17, 2004: Carlsbad, NM

No comments/questions were provided on the Container Management Improvements PMR.

February 19, 2004, Early Session: Santa Fe, NM

Comment 1. The waste hoist can only handle certain size containers. Was this considered?

Response. Yes, the largest container proposed for the TRUPACT-III will fit on the waste hoist with several inches to spare.

Comment 2. How is the document nightmare for tracking Type 7A versus Type A container standards met?

Response. Authorized containers are documented in the WWIS.

Comment 3. What additional measures are planned for container breaches, leaks, or intruders?

Response. No additional measures are needed. The Waste Handling Building (WHB) secondary containment is sufficient to manage the proposed volume increases. In addition, WIPP Security currently exceeds requirements imposed under RCRA.

Comment 4. NMED has approved containers previously through the PMR process. What has changed to allow this request?

Response. Secondary containment evaluation considered the largest potential volume. This PMR will help reduce a portion of future PMRs.

Comment 5. You mentioned hoist replacement/upgrade. How would you manage contamination?

Response. Containers and pallets are surveyed and would be decontaminated, if needed, prior to placing on the hoist. In addition, the hoist would be surveyed and decontaminated, if needed, prior to replacement.

Comment 6. When do you expect the first rail shipment?

Response. This is not known at this time; however, the current permit provides for receipt of waste by rail. The current permit does not include storage or management of shipments received via rail. A Class 3 permit modification is necessary to provide for the additional capacity for storage and waste management, which is needed to accommodate rail shipment processing. Class 3 permit modifications take approximately two years to process.

Comment 6. Who is responsible for documenting containers meet DOT Standards? Who provides oversight?

Response. Container Manufacturers certify compliance with DOT Specification 7A, Type A requirements. The generators maintain this documentation.

Comment 7. You did not address Type A containers using equivalency. Why are you not specific on how containers will meet equivalency?

Response. In order to be acceptable at WIPP, containers will have to meet DOT Specification 7A, Type A requirements. Shipments to WIPP require Type B packaging, not Type A. The Type A specification for containers was intended to provide some robustness for unloading containers from Type B packages. This is not changed in the permit modification request.

February 19, 2004, Late Session: Santa Fe, NM

Comment 1. Will this PMR allow shipments to be made from generator sites to the WIPP on Rails?

Response. Rail shipments are currently allowed in the permit. This PMR seeks to allow shipments to be managed and stored.

Comment 2. How long are containers generally stored?

Response. Generally, containers are stored on the surface for a couple of days prior to emplacement in the underground. The permit limits storage to no more than 60 days. This 60-day storage limit is not being requested for change.

Comment 3. How long would it take to clear the current storage if at the limit? How long for the proposed storage limit?

Response. Current storage could be cleared in just over 24 hours. The proposed storage would take approximately 10-12 days.

Comment 4. TRUPACTs are subjected to rigorous testing, the building is not.

Response. There is no need to test the building.

Comment 5. 9/11 was an Off-normal event for the nation. What happened to WIPP shipments during this time?

Response. The permit does not include 9/11 as an Off-normal event. However, shipments were stopped for approximately 3 weeks.

Comment 6. In response to 9/11, WIPP shipments were stopped; however, so was air travel, natural gas shipments, and gasoline shipments.

Response. No response necessary.

EEG Written Comments (received by DOE on 3-12-04):

Comment 1. EEG recognizes the Permittees desire to increase the operational flexibility afforded by additional above ground storage of hazardous waste. However, we are concerned that the Permittees have not prepared an adequate plan for the additional waste for off-normal conditions. Section M1-1c(2) states that *Any off normal event which results in the need to store a waste container in the Parking Area Unit for a period of time approaching fifty-nine (59) days shall be handled in accordance with Section M1-1e(2) of this Permit Attachment.* Section M1-1e(2), which is not being changed by the current PMR, states that

*If the reason for retaining the TRU mixed waste containers is due to an equipment malfunction that prevents the timely movement of the waste containers into the underground, the waste containers will be kept in the Contact Handled Package until day 30 (after receipt at the WIPP) or the expiration of the 60 day limit, whichever comes sooner. At that time the Contact Handled Package will be moved into the WHB and the TRU mixed waste containers removed and placed in one of the permitted storage areas in the WHB Unit. **If there is no additional space within the permitted storage areas of the WHB Unit, the DOE will discuss an emergency permit with the NMED for the purposes of storing the waste elsewhere in the WHB Unit.** [Emphasis added]*

Our concern is that all of the available, adequate space in the WHB may be permitted under the current PMR and occupied by waste - thereby reducing the emergency storage capacity of the building. Also, with additional storage capacity in the Parking Area Unit proposed under the current PMR, the problem of emergency capacity inside the WHB becomes worse. NMED, therefore, may want the Permittees to develop an emergency storage plan for the permit instead of relying on an emergency permit.

Response. The requested increase provides for the use of the storage capacity in the CH Bay and Room 108, while allowing for travel pathways for waste transportation. The requested capacity will be sufficient to manage normal operations and off-normal events. In addition, the likelihood of having to request an emergency permit for additional storage volume during an off-normal event is greatly diminished. However, additional areas in the WHB are available for emergency storage, if needed.

Comment 2. The Permittees seek to remove specific container types listed in the permit and state one reason as, *The NMED implemented the requirement to use containers based on DOT standards without specifically listing the containers in other issued/drafted permits within the State of New Mexico.* EEG believes that this reason is not adequate because hazardous waste permits should be based on an individual set of environmental and operational considerations. While we understand that a consistent application of the regulations is important, we urge the NMED to consider PMRs based on activities of the WIPP Program. EEG also believes that the permit should continue to include specific containers types allowed at the WIPP.

Response. The citation made was intended to simply illustrate that NMED has incorporated similar provisions in other HWFPs. The Permittees are seeking this modification because the laws (i.e., NMSA 74-4-4A(2)(d) and 42 USC § 6922) and the regulations (i.e., 20.4.1.500 NMAC, incorporating 40 CFR 264, Subpart I) provide for "standards" not "types". Listing a container size (e.g., 55-gallon drum) does nothing to meeting the intent or requirement of the law to use "safe containers tested for safe storage and transportation of the hazardous waste." Rather, this requirement is met by the standard to use Department of Transportation, Type A containers, which must meet the requirements/standards specified in 49 CFR 173.410 and/or 173.412.