

Steve Zappe

From: Joni Arends [jarends@nuclearactive.org]
Sent: Monday, March 22, 2004 10:44 PM
To: steve_zappe@nmenv.state.nm.us
Subject: CCNS comments on §311 PMR for WIPP



March 22, 2004

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

RE: Class 3 Modification to WIPP Waste Analysis Plan

Dear Mr. Zappe:

Concerned Citizens for Nuclear Safety (CCNS) make the following comments requesting the New Mexico Environment Department (NMED) to deny the permit modification request (PMR) from the Department of Energy (DOE) for eliminating certain waste characterization requirements in the state operating permit for the Waste Isolation Pilot Plant (WIPP). The New Mexico Hazardous Waste Act requires that the WIPP permit ³protect public health and the environment.² Section 74-4-4. The changes included in the request would not protect public health and the environment, so NMED cannot approve the changes without violating state law. Instead, NMED should deny the request, as allowed by state regulations. 40 CFR 270.42(c)(6).

The WIPP permit was developed through five years of public comment, 19 days of public hearings, and thousands of pages of documents. The modification request by the DOE and Washington TRU Solutions would change hundreds of provisions that were found to be necessary to protect public health and the environment by the Hearing Officer and the Secretary of the NMED in issuing the WIPP permit.

Changes proposed would eliminate many of the permit's sampling and analysis requirements to be carried out at generator sites. Eliminating headspace gas and homogeneous solids/soils and gravel sampling requirements cannot be justified. Reducing sampling of every waste container to only ten percent of the containers being sampled is unjustified and very dangerous. Eliminating much of the audit and surveillance program at each generator site and eliminating the room-based emission rate limits for volatile organic compounds are not justified. Indeed, all of those changes would endanger public health and environment and would substantially increase the likelihood that prohibited items would be shipped to WIPP.

Nonetheless, DOE does not even make the pretense of justifying the changes based on protecting public health and the environment. Instead, DOE states that the modification request is being submitted because Section 311 of Public Law 108-137 ³directs the Secretary of Energy to file a permit modification to the WAP [Waste Analysis Plan]



3/23/2004 9:57 AM

and associated provisions contained in the HWFP [Hazardous Waste Facility Permit].² Request, page 1.

While that explanation provides a reason for DOE to submit the modification request, it does not provide the basis for NMED to approve the changes. Please deny the modification request.

Thank you for your consideration of our comments.

Joni Arends
Executive Director

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Joni Arends, Executive Director
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