

**SOUTHWEST RESEARCH AND INFORMATION CENTER**  
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March 17, 2011

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

RE: WIPP Class 2 Permit Modification – TRUPACT-III, SLB2

Dear Steve,

Southwest Research and Information Center (SRIC) provides the following comments on the Class 2 permit modification request that was submitted by the permittees on January 10, 2011, according to their public notice.

SRIC appreciates that the permittees provided a draft of the proposed request and that representatives of the permittees as well as NMED met with SRIC and other citizen group representatives on December 15, 2010. SRIC continues to believe that such pre-submittal meetings are useful and supports continuing that “standard” practice in the future. SRIC also notes that there were some changes made in the modification request after the pre-submittal meeting.

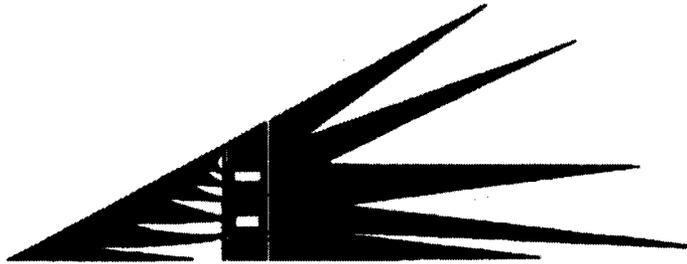
However, at that December 15, 2010 pre-submittal meeting, SRIC specifically stated that reference documents for TRUPACT-III and SLB2 must be made available by no later than the submission of the permit modification request or we would deem the request inadequate to meet the legal and regulatory requirements. Nevertheless, the request submission did not include essential documents to support the modification request.

1. NMED must deny the modification request

Pursuant to 20.NMAC 4.1.900 (incorporating 40 CFR 270.42(b)(7)), NMED may deny the class 2 modification request for any of three reasons. SRIC believes that denial is required because the request is deficient under each of the three criteria – the request is not complete, the request does not meet the requirements of the Resource Conservation and Recovery Act (RCRA) and the Hazardous Waste Act (HWA), and the request does not demonstrate that the changes requested will protect human health and the environment.

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A. The request is not complete.

Despite the discussion at the pre-submittal meeting, the request does not include required supporting documentation. The request submission included in Attachment D-Supplemental Information the complete version only of the Nuclear Regulatory Commission (NRC) Certificate of Compliance (COC). The TRUPACT-III TRAMPAC is an essential part of the NRC COC regarding limits on contents of the TRUPACT-III (#5(b)(1)), the maximum quantity of material (#5(b)(2)), limits for physical, nuclear, chemical, and gas generation properties (#7), shipping category (#9), and venting and aspiration (#11). Yet only four parts of the TRUPACT-III TRAMPAC (Sections 2.4 and 2.8 and Appendixes 8.1.3 and 8.1.6) were included with the submission. Not even the Table of Contents of the TRUPACT-III TRAMPAC was made available so that some evaluation could have been made as to which portions of the document need be made available (SRIC's position is that the entire document must be available). However, on their face, the documents provided are incomplete. For example, TRUPACT-III TRAMPAC Appendix 8.1.6 states: "The waste material types define the gas generation potential of the waste, and a listing of the chemicals/materials allowed in each waste material type is presented in Tables 4.3-1 through 4.3-7." at 8.1.6-1. Those seven tables are not included in the submission even though they are said to contain information about chemicals/materials allowed which are specifically matters that the permit must address. Neither NMED nor the public can evaluate the adequacy of the proposed modification request as it relates to the TRAMPAC requirements and whether those requirements comply with the permit.

Furthermore, other essential documentation has not been made available in any form, including the TRUPACT-III Safety Analysis Report nor any documentation about the Standard Large Box 2, including the *TRUPACT-III Standard Large Box 2 Handling and Operation Manual* WP 08-PT.05, Rev. 3. While those documents are listed on the WIPP website, they are password protected. SRIC requested a password on December 10, 2010, to review the TRUPACT-III and SLB2 documents, but the password has not been issued, so those documents are not available to SRIC or other members of the public. As one example of missing documentation, basic reference information about the internal dimensions of the SLB2, used in the calculation of Drum Age Criteria (DAC) values, is not provided.

Thus, the necessary supporting documentation for the request is not available and the request is incomplete. Further, the request is not complete in satisfying the regulatory requirements for a permit modification.

B. The request does not meet the requirements of the HWA and RCRA.

The modification request includes numerous changes to the permit in how contact-handled (CH) waste is packaged (SLB2), transferred from the parking area unit, opened, removed from the shipping container, examined for contamination, placed on the facility pallet, and emplaced underground. In addition to different procedures, the request includes several pieces of new equipment. Some of the equipment and some of the processes are not even described in the modification request, as is required by the HWA and RCRA regulations.

Five new pieces of equipment and structures are proposed to be added to Table E-1 – Inspection Schedule/Procedures (page B-35 of the request). Such information is required by HWA and RCRA regulations (20.4.1.500 NMAC (incorporating 40 CFR §§264.15, 264.174, and 264.602)).

The “Bolting Robot” is a new piece of equipment, which is pictured as Figure 5 on page 12 of the request. That item is also listed as new equipment on proposed revised Table E-1. However, Figure 5 is not proposed to be included in the permit, nor is there any proposed permit language regarding the Bolting Robot. Adding the “Bolting Robot” as a new piece of equipment with no figure, and no description of its purpose, construction materials or use does not comply with RCRA and HWA requirements.

The “Bolting Station” is a new structure that is mentioned in proposed revised Appendix A1-1c(1) and A1-1d(2) as the location where the TRUPACT-III is first taken in Room 108. An area of the “Bolting Station” is also shown in proposed Figures A4-3a and A4-3b. The dimensions of the “Bolting Station,” how it will contain any releases, and other required information is not provided.

Another new piece of equipment is the “monorail hoist,” which also is included in proposed revised Table E-1. The words “monorail hoist” are included in proposed Figures A4-3a and A4-3b. But there is no description in the proposed permit language of the purpose and use of the “monorail hoist,” nor is there any figure that depicts the piece of equipment, its dimensions or construction materials, which is not consistent with RCRA and HWA requirements.

Moreover, Permit Attachment E-1 requires a logbook for CH equipment. The Permittees propose no changes in those procedures, so that at least some pieces of the new equipment – Bolting Robot, Bolting Station, and Monorail Hoist – are apparently not subject to the logbook, contrary to the requirements of the permit for other CH waste handling equipment. Such inconsistent procedures do not comply with RCRA and the HWA.

Several of the new procedures are not adequately described to prevent hazards. Permit Attachment A1 describes the equipment and procedures for CH waste handling. The specified major components are Type B Packaging; Unloading Docks, Forklifts, Cranes and Adjustable Center-of-Gravity Lift Features; Facility or Containment Pallets; and Facility Transfer Vehicle. The Bolting Robot, Bolting Station, and Monorail Hoist are not described in the Permit, nor in the modification request. There are no specified procedures for use of those three pieces of equipment, contrary to the requirements of HWA and RCRA.

Permit Attachment A1-1d(2) requires the TRUDOCK Vent Hood System (VHS):

“to provide atmospheric control and confinement of headspace gases at their source. It also prevents potential personnel exposure and facility contamination due to the spread of radiologically contaminated airborne dust particles and minimizes personnel exposure to VOCs.”

The modification request states that the bolting station has a vent hood. at pp. 5-6. However, such a requirement is not specified in the actual proposed permit language. In addition, the vent hood system apparently is not included as part of the Payload Transfer Station. There is

substantial handling of the SLB2 at that location, including lifting and lowering, thus releases could occur without any VHS. The modification request also does not specify how any decontamination or repairing of the SLB2 could occur at the Payload Transfer Station without endangering personnel and without the potential for releases into Room 108. Thus, required provisions of the permit are not provided, which is not consistent with RCRA and the HWA. Statements made in the request are not enforceable permit provisions.

Underground emplacement also is different for the SLB2 than for other CH packages. Proposed changes to A2-2b provide that the SLB2 will be placed on the underground room floor. The modification request states that “one additional payload assembly other than an SLB2 or a Ten-Drum Overpack may be placed on top of the SLB2.” at pp. 6-7. However, that language is not included in the proposed permit language, therefore allowing any containers to be placed on top of the SLB2. There is no showing that placing all other containers on top of the SLB2 would not endanger workers or public health and the environment. Once again, actual permit language is required to comply with RCRA and the HWA.

The DAC Report (Attachment C of the request) bases some of the calculations on the internal dimensions of the SLB2. at 2. But the references do not provide a basis for the dimensions, and the supporting documentation that presumably documents the dimensions has not been made publicly available. The DAC Report (Attachment C of the request) uses 50 percent and 75 percent void volumes, but does not provide any factual basis for those void volumes being conservative. Neither the DAC Report, nor the modification request, include any information about the void space in SLB2s that have already been loaded at generator sites. Thus, there is no factual basis to support the DAC values proposed in the modification request as being conservative and protective of human health and the environment.

C. The request does not demonstrate that use of the TRUPACT-III and SLB2 will protect public health and the environment. §74-4-4 NMSA.

Given the incomplete information and the lack of adequate description for some equipment and procedures, protection of public health and the environment has not been demonstrated. The fact is that the request would result in much new handling of CH waste with new equipment, new procedures, and in a new area of the WHB that are substantially different from those used in the past 11 years. In modifying the permit to allow new packaging or waste containers, NMED should require procedures at least as stringent as those for other CH waste. But such requirements to protect public health and the environment are not included in the modification request.

In the underground, the lack of specificity about what containers can be placed on top of the SLB2 allows emplacement in ways that could result in hazards and accidents that are not protective of human health and the environment.

## 2. The request includes inconsistencies and errors.

The NRC COC limits each TRUPACT-III to “only one SLB2.” #5(b)(2). However, in proposed Permit Attachments A1-1d(2) and A4-3, there is not such specific language, while in some parts of the request, the correct language is used.

In Permit Attachment A2-2a(1), the request introduces a new, undefined concept – underground emplacement “in the waste array.” (A forklift will be used to offload the SLB2 from the underground transporter and emplace the waste container in the waste array.) SRIC knows of no other place in the permit where such terminology is used, nor is there any definition of what a “waste array” would be. Such language is inappropriate and should not be incorporated into the permit.

Concerned Citizens for Nuclear Safety (CCNS), Citizens for Alternatives to Radioactive Dumping (CARD), and Nuclear Watch New Mexico join in these comments.

Thank you very much for your careful consideration of, and your response to, these and all other comments.

Sincerely,

Don Hancock

cc: Steve Holmes