

**SOUTHWEST RESEARCH AND INFORMATION CENTER****P.O. Box 4524 Albuquerque, NM 87196 505-262-1862 FAX: 505-262-1864 [www.sric.org](http://www.sric.org)**

June 13, 2011

John Kieling  
New Mexico Environment Department  
2905 Rodeo Park Drive, Building 1  
Santa Fe, NM 87505

RE: WIPP Request for Permit Modification Determination – May 20, 2011

Dear John,

Southwest Research and Information Center (SRIC) provides the following comments on the permit modification request for a class determination to “Update Ventilation Language for Consistency,” which is on the WIPP Homepage Information Repository.

SRIC requests that NMED reject the modification request as a class 1 modification, and instead determine that the request is properly classified as a class 2 modification and handle the request consistent with those requirements, pursuant to 20.NMAC 4.1.900 (incorporating 40 CFR 270.42(b)). Alternatively, the permittees could withdraw the request and engage in a public process to determine what changes, if any, are necessary to address the permittees’ concerns.

SRIC also notes that a draft of the modification request was not provided to SRIC or other members of the public. Nor does SRIC believe that the draft was posted on the WIPP website before it was submitted to NMED. SRIC also requests that NMED inform the permittees that they should have provided a draft of the proposed request to interested members of the public before submitting the request, and they should follow that practice with this and future modification requests.

NMED cannot appropriately determine that the proposed modification request meets class 1 requirements for several reasons.

First, the requested change appears to be a General Permit Provision change under 40 CFR 270.42, Appendix I.A.4.b. – “changes in the frequency of or procedures for monitoring, reporting, sampling, or maintenance activities by the permittee, other changes,” which are properly class 2 modification requests. The request does not result in “more frequent monitoring,” which is required for a class 1 determination under Appendix I.A.4.a.



Second, the requested change appears also to be modifying the permit requirements regarding "active disposal rooms." Pursuant to Permit Part 4.4.1, an open room is "active" as opposed to a "closed room" which is filled and no longer provides the required ventilation or volatile organic compound (VOC) monitoring. The permittees' modification request appears to attempt to change an active disposal room to only being a room in which "workers are present." Such a change would be a very significant change, not consistent with a class 1 modification.

Third, the requested change could result in a very major change in operational practice in the WIPP underground. Among other things, one minute (or second) before a worker entered an unoccupied active room the ventilation rate could be below the minimum 35,000 scfm, and then the rate would increase to the required minimum level at precisely the time that the worker entered. Such precision is neither possible, nor practical, nor would it provide safety for workers. Moreover, SRIC believes that the permittees have been providing ventilation and monitoring before a worker enters an unoccupied active room since waste emplacement began at WIPP in 1999. A change in that operational practice is not a class 1 modification.

Fourth, such a change in what is an active room would apparently change the requirement of Permit Part 4.4.1. But the request does not state that it is changing that requirement, so either the request is not complete or it creates an important inconsistency in the permit.

Fifth, ventilation rates and VOC monitoring are very significant public concerns, and cannot be handled as class 1 modifications. As both NMED and the permittees know, substantial time and resources have been given over the past two years to VOC monitoring. Any additional changes to ventilation rates or VOC monitoring raise significant public concern for SRIC and other members of the public. Changes to those requirements minimally must be considered a class 2 modification request.

If the permittees believe that the language they cite in Permit Attachment A2 is inconsistent with provisions in Permit Attachment O, the appropriate procedure is to have a discussion with SRIC, other members of the public, and NMED to determine what action is necessary to remedy the inconsistency. SRIC is willing to have such a discussion with the goal of determining what modifications, if any, are required. SRIC believes that such a procedure could have, and still can, result in a better permit, using fewer resources and creating less controversy than the May 20 modification request.

Thank you very much for your careful consideration of, and your response to, these comments. Also, please inform SRIC of your decision in this matter.

Sincerely,



Don Hancock