



February 6, 2018

To: Ricardo Maestas  
New Mexico Environment Department  
2905 Rodeo Park Drive East, Building 1  
Santa Fe, NM 87505  
[Ricardo.maestas@state.nm.us](mailto:Ricardo.maestas@state.nm.us)

Dear Mr. Maestas:

The WIPP Permit Modification clarifying and distinguishing how waste is counted should clearly be a Class 2 Permit Modification. Counting physical waste versus counting total volume of an over pack, including substantial amounts of air, to meet the requirements for a Hazardous Waste Unit are volume counting processes for two very different purposes. The RCRA volume counting requirements for a Hazardous Waste Unit are for that specific unit and for all practical purposes the number of units under the Permit are unlimited and are intended to define the volume requirements of the unit. On the other hand, the "waste" volume for WIPP, as clearly stated in the Land Withdrawal Act, is a hard limit. That "waste" volume can be clearly determined by the inner container volume in any over pack, and it is routinely tracked by WIPP. In the PMR, pictures, schematics and volume difference calculations make it clear what the differences are between counting air and counting the waste in the inner containers.

This dual counting process is not complicated or requires any technical difficulty. Everyone knows the volume of every over pack and the volume of the inner containers.

This simple, uncomplicated, straight forward change in the PMR for dual counting meets every criteria to be considered as a Class II modification.

It would be tragic for waste at Los Alamos that meets the WIPP WAC to be left there because of WIPP being considered "full" due to counting air as waste and losing one-third of the waste volume capacity of WIPP.

As a former State Representative, I've witnessed the introduction of many issues related to the WIPP permit and am confident this does not rise to the level requiring a Class 3 process.

This PMR should be considered as a simple, straight forward change in counting Class 2 permit modification to reflect the actual volume of waste.

Best regards,

John Heaton

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