



Ricardo Maestas, WIPP Project Manager
New Mexico Environment Department Hazardous Waste Bureau
2905 Rodeo Park Drive East, Building 1
Santa Fe, New Mexico 87505-6303
E-mail: ricardo.maestas@state.nm.us

Subject: Comments on the proposed Draft WIPP Permit Issued August 6, 2018

Dear Mr. Maestas;

NMED issued a draft WIPP permit on August 6, 2018, which incorporated DOE's proposal for accounting of the volume of mixed TRU waste as regulated by NMED and identified a separate accounting for the volume of TRU waste to be counted against the legislated "capacity" limit specified in the WIPP Land Withdrawal Act of 1992. While WIPP critics will claim that this is tantamount to keeping two sets of books, it is not. This volume of record clarification is one set of books that counts and makes available to all parties two distinct statistics. Both the volume of mixed TRU waste regulated by NMED, as that volume limited in each hazardous waste disposal unit, as well as the TRU waste regulated by the EPA under the requirements of the Land Withdrawal Act will be tallied, and both made publically available.

This is not some scheme cooked up by DOE to expand WIPP as critics claim. It is an open clarification, that counting waste volume in a disposal unit, which is the purview and responsibility of NMED, should be reconciled with the inner container volume of TRU waste packages, which tally the true TRU volume of waste, as defined in the WIPP Land Withdrawal Act. The Land Withdrawal Act does not limit or specify the difference in the volumes of inner containers over-packed into larger shipping containers. NMED's responsibility must be for the total mixed TRU waste volume emplaced in each hazardous waste disposal unit that it permits. That accounting method will always be greater than the TRU waste volume, because of the over-packing practice that DOE uses to protect workers and control contamination.

This is not a complex change in how DOE operates the WIPP disposal facility. In fact, there is no change in physical operations or practices being proposed. DOE is simply ensuring the separate regulatory responsibilities between NMED and EPA are satisfied, and that they do not conflict. While NMED has stipulated this new permit must be processed through the Class 3 requirements under RCRA, it definitely does not rise to the standard for a public hearing, which is optional under the Class 3 process. NMED should not expend unnecessary resources and time for a public hearing on this permit modification. It should issue the permit as written.

Sincerely...

Susan Crockett

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