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RON CURRY
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CINDY PADILLA
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June 27, 2007

**RE: SPECIFIC RESPONSE TO COMMENTS, CLASS 2 MODIFICATION REQUEST
WIPP HAZARDOUS WASTE FACILITY PERMIT
EPA I.D. NUMBER NM4890139088**

Dear Interested Citizen:

On June 22, 2007, the New Mexico Environment Department (**NMED**) took final administrative action on a Class 2 permit modification request (**PMR**) to the Waste Isolation Pilot Plant (**WIPP**) Hazardous Waste Facility Permit. The Department of Energy Carlsbad Field Office and Washington TRU Solutions LLC (**the Permittees**) submitted this PMR to the Hazardous Waste Bureau in the following document:

- Request for Class 2 Permit Modification (Miscellaneous), Letter Dated 3/21/07, Rec'd 3/29/07

The Permittees identified six (6) items in their PMR submittal:

1. Revise training requirements for waste confirmation
2. Revise preventative maintenance procedure frequencies
3. Remove the Brush Truck
4. Revise Incident Level II requirements
5. Revise Emergency Operations Center staff requirements
6. Revise the Contingency Plan

NMED approved this PMR with changes for the reasons specified in the attached response to comments. This PMR was evaluated and processed by NMED in accordance with the requirements specified in 20.4.1.900 NMAC (incorporating 40 CFR §270.42(b)). It was subject to a sixty (60) day public comment period running from March 27 through May 25, 2007, during which NMED received written specific comments from a total of four individuals and

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organizations. You are receiving this mailing because you provided public comment on this modification.

Attachment 1 lists all commenters; Attachment 2 incorporates NMED's specific response to all comments; and Attachment 3 incorporates NMED's general responses to summarized comments. Further information on this administrative action may be found on the NMED WIPP Information Page at <<http://www.nmenv.state.nm.us/wipp/>>.

Thank you for your participation by submitting comments on these permit modification requests. Please contact Steve Zappe at (505) 476-6051 or via e-mail at <steve.zappe@state.nm.us> if you have further questions or need additional information.

Sincerely,

Original signed by

John E. Kieling

Manager

Permits Management Program

Attachments

cc: James Bearzi, HWB
Steve Zappe, HWB
David Moody, DOE/CBFO
Richard Raaz, Washington TRU Solutions LLC

Attachment 1
Commenter List

**Comments Received by NMED on WIPP Permit Modification
Modification Submitted to NMED on:
March 21, 2007
"Miscellaneous" Class 2 PMR**

	<u>Receipt Date</u>	<u>Author</u>	<u>Organization/Citizen</u>	<u># Pages</u>	
A	1	07-May-07	Marina Day	Citizen	1
B	2	24-May-07	* David Moody/Richard Raaz	CBFO/WTS	49
C	3	24-May-07	* Joni Arends	CCNS	1
D	4	24-May-07	* Don Hancock	SRIC	2
		1200+ commenters		Total Pages =	53

* Denotes electronic comment submitted

Attachment 2
Specific Response to Comments

Comments Received By NMED on the WIPP Class 2 Permit Modification Request

Comment Number	Commenter/Affiliation	Topic Area	Commenter Number	Comment Summary	Response
1.1	Marina Day, Citizen	Class 2 - All	A	The commentor expressed support for all nine Class 2 permit modifications.	Comment noted. No response is required.
2.1	Moody/Raaz, CBFO/WTS	Class 2 PMR Item 1: Waste Confirmation Training Requirements	B	This comment presents responses from the Permittees addressing stakeholder comments identified during the public meetings held on May 1, 2007 and May 3, 2007. The Permittees added a discussion to the PMR as to why sealed containers greater than four liters was deleted from the confirmation training requirements for radiography and visual examination.	Proposed revisions have been noted and incorporated into the final permit language.
2.2	Moody/Raaz, CBFO/WTS	Class 2 PMR Item 1: Waste Confirmation Training Requirements	B	This comment presents responses from the Permittees addressing stakeholder comments identified during the public meetings held on May 1, 2007 and May 3, 2007. The Permittees added a requirement to the PMR that Level 1 radiographers view radiography tapes and identify prohibited items under the guidance of a radiography subject matter expert. The revision also changes the terminology for training drums and removed the requirement that all confirmation personnel must radiograph a training drum.	Proposed revisions have been noted and incorporated into the final permit language.
2.3	Moody/Raaz, CBFO/WTS	Class 2 PMR Item 1: Waste Confirmation Training Requirements	B	This comment presents responses from the Permittees addressing stakeholder comments identified during the public meetings held on May 1, 2007 and May 3, 2007. The Permittees added a requirement to the PMR that visual examination formal training include training on the use of batch data reports.	Proposed revisions have been noted and incorporated into the final permit language.
2.4	Moody/Raaz, CBFO/WTS	Class 2 PMR Item 5: Horizontal Emplacement and Retrieval Equipment (HERE) Maintenance	B	This comment presents responses from the Permittees addressing stakeholder comments identified during the public meetings held on May 1, 2007 and May 3, 2007. The Permittees added language to the PMR stating that training exercises are considered in determining the maintenance frequency of the HERE.	See response to comment 4.2.

Comments Received By NMED on the WIPP Class 2 Permit Modification Request

Comment Number	Commenter/Affiliation	Topic Area	Commenter Number	Comment Summary	Response
2.5	Moody/Raaz, CBFO/WTS	Class 2 PMR Item 8: Table F-1 Container Description	B	This comment presents responses from the Permittees addressing stakeholder comments identified during the public meetings held on May 1, 2007 and May 3, 2007. The Permittees revised the container description to "Multiple containers of TRU Waste" to constitute a Level II Incident.	See response to comment 4.3.
3.1	Joni Arends, Concerned Citizens for Nuclear Safety (CCNS)	Class 2 PMR Items 5 and 8	C	Commentor supports comments submitted by Southwest Research and Information Center (SRIC).	See responses to comments 4.1, 4.2, and 4.3.
3.2	Joni Arends, Concerned Citizens for Nuclear Safety (CCNS)	General	C	Commentor noted that the NMED contact person's email address on the Public Information Meetings sheet is incorrect.	NMED will notify the Permittees of the correct e-mail address. However, mail sent to the incorrect address is still delivered to the NMED contact person.
4.1	Don Hancock, Southwest Research and Information Center (SRIC)	General	D	Commentor appreciates that the Permittees distributed a draft modification request in advance and that they responded to suggestions made at that February meeting. Commentor believes that process improved the modification request and provided additional information to the public as background for the request.	Comment noted. No response is required.
4.2	Don Hancock, Southwest Research and Information Center (SRIC)	Class 2 PMR Item 5: Horizontal Emplacement and Retrieval Equipment (HERE) Maintenance	D	Commentor stated that since the Permittees have projected large increases in the number of remote-handled (RH) waste containers going to WIPP in the future, it is not unreasonable to believe that the HERE could be used more than 500 hours in a six-month period in the future. Commentor suggested that Table D-1a have the following added as a footnote related to the HERE semi-annual inspection: "Inspection also will be done after 500 hours of use, if that usage occurs prior to the semi-annual inspection."	Because it is not clear that actual hours of usage for the HERE are maintained in the facility operating record, NMED opted to determine compliance alternatively with the number of evolutions in 500 hours, assuming 2 hours per evolution (as specified in the Permittees calculations on page 6 of their PMR). The following footnote has been added to the final permit: Inspection will be performed after 250 evolutions (actual and training emplacements), if such usage occurs prior to the semi-annual inspection.

Comments Received By NMED on the WIPP Class 2 Permit Modification Request

Comment Number	Commenter/Affiliation	Topic Area	Commenter Number	Comment Summary	Response
4.3	Don Hancock, Southwest Research and Information Center (SRIC)	Class 2 PMR Item 8: Table F-1 Container Description	D	Commentor stated that the permit currently specifies that one standard waste box (SWB) is a large enough quantity of hazardous substances to be included as a Level II incident, and therefore the proposed change in Table F-1 would significantly lessen the requirement. Commentor stated that the Permittees have not provided a technical basis for this change as it relates to SWBs, RH-TRU canisters, or other containers with larger amounts of waste than a SWB. This change is not protective of public health and the environment. Commentor suggested the following language: "One or more containers of TRU Waste as described in Permit Condition II.C.1."	NMED notes that the Contingency Plan has historically stated the criteria for Incident Level II as involving "multiple packages". Permit Attachment F, Table F-1 was originally modified on August 8, 2000 in response to the Permittees' Class 1 notification of November 15, 1999 to include the language regarding "One Standard Waste Box" as being sufficient to constitute a Level II incident. However, this was inconsistent with other language in the Contingency Plan at the time of permit issuance on October 27, 1999. See Section F-3, <u>Implementation</u> paragraph 4.a, and Table F-3, <u>Planning Guide for Determining Incident Levels and Response</u> . NMED believes the modification as proposed by the Permittees makes Table F-1 consistent with the remainder of the Contingency Plan.

Attachment 3
General Response to Comments

**NMED GENERAL RESPONSE TO COMMENTS ON CLASS 2 PERMIT MODIFICATION TO WIPP
HAZARDOUS WASTE FACILITY PERMIT (WIPP PERMIT)
SUBMITTED MARCH 21, 2007**

Item 1. Revise Training Requirements for Waste Confirmation

Background: The permit modification request (PMR) proposed to establish two levels of training requirements for those personnel involved in the Permittees' waste confirmation process.

The Permit (Attachments B7, H1 and H2) requires that personnel who perform real time radiography (RTR) and visual examination (VE) be qualified as radiographers and visual examination experts. However, most of the confirmation work requires only the review of RTR/VE media and/or records and not the actual performance of RTR or VE. Therefore, the Permittees proposed that two levels of training be incorporated into the Permit.

Level 1 confirmation personnel would have the training required to view RTR and VE media and review RTR and VE records but would not require the training needed to operate actual radiography systems or perform VE in a glovebox environment. Level 2 confirmation personnel would be trained American Society of Non-Destructive Testing radiography operators and VE experts.

Comments: The Permittees submitted comments on their PMR to explain why the requirement to identify sealed containers greater than four liters was deleted from the confirmation training for RTR and VE. The Permittees stated that this was a transportation requirement and not previously listed as a prohibited item elsewhere in the Permit. The Permittees sought to include an additional training requirement that would ensure Level 1 radiography operators would be able to identify liquids and compressed gases as specific prohibited items. The Permittees also asked to revise the terminology for the training drum, and remove the requirement that Level 1 radiography operators must radiograph a training drum. Finally, the Permittees sought to revise VE formal training to include the use of batch data reports.

Response: NMED approved the modification as revised by the Permittees comments. NMED also made numerous minor editorial changes to ensure consistency between new and previously existing language.

Item 2. Revise Preventative Maintenance Procedure Frequencies

Background: The Permit, Attachment D, Table D-1a identifies procedure PM041232 for the RH Bay Overhead Bridge Crane as a quarterly and an annual preventative maintenance (PM) procedure. The Permittees request to remove the reference to the annual PM which is duplicative of the quarterly inspection and the annual inspection is not required by this procedure.

The Permit, Attachment D, Table D-1a identifies procedure PM041190 for the Cask Unloading Room Crane as a quarterly and an annual preventative maintenance procedure. The Permittees request to remove the reference to the annual PM which is duplicative of the quarterly inspection and the annual inspection is not required by this procedure.

The Permit, Attachment D, Table D-1a contains columns that identify the responsible organization and the job title for the personnel normally conducting the inspection. The Permittees request a clarification that the responsible organization pertains to the organization that owns and uses the equipment and to clarify that the job title of personnel normally making the inspection does not apply to procedures beginning with PM or IC. Preventive Maintenance (**PM**) procedures are conducted by mine maintenance personnel or surface operations maintenance personnel. Instrument Control (**IC**) procedures are performed by instrument technicians. This clarification is necessary to delineate that personnel performing preventive maintenance and instrument and calibration procedures are not trained as equipment operators as identified in the Permit Attachments H1 and H2.

The Permit, Attachment D, Table D-1a identifies procedure PM052010 for the Horizontal Emplacement and Retrieval Equipment (**HERE**) as a monthly preventive maintenance procedure. The Permittees request to change the frequency in Table D-1a to semi-annual which experience shows is sufficient to protect the equipment and to minimize impacts on waste handling operations.

Comments: The Permittees submitted a comment on the inspection of the HERE, clarifying that training time as well as actual emplacement time would be considered in determining the inspection frequency. However, another commenter believed that a semi-annual inspection frequency may be insufficient if the HERE experienced more usage than the Permittees' postulated 500 hours within a six-month period, and suggested that the required inspection will be done after 500 hours of use, if that usage occurs prior to the semi-annual inspection.

Response: In response to public comment and based upon information provided in the PMR, NMED specified an alternate condition that would trigger the semi-annual inspection of the HERE. Although public comment suggested 500 hours as the criteria for performing the necessary inspection, the approved language stated that this alternate condition would occur after 250 "evolutions" of the HERE, counting each actual and training emplacement cycle as a single "evolution" and based upon the assumption provided in the PMR that each evolution takes approximately two hours to complete

Item 3. Remove the Brush Truck

Background: The Permit, Attachment D, Table D-1 identifies a weekly inspection of a fire truck called the brush truck. The Permittees no longer need the brush truck and request to remove it from the inspection schedule.

Comments: NMED received no specific comments regarding this item.

Response: NMED approved the modification without changes.

Item 4. Revise Incident Level II Requirements

Background: The Permit, Attachment F, Table F-1 shows the hazardous materials/wastes which may be at the WIPP facility in large enough quantities to qualify as a National Fire Protection Association (**NFPA**) Level II Incident. The Permittees request to update that table to include all TRU mixed waste (CH and RH) in any approved container listed in Permit

Condition III.C.1. Whereas the original criteria in the table stated, “One Standard Waste Box or two or more 55-gallon drums of CH TRU waste”, the PMR proposed revising this text to state, “Various containers of TRU Waste as described in Permit Condition III.C.1.”

Comments: The Permittees submitted a comment on Table F-1, seeking to replace the word “Various” with “Multiple”, indicating that a single container was insufficient to qualify as a NFPA Level II Incident. One commenter believed the PMR would lessen the requirement by changing the minimum quantify from one Standard Waste Box to “multiple containers”, and suggested the language state, “One or more containers of TRU waste as described in Permit Condition II.C.1” (sic).

Response: NMED approved the modification as revised by the Permittees comments. NMED notes that the Contingency Plan has historically stated the criteria for Incident Level II as involving “multiple packages”. Permit Attachment F, Table F-1 was originally modified on August 8, 2000 in response to the Permittees' Class 1 notification of November 15, 1999 to include the language regarding "One Standard Waste Box" as being sufficient to constitute a Level II incident. However, this was inconsistent with other language in the Contingency Plan at the time of permit issuance on October 27, 1999. See Section F-3, Implementation, paragraph 4.a, and Table F-3, Planning Guide for Determining Incident Levels and Response. NMED believes the modification as approved makes Table F-1 consistent with the remainder of the Contingency Plan.

Item 5. Revise Emergency Operations Center Staff Requirements

Background: The Permit, Attachment F, Section F-2 indicates the Emergency Operations Center (EOC) staff that is required to activate the EOC. To be consistent with organizational changes, the Permittees request to revise the wording in the Permit and the staffing required to activate the EOC

Comments: NMED received no specific comments regarding this item.

Response: NMED approved the modification without changes.

Item 6. Revise the Contingency Plan

Background: In Attachments E and F of the Permit references are made to the locations of fire hoses and internal fire hose connections. The recent fire hazard analysis indicates that these items are no longer required to meet the NFPA standards. The Permittees request to remove those items from the Permit.

Comments: NMED received no specific comments regarding this item.

Response: NMED approved the modification without changes.