

Comments Received By NMED on the WIPP General Class 2 Permit Modification Requests Dated June 28, 2002

		Commentor Key: A - Norman Brown; B, C - Matthew Silva/EEG; D - Penelope McMullen/Sisters of Loretto; E - Various/Citizens; F - Deborah Reade/CARD; G - Don Hancock/SRIC; H - Inés Triay/CBFO; I - Lindsay Lovejoy/NMAGO; K - Geoff Petrie/NWNNM; L - Joni Arends/CCNS; M - James Vernon Lewis/NM Citizens for Clean Air & Water					
Comment Number	Commentor/Affiliation	Topic Area	Commentor Identifier	Comment Summary [Original comment, DOE response to the comment]	NMED Response	Include in Permit? y/n	Reviewer (initials)
1	Norman E. Brown/citizen	general	A	As a general comment, more quantitative information could be provided (e.g., proposed cost reductions, reduction in manpower, amount of paper reduction, drums of waste in proposed new plan). In addition, a statement about the risk of the proposed change and general statements about rewards should be provided. In the discussion on U134, it was mentioned that the change would affect about 1,000 drums. This would have bounded the impact on wastes. In data management, the idea of prequalifying the instrument, operator, and calibration sounds much better than checking out a paper trail after the analysis is conducted.	NMED concurs with the issues raised by the commentor, but also believes that sufficient information was provided to assess the proposed modifications.	N	AA
2	Matthew Silva/EEG	Additional Waste Container Types	B	The EEG believes that adding the container types as proposed in this PMR will increase operational flexibility and will not significantly alter considerations related to health, safety, and the environment for the WIPP. However, there are some issues that should be resolved prior to adding these containers to the WIPP HWFP.	See response to Comment Nos. 6.2, 6.3, and 6.4	Y-with changes	RT
2.1	Matthew Silva/EEG	Transfer of waste in damaged containers	B	The EEG does not believe that the WIPP facility has either the facilities or the procedures in place, or has performed the training necessary, for safely performing transfer of waste between containers. This PMR also does not address specific HWFP prohibitions against opening waste containers (§ F-1, M1-1d of the HWFP). The EEG believes that the Permittees should show that facilities, procedures, and training are in place at the WIPP for transferring waste between containers before the NMED accepts the portions of this permit modification that allow such transfers. <i>[DOE Comment: This PMR did not propose overpacking TDOP. At this time, the Permittees propose that the best way to handle damaged TDOPs is to decontaminate or repair and patch them or return the TDOP to the generator site. This process is described in Permit Attachment M1, Section M1-1(d)(2). This change results in a number of changes to text, which are listed in the DOE responses.]</i>	See response to Comment No. 6.4	Y- Partially	RT
2.2	Matthew Silva/EEG	Overpack of waste containers	B	There are current procedures for overpacking primary containers (drums into SWB or TDOPs, and SWBs in TDOPs). However, there is no suitable overpack for a TDOP except perhaps the TRUPACT-II ICV that it is contained in. There are problems in using an ICV as an overpack (see our comments under Section e.2). The EEG believes that the best solution is to return any unacceptable TDOP or other container to the shipping site or an alternate location rather than to instigate a practice of opening containers and transferring wastes to other containers. <i>[DOE Comment: This PMR did not propose overpacking TDOP. At this time, the Permittees propose that the best way to handle damaged TDOPs is to decontaminate or repair and patch them or return the TDOP to the generator site. This process is described in Permit Attachment M1, Section M1-1(d)(2). This change results in a number of changes to text, which are listed in the DOE responses.]</i>	See response to Comment No. 9. NMED concurs with DOE's response as it relates to overpacking of TDOPs.	N	RT
2.3	Matthew Silva/EEG	Overpack of waste containers	B	The "Discussion" section of the PMR notes that direct loading of 85-gallon drums have yet to be approved as transportation payload containers by the NRC. The NRC has approved 85-gallon drums as overpacks in the HalfPACT Safety Analysis Report. The EEG believes the current lack of NRC acceptance for direct-loaded 85-gallon drums is not a sufficient reason to reject direct-loaded 85-gallon drums. <i>[DOE Comment: The Permittees agree with this comment.]</i>	NMED concurs with this issue raised by the commentor.	Y	RT
2.4	Matthew Silva/EEG	Overpack of waste containers	B	Module III.C.1.c, describing TDOPs is altered in part by adding text to state that TDOPs have "...a gross internal volume of 160 ft3 (4.5 m3)" (p. A-4). This value affects the storage volume allowances in the HWFP, particularly Module III Tables I.A.1 and I.A.2, which have not been addressed in this PMR. <i>[DOE Comment: At this time, the Permittees have elected not to request an increase in storage volume within the Waste Handling Building. All capacities currently specified in the HWFP will be maintained through procedural controls. The Permittees are preparing a modification request to increase storage capacity within both the Waste Handling Building and Parking Area Unit.]</i>	NMED concurs with the issue raised by the commentor and the Permittees response. However, the Permittees have not requested an increase in storage volume allowances in this PMR and therefore the values in Tables I.A.1 and I.A.2 will remain unchanged at this time.	N	RT

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2.5	Matthew Silva/EEG	general	B	<p>Transferring up to 4.5 m3 of transuranic mixed waste from a TDOP to other containers would seem to require special considerations for which there is no basis in the current HWFP, nor for which there are considerations in this PMR. The EEG is unaware of any WIPP facilities or procedures to implement such a transfer. A number of comments are made re changes in the PMR that also need to be made in additional locations.</p> <p><i>[DOE Comment: Any damaged containers will be decontaminated and repaired/patched or returned to the generator site. Waste from direct loaded TDOPs will not be repackaged into other containers. This PMR did not propose overpacking TDOP. At this time, the Permittees propose that the best way to handle damaged TDOPs is to decontaminate or repair and patch them or return the TDOP to the generator site. This process is described in Permit Attachment M1, Section M1-1(d)(2). This change results in a number of changes to text, which are listed in the DOE responses.]</i></p>	NMED partially concurs with the issues raised by the commentor. Attachment F, Section F-4d indicates that waste from damaged TDOPs may be transferred to other containers. NMED has removed this option from the modification request, thus mandating return of damaged containers to the sender that cannot be repaired. See response to Comment 6.4.	Y-with changes	RT
2.63	Matthew Silva/EEG	Addition of code U134 (HF) to list of Part A wastes	C	<p>The PMR for the addition of the U134 code for HF acid does not include a discussion about the toxicity of HF acid or how the toxic nature of HF acid will be neutralized. EEG indicates that HF acid is toxic at levels that could easily be below standard detection limits and that Permittees' specifications that HF acid will be below limits of detection may not assuage the possibility of residual toxic levels of HF acid in the waste</p> <p><i>[DOE Comment: While the WIPP has a prohibition on the acceptance of waste exhibiting the characteristic of corrosivity, there is no equivalent prohibition on toxicity. There is no toxicity waste number ("D" code) assigned to HF acid other than that for corrosivity (D002). The Permittees have modified the footnote in Module II, Table II.C.4 of HWFP to read:</i></p> <p><i>"Acceptance of U-coded wastes listed for reactivity or ignitability or corrosivity characteristics is contingent upon a demonstration that the wastes meet the requirements specified in Permit Condition II.C.3.g." HF acid is a fuming acid that produces corrosive fumes. The toxicity of HF acid is based on the fact that it is corrosive and produces burns. Once HF acid is treated such that it no longer exhibits the characteristic of corrosivity, it is no longer chemically HF acid, corrosive, or poses a toxicity hazard. The only reason the U134 hazardous waste number applies after the characteristic of corrosivity is eliminated is because HF acid is a listed waste (off-specification chemical product). Additional information on HF acid is provided by http://www.osha-slc.gov/SLTC/healthguidelines/hydrogenfluoride/recognition.html</i></p>	NMED concurs with the Permittees' response. A toxicity code for HF is not assigned (other than D002 as liquid), and the Permittees have addressed the possible presence of HF as D002 through a specific modification request requiring that no liquids be present in U134 waste.	N	AA

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2.64	Matthew Silva/EEG	Addition of code U134 (HF) to list of Part A wastes	C	<p>There are significant discrepancies in the treatment methodology between the originally rejected PMR and this PMR. The original PMR specified that the HF was contained in approximately 100 containers of solidified sludge, while the current PMR indicates that in addition to the solidified sludges, that there are approximately 700 drums (by EEG's estimation) of HF contaminated debris waste at INEEL. It is not clear from the two PMRs what the waste will be. The Permittees also stated at the July 23, 2002 quarterly meeting between the EEG, various state organizations, and the DOE, that other sites intend to ship TRU wastes with an assigned U134 hazardous waste number. Item 1 contains no mention of these other wastes, implying that the INEEL U134 waste is the sole reason for adding the code. In addition, for the debris portion of the proposed waste, it would have been useful for the Permittees to have demonstrated that materials such as Kim wipes, gloves, empty containers, and other materials in waste from the INEEL laboratory operations with the HF acid had been eliminate the HF acid from the waste.</p> <p><i>[DOE Comment: The INTEC facility is part of the INEEL and is located on the INEEL reservation. As stated in the public meetings and the footnote, the debris waste with the U134 hazardous waste number from the INEEL that was created during handling of the sludge waste after the chemical reduction of the HF acid would be shipped to the WIPP for disposal as CH TRU waste. However, the discussion of the source of this waste should not be construed as a request to limit the application of the U134 hazardous waste number to a specific waste from a specific facility. Generators may identify other waste streams (debris or non-debris) that meet the requirements of the HWFP and which carry the U134 hazardous waste number. In addition, the PMR includes (Section B3-12(b)(1)) the requirement that a certification that the characteristic of corrosivity no longer exists for the U134 waste be provided on the Waste Stream Profile Form as shown on page A-18 of the PMR. This certification is confirmed through radiography and/or VE of the containers to assure that no liquid waste is present.]</i></p>	The NMED concurs with the Permittees' response. The Permittees have addressed this concern in the revised permit modification request.	N	AA
2.65	Matthew Silva/EEG	Addition of code U134 (HF) to list of Part A wastes	C	<p>EEG recommends that to ensure the HF bearing wastes contain no liquids, the AK record should clearly detail specific procedures that are taken to treat each waste container to ensure that all water has been removed from the waste. Current permit specifications only require that liquids will not be present at greater than 1% volume as verified through radiography or VE.</p> <p><i>[DOE Comment: The comment indicates that AK should be used and then chemical testing should be used if the AK is inconclusive. The language in the PMR supports this approach. The proposed language in the PMR includes the requirement that "acceptable knowledge or testing and/or analysis" be used to certify that "any waste assigned the hazardous waste number of U134 (hydrofluoric acid) no longer exhibits the characteristic of corrosivity." HF acid is a fuming acid that produces corrosive fumes. The toxicity of HF acid is based on the fact that it is corrosive and produces burns. Once HF acid is treated such that it no longer exhibits the characteristic of corrosivity, it is no longer chemically HF acid, corrosive, or poses a toxicity hazard. The only reason the U134 hazardous waste number applies after the characteristic of corrosivity is eliminated is because HF acid is a listed waste (off-specification chemical product). Additional information on HF acid is provided by http://www.osha-slc.gov/SLTC/healthguidelines/hydrogenfluoride/recognition.html.</i></p>	The NMED concurs with the Permittees response. The Permittees have addressed this concern by revising the permit modification text with respect to decreasing the allowable liquid content to "no liquid" for U134 waste.	N	AA

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2.66	Matthew Silva/EEG	Characterizing Repackaged Homogenous Solids as Retrievably Stored Waste with Regard to Solid Sampling	C	<p>The EEG agrees with the Item 2 statement that the HWFP requirements for sampling of homogeneous solids that are repackaged are somewhat ambiguous. However, it is clear both in the HWFP and in the NMED response to the Savannah River Citizens Advisory Board comment during the initial HWFP development (cited on page A-32 of the PMR) that the "most conservative" sampling approach was intended to be used. Item 2 appears to change that approach, so that the minimum number of samples possible for either retrievably stored or newly generated wastes would be the number used.</p> <p><i>[DOE Comment: The NMED response to the Savannah River Citizens Advisory Board comment during the initial HWFP development (cited on p. A-32 of the PMR) also indicated that "Therefore, NMED concludes that for repackaged waste, facilities may consider this waste retrievably stored or newly generated, so long as the appropriate characterization procedures are performed." Regardless of the number of samples collected for performing control charting on most repackaged retrievably stored homogeneous solid waste, the use of control charting is not appropriate because the process of repackaging does not affect physical or chemical properties of the waste in a manner that would allow the establishment of effective control charts.]</i></p>	NMED concurs with the issue raised by the commentor. While NMED also agrees that control charting cannot be used for some waste generated under uncontrolled conditions, a modification to allow alternative method considerations should not affect those wastes unimpacted by the proposed change. The Permittees' proposed modification would do this. NMED has revised the Permittees' proposed permit modification request language to address this concern.	Y- with changes	CW
2.67	Matthew Silva/EEG	Characterizing Repackaged Homogenous Solids as Retrievably Stored Waste with Regard to Solid Sampling	C	<p>Section B2-2a of the PMR adds language that the Permittees may choose to add toxicity characteristic D codes to wastes based on the initial 5 sample set. EEG notes that the current permit does not promote this practice, and that if NMED intends to allow wastes to be assigned D-codes in which toxicity characteristic analytes were found but not at statistically verifiable levels or using adequate sample populations, then that should be stated in the permit.</p> <p><i>[DOE Comment: Section B2-2a allows the generator to assign codes based upon the results of the preliminary samples. This means that if the preliminary samples meet the bullets listed in Section B2-5, the generator can use these samples to meet the minimum of five containers. Further sampling is needed only if the generator seeks to show the constituent is not in the waste above the toxicity level.]</i></p>	The comment deals with the justification section and is not directly related to the exact proposed language of this specific permit modification request.	N/A	CW
2.68	Matthew Silva/EEG	Characterizing Repackaged Homogenous Solids as Retrievably Stored Waste with Regard to Solid Sampling	C	<p>The EEG agrees with the Permittees that control charting for repackaged homogeneous solid waste would not be of value unless the entire waste stream undergoes a chemical treatment process. The requirements for soil/gravel sampling as described in Section B-3d(1)(b) would appear to be sufficient for these repackaged homogeneous solid wastes, and the Permittees state in the "Basis" section the belief that their approach is consistent with the soil/gravel requirements (p. A-29). The simplest resolution of the problem the Permittees outline in Item 2 would appear to be to add text to the HWFP that states that for repackaged solidified wastes, the sampling requirements for newly generated soil/gravel waste are to be followed. The NMED may want to consider whether or not this possible resolution would effectively address the Permittees' stated concerns, and the expressed intent of Item 2.</p> <p><i>[DOE Comment: There may be cases when processes that affect the physical and chemical properties of the waste will be used during a repackaging operation. In this case, the option to use control charting should continue to apply. The changes proposed by the comment would not allow this option; therefore, the proposed changes to the PMR should not be included.]</i></p>	NMED concurs with the Permittees' response to this comment.	Y- with changes	CW
2.69	Matthew Silva/EEG	Classified Wastes	C	<p>The Permittees appear to have presented an adequate methodology for dealing with the classified information that might appear on radiography videotapes. However, it was not made clear how videotapes of visual examination of a classified shape container would be handled. Section B1-3b(3), Visual Examination, requires both that a randomly selected statistical sample of radiographed containers be visually examined for confirmation, and that these visual examinations be videotaped.</p> <p><i>[DOE Comment: The proposed changes are not necessary because the VE video tapes are not routinely sent to WIPP or any other unsecured facility to satisfy a permit condition. They are covered by the general language dealing with generator site records. As indicated in the PMR, only personnel with appropriate security clearances can have access to classified information. Personnel are in the process of obtaining those appropriate clearances.]</i></p>	NMED does not concur with the issues raised by the commentor and concurs with the Permittees response. Also, NMED employees with Q clearance will be able to participate in audits and shall observe whether waste characterization activities associated with classified waste comply with the permit.	N	AA

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2.70	Matthew Silva/EEG	Classified Wastes	C	The proposed revised text at b.1 and b.2 adds extensive information to existing paragraphs. The EEG suggests that since the information supplied is a component that may seldom be sought, these added statements could be placed in separate paragraphs so as to facilitate ease of scanning these portions of the document. <i>[DOE Comment: The Permittees agree with the proposed changes.]</i>	NMED concurs with the commenter and the Permittees' proposed revisions.	Y - with changes	PS
2.71	Matthew Silva/EEG	Use of HalfPACTs	C	To facilitate integration of other multi-container packs that may be introduced in the future (such as 3-packs of 100-gallon drums), the EEG suggests that, rather than continually adding the assembly type to the parenthetical expression, a generic expression be used. <i>The Permittees agree with the proposed changes but consider those changes to be beyond the scope of this modification.</i>	NMED does not concur with the issues raised by the commenter. Unforeseen multi-pack configurations that may be used in the future may not comply with some aspect of the current permit, and it would therefore not be prudent to generalize. NMED does	N	RT
2.72	Matthew Silva/EEG	Use of radiography for newly generated waste.	C	The PMR implies that radiography is as effective as visual examination in determining prohibited items and determining waste material parameters. However, based upon the need to perform visual examination confirmation and the permit establishment of radiography miscertification rates, it is clear that visual examination is a more accurate method. NMED should be aware of the distinction between radiography and visual examination in evaluation of this PMR. <i>[DOE Comment: This modification is only proposing to use radiography to confirm the results of visual inspection during packaging. That is, one of the two operators used during packaging of newly-generated waste is replaced with radiography. Waste that is newly generated at sites, whether or not it is packaged using the VE technique specified in Section B-3d(1), is packaged following procedures. Under this PMR, information generated in this fashion using only one operator would require the same confirmation using radiography that a second operator would provide. The proposed revised draft permit for the DAC includes requirements that the default conditions be used when the data are not collected during packaging, repackaging, or drum punching. Therefore, the default conditions may apply when newly generated waste was radiographed if the packaging failed to document critical parameters.]</i>	NMED concurs with the commenter; visual examination is more accurate than radiography. NMED did not see any criteria for using a "default" condition with respect to radiography in the permit modification request. NMED has revised the permit modification request to mandate inclusion of visual inspection information in the AK record, so that the RTR/AK comparison will in effect take into account the information obtained during visual inspection, as implied in the Permittees response to this comment.	Y- with changes	CW
2.73	Matthew Silva/EEG	Use of radiography for newly generated waste.	C	For newly generated waste, the use of radiography will require operations that will create additional risk to workers (e.g., the containers will need to be moved to and from the radiography facility by personnel and the container identification will need to be verified by radiography personnel). An intention of performing visual verification for newly generated wastes was that the operators performing waste container loading could also perform the visual verification activities, thus reducing the time of exposure and number of personnel involved. <i>[DOE Comment: The risks raised in this comment are certainly factors a generator site should consider when selecting this option.]</i>	NMED agrees that radiography may increase worker exposure. NMED is concerned that the Permittees often use the worker exposure argument when justifying permit changes, but ignores this same issue for other permit changes. However, the Permit does not include requirements to safeguard waste generator site workers.	N/A	CW
2.74	Matthew Silva/EEG	Use of radiography for newly generated waste.	C	The EEG suggested modifications to the requirement for a second verification of visual examination activities. <i>[DOE Comment: While the Permittees agree that the proposed changes are feasible, they are outside the scope of this PMR. This is because the comment proposes to make the visual verification technique the same as the VE method and the HWFP specifies that these two characterization approaches are not the same in Section B-3d(1). This PMR does not address the differences between the visual verification technique and the VE method.]</i>	NMED agrees that second verification could be implemented, but alternative changes made by NMED do address concerns regarding mandatory verification of visual inspection results.		CW
3	Penelope McMullen/ Sisters of Loretto	general	D	Commentor opposes all 7 modifications as each is incomplete and most should be classified as a class 3 rather than as class 2.	NMED does not concur with the comment. The Permittees have met the requirements of Class 2 PMRs.	N	AA
3.1	Penelope McMullen/ Sisters of Loretto	Proposed data management modifications	D	NMED had determined that the data management modification should be classified as class 3. In addition, the length of the "brief description" of proposed changes (>60 pages) indicates it should not be a class 2. There are concerns that data falsification may be easier with an electronic system. A class 3 determination would make this request go through a more rigorous process.	NMED has already determined this PMR meets the qualifications for a Class 3 modification request. This modification request will be dealt with in a separate administrative action.	N	PS

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3.2	Penelope McMullen/ Sisters of Loretto	Additional Waste Container Types	D	These should be class 3 as they are complicated, interrelated, and connected to the drum age criteria, which was class 3. Is DOE still relying on the 8-drum test, which is not a statistically significant sample? Does the resubmission adequately answer all of NMED's 29 points listed in their Technical Adequacy Comments?	NMED partially concurs with the issues raised by the commentor. Technical issues that the commentor believes mandates the PMR to be a Class 3 are dealt with as specified in Response to Comment Nos. 6.2, 6.3, and 6.4.	N	RT
3.3	Penelope McMullen/ Sisters of Loretto	general	D	The proposal is incomplete with the changes conflicting with the unchanged parts.	More specific explanation is needed before NMED can respond to the comment. However, NMED has assessed all proposed changes and has made additional edits where obvious conflicts were noted or to address specific public comments.	N	AA
3.4	Penelope McMullen/ Sisters of Loretto	Classified wastes	D	This constitutes a fundamental change in waste characterization and auditing. According to current law, nothing is supposed to be classified at WIPP, so this proposal changes WIPP's mission. This is obviously a class 3 modification.	See response to Comment Nos. 6.13 and 6.18.	N	
3.5	Penelope McMullen/ Sisters of Loretto	Overpack of waste containers	D	This would require new waste handling practices at WIPP and therefore should be class 3. For example, leaking containers could not be overpacked because they are too large, and WIPP isn't equipped to do patching.	See response to Comment Nos. 10.5 and 6.4.	Y-With Changes	RT
4	Various - 30 form letters	general	E	Commentor is concerned that the proposed modifications undermine existing safety standards for shipping waste through the state and disposing of it at WIPP, and urges NMED to deny all modifications because none of them are complete and accurate.	NMED does not concur with the issues raised by the commentor. Also see response to Comment 3.3.	N	SZ
4	Various - 30 form letters	general	E	Several should be denied because they are inappropriately submitted as Class 2 modifications, when they should be class 3 modifications, subject a public hearing because of their complexity and because they change basic operations at the site.	See response to Comment No. 3.	N	SZ
4	Various - 30 form letters	Additional Waste Container Types	E	The modification to add 85-gallon and 100-gallon containers to the permit must also be a Class 3 modification. Allowing direct loading of 85-gallon and 100-gallon containers requires much different waste characterization procedures than with 55-gallon drums. For example, radiography will be much less effective. Also, leaking containers could not be overpacked.	See responses to Comment Nos. 6.2, 6.3, and 6.4	N	SZ
4	Various - 30 form letters	Classified wastes	E	Allowing classified ("secret") waste at WIPP must also be considered as a class 3 modification. Such a change is inconsistent with WIPP's basic mission and practices. For example, complete records of each drum should be available at WIPP. In addition, the classified waste will require different loading and shipping procedures as well as different procedures and personnel at WIPP.	The permit currently only requires complete records of each container at the generator storage site, not at WIPP. Also see response to Comment Nos. 6.15 and 6.18	N	SZ
4	Various - 30 form letters	Control charting	E	Control charting and solids sampling are inconsistent with existing procedures and even with another proposed modification regarding drum age criteria. These modifications are also complex and should be class 3 modifications.	Commentor provided insufficient detail to describe how the proposed modifications "are inconsistent with existing procedures." Also see response to Comment No. 5.10	N	SZ
4	Various - 30 form letters	HalfPACT containers	E	The HalfPACT modification request does not discuss how accidents similar to the two recent ones in which shipments were returned to Idaho would be addressed.	See response to Comment No. 6.20.	N	SZ
4	Various - 30 form letters	Addition of code U134 (HF) to list of Part A wastes	E	Adding the U-134 waste code also does not explain how DOE could ensure that no corrosive liquids are included in wastes with that code, especially since the August audit in Idaho found that prohibited liquids to WIPP may already have been shipped.	See response to Comment Nos. 8.5 and 9.16	N	SZ
5	Deborah Reade/CARD	general	F	CARD generally agrees with SRIC comments that all 7 modifications should be denied because they would decrease safety both during shipping and during disposal at WIPP. None of the requests is complete and several are misclassified as class 2 modifications when they should be class 3.	See response to Comment No. 3.	N	AA
5.1	Deborah Reade/CARD	Classified wastes	F	If NMED approves this modification, it is important that the 1% review of RTR tapes is performed by personnel who have been trained to do this review, have the proper security clearance, and are experienced in RTR of WIPP waste and this type of review. Cleared personnel at Sandia, for example, who have not been performing RTR on the WIPP waste regularly should not be performing this review.	NMED concurs with the issues raised by the commentor.	N	

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5.2	Deborah Reade/CARD	Addition of code U134 (HF) to list of Part A wastes	F	It is not clear that Applicant can guarantee that no corrosive waste will be sent to WIPP if this waste number is added. Although the discarded samples of hydrofluoric acid at INEEL were rendered nontoxic and noncorrosive, the protective equipment, analytical tools, clothing, etc may not have been equally treated. AK alone cannot provide sufficient assurance that this waste is non-corrosive. This modification as currently written is not limited to the INEEL site or that waste stream, and could open the door for hydrofluoric acid from other waste streams or sites to be shipped to WIPP.	See response to Comment No 2.65.	N	AA
5.8	Deborah Reade/CARD	Additional Waste Container Types	F	This modification may pose more far-reaching problems than anticipated. CARD is especially concerned about potential characterization problems. For instance, various determinations about waste coming from the Advanced Mixed Waste Treatment Facility, which would be loaded into some of these containers, have not even been decided yet. Therefore, there is not yet enough information on that waste to understand all the potential ramifications of direct-loading it into these new container configurations. This modification should be denied and re-submitted as a class 3 modification.	NMED partially concurs with the issues raised by the commentor. NMED concurs that headspace gas elements of the characterization process are impacted by the proposed additional container types. See response to Comment Nos. 6.2, 6.3, and 6.4.	Y-with changes	RT
5.9	Deborah Reade/CARD	HalfPACT containers	F	If NMED approves this modification, the phrases "Contact Handled Packaging" and "Contact Handled Package" should include language to indicate that they are approved or permitted packages (e.g., "Permitted Contact Handled Packaging" or "Approved Contact Handled Package").	NMED partially concurs with the issues raised by the commentor. NMED concurs that the packages and packaging approved for disposal should be clearly identified. However, NMED believes that Permit Condition I.D.7 of the permit, which defines the term "Contact Handled Packages", provides this specificity.	N	RT
5.10	Deborah Reade/CARD	Modify solid sampling frequency for some newly generated wastes	F	Applicant has stated during the information meeting on this modification that control charting and characterizing this waste as "newly generated" waste require more samples than would be required if this waste is characterized as "retrievably stored" waste. Again, this modification seems to lessen the amount of characterization and controls over this repackaged waste. As the repackaged homogeneous solids category includes most of the residue waste at Rocky Flats (and possibly elsewhere), which is some of the most potentially "dangerous" waste in the system, CARD is especially concerned that the amount of characterization done on this waste is not reduced in any way. Additionally, sometimes waste is "treated" while it is repackaged (CARD is aware that NMED does not always consider that this is "treatment," however, CARD believes that it is), which could change the waste during repackaging. CARD sees numerous potential problems if this modification is approved.	NMED partially concurs with the issue raised by the commentor. While the proposed modification could lead to fewer actual samples being taken, the use of control charting for wastes not generated by a controlled process is inappropriate. NMED believes that the use of the retrievably stored sampling process for these wastes will result in adequate characterization of these wastes with respect to permit requirements, even if the actual number of samples is less.	N	CW
5.11	Deborah Reade/CARD	Use of radiography for newly generated waste.	F	In Applicant's fact sheet on this modification Applicant implies that the main reason for this modification is to protect worker health and safety--presumably by avoiding having a second worker potentially exposed to an open container of waste (even though it is opened in a glovebox). However, Applicant has argued in the past that there is no danger from glovebox-contained waste. Applicant is willing to expose workers to treatment of waste in the Advanced Mixed Waste Treatment Facility for the convenience of compacting waste (which is not absolutely necessary for waste shipment to and disposal at WIPP), when, according to several WIPP Environmental Impact Statements, treatment of waste carries a greater potential for exposure to workers than simple storage and inspection of waste. During the WIPP information meeting in Santa Fe, Applicant admitted that using RTR instead of VE would just be more convenient at some sites.	See response to Comment No. 2.73.		CW
5.12	Deborah Reade/CARD	Use of radiography for newly generated waste.	F	Although Applicant has claimed that that both RTR and VE provide the same information, RTR can never be as comprehensive as VE and has limitations (e.g., not being able to distinguish between a sealed container full of liquid and one that is empty). In addition, if NMED approves the new containers modification, it is unknown how well RTR will be able to see into these larger, direct-loaded containers. Again, CARD is completely opposed to any modification that could lessen the number of drums characterized, the number of samples taken for any aspect of characterization, or lessen the quality of characterization, which this modification would do.	NMED partially concurs with the issues raised by the commentor. While it is agreed that radiography is not as rigorous as visual examination, radiographic requirements for imaging alternative containers must be as rigorous as those for currently approved containers.		CW

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Comment Number	Commentor/ Affiliation	Topic Area	Commentor Identifier	Comment Summary [Original comment, DOE response to the comment]	NMED Response	Include in Permit? y/n	Reviewer (initials)
				<p>There could be serious problems if this modification and the DAC modification are both approved. The DAC modification does not include every possible packaging configuration in the look-up tables. If Applicant knows that a container or even a whole waste stream is packaged with a configuration that is not in the tables, those containers cannot be shipped to WIPP under the DAC modification unless they are repackaged with an acceptable configuration. However, if Applicant does know the packaging configuration, that waste can be shipped to WIPP using the most conservative DAC in the look-up tables. Since neither RTR nor AK can be used to officially "know" what the configuration is for the purposes of the DAC, if RTR is allowed to be used instead of VE for newly generated waste or waste being characterized as newly generated waste, Applicant could claim that the packaging configuration for this waste is "unknown."</p> <p>Thus, this would be a way for Applicant to ship waste to WIPP that would otherwise be unshippable even if Applicant "knows" unofficially that the packaging configuration is not in the look-up tables.</p>	<p>NMED partially concurs with the issues raised by the commentor. It is agreed that the visual examination technique can document packaging configurations that cannot be determined by AK or radiography. However, NMED has mandated that visual inspection results be included in the AK record, and sites would be well advised to collect packaging configuration information as part of this activity for inclusion in the AK record to ensure application of the appropriate DAC.</p> <p>The commentor expresses concern that intentional deception could and would take place to facilitate waste shipment. NMED has, however, observed successful identification of many issues during audits, and appropriate implementation of the audit process should mitigate this occurrence.</p>		
6	SRIC	general	G	SRIC requests that NMED deny all seven requested permit modifications submitted on June 28, 2002 because they are all substantially incomplete, the activities proposed do not protect public health and the environment, and several aspects of the requests are not consistent with the regulations.	See response to Comment No. 3.	N	AA
6.1	SRIC	Additional Waste Container Types	G	The applicants' request is to "add waste containers, including direct loaded 85-gallon drums, direct loaded Ten Drum Overpacks, and 100-gallon drums." (letter from Inés Triay and J.L. Lee of June 27, 2002) This language implies that 100-gallon would not be direct loaded. However, the proposed language in the permit modification would allow direct loading of 100-gallon drums. Indeed, it appears that 100-gallon drums are only to be used for direct loading as they are not included as overpacks. SRIC strongly objects to the erroneous description of the request, and urges that NMED inform the Permittees that is cannot approve this or any request that is inaccurate.	NMED does not concur with the issues raised by the commentor. NMED's evaluation of the permit modification request takes into account the entire modification request package; in the context of the modification request NMED believes that the cover letter for the permit modification reflects the content of the modification request. Nowhere in the modification request are 100-gallon drums ever referred to as "overpacks", unlike 85-gallon drums or TDOPS. Thus, the expectation is that 100-gallon drums are intended for direct loading.	N	RT
6.2	SRIC	Additional Waste Container Types	G	The modification request is very substantially incomplete. While it requests approval for direct loading of TDOPs and 85-gallon drums (and 100-gallon drums), it does not include revisions required in the permit's B attachments regarding waste characterization procedures for those containers. For example, SRIC believes that radiography will be more difficult and less accurate for TDOPs and 85-gallon drums (and 100-gallon drums). Thus, different procedures would need to be added to the permit to require adequate characterization of such containers. A complete request would include detailed data on how waste characterization, including radiography, would be conducted on the containers and demonstrate that the existing characterization procedures provide accurate results. Or the request would provide data that alternative characterization procedures would provide accurate results and propose to incorporate those procedures into the permit. Changes in waste characterization requirements in the B attachments also require changes in the B6 checklists, which are not included in the request.	NMED does not concur with the issues raised by the commentor. The permit currently has performance based radiography standards that apply to all types of waste containers; therefore, detailed radiography procedures for each of the waste container types are not warranted. Also, procedures for radiographing new container types must be examined during audits, and the results must be presented in audit reports demonstrating compliance with those standards. NMED must review and approve audit reports prior to receipt of waste characterized by those procedures.	N	RT

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6.3	SRIC	Additional Waste Container Types	G	The request does not include requirements related to DAC. The existing DAC and proposed DAC that went to hearing on August 26-28, do not include any DAC for 85-gallon drums, TDOPs, and 100-gallon drums. It is inappropriate and contrary to the requirements of 40 CFR 264 to have waste in containers that are not adequately characterized.	NMED concurs with the issues raised by the commentor. The specific modification language proposed by the Permittees regarding the waste container types is acceptable and will be added to the permit. However, NMED will not allow receipt of these additional waste containers until appropriate drum ages are established through a future permit modification.	Y-with changes	RT
6.4	SRIC	Additional Waste Container Types	G	The request is also incomplete because it states that containers may be overpacked, repair/patched or repackaged, but does not describe either the containers or processes to do such work. While a 55-gallon drum can be overpacked in an 85-gallon drum, or TDOP, into what container can 85-gallon or 100-gallon drums or TDOP be overpacked? SRIC also believes that procedures to determine which drums should be repaired, patched, or overpacked must be much more detailed. How and where such operations would take place at WIPP should be specified. Personnel qualifications and training for such operations also must be specified. Whether repair or patching should occur must also be discussed because SRIC believes that in some situations WIPP does not have adequate capability to handle defective containers and they might have to be shipped to some other site. Those circumstances should be specified in the permit.	NMED partially concurs with the comment. The Permittees did not specify how container condition requirements of 49 CFR §173 and §178 would be met. Attachment F, Section F-4d of the permit modification specifies that TDOPs will decontaminated, repaired/patched in accordance with 49 CFR §173 and §178, or returned to the generator - TDOPs will not be overpacked.	Y-with changes	RT
6.5	SRIC	Additional Waste Container Types	G	SRIC believes that because of the complexity of the requested modification, any such request must be subject to class 3 modification procedures, including the opportunity for public hearing.	See response to Comment No. 3.2	N	RT
6.6	SRIC	Addition of code U134 (HF) to list of Part A wastes	G	Despite the fact that this modification request was previously rejected by NMED, it has been resubmitted in an incomplete and unapprovable form. The PMR does not meet RCRA and HWA requirements and is not protective of public health and the environment. The possibility of having prohibited items at WIPP is of special concern and certainly is not protective of public health and the environment. The request must be denied.	See response to Comment Nos. 2.63, 2.64, and 2.65.	N	AA
6.7	SRIC	Addition of code U134 (HF) to list of Part A wastes	G	According to 40 CFR 261.33(f), U134 exhibits toxicity and corrosivity characteristics. Thus, the modification request must provide actual data that all waste with the U134 code is not corrosive or chemically incompatible, which otherwise would be prohibited at WIPP. The assertion that HF "has been complexed/neutralized and is no longer detectable in the waste stream" is not actual data. And even if it is the case for U134 at the INEEL, the modification request would allow U134 in waste from any site. The permit modification is clearly incomplete in not providing data demonstrating that U134 is nondetectable and not corrosive or chemically incompatible at all sites.	See response to Comment Nos. 2.63, 2.64, and 2.65.	N	AA
6.8	SRIC	Addition of code U134 (HF) to list of Part A wastes	G	The Permittees assert that "INEEL will be required to show through acceptable knowledge or testing and analysis (visual inspection or similar testing) that the debris waste form does not contain liquid waste." SRIC is not satisfied with that assertion given that the August 5-9 inspection at INEEL showed that waste may already have been shipped to WIPP with free liquids. Thus, SRIC believes that if U134 is ever approved as a waste code, there should be a requirement for VE of each drum to ensure that there are no liquids, because, based on the audit, the AK and radiography process at INEEL is not adequate to detect all liquids.	NMED partially concurs with the issue raised by the commentor. While it is agreed that there was a liquid issue associated with some INEEL containers, none were assigned the U134 code to NMED's knowledge and all questionable containers were segregated. Also, INEEL received a CAR from the Permittees during audit, requiring the re-review of all radiography tapes for the containers of question to ensure that no liquid bearing containers had been shipped.	N	AA

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6.9	SRIC	Control charting	G	SRIC believes that the request is based on an erroneous description of the permit's requirements. The request states "that there may be circumstances when a number of samples that exceeds the number dictated by Section B2-2a must be selected and analyzed." That section does not "dictate" any specific number of samples. The section establishes "a minimum of five containers shall be sampled and analyzed in each waste stream." That minimum can be increased "as necessary to ensure that an adequate number of samples are collected to allow for acceptable levels of completeness." The Permittees cannot justify changes to the permit based on erroneous rationale.	NMED concurs with the issue raised by the commentor in that the justification by the Permittees could have been better worded.	N	CW
6.10	SRIC	Control charting	G	The request is substantially incomplete. It includes no information about how many containers would be affected by the change. Is it "not feasible to develop meaningful control charts" for all homogeneous wastes? Or is it a relatively small portion of the homogeneous solids that are involved? Or is it one site that cannot do control charting and other sites can? Without at least that minimum information, SRIC does not believe that the Permittees have adequately demonstrated that any change in control charting is needed.	NMED does not concur with the issue raised by the commentor. NMED has observed several waste characterization audits and has obtained knowledge regarding waste generation processes at sites through these audits. NMED agrees with the Permittees that meaningful control charts cannot be developed for many solidified wastes, but other wastes that may be repackaged could indeed have been generated under sufficiently controlled processes. Therefore, the intent of the proposed modification is reasonable.	N	CW
6.11	SRIC	Control charting	G	No definition of "when appropriate" is provided, so the modification would establish more ambiguity in the permit. Their proposed revisions do not resolve the ambiguity. There are no real criteria for the site to not use control charting. Therefore, there could be total inconsistency from one waste stream to another and from one site to another. Such a chaotic situation would likely result in inconsistent and inadequate procedures and results. Such a process is not protective of public health and the environment, and it would not result in public confidence in the reliability of waste characterization.	NMED concurs with the issue raised by the commentor. The term "when appropriate" is vague, and NMED has provided alternative permit language, "when demonstrated appropriate", in response to this comment. This will ensure any decision to use or not use control charting will be documented in the auditable record.	Y- with changes	CW
6.12	SRIC	Classified waste	G	The permit request "incorporates recordkeeping and audit requirements for classified information." In fact, what the modification would do is to allow previously prohibited classified wastes to be shipped to and disposed of at WIPP and significantly change waste characterization and audit requirements. SRIC strongly objects to the erroneous description of the request, and urges NMED to not approve this or any request that is inaccurate.	NMED does not concur with the issues raised by the commentor. NMED employees with Q clearance will be able to participate in audits and observe whether waste characterization activities associated with classified waste comply with the permit.	N	AA
6.13	SRIC	Classified waste	G	The request to bring classified waste to WIPP and to establish new classified information procedures appears to be contrary to the requirements of the WIPP Land Withdrawal Act. For example, Section 17(a)(1) of the law provides the State of New Mexico "with free and timely access to data relating to health, safety, or environmental issues at WIPP." Bringing classified waste to WIPP is certainly related to health, safety, and the environment, so such information must be fully available to the state and to the public. Such information would not be available if the permit modification is approved. Furthermore, the Permittees have not shown that they have the legal authority to bring such classified wastes to WIPP. There is nothing that SRIC is aware of in the law or DOE documents that provides the kind of security at WIPP that is required for handling classified information. Thus, SRIC believes that the modification request must be denied.	NMED partially concurs with the issues raised by the commentor in that the public will not have access to classified information. However, this does not mean that the State of New Mexico (represented by NMED) will not have "free and timely access" to these data, as NMED employees with Q clearance will participate in audits and will observe whether waste characterization activities associated with classified waste comply with the permit. Furthermore, NMED is unaware of any law prohibiting WIPP from accepting TRU waste if there is classified information associated with that waste.	N	AA

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6.14	SRIC	Classified waste	G	SRIC believes that DOE has other options for dealing with this waste, including declassifying it and the records associated with it, crushing or otherwise modifying the shapes so that they need not be classified, and sending it to other facilities that handle classified waste, parts, and information.	NMED concurs with the issue raised by the commentor, but no other options were provided in the permit modification request.	N/A	AA
6.15	SRIC	Classified waste	G	<p>The request does not include the DOE "Security Plan for Shipment and Disposal of Classified Waste Material at the Waste Isolation Pilot Plant," dated October 23, 2000. The document is not referenced in the modification request, nor are its requirements for changes to the permit included. If that Security Plan is no longer applicable, the Permittees must provide an updated Security Plan. If that Plan is applicable, the PMR must include and discuss other changes to the permit that will result from bringing classified waste to WIPP.</p> <p>For example, the Security Plan requires changes to equipment, personnel (and training), and the waste staging at WIPP, but none of these changes are included in the PMR. Other sections of the permit would be changed, but these changes are not included in the modification. SRIC believes that, at a minimum, changes would be required in Module III and Attachments C, D, E, F, H, and M of the permit. Nonetheless, the PMR states that "[w]aste management activities, including security waste storage and disposal, and Contingency Plan responses will remain unchanged with the incorporation of classified information." That statement is inconsistent with DOE's own Security Plan and must be explained and supported.</p>	NMED partially concurs with the commentor, recognizing that if any information in the Security Plan is referenced in future permit modification requests, then the Plan should be provided. NMED recognizes that if any facility modifications are required to manage classified wastes, a future permit modification request would have to be submitted for NMED approval prior to waste management.	N	
6.16	SRIC	Classified waste	G	The PMR does not include any information regarding the amounts and types of classified waste. Such information must be included in any complete request.	NMED recognizes that waste reprocessing can occur that would change the amount of classified waste, so volumetric information may not necessarily be accurate; also, the requested information could perhaps be classified in and of itself (i.e. "type" of waste).	N	
6.17	SRIC	Classified waste	G	The PMR does not include how other proposed modifications would be affected. For example, the digital radiography/computed tomography modification would also seem to reveal information about classified shapes, similar to radiography. If such changes would also occur, they should be included in one request, not piecemeal changes. At a minimum, the request must discuss other such changes in recordkeeping and audit requirements.	NMED partially concurs with the issues raised by the commentor in that additional information could be required to fully implement the proposed modification. If this is the case, the Permittees shall have to address these changes in future modification requests.	N	
6.18	SRIC	Classified waste	G	Because of the many issues not addressed, the request does not meet the requirements of RCRA and the HWA and must be denied. In addition, the complexity of the classified information and waste modification request make it subject to class 3 modification procedures, including the opportunity for public hearing.	NMED does not concur with the issues raised by the commentor, but also recognizes that any issues not dealt with in this permit modification request but found to be necessary in the future (i.e. revealed on audit) shall be included in future permit modification request.	N	
6.19	SRIC	HalfPACT containers	G	The request to allow a new shipping container to transport waste to WIPP and to store waste at WIPP prior to being unloaded includes changes to 56 different parts of the permit, in some cases including multiple changes to a subsection of the permit. Several of the changes are to subsections that would also be changed by the "Add Containers" modification -- indicating the complexity and inter-relationships of the two modifications. Both modifications should be treated as Class 3 modifications due to their complexity and both modifications (as well as others) should be included in one public hearing process so that the public can adequately and effectively comment on all such modifications. Any class 3 modifications should be consolidated into one permit hearing so that the interrelationships of issues can be fully explored and so that the public (and NMED) resources can be appropriately dedicated to one hearing, rather than be dissipated in a series of hearings.	NMED concurs with the issues raised by the commentor, but also believes that sufficient information was provided to assess the proposed modifications. For instance, the bulk of the modification consisted of replacing the existing language regarding TRUPACT-IIs with the phrase "Contact Handled Package." This change, although pervasive throughout the Permit, was not a "complex" change.	N	AA

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6.20	SRIC	HalfPACT containers	G	The PMR is incomplete because it does not discuss how HalfPACTs would be handled when involved in accidents, such as the two recent ones which resulted in TRUPACT-IIs being returned to INEEL. The PMR should provide much more detail regarding required procedures related to contamination problems in shipping containers.	NMED does not concur with the issues raised by the commentor. The permit currently contains requirements for the management of shipping containers that are contaminated. These requirements will apply to the HalfPACT as well. Furthermore, transportation incidents involving HalfPACTs are outside the authority of this permit.	N	RT
6.21	SRIC	Use of radiography for newly generated waste	G	The PMR states that using radiography "actually results in an increase in waste analysis activities" when visual verification cannot be used. The real issue is whether the new processes would result in better and more accurate waste analysis. SRIC believes the PMR should be denied as it is incomplete and the complexity of the PMR and the substantial changes to the waste characterization requirements make it subject to class 3 modification procedures.	NMED does not concur with the issues raised by the commentor. While the process could result in less visual examination, each container would still be examined, with those radiographed subsequently eligible for the more rigorous visual examination procedure as a QC check on radiography.	N	CW
6.22	SRIC	Use of radiography for newly generated waste	G	The PMR is incomplete. It provides no actual documentation that the proposed change will result in as reliable or better results than the current permit, which requires 100% VE for newly generated waste. The need for visual examination was an important issue in the WIPP permit proceeding. The hearing officer did not require more VE because of concerns about worker radiation exposure. However, that concern does not apply to newly generated waste, since the VE would not increase worker exposure. Given the finding that VE is more accurate, DOE must present incontrovertible evidence that radiography would produce results as accurate as VE. Without such a demonstration, the change cannot be shown to protect public health and the environment, and must be denied.	NMED partially concurs with the issues raised by the commentor. It is agreed that the amount of visual verification could diminish with implementation of the permit modification. It is also agreed that the degree of worker exposure cannot be linked as a reason for the change. However, there are reasonable instances where the use of RTR will not result in diminished information acquisition, particularly if visual information obtained during packaging is required to be placed in the AK record. Also, NMED does not believe this option should be allowed where waste is characterized as newly generated due to poor AK. NMED has incorporated changes to the permit modification request language to address these concerns in response to this comment.	Y- with changes	CW
6.23	SRIC	Use of radiography for newly generated waste	G	The PMR apparently is for a new radiography process, one that is somewhat different than that included in Section B1-1 of the permit. If a different type of radiography is to be used, different permit requirements and training and auditing procedures will be needed. The specific procedures for radiography must be detailed and included in the permit. None of these changes are included in the request. In addition, the request also includes allowing using part VE and part radiography, rather than substituting radiography for all of the VE. But the request includes no information that such procedures are as reliable and accurate as using 100% VE, nor the circumstances in which a site can use that procedure instead of 100% VE (or 100% radiography). Because of the many issues that are not addressed, the PMR does not meet the requirements of RCRA and HWA, and must be denied.	NMED partially concurs with the issues raised by the commentor. NMED does not believe the Permittees intend to use a different radiography system than that currently allowed currently by the permit. However, NMED does believe that the Permittees must require sites to document the decision making process used when determining if VE technique or radiography will be used, including decisions to use a "mix" of VE technique and radiography.	Y- with changes	CW
8.5	New Mexico Attorney General Office	Addition of code U134 (HF) to list of Part A wastes	I	The Permittees indicated that HF acid wastes would not be corrosive because the wastes would contain no liquids. However, the permit only requires that wastes contain less than 1 percent free liquids. EEG testimony has indicated that some INEEL wastes thought to contain less than 1 percent free liquid actually contained free liquids in amounts significantly greater than 1 percent. Therefore, the PMR must indicate how the Permittees will ensure that wastes that would otherwise be corrosive contain no liquids.	NMED concurs with the issue raised by the commentor, but points out that the permit has been modified to reflect the requirement that no liquids are allowed for U134 waste. Processes will be checked during audits.	Y	AA

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8.6	New Mexico Attorney General Office	Use of radiography for newly generated waste.	I	The commentor indicated that the Permittees should provide more specific information regarding the practical difficulties that generator/storage sites encounter to demonstrate that the modification is needed.	NMED partially concurs with the issue raised by the commentor. Additional justification is not warranted, but NMED has included a revision to the permit modification request requiring this justification be documented and followed in site-specific procedures.		CW
8.7	New Mexico Attorney General Office	Use of radiography for newly generated waste.	I	It is unclear if the Permittees intend to use the same radiography process currently described in the permit or to use a modified radiography process as is currently the situation with VE of newly generated wastes.	Because no permit modification request was made to alter the current radiography systems and requirements, NMED has concluded that the same systems shall be used for waste characterized via this permit modification request.		CW
8.8	New Mexico Attorney General Office	Use of radiography for newly generated waste.	I	It is unclear how the proposed modification enhances efficiency of the waste characterization process given that more stringent radiography requirements appear to be in place when radiography is chosen over visual examination of newly generated wastes.	NMED concurs with the commentor. However, use of the radiography option is not mandatory, and sites will certainly take the efficiency issue into account when determining the appropriate process to use.		CW
8.9	New Mexico Attorney General Office	Additional Waste Container Types	I	The commentor indicated that the proposed modification is deficient and should be denied. Additionally, the modification is not appropriate for Class 2 consideration because it details significant changes to the permit.	See response to Comment No. 3.2	N	RT
8.10	New Mexico Attorney General Office	Drum Age Criteria	I	Neither the current permit nor the proposed modifications to allow for configuration specific DAC specify adequate guidance or criteria to apply to the additional container sizes specified in this PMR. <i>DOE Response: A new DAC permit modification request will be submitted to the NMED once these new containers are approved.</i>	See response to Comment No. 6.3		RT
8.11	New Mexico Attorney General Office	Repair or overpack of damaged drums	I	There is no description of how drums will be repaired and transferred to another container. There is no description of safety measures that must be taken to make repairs and repackage. To the commentor's knowledge, there are no facilities capable of performing this repackaging at the WIPP.	NMED concurs with the issues raised by the commentor. See response to Comment No. 6.4 for further discussion of container patching. NMED has eliminated the option of repackaging waste.	Y-with changes	RT
8.12	New Mexico Attorney General Office	Classified wastes	I	The Permittees must clarify how rules for classified wastes will apply to DR/CT in the event the DR/CT is adopted, and what additional modifications must be made to the DR/CT modification request.	See response to Comment No. 6.17	N	

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8.13	New Mexico Attorney General Office	Classified wastes	I	Throughout the history of the WIPP it has been understood that the site will not deal with classified information. This modification changes that stance because it is too costly to maintain the policy. The Permittees suggest that it may be more appropriate to treat the waste. The Permittees should provide NMED with classified waste volumes and the costs of treating those wastes to render them unclassified. <i>DOE Response: The information presented in this response comprises that currently known for waste streams containing classified materials at numerous DOE sites. The information presented for RFETS is more complete than that provided from other sites. That is because RFETS is in the process of closing down and so DOE has made a "waste determination" for classified materials at that site. Other DOE sites have not yet made a waste determination for classified materials and so the information for these sites is less complete than that for RFETS. However, the materials at NTS and the Hanford Site are from RFETS, and materials at other sites are similar to that at RFETS.]</i>	NMED concurs with the Permittees response to this issue.	N	
8.14	New Mexico Attorney General Office	Classified wastes	I	The Permittees indicate that the proposed modification deals only with classified shapes. NMED should explore whether any new or changed security plans call for other changes in WIPP site procedures.	See response to Comment No. 6.15.	N	
8.15	New Mexico Attorney General Office	Classified wastes	I	The Permittees added ambiguous language that additional security provisions may restrict retrievability of information. However, the Permittees did not clarify what type of information would be restricted and under what security provisions data could be restricted. NMED should seek clarification and add language that clearly indicates that the stated intent of the modification will be limited to magnetic tapes.	See response to Comment No. 6.15.	N	AA
8.16	New Mexico Attorney General Office	Classified wastes	I	The modification should only be adopted after Permittees identify the number of VE or radiography tapes that will be covered by the classification rules and at which sites these classified wastes will be found. <i>DOE Response: The radiography tapes are the only classified items addressed by this PMR.]</i>	NMED concurs with the Permittees response to this issue. Also see response to Comment No. 2.69.	N	
8.17	New Mexico Attorney General Office	Classified wastes	I	The Permittees should clarify the role of digital images that may be viewed remotely via internet connections, and how these images will be viewed remotely when they are classified. <i>DOE Response: Section B1-3a refers to an "audio/video tape or equivalent unalterable media" that must be "maintained as a non-permanent record." This existing requirement already includes language that addresses the data that are produced during digital radiography since those data are saved on "equivalent unalterable media."</i>	The NMED concurs with the Permittees' response.	N	AA
8.18	New Mexico Attorney General Office	Classified wastes	I	The Permittees should clarify how procedures at generator storages sites may be affected by the classified nature of wastes. It is not clear that the full range of security procedures that may apply to wastes has been described in the modification.	Security procedures at generator sites are not regulated by the Permit.	N	
9	Geoff Petrie/NWNM	Additional Waste Container Types	K	NWNM requests NMED deny the PMR to add additional container types as the PMR is a threat to human health and the environment and is incomplete. The Permittees give little information on why this PMR is necessary and make no mention of what their response will be if an overpack is required for these drums. No contingency is in place if a problem is found. Where is the Permittees plan if an overpack is needed for a ten drum direct load, or for the other drums?	See response to Comment No. 6.4.	N	RT
9.1	Geoff Petrie/NWNM	Additional Waste Container Types	K	Reasons why these additions are necessary should be included in the PMR to allow the public to assess the PMR appropriately. The 85-gallon drum is not authorized as a shipping container in the TRUPACT-II Authorized Methods for Payload Control (TRAMPAC). How can the Permittees assume that the TRAMPAC will be revised according to their own requirements?	NMED does not concur with the issue raised by the commentor. Waste container authorization for shipment in TRUPACT-II containers is outside the authority of the permit.	N	RT
9.2	Geoff Petrie/NWNM	Additional Waste Container Types	K	Many of the characterization, confirmation, and verification techniques will become more difficult with the addition of these waste containers (e.g., use of radiography on 100-gallon drums). The Permittees do not deal with this issue in any way.	See response to Comment Nos. 6.2, 6.3, and 6.4	Y-with changes	RT

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Comment Number	Commentor/ Affiliation	Topic Area	Commentor Identifier	Comment Summary [Original comment, DOE response to the comment]	NMED Response	Include in Permit? y/n	Reviewer (initials)
9.3	Geoff Petrie/NWNM	Use of HalfPACTs	K	The Permittees do not deal with how these drums will be used if the HalfPACT PMR is approved. Are the Permittees planning on submitting another PMR if the HalfPACT PMR is approved? NWNM is strongly opposed to the HalfPACT PMR.	NMED does not concur with the issues raised by the commentor. The HalfPACT containers are only meant for the transportation of waste containers. They will only be on site for the time it takes to unload the drums from them and prepare them for return to generator sites, in the same manner as is currently done for TRUPACT-IIs. Although the HalfPACT will facilitate shipment of some waste container types, the two issues are not linked in terms of the conditions of the permit.	N	RT
9.4	Geoff Petrie/NWNM	Overpack of waste containers	K	By not addressing how radiography and overpacking will be dealt with, the Permittees have not addressed the possible adverse effect that this PMR would have on human health and the environment. NMED must deny this PMR for lack of documentation.	See response to Comment Nos. 6.2 and 6.4.	Y-Partially	RT
9.5	Geoff Petrie/NWNM	Overpack of waste containers	K	If NMED does not deny this PMR outright, they should reclassify it as a class 3 because: 1) it deals with too many aspects of the WIPP Permit to be a class 2 PMR; 2) there are a number of issues at stake with respect to the WHB.	NMED partially concurs with the issues raised by the commentor. Technical issues that the commentor believes mandates the PMR to be a Class 3 are dealt with as specified in Response to Comment Nos. 6.2, 6.3, and 6.4.	N	RT
9.16	Geoff Petrie/NWNM	Addition of code U134 (HF) to list of Part A wastes	K	This PMR should be denied as it is still incomplete. The studies done on the HF contaminated waste should have been included in the PMR. Without these data and information, the public is given no reason to assume that the Permittees' facts are correct. In addition, corrosives are a banned substance at WIPP. Although the Permittees claim to have found a way to remove the corrosive nature of HF, the potential danger to human health and the environment is too great. This should be a class 3 as the Permittees want to allow a previously banned substance into WIPP. If NMED does approve this PMR, it must prohibit INEEL from using only AK when characterizing and sending this waste. VE and testing prior to shipping must be required. If this PMR is approved, it should only be for the 100 m ³ of waste that the Permittees claim INEEL currently has to dispose of. If any other site in the DOE complex wishes to send HF contaminated waste, NMED should require the Permittees to submit a PMR for that particular site.	NMED partially concurs with the issue raised by the commentor. While the Permittees should have provided the data generated by the studies on the HF contaminated waste, NMED has revised the permit to require inclusion of this information as well as U134 process data in the auditable record for each site with U134 waste.	Y - with changes	AA
9.17	Geoff Petrie/NWNM	Modify solid sampling frequency for some newly generated wastes	K	This PMR is incomplete and the Permittees explanation is actually more obfuscating than not. The PMR does not explain why the change is needed. Flexibility and cost savings are not sufficient justification. To allow newly-generated/re-packaged waste to be characterized in the same light as retrievable stored waste goes against the logic of the original WIPP Permit and may adversely impact human health and the environment. Reducing characterization standards is unacceptable and dangerous. NMED should deny this request.	See response to Comment No. 5.10.	N	CW
9.18	Geoff Petrie/NWNM	Classified wastes	K	This PMR should be denied as it is incomplete and detrimental to human health and the environment. If NMED does not deny this PMR, then NMED should reclassify this PMR as a class 3. The Permittees have not defined how much waste would be classified and fall under the requirements of this PMR. Without a substantial investigation on how much classified waste is in the DOE complex, there is the opportunity for the Permittees to be disingenuous on what waste can be deemed "classified." The opportunity for something to slip by is a serious possibility. This PMR also limits the opportunity for stakeholders to maintain a watchful eye on WIPP. Additionally, there is no mention of what would clearly be necessary changes to the Permit in the case of a spill. What is to occur if an accident takes place and there is a spill of the waste being transported? While this is an unlikely scenario, it clearly begs for NMED to deny this PMR. The need for this PMR is not clear. There is no discussion of the pros and cons of alternatives and no rationale as to why this is the only way to deal with their current need to bury classified waste at WIPP. This PMR changes too many items in the WIPP Permit and must be denied.	NMED does not concur with this comment. The need for the PMR is addressed in Item 3 of the Overview.	N	AA

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9.19	Geoff Petrie/NWNM	Use of HalfPACTs	K	NMED should deny this PMR as it is incomplete and does not show the circumstances when the HalfPACT will be used. The Permittees should show documentation of when they have had trouble shipping with the TRUPACT-II. The Permittees also do not address any plan to deal with the contingency of leaky drums within the HalfPACT. The Permittees must produce a plan to deal with this potential problem before the HalfPACT is used.	See response to Comment No. 6.20.	N	RT
10	Joni Arends/CCNS	general	L	If approved, the proposed modifications will undermine existing safety standards for shipping waste through New Mexico and disposing of it at WIPP. CCNS strongly urges the NMED to deny all seven PMRs. The PMRs are incomplete, inaccurate and several lack a scientific basis. In addition, these changes are significant in number, scope, complexity, and effect and must be considered major modifications. Rather than expending limited state resources attempting to correct the many problems with the PMR, NMED should deny the PMRs. CCNS believes that all three reasons for NMED to deny PMRs exist as they are incomplete, do not comply with 40 CFR 264, and the conditions of the modifications fail to protect public health and the environment.	See response to Comment No. 3.	N	AA
10.1	Joni Arends/CCNS	general	L	CCNS requests that a consolidated Class 3 hearing be scheduled for these modifications after Applicant resubmits their PMR.	See response to Comment No. 3.	N	AA
10.4	Joni Arends/CCNS	Use of radiography for newly generated waste.	L	Applicant is basing its PMR on a NMED answer to a comment made by Mr. Lawless, but must provide more scientific bases for the PMR. NMED should deny the PMR. CCNS reminds NMED that the Hearing Officer at the winter 1999 permit hearing stated "that visual inspection and analysis of each and every waste container would likely improve waste characterization accuracy" (Hearing Officer Report, p. 87). CCNS fully supports the Hearing Officer.	See response to Comment Nos. 6.22, 6.23, and 2.73.		CW
10.5	Joni Arends/CCNS	Additional Waste Container Types	L	This PMR is inconsistent with existing procedures. It is also inconsistent with the outstanding drum age criteria proposed modification. Therefore, NMED should deny this PMR. It is a complex modification and therefore should be a Class 3. <i>[DOE Comment: A new DAC permit modification request will be submitted to the NMED once these new containers are approved.]</i>	NMED partially concurs with the issues raised by the commentor. Technical issues that the commentor believes mandates the PMR to be a Class 3 are dealt with as specified in Response to Comment Nos. 6.2, 6.3, and 6.4.	Y-with changes	RT
10.6	Joni Arends/CCNS	Use of HalfPACTs	L	Applicant has not stated how this PMR will address accidents similar to the two recent ones that involved shipments from the INEEL. Just because the NRC has approved the HalfPACT does not mean that the information provided by the Applicant was correct; witness the evidence presented during the drum age criteria Class 3 public hearing. Nor does it mean that NMED should automatically approve the PMR. In fact the PMR should be denied as it is incomplete.	NMED partially concurs with the issues raised by the commentor, recognizing that the information presented by the Permittees on other issues has, upon occasion, contained errors. However, NMED cannot make a permit decision on the HalfPACT based the NRC approval of the HalfPACT. The concerns of NRC are incongruent from NMED's regarding the use of the HalfPACT. It is precisely this incongruence that restricts NMED regulation of transportation issues through the WIPP Permit. Also see response to Comment No. 6.20.	N	RT
10.7	Joni Arends/CCNS	Addition of code U134 (HF) to list of Part A wastes	L	NMED should deny this PMR because the request is (1) from INEEL, the site sending over 650 drums that were "certified" with uncertified equipment; and (2) it appears that the Applicant is relying on the same compatibility studies as it did in its first submittal of this PMR. Applicant does not explain how it can ensure that no corrosive liquids are included in the wastes with the U134 code, especially since the August 2002 audit at INEEL found that, in fact, prohibited liquids had been sent to WIPP.	See response to Comment Nos. 2.63, 2.64, 2.65, and 9.16, above.	N	AA

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				Applicant has provided conflicting and perhaps sloppy information about the processes that use U134. The Applicant stated in its first submittal that the addition of the code for HF (U134) from INEEL was because of a zirconium dissolution process (p. A-20). Now, Applicant states that, "Laboratory personnel neutralized and complexed the HF with excess aluminum nitrate to form a non-corrosive aluminum fluoride complex in a nitric acid matrix and discharged the mixture into the liquid waste storage tanks" (Item 1 - p. A-13). Which is it? Zirconium? Or Aluminum nitrate? Is Applicant talking about the same drums as during the first submittal? Do the compatibility studies address aluminum fluoride?	NMED concurs with the issue raised by the commentor. See response to Comment No. 9.16.	Y	AA
10.8	Joni Arends/CCNS	Classified wastes	L	Applicant is obfuscating the issue involved with this PMR by focusing on the information rather than on the fact that the Applicant is prohibited from bringing classified waste to WIPP. WIPP is not an NNSA facility and therefore cannot handle classified information. Therefore, if the Applicant wants to dispose of classified waste at WIPP, it could (1) declassify the waste; (2) modify, crush or compact the classified shapes and parts without increasing exposure to workers; or (3) send the classified waste to a NNSA site. By proposing to bring classified waste to WIPP, DOE is cutting the public out of the process. NMED should deny this PMR.	The comment deals with regulatory issues outside of the permit. Also see response to Comment Nos. 3.4, 6.13, and 6.18.	N	AA
10.9	Joni Arends/CCNS	Additional Waste Container Types	L	NMED should deny this PMR. This is a Class 3 modification requiring a public hearing because of the complexity involved in the PMR. RTR is less reliable on the larger containers than on the 55-gallon drums, and Applicant has not demonstrated how it will use RTR on the 85- and 100-gallon drums. The 85-gallon drums are currently used to overpack the 55-gallon drums. What container will be used to repackage leaking or damaged 85-gallon drums? Leaking or damaged 100-gallon drums?	NMED partially concurs with the issues raised by the commentor. Technical issues that the commentor believes mandates the PMR to be a Class 3 are dealt with as specified in Response to Comment Nos. 6.2, 6.3, and 6.4.	Y-with changes	RT
11.1	Dr. James Vernon/NM Citizens for Clean Air and Water	general	M	Commentor indicates that he supports all seven (7) of the proposed modifications.	No response necessary	N	AA