



April 19, 2023

Mr. Ricardo Maestas
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New Mexico Environment Department
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Dear Mr. Maestas:

I respectfully submit these comments on the Waste Isolation Pilot Plant (WIPP) Renewal Draft Permit.

I submit these comments in addition to comments that I submitted on March 24, 2023, on behalf of Savannah River Site Watch. My earlier comments are posted in the NMED's comment section and posted on the SRS Watch website here: <https://srswatch.org/wp-content/uploads/2023/03/comment-by-SRS-Watch-on-draft-NMED-permit-for-WIPP-March-24-2023.pdf>

DOE's ten-year WIPP Hazardous Waste Permit ("Permit"), last issued by the New Mexico Environment Department (NMED) in November 2010, is due to be renewed in 2023. WIPP is a facility authorized by Congress for the disposal of transuranic (TRU) radioactive wastes generated by the United States' nuclear weapons research and production programs. The Department of Energy (DOE) owns the WIPP facility, and DOE and Salado Isolation Mining Contractors co-operate the WIPP facility, who together are referred to as the "Permittees." WIPP first received a hazardous waste Permit from NMED in 1999 to dispose of TRU mixed waste containers 2,150 feet below ground in a mined geologic repository.

Disposal at WIPP is limited to defense-generated TRU and TRU mixed wastes. Mixed TRU waste has both a hazardous component and radioactive component of elements with atomic numbers 92 (uranium) and greater. Generally, TRU mixed wastes consists of clothing, tools, rags, residues, debris, soil and other items contaminated with radioactive elements, mostly plutonium, and hazardous components listed under the Resource Conservation and Recovery Act (RCRA) as heavy and toxic metals, non-liquid organic residues and inorganic and organometallic compounds.

Major issues in the draft Permit are DOE's proposed changes to extend operations at WIPP until 2050 and beyond and to mine new waste panels. More than half of WIPP's future capacity is being reserved for future radioactive wastes from expanded plutonium "pit" bomb core production. This will fundamentally change WIPP's mission from cleanup to direct support of increased nuclear weapons production.

Specific WIPP Renewal Draft Permit Comments

I agree with all of NMED's proposed changes to the draft Permit, including:

The closure date of WIPP shall be tied to the Permit term of ten years and the waste capacities in Permit Part 4, Table 4.1.1. This proposed change will require the Permittees to make a case for Permit Renewal at the end of the Permit term, that is every ten years. This allows the State of New Mexico to require an accurate inventory of

waste awaiting cleanup around the United States, including Los Alamos National Laboratory, for emplacement at WIPP. (Section 6.5.2) The original WIPP closure date is 2024. DOE would like to extend the closure date to 2050, or beyond. NMED's proposed change would require DOE to justify keeping WIPP open every ten years as part of the Permit renewal process, including public hearings.

A new NMED Permit condition would trigger the revocation of the Permit if the disposal limit of 6.2 million cubic feet of transuranic wastes under WIPP's enabling legislation, the Land Withdrawal Act, is increased or otherwise changed by the U.S. Congress. (Section 1.3.1) This will help protect WIPP from being expanded.

A new NMED Permit section will require the prioritization of waste from New Mexico generator and storage sites for emplacement at WIPP. (Section 4.2.14) This will help to prioritize the disposal of TRU wastes from LANL at WIPP instead of DOE's current prioritization of out-of-state wastes.

In the new Permit, NMED proposes to clearly define its ability to suspend waste shipments to WIPP if there is evidence of a threat to human health or the environment or any Permit noncompliance. (Section C-1d) This gives NMED a stronger position to suspend shipments if something goes wrong.

NMED is adding a new section requiring compliance with transportation guidance to ensure the safe transport of waste through New Mexico, helping to keep the roads safer. (Section 1.7.7.1)

NMED is adding a new section requiring the submittal of an annual report detailing DOE's progress (or not) toward siting another repository for transuranic waste in a state other than New Mexico. (Section 2.14.3) This will force DOE to start looking for a WIPP replacement.

NMED proposes to update the requirements of the WIPP Community Relations Plan to include quarterly public forums that provide notice and allow for ample opportunity for public engagement on Permit and non-Permit related issues, as well as a return of pre-submittal meetings for Class 2 and 3 Permit Modification Requests. In addition, the Permittees must invite the members of the New Mexico Radioactive Waste Consultation Task Force to each quarterly public forum. (Section 1.15.2) This will help get more WIPP information out to the public.

NMED proposes to emphasize Permit language restating the mission of WIPP as a "pilot" plant for the permanent disposal of TRU wastes, as well as language related to the history of the Permit and post-closure activities. (Section H1.1.1) This will remind us and the federal government that WIPP is only a pilot plant, not a "forever" radioactive waste dump per DOE wishes.

NMED goals for WIPP must be to prevent its expansion in terms of both types of radioactive wastes disposed and its operating lifetime. I commend NMED on its tougher enforcement policy and urge the Department to continue doing so with respect to WIPP issues.

In closing, again I strongly support NMED's proposed changes to the WIPP RCRA permit.

Sincerely,

Tom Clements
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