

# Attorney General of New Mexico



**PATRICIA A. MADRID**  
Attorney General

**STUART M. BLUESTONE**  
Deputy Attorney General

14 July 2003

Mr. Steve Zappe  
New Mexico Environment Department  
Hazardous Waste Bureau  
2905 Rodeo Park Drive, Building E  
Santa Fe, NM 87505



Re: WIPP Hazardous Waste Act permit; proposed modification  
concerning addition of new hazardous waste numbers

Dear Mr. Zappe:

This letter submits comments by the Water, Environment, and Utilities Division of the New Mexico Attorney General's Office concerning a proposed modification to the Hazardous Waste Act permit for the Waste Isolation Pilot Plant (WIPP). The proposed modification concerns addition of new hazardous waste numbers.

The occasion for addition of the new waste codes is the identification at Rocky Flats Environmental Technology Site (RFETS) of transuranic mixed waste carrying the codes in issue. Our comments are as follows:

1. Permittees state that the proposed modification is classified as a Class 2 permit modification, pursuant to 20.4.1.900 NMAC, incorporating 40 CFR 270.42, Appendix I, Item F.3.b. Item F.3.b describes modifications involving "storage of different wastes in containers." Since the current proposal involves not only storage but also disposal, it would be appropriate also to cite

030727

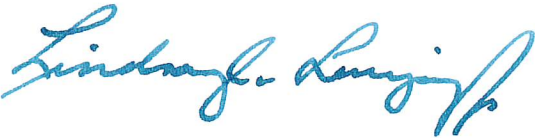


Item J.6.b, which describes landfill permit modifications involving different wastes that do not require additional or different management practices. To be sure, WIPP is a miscellaneous unit, not a landfill, and Subpart I is applicable through Subpart X, but it would seem appropriate also to rely upon a provision concerning changes in disposal practices in seeking a WIPP permit modification.

2. The application should explain why “no adverse impact from the acceptance of hexachlorobutadiene is anticipated” (at 4). Permittees should explain whether the original permit application Appendix C1 (Att. E to the proposal) considered the compatibility of hexachlorobutadiene (See Att. E at C1-2).

We request that in responding to the modification request these points be clarified by NMED and that the proposed modification not be granted until these questions are answered.

Very truly yours,

A handwritten signature in blue ink, reading "Lindsay A. Lovejoy, Jr." in a cursive script.

LINDSAY A. LOVEJOY, JR.  
Assistant Attorney General

LALJr:laljr