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GOVERNOR

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**ENVIRONMENT DEPARTMENT**

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**CERTIFIED MAIL RETURN RECEIPT REQUESTED**

August 4, 2000

Dr. Inés Triay, Manager  
Carlsbad Area Office  
Department of Energy  
P. O. Box 3090  
Carlsbad, New Mexico 88221-3090

Mr. Joe Epstein, General Manager  
Westinghouse Waste Isolation Division  
P.O. Box 2078  
Carlsbad, New Mexico 88221-5608

**RE: ADMINISTRATIVE COMPLETENESS DETERMINATION, CLASS 1 NOTIFICATION AND CLASS 2 MODIFICATION REQUESTS  
WIPP HAZARDOUS WASTE FACILITY PERMIT  
EPA I.D. NUMBER NM4890139088**

Dear Dr. Triay and Mr. Epstein:

The New Mexico Environment Department (NMED) Hazardous Waste Bureau (HWB) acknowledges receipt of numerous notifications of Class 1 permit modifications and requests for Class 2 permit modifications to the WIPP Hazardous Waste Facility Permit. The specific submittals reviewed for administrative completeness are as follows:

- Notification of Class 1 Permit Modifications, Dated 11/10/99, Rec'd 11/15/99
- Notification of Class 1 Permit Modifications, Dated 11/15/99, Rec'd 11/19/99
- Notification of Class 1 Permit Modifications, Dated 11/30/99, Rec'd 12/6/99
- Notification of Class 1 Permit Modifications, Dated 1/7/00, Rec'd 1/13/00
- Notification of Class 1 Permit Modifications, Dated 1/27/00, Rec'd 2/3/00
- Request for Class 2 Permit Modifications, Dated 4/7/00, Rec'd 4/10/00
- Request for Class 2 Permit Modifications, Dated 4/20/00, Rec'd 4/24/00
- Notification of Class 1 Permit Modifications, Dated 4/20/00, Rec'd 4/24/00

NMED has reviewed these documents and determined that they are administratively complete. The New Mexico Hazardous Waste Fee Regulations require assessment of fees when

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administrative review of a document is complete, as specified in 20.4.2.301 NMAC. NMED will issue an invoice to you under a separate letter. Payment is due within sixty (60) calendar days from the date that you receive the invoice.

With the exceptions of those modifications identified in the attachment, all other modifications identified in the Notices of Class 1 Modification listed above have been put into effect under the conditions specified in 20.4.1.900 NMAC (incorporating 40 CFR §270.42(a)(1)). NMED understands that subsequent Class 1 notifications may have been submitted to address some of the concerns raised in the attachment. However, with the one exception identified in the attachment below, none of the subsequent Class 1 modifications have yet been incorporated into NMED's version of the permit. The modifications identified in the Requests for Class 2 Permit Modification are being processed by NMED in accordance with the requirements specified in 20.4.1.900 NMAC (incorporating 40 §270.42(b)).

If you have any questions regarding this matter, please contact Steve Zappe at (505) 827-1560, x1013.

Sincerely,

  
for John E. Kieling, Manager  
Permits Management Program  
Hazardous Waste Bureau

Attachment

cc: James Bearzi, NMED HWB  
Steve Zappe, NMED HWB  
Cindy Abeyta, NMED HWB  
Susan McMichael, NMED OGC  
David Neleigh, EPA Region 6  
Connie Walker, TechLaw  
File: Red WIPP '00

Attachment  
Technical Concerns Regarding Class 1 Permit Modifications

*November 10, 1999 Notice of Class 1 Permit Modifications*

- Item 5.O The Permit has been modified to put the redline language after “coring tools” rather than “fully assembled” in the sentence to make more sense than the construction submitted by the Permittees. The sentence now reads “In accordance with SW-846 (EPA 1996), equipment blanks shall be collected from fully assembled sampling and coring tools (i.e., at least those portions of the sampling equipment that contact the sample) prior to first use after cleaning at a frequency of one per equipment cleaning batch.”
- Item 5.P It is unclear from this modification alone how changing the word “canister” to “manifold” affects the meaning of the word “it” in the next sentence. In context, it appears that “it” refers to the pressure/vacuum gauge, and this could be clarified with wording similar to Section B1-1a(2). Further, it is not clear why the submitted change requires that the gauge be mounted on *each* manifold, since the sampling apparatus usually consists of a single manifold setup. This modification has been made in light of the March 29, 2000, Item 8, notification clarifying that “it” refers to the canister, not the gauge. The March 29 Item 8 modification has also been incorporated to ensure consistent interpretation, although other modifications identified in the March 29 submittal have yet to be evaluated and incorporated.
- Item 7.D Striking the bullet in Section B3-12, Data Reporting Requirements, Project Level, eliminates the requirement to report acceptable knowledge summary information entirely. It would be better to move the requirement to provide “a summary of all process knowledge documentation supporting the waste stream characterization (e.g., the acceptable knowledge summary report)” from the waste container reporting to the waste stream characterization summary packages. This modification is rejected as a Class 1 modification.
- Item 7.F There is no advantage to copying the footnote “a” from Table B3-8 to Table B3-9, since Table B3-9 refers back to B3-8. Besides, the modification gave no indication where to reference the footnote other than calling it footnote “c”. The footnote was not copied.
- Item 7.H NMED identified an additional typographical error when editing B3-8 Total Metal Analysis, Precision. The analogous section in B3-7 Total Semivolatile Organic Compound Analysis, Precision, incorrectly references Table B3-7 when dealing with criteria which must be met. The correct reference is Table B3-6. NMED has made this modification.

- Item 9        The change as specified in the notification is incorrect. The reference to requirements in Attachment B1, Section B1-1a should be 18° C, not 19° C. The correct value was inserted into Table B6-4 and read as follows: “(18–29 degrees Centigrade° C or higher)”.
- Item 10       The two changes specified in the notification are internally inconsistent, and the second change would remove requirements for inspection records specifically mandated by 40 CFR §264.15(d). While the first change would remove the specific reference to entering results of inspections “in the applicable logbook”, it appears the second change was intended to reflect what is currently recorded in the inspection logs. The Permit further identifies (page D-2, lines 10-14) three mechanisms for recording actions taken following an inspection. It appears that the first change would be appropriate if the second change instead modified “The inspection logs include...” to “The inspection logs or summary records include...” and retained the rest of the original language. However, because the language as provided in the notification eliminates regulatory requirements and is therefore less stringent than the current permit, this modification is rejected as a Class 1 modification.
- Item 11       Numerous additional occurrences of the term “Brudi” were identified in Attachments D and M2. All occurrences of this term were modified to be consistent with the notice of permit modification.
- Item 16.D     The notice of modification strikes “and Heated Space Program” from the objective statement for SAF-515A. However, this would have rendered the sentence incomplete (i.e., “the student will be able to describe the WIPP’s Confined Space.”) The word “Program” was retained at the end of the sentence.
- Item 18       Deleting the reference to “nylon” from the description of the sampling line does not constitutes a Class 1 modification, since there is no substitution of a functionally equivalent component. However, the basis for the modification states that the site currently uses Teflon, which is the industry standard, in place of nylon. The Permit has been modified to replace all references to “nylon” with “Teflon”.

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*November 15, 1999 Notice of Class 1 Permit Modifications*

- Item 1.A       Although an air-lock mechanism may be unnecessary, the modification provided in the notification of simply eliminating the requirement does not meet the standards for a Class 1 modification in 40 CFR §270.42 Appendix I, A.3 or B.1.a, but instead is more similar to §270.42(d)(2)(ii)(B) as a technological advancement. To qualify for a Class 1 modification, this could be rewritten to make the airlock optional, or provide that an equivalent methodology may be employed to retain the

sample within the core equipment. Alternately, complete removal of the requirement could be submitted as a Class 2 modification request. This modification is rejected as a Class 1 modification.

Item 1.B See discussion of Item 1.A above. Although sharpening and tapering the tip of the coring tool may be ineffective for its intended use, eliminating the requirement does not meet the standard for a Class 1 modification. To qualify for a Class 1 modification, this could be rewritten to make the sharpening and tapering optional, or provide that an equivalent methodology may be employed to enhance sample recovery and reduce drag. Alternately, complete removal of the requirement could be submitted as a Class 2 modification request. This modification is rejected as a Class 1 modification.

Item 1.D The notice of permit modification inserts an exemption for "Waste Material Type II.2 packaged in a metal container" from innermost layer of confinement sampling, and bases this exemption on Revision 17 to the TRUPACT-II SAR. However, the SAR is not regulated under the Permit, and specific information regarding the waste type/container type was not provided in the notice of modification. The Permit requires innermost layer of confinement sampling for unvented rigid containers greater than 4 liters, regardless of type. If the "metal container" allows gas to escape, thus ensuring that the drum headspace is representative, this allowance could be made. However, additional information is required before such a determination could be made. Because this modification decreases the sampling requirements (§270.42 Appendix I, B.1.d), this modification is rejected as a Class 1 modification.

Item 1.F The notice of modification modifies the text in two places to allow the use of non-glass containers. The first change to footnote "e" to Table B1-4 dealt with containers for SVOC and PCB analysis, which is acceptable. However, the second change removed language from Section B1-2a(2) dealing with containers for VOC analysis, by replacing the phrase "or other containers specified in appropriate SW-846 methods" with "an airtight sample container for VOA analysis." The original language already provides flexibility to select an alternate appropriate container, and footnote "c" to Table B1-4 still provides a choice between the "40 ml VOA vial or other appropriate containers." Because unnecessary elimination of the SW-846 reference does not meet the Class 1 standard (§270.42 Appendix I, B.1.a), the second change submitted in this modification is rejected as a Class 1 modification.

Item 4 The conditional acceptance of this modification to allow more than one filter vent per container is premised upon an acceptable resubmittal as specified in NMED'S March 9, 2000 Class Determination. This determination rejected a proposed Class 1 modification that clearly impacted Permit Condition IV.D. (VOC concentration limits) by assuming either more filters per container and/or higher filter diffusivity.

Until that modification is resubmitted and incorporated into the Permit, the allowance of more than one filter will be deferred.

With regard to the use of TDOPs and 85-gallon drums for direct loading of waste, the submitted language is poorly written and presented (e.g., "items... that are to *[sic]* large", using the cumbersome phrase "CH TRU/CH TRU-mixed waste" instead of the convention adopted in the Permit modules of "CH TRU mixed waste", spelling out "standard waste box" after the acronym "SWB" has already been defined, striking "overpack" from the identification of the 85-gallon overpack drum in Attachment E and nowhere else, etc.). NMED may edit these modifications to ensure consistent terminology and good grammar within the Permit. However, because the modifications to allow direct loading of waste into TDOPs and 85-gallon drums are intertwined with the filter issue discussed above, all modifications submitted in Item 4 will be deferred until resubmittal of the January 24, 2000, Item 4 modification request.

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*November 30, 1999 Notice of Class 1 Permit Modifications*

- Item 1        This modification was incorporated as provided in the notice, with the exception of titles and acronyms. "Site Project Quality Assurance Official" was replaced by "Site Project QA Officer" to be consistent with the rest of Attachment B3. Because the acronyms for Quality Assurance Program Document and data quality objectives were defined earlier in Attachment B3, these terms were replaced with the appropriate acronyms, QAPD and DQOs. Several other changes relating to definition of acronyms were performed by NMED to ensure consistency throughout Attachment B3 (e.g., heading on page B3-5, text on page B3-12, etc.).
- Item 6        No revised Figure H-1 was provided in the notice of modification, and as a result the figure has not been changed. The Permittees must provide the modified Figure H-1 as part of the notice of Class 1 permit modification for review and inclusion into the Permit. However, changes submitted for Section F-2 have been incorporated.

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*January 7, 2000 Notice of Class 1 Permit Modifications*

- Item 2.3      The notice of permit modification did not coincide with the discussion and basis. The discussion and basis indicated that the "Table B3-9 corrective action for matrix spike duplicates incorrectly refers to %Rs > values listed in Table B3-8. The %Rs listed in Table B3-8 are a range and the corrective action for matrix spike duplicates should indicate outside the range, because values below the range represent a condition that requires corrective action." However, the submitted modification simply removed the nonconformance requirement for %Rs entirely,

when it should have retained the requirement and referenced nonconformance as occurring outside the specified range. Instead of incorporating the submitted language, Table B3-9 has instead been modified to read as follows: “Nonconformance if RPDs and %Rs > values and %Rs outside range specified in Table B3-8”. Furthermore, a parallel modification was made to the matrix spike duplicate corrective action requirements on Tables B3-5 and B3-7.

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*January 25, 2000 Notice of Class 1 Permit Modifications*

- Item 1      The basis for the rejection of this as a Class 1 modification was addressed in NMED’s March 9, 2000 letter.
  
- Item 4      The basis for the rejection of this as a Class 1 modification was addressed in NMED’s March 9, 2000 letter.
  
- Item 8      The language change to Permit Condition II.A.2 was modified by NMED to read “extending from the fence north of the rail sidings to the WHB...” NMED determined that the description “from inside the rail sidings” was potentially vague. Otherwise, the remaining language changes to Attachment D and Figure M1-2 are acceptable.
  
- Item 11     Several additional occurrences of GET-19X or GET-19XA were identified in Attachments H, H1, and H2, and were modified to be consistent with the notice of permit modification.