



GARY E. JOHNSON
GOVERNOR

State of New Mexico
ENVIRONMENT DEPARTMENT

Hazardous Waste Bureau
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PETER MAGGIORE
SECRETARY

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

July 22, 2002

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

Mr. John Lee, General Manager
Westinghouse TRU Solutions LLC
P.O. Box 2078
Carlsbad, New Mexico 88221-5608

**RE: NOTICE OF CLASS DETERMINATION AND ADMINISTRATIVE COMPLETENESS
WIPP HAZARDOUS WASTE FACILITY PERMIT
EPA I.D. NUMBER NM4890139088**

Dear Dr. Triay and Mr. Lee:

The New Mexico Environment Department (NMED) acknowledges receipt of the following modification requests to the WIPP Hazardous Waste Facility Permit:

- Request for Class 3 Permit Modification (RH Waste), Letter Dated 6/27/02, Rec'd 6/28/02
- Request for Class Determination and Permit Modification (Data Management), Letter Dated 6/27/02, Rec'd 6/28/02
- Request for Class Determination and Permit Modification (Waste Containers), Letter Dated 6/27/02, Rec'd 6/28/02
- Request for Class 2 Permit Modification (Waste Characterization Update), Letter Dated 6/27/02, Rec'd 6/28/02

Attached to this letter is the basis for NMED's class determination for the two submittals requesting such. NMED conducted these class determinations as specified in 20 NMAC 4.1.900 (incorporating 40 CFR §270.42(d)(2)).

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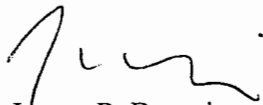
Dr. Inés Triay
Mr. John Lee
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Further, NMED has reviewed these documents and determined that the permit modification requests are administratively complete. These modification requests are currently being processed by NMED in accordance with the requirements specified in 20.4.1.900 NMAC (incorporating 40 CFR §270.42(b) and (c)).

The New Mexico Hazardous Waste Fee Regulations require assessment of fees when 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.

If you have any questions regarding this matter, please contact Steve Zappe of my staff at (505) 428-2517.

Sincerely,



James P. Bearzi
Chief
Hazardous Waste Bureau

Attachment

cc: Greg Lewis, NMED WWMD
John Kieling, NMED HWB
Steve Zappe, NMED HWB
Phillis Stevens, NMED HWB
Cindy Abeyta, NMED HWB
Chuck Noble, NMED OGC
Laurie King, EPA Region 6
Connie Walker, TechLaw
File: Red WIPP '02

Attachment

Class Determination for June 28, 2002 Submittals WIPP Hazardous Waste Facility Permit EPA I.D. Number NM4890139088

1. Class 3 modification: Update of the Waste Analysis Plan and Associated Documents with Emphasis on Data Management Requirements

This modification request seeks to make changes to the Waste Analysis Plan (WAP) and associated documents, with emphasis on data management requirements. In requesting a class determination, the Permittees cite 40 CFR §270.42 Appendix I, Item B.2.b (other changes to analytical quality assurance/control plan) as the most analogous modification, which is considered a Class 2 modification according to the regulations. The Permittees also cite 40 CFR §270.42(d)(2)(ii)(B), which is an example of a Class 2 modification that is necessary to enable the Permittees to respond in a timely manner to technological advancements.

NMED notes that the proposed modification request is voluminous. The explanation of the modification request alone takes 44 pages, while the proposed changes to the WAP are presented by reproducing Attachments B and B3 in their entirety, with changes made on the majority of these pages. NMED believes that the proposed modification is sufficiently complex that the Class 3 process, with the issuance of a draft permit for additional public comment, is appropriate. NMED has therefore determined that this item is a Class 3 modification, subject to the permit modification requirements of 20 NMAC 4.1.900 (incorporating 40 CFR §270.42(c)).

2. Class 2 modification: Add Waste Containers

This modification is related to several earlier permit modification requests (November 15, 1999, Item 4; July 20, 2000, Item 2.d; April 27, 2001, Item 1) regarding additional waste containers that NMED previously rejected or denied (August 4, 2000; August 30, 2001). The current modification request seeks to allow the direct loading of ten drum overpacks (TDOPs), direct loaded 85-gallon drums, and 100-gallon drums in addition to the currently permitted containers for waste management at WIPP. In requesting a class determination, the Permittees cite 40 CFR §270.42 Appendix I, Item F.2.a (modification of a container unit without increasing the capacity of the unit) as the most analogous modification, which is considered a Class 2 modification according to the regulations.

NMED agrees, and has determined that this item is a Class 2 modification, subject to the permit modification requirements of 20 NMAC 4.1.900 (incorporating 40 CFR §270.42(b)).