

ENTERED



State of New Mexico
ENVIRONMENT DEPARTMENT



Hazardous Waste Bureau

SUSANA MARTINEZ
Governor
JOHN A. SANCHEZ
Lieutenant Governor

2905 Rodeo Park Drive East, Building 1
Santa Fe, New Mexico 87505-6313
Phone (505) 476-6000 Fax (505) 476-6030
www.env.nm.gov

BUTCH TONGATE
Cabinet Secretary
J. C. BORREGO
Deputy Secretary

CERTIFIED MAIL -- RETURN RECEIPT REQUESTED

February 22, 2018

Todd Shrader, Manager
Carlsbad Field Office
Department of Energy
P.O. Box 3090
Carlsbad, New Mexico 88221-3090

Bruce C. Covert, Project Manager
Nuclear Waste Partnership, LLC
P.O. Box 2078
Carlsbad, New Mexico 88221-2078

**RE: NOTICE OF PUBLIC COMMENT PERIOD AND OPPORTUNITY TO
REQUEST A PUBLIC HEARING ON A DRAFT PERMIT
WASTE ISOLATION PILOT PLANT
EPA I.D. NUMBER NM4890139088**

Dear Messrs. Shrader and Covert:

Enclosed is a copy of the Public Notices and Fact Sheet for the modifications to the Waste Isolation Pilot Plant ("WIPP") Panel Closure Plan. The Draft Hazardous Waste Facility Permit ("draft Permit") was prepared by the New Mexico Environment Department ("NMED") and is being issued without additional proposed changes other than those proposed by the Department of Energy's Carlsbad Field Office ("CBFO") and Nuclear Waste Partnership LLC ("NWP") (collectively "the Permittees"). A copy of the draft Permit, Public Notices, Fact Sheet, and an index of the Administrative Record can be found on NMED's website located at the following link: <https://www.env.nm.gov/hazardous-waste/wipp/>.

NMED is providing for a 60-day public comment period and opportunity to request a public hearing. The Permittees will be notified by certified mail if a public hearing is scheduled. The Permittees may submit comments on the draft Permit as provided in the enclosed public notice. The public comment period will end at **5:00 p.m. MST, April 23, 2018**.

NMED will give due consideration and the weight it deems appropriate to all comments received during the public comment period. Based on public comment, NMED may make reasonable modifications to the permit, within the framework of the Hazardous Waste Management

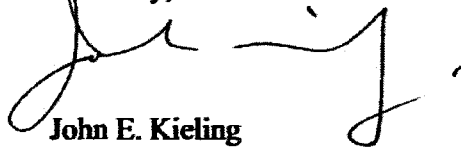
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Messrs. Shrader and Covert
February 22, 2018
Page 2

Regulations, 20.4.1 NMAC. At the time that any final permit decision is made, NMED will issue a response to all comments submitted during the public notice period.

If you have any questions regarding this matter, please contact Ricardo Maestas at (505) 476-6050.

Sincerely,



John E. Kieling
Chief
Hazardous Waste Bureau

cc w/attachments:

R. Maestas, NMED HWB
D. Biswell, NMED HWB
H. Tellez, NMED HWB
M. McLean, NMED HWB
S. Lucas-Kamat, NMED DOEOB
M. Brown, DOE CBFO
R. Chavez, NWP URS RES
L. King, EPA Region 6
T. Peake, EPA ORIA
File: WIPP '18



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BUTCH TONGATE
Cabinet Secretary

J.C. BORREGO
Deputy Secretary

PUBLIC NOTICE No. 18-01

**NEW MEXICO ENVIRONMENT DEPARTMENT
HAZARDOUS WASTE BUREAU
SANTA FE, NEW MEXICO
FEBRUARY 22, 2018**

**NOTICE OF PUBLIC COMMENT PERIOD AND OPPORTUNITY TO REQUEST A
PUBLIC HEARING ON A DRAFT HAZARDOUS WASTE PERMIT FOR
THE WASTE ISOLATION PILOT PLANT
EPA ID NUMBER: NM4890139088-TSDF**

The New Mexico Environment Department (“NMED”) is issuing for public comment a draft Hazardous Waste Facility Permit (“draft Permit”) for the Waste Isolation Pilot Plant (“WIPP”, or “the Facility”). The U.S. Department of Energy (DOE) and Nuclear Waste Partnership LLC (“NWP”), (together the “Permittees”), submitted a revised modification request to NMED on November 10, 2016. The request includes modifications to the WIPP Panel Closure Plan.

WIPP is currently permitted to manage, store, and dispose of hazardous waste, and to close hazardous waste disposal units, in accordance with the New Mexico Hazardous Waste Act (“HWA”) and its implementing regulations. NMED is charged with issuing a permit that will ensure that WIPP’s hazardous waste operations are managed in a manner that is protective of human health and the environment.

WIPP is located north of Jal Highway (State Highway 128) in Eddy County, New Mexico, approximately 26 miles east of Carlsbad. WIPP is a hazardous waste facility currently operating under a Permit issued by NMED authorizing the management, storage, and disposal of transuranic (“TRU”) mixed waste at the Facility. Mixed waste is radioactive waste that is also a hazardous waste as defined by the HWA, and is thus subject to regulation by NMED. The DOE owns and operates the Facility, and NWP co-operates the Facility. These entities are collectively referred to as “Permittees” or “WIPP” in the draft Permit and this public notice.

WIPP is a facility authorized by Congress to dispose TRU radioactive waste materials generated by atomic energy defense activities. WIPP manages wastes that are regulated under the federal Resource Conservation and Recovery Act (“RCRA”), the New Mexico Hazardous Waste Act Chapter 74, Article 4 NMSA 1978 (“HWA”), and their implementing regulations. WIPP received a hazardous waste facility Permit from NMED in 1999 to dispose of TRU mixed waste containers 2,150 feet

below ground in a mined geologic repository within the Salado Formation. The containers of waste must undergo complete waste characterization by the generator/storage sites in compliance with requirements of the Permit prior to disposal. WIPP is permitted to accept contact-handled TRU waste containers with a surface dose of less than 200 millirem per hour that may be handled directly. WIPP is also permitted to accept remote-handled TRU waste containers with a surface dose of 200 millirem or greater that must be handled either remotely or with sufficient shielding to reduce the effective dose.

WIPP may be contacted at the following mailing addresses: DOE Carlsbad Field Office, P.O. Box 3090, Carlsbad, New Mexico 88221-3090; and Nuclear Waste Partnership LLC, P.O. Box 2078, Carlsbad, New Mexico 88221-2078. The Permittees' primary contact for this permitting action is: Mike Brown, Director, Office of Environmental Protection, DOE Carlsbad Field Office, P.O. Box 3090, Carlsbad, New Mexico 88221-3090.

The draft Permit is a proposed modification of the existing Permit. The Permittees submitted a modification request on March 20, 2013. Public meetings were held in Santa Fe and Albuquerque on April 16 and 18, 2013. On July 29, 2013, NMED determined the application to be administratively complete and that it constituted a timely and complete application under the regulations. On September 20, 2013 NMED issued a Technical Incompleteness Determination ("TID"), requesting clarification and additional information. The Permittees provided a response on October 29, 2013. NMED reviewed the response and on February 14, 2014 issued a draft Permit for a 60-day public comment period. On March 21, 2014, NMED withdrew the draft Permit as a result of the ongoing investigations into the salt haul vehicle fire and drum breach that occurred at the WIPP Facility in February 2014. No comments were submitted at the time NMED withdrew the draft Permit. On July 22, 2015, NMED issued a second TID and requested that the Permittees update the modification request to reflect current conditions at the Facility. The Permittees submitted their response to the TID and a revised modification request on November 10, 2016. NMED reviewed the revised request and issued a determination of Administrative Completeness on August 14, 2017 and a subsequent third TID on August 17, 2017, requesting clarification and additional information. On October 6, 2017, the Permittees submitted their response to the TID. NMED has reviewed this response and is issuing this draft Permit. The draft Permit is based on the submitted modification request and the information requested by NMED.

NMED also announces the availability of a Fact Sheet providing the basis for its proposed action on the Permit, and the significant factual, legal, and policy questions considered in preparing the draft Permit. The Fact Sheet explains the basis for Permit changes, including applicable statutory and regulatory support.

PUBLIC REVIEW OF THE DRAFT PERMIT

The Administrative Record for this proposed action consists of the Permit Modification Request, the draft Permit, this Public Notice, the Fact Sheet, and supporting documentation. The Administrative Record may be reviewed, with prior appointment, at the following locations during the public comment period:

NMED - Hazardous Waste Bureau
2905 Rodeo Park Drive East, Building 1
Santa Fe, New Mexico 87505-6303
Phone: (505) 476-6000
Monday – Friday: 8:00 a.m. to 5:00 p.m.
Contact: Pam Allen

NMED- DOE Oversight Bureau
406 N. Guadalupe, Suite C
Carlsbad, NM 88220
Phone: (575) 885-9023
Monday – Friday: 8:00 a.m. to 5:00 p.m.
Contact: Makzyla Viehweg

A copy of the draft Permit, this Public Notice, the Fact Sheet, the modification request and an index of the Administrative Record is also available on NMED's website at: <https://www.env.nm.gov/hazardous-waste/wipp/>. To obtain a copy of the Administrative Record or a portion thereof, please contact Ms. Pam Allen at (505) 476-6000 or at address given above. NMED will provide copies, or portions thereof, of the Administrative Record, including the draft Permit, at a cost to the requestor.

This public notice issued on February 22, 2018, announces the beginning of a 60-day comment period that will end at 5:00 p.m. MST, April 23, 2018. Any person who wishes to comment on the draft Permit or request a public hearing should submit written or electronic mail (e-mail) comment(s) with the commenter's name and mailing address to the address below. Only comments and/or requests for public hearing received before 5:00 p.m. MST on April 23, 2018 will be considered.

Ricardo Maestas, WIPP Project Manager
Hazardous Waste Bureau - New Mexico Environment Department
2905 Rodeo Park Drive East, Building 1
Santa Fe, New Mexico 87505-6303
Phone: (505) 476-6000
Fax: (505) 476-6030
E-mail: ricardo.maestas@state.nm.us
Ref: WIPP Draft Permit

Written comments should include, to the extent practicable, all referenced factual materials. Documents in the Administrative Record need not be re-submitted if expressly referenced by the commenter. Requests for a public hearing shall provide: (1) a clear and concise factual statement of the nature and scope of the interest of the person requesting the hearing; (2) the name and address of all persons whom the requestor represents; (3) a statement of any objections to the draft Permit, including specific references to any conditions being modified; and (4) a statement of the issues which the commenter proposes to raise for consideration at the hearing. Written comment and requests for public hearing must be filed with Mr. Ricardo Maestas on or before 5:00 p.m. MST, April 23, 2018. NMED will provide a thirty (30) day notice of a public hearing, if scheduled.

NMED must ensure that the final Permit is consistent with the New Mexico Hazardous Waste Management Regulations. All written comments submitted will be considered in formulating a final decision and may cause the draft Permit to be modified. NMED will respond in writing to all public comments. This response will specify which provisions, if any, of the draft Permit have been changed in the final decision and the reasons for the changes. All persons presenting written comments or who requested notification in writing will be notified of the decision by mail. These responses will also be posted on the NMED's website.

After consideration of all written public comments received and all data, views, and arguments presented at the public hearing, if one is held, NMED will issue, or modify and issue, the Permit. The

Applicants shall be provided by mail a copy of any relevant modified documents and a detailed written statement of reasons for the modifications.

The Secretary of the Environment Department will make the final decision publicly available and shall notify the Applicants by certified mail. The Secretary's decision shall constitute a final agency decision and may be appealed as provided by the HWA (Chapter 74, Article 4 NMSA 1978).

ARRANGEMENTS FOR PERSONS WITH DISABILITIES

Any person having a disability and requiring assistance or auxiliary aid to participate in this process should contact Donna Wright no less than 10 days prior to the end of the public comment period at the following address: New Mexico Environment Department, P.O. Box 5469, 1190 St. Francis Drive, Santa Fe, New Mexico, 87502-6110, (505) 827-9769. TDD or TDY users please access Ms. Wright's number via the New Mexico Relay Network at 1 (800) 659-8331.

NON-DISCRIMINATION STATEMENT

NMED does not discriminate on the basis of race, color, national origin, disability, age or sex in the administration of its programs or activities, as required by applicable laws and regulations. NMED is responsible for coordination of compliance efforts and receipt of inquiries concerning non-discrimination requirements implemented by 40 C.F.R. Part 7, including Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, and Section 13 of the Federal Water Pollution Control Act Amendments of 1972. If you have any questions about this notice or any of NMED's nondiscrimination programs, policies or procedures, you may contact:

**Kristine Pintado, Non-Discrimination Coordinator
New Mexico Environment Department
1190 St. Francis Dr., Suite N4050
P.O. Box 5469
Santa Fe, NM 87502
(505) 827-2855
NMED.NDC@state.nm.us**

If you believe that you have been discriminated against with respect to a NMED program or activity, you may contact the Non-Discrimination Coordinator identified above or visit our website at <https://www.env.nm.gov/non-employee-discrimination-complaint-page/> to learn how and where to file a complaint of discrimination.



Estado de Nuevo México
DEPARTAMENTO DEL MEDIO AMBIENTE



Oficina de Residuos Peligrosos

SUSANA MARTINEZ
 Gobernadora

2905 Rodeo Park Drive East, Building 1
 Santa Fe, New Mexico 87505-6313
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BUTCH TONGATE
 Secretario de Gabinete

JOHN A. SANCHEZ
 Vicegobernador

www.env.nm.gov

J.C. BORREGO
 Secretario Adjunto

AVISO PÚBLICO NÚM. 18-01

DEPARTAMENTO DEL MEDIO AMBIENTE DE NUEVO MÉXICO
OFICINA DE RESIDUOS PELIGROSOS
SANTA FE, NUEVO MÉXICO
22 de febrero de 2018

AVISO DEL PERÍODO PARA PRESENTAR COMENTARIOS DEL PÚBLICO Y DE LA OPORTUNIDAD DE SOLICITAR UNA AUDIENCIA PÚBLICA RELATIVA AL PROYECTO DE PERMISO PARA RESIDUOS PELIGROSOS PARA LA PLANTA PILOTO DE AISLAMIENTO DE RESIDUOS NÚMERO DE IDENTIFICACIÓN EPA: NM4890139088-TSDF

El Departamento del Medio Ambiente de Nuevo México (“NMED” por su sigla en inglés) hace público el proyecto de Permiso para una Planta de Residuos Peligrosos (“proyecto de Permiso”) para la Planta Piloto de Aislamiento de Residuos (“WIPP” por su sigla en inglés, o “la Planta”) para recibir comentarios del público. El 10 de noviembre de 2016, el Departamento de Energía de los Estados Unidos (DOE por su sigla en inglés) y Nuclear Waste Partnership LLC (“NWP”) (conjuntamente, los “Permisionarios”) presentaron ante el NMED una solicitud de modificación revisada. La solicitud incluye modificaciones para el Plan de Cierre de Paneles de WIPP.

La Planta WIPP tiene actualmente permiso para manejar, almacenar y depositar residuos peligrosos, y para cerrar unidades de depósito de residuos peligrosos, conforme a la Ley de Nuevo México para Residuos Peligrosos (“HWA” por su sigla en inglés) y los reglamentos para su implementación. El NMED tiene a su cargo la emisión de un permiso que garantizará que las operaciones con residuos peligrosos de la Planta WIPP se realicen de manera que protejan la salud de los seres humanos y el medio ambiente.

La Planta WIPP está ubicada al norte de la Carretera Jal (Carretera Estatal 128) en el condado de Eddy, Nuevo México, aproximadamente 26 millas al este de Carlsbad. WIPP es una planta para residuos peligrosos que funciona actualmente bajo un Permiso emitido por el NMED, que autoriza el manejo, el almacenamiento y el depósito de residuos transuránicos (TRU por su sigla en inglés) mixtos en la Planta. Residuos mixtos son residuos radioactivos que también son residuos peligrosos según lo definido por la HWA y están, por lo tanto, sujetos a las normas del NMED. La Planta pertenece al DOE y está administrada por ese departamento conjuntamente con NWP. Estas entidades se denominan colectivamente “Permisionarios” o “WIPP” en el proyecto de Permiso y en este aviso público.

WIPP es una planta autorizada por el Congreso para depositar materiales de residuos radioactivos TRU generados por actividades de defensa con energía atómica. WIPP se ocupa de la gestión de residuos

regulados por la Ley Federal de Conservación y Recuperación de Recursos ("RCRA" por su sigla en inglés); la Ley de Nuevo México para Residuos Peligrosos ("HWA" por su sigla en inglés), Capítulo 74, Artículo 4 NMSA 1978, y los reglamentos para su implementación. En 1999, WIPP recibió del NMED un Permiso para plantas de residuos peligrosos para depósito de contenedores de residuos TRU mixtos a una profundidad de 2,150 pies por debajo de la superficie de la tierra, en un repositorio geológico minado ubicado dentro de la Formación Salado. Los contenedores de residuos deben someterse a la caracterización completa de residuos por los sitios generadores/almacenadores, conforme a los requisitos establecidos en el Permiso, antes de su depósito. La Planta WIPP está autorizada para aceptar contenedores de residuos TRU de manejo por contacto con una dosis superficial de menos de 200 milirem por hora, que pueden manipularse de manera directa. La Planta WIPP también está autorizada para aceptar contenedores de residuos TRU de manejo remoto con una dosis superficial de 200 milirem o mayor, que deben manipularse remotamente o con suficiente protección para reducir la dosis efectiva.

Los interesados en comunicarse con la Planta WIPP podrán hacerlo a través de las siguientes direcciones postales: DOE Carlsbad Field Office, P.O. Box 3090, Carlsbad, New Mexico 88221-3090; y Nuclear Waste Partnership LLC, P.O. Box 2078, Carlsbad, New Mexico 88221-2078. Principal información de contacto con los Permissionarios para esta acción relativa a un permiso: Mike Brown, Director, Office of Environmental Protection, DOE Carlsbad Field Office, P.O. Box 3090, Carlsbad, New Mexico 88221-3090.

El proyecto de Permiso es una modificación propuesta para el Permiso existente. Los Permissionarios presentaron una solicitud de modificación el 20 de marzo de 2013. Las reuniones públicas se llevaron a cabo en Santa Fe y Albuquerque el 16 y el 18 de abril de 2013. El 29 de julio de 2013, el NMED determinó que la solicitud estaba administrativamente completa y que constituía una solicitud presentada de manera oportuna y completa conforme a los reglamentos. El 20 de septiembre de 2013, el NMED emitió una Determinación de Información Técnica Incompleta ("TID" por su sigla en inglés), y solicitó aclaraciones e información adicional. Los Permissionarios proporcionaron una respuesta el 29 de octubre de 2013. El NMED examinó la respuesta y, el 14 de febrero de 2014, publicó un proyecto de Permiso con un plazo de 60 días para recibir comentarios del público. El 21 de marzo de 2014, el NMED retiró el proyecto de Permiso como consecuencia de las investigaciones en curso correspondientes al incendio de un camión para transporte de sal y la ruptura de un tambor ocurridos en la Planta WIPP en febrero de 2014. En el momento en que el NMED retiró el proyecto de Permiso, no se habían presentado comentarios. El 22 de julio de 2015, el NMED emitió una segunda TID y pidió que los Permissionarios actualizaran la solicitud de modificación para reflejar las condiciones actuales de la Planta. Los Permissionarios presentaron su respuesta a la TID y una solicitud de modificación revisada el 10 de noviembre de 2016. El NMED examinó la solicitud revisada y emitió una determinación de Cumplimiento Administrativo el 14 de agosto de 2017 y una tercera TID subsecuente el 17 de agosto de 2017, en la que solicitó aclaraciones e información adicional. El 6 de octubre de 2017, los Permissionarios sometieron su respuesta a la TID. El NMED ha examinado esta respuesta y emite este proyecto de Permiso. El proyecto de Permiso se basa en la solicitud de modificación presentada y la información solicitada por el NMED.

El NMED también anuncia que dispone de una Hoja de Datos que proporciona el fundamento de la acción propuesta para el Permiso y las cuestiones importantes de carácter fáctico, legal y político que se consideraron al preparar el proyecto de Permiso. La Hoja de Datos explica el fundamento de los cambios para el Permiso, e incluye las correspondientes bases jurídicas y reglamentarias.

REVISIÓN PÚBLICA DEL PROYECTO DE PERMISO

El Registro Administrativo para esta acción propuesta consta de la Solicitud de Modificación de Permiso, el proyecto de Permiso, este Aviso Público, la Hoja de Datos y la documentación de apoyo. Los interesados podrán revisar el Registro Administrativo, con cita previa, en las siguientes direcciones, durante el período establecido para comentarios del público:

NMED - Hazardous Waste Bureau
2905 Rodeo Park Drive East, Edificio 1
Santa Fe, Nuevo México 87505-6303
Teléfono: (505) 476-6000
Lunes a viernes de 8:00 de la mañana a 5:00 de la tarde
Contacto: Pam Allen

NMED- DOE Oversight Bureau
406 N. Guadalupe, Suite C
Carlsbad, NM 88220
Teléfono: (575) 885-9023
Lunes a viernes de 8:00 de la mañana a 5:00 de la tarde
Contacto: Makayla Viehweg

También se dispone de la copia del proyecto de Permiso, este Aviso Público, la Hoja de Datos, la solicitud de modificación y un índice del Registro Administrativo en el sitio web del NMED en: <https://www.env.nm.gov/hazardous-waste/wipp>. Quienes deseen una copia del Registro Administrativo o de una parte del mismo deberán comunicarse con la Srta. Pam Allen al (505) 476-6000 o en la dirección antes mencionada. El NMED proporcionará copias del Registro Administrativo o de partes del mismo, incluso del proyecto de Permiso, por una tarifa a quien lo solicite.

Este aviso público, emitido el 22 de febrero de 2018, anuncia el inicio del período de 60 días para recibir comentarios, que finalizará a las 5 de la tarde del 23 de abril de 2018. Quienes deseen comentar sobre el proyecto de Permiso o solicitar una audiencia pública deberán presentar sus comentarios escritos o enviarlos por correo electrónico (*e-mail*) con el nombre y la dirección postal del autor de los comentarios a la dirección que aparece más abajo. Se considerarán solamente los comentarios y las solicitudes de audiencia pública que se reciban antes de las 5:00 de la tarde del 23 de abril de 2018.

Ricardo Maestas, WIPP Project Manager
Hazardous Waste Bureau - New Mexico Environment Department
2905 Rodeo Park Drive East, Building 1
Santa Fe, New Mexico 87505-6303
Teléfono: (505) 476-6000
Fax: (505) 476-6030
Correo electrónico: ricardo.maestas@state.nm.us
Ref: WIPP Draft Permit

Los comentarios escritos deberán incluir, en la medida de lo posible, todos los materiales fácticos a los que se haga referencia. No es necesario volver a presentar documentos que se encuentren en el Registro Administrativo si el autor de los comentarios hace expresamente referencia a los mismos. Las solicitudes de audiencia pública deberán incluir: (1) una declaración fáctica clara y concisa de la naturaleza y el alcance del interés de la persona que solicita la audiencia; (2) el nombre y la dirección de todas las personas a quienes representa el solicitante; (3) una declaración de todas las objeciones al proyecto de Permiso, incluso referencias específicas a cualquiera de las condiciones que se estén modificando; y (4) una declaración de los asuntos que el autor de los comentarios propone plantear para su consideración en la audiencia. Los comentarios escritos y las solicitudes de audiencia pública deben ser entregados al Sr. Ricardo Maestas antes de las 5:00 de la tarde del 23 de abril de 2018. El NMED proporcionará un aviso de audiencia pública treinta (30) días antes de la audiencia si fuera programada.

El NMED debe garantizar que el Permiso final sea congruente con el Reglamento de Nuevo México para el Manejo de Residuos Peligrosos. Se considerarán todos los comentarios presentados por escrito para tomar la decisión final y esto podrá tener como resultado que el Permiso sea modificado. El NMED

responderá por escrito a todos los comentarios recibidos del público. Esa respuesta especificará qué disposiciones, de haber alguna, del proyecto de Permiso se han cambiado en la decisión final y los motivos para hacer esos cambios. Todos aquellos que presenten comentarios escritos o que hayan solicitado notificación por escrito serán notificados por correo sobre la decisión. Esas respuestas también serán publicadas en el sitio web del NMED.

Luego de considerar todos los comentarios escritos recibidos del público y todos los datos, puntos de vista y argumentos presentados en la audiencia pública, en caso de celebrarse, el NMED emitirá, o modificará y emitirá, el Permiso. Los Solicitantes recibirán por correo una copia de todos los documentos pertinentes modificados y una declaración escrita detallada de los motivos de las modificaciones.

El Secretario del Departamento del Medio Ambiente pondrá a disposición del público la decisión final y notificará a los Solicitantes por correo certificado. La decisión del Secretario constituirá la decisión final del departamento y podrá apelarse conforme a la ley HWA (Capítulo 74, Artículo 4 NMSA 1978).

ADAPTACIONES PARA PERSONAS CON DISCAPACIDADES

Aquellas personas con discapacidades y que necesiten asistencia o un dispositivo auxiliar para participar en este proceso deben comunicarse con Donna Wright como mínimo 10 días antes de la finalización del período de presentación de comentarios del público en la siguiente dirección: New Mexico Environment Department, P.O. Box 5469, 1190 St. Francis Drive, Santa Fe, New Mexico, 87502-6110, (505) 827-9769. Los usuarios de TDD y TDY podrán acceder al número de la Srta. Wright a través de New Mexico Relay Network: 1 (800) 659-8331.

DECLARACIÓN DE NO DISCRIMINACIÓN

El NMED no discrimina por motivos de raza, color, origen nacional, discapacidad, edad o sexo en la administración de sus programas o actividades, según lo exigido por las leyes y los reglamentos correspondientes. El NMED es responsable de la coordinación de esfuerzos para el cumplimiento de las reglas y la recepción de indagaciones relativas a los requisitos de no discriminación implementados por 40 C.F.R. Parte 7, que incluye el Título VI de la Ley de Derechos Civiles de 1964, como fuera enmendado; la Sección 504 de la Ley de Rehabilitación de 1973; la Ley de Discriminación por Edad de 1975; el Título IX de las Enmiendas de Educación de 1972; y la Sección 13 de las Enmiendas a la Ley Federal de Control de la Contaminación del Agua de 1972. Si tiene preguntas sobre este aviso o sobre cualquier programa, política o procedimiento de no discriminación del NMED, puede comunicarse con la Coordinadora de No Discriminación:

Kristine Pintado, Non-Discrimination Coordinator
New Mexico Environment Department
1190 St. Francis Dr., Suite N4050
P.O. Box 5469
Santa Fe, NM 87502
(505) 827-2855
NMED.NDC@state.nm.us

Si piensa que ha sido discriminado con respecto a un programa o actividad del NMED, puede comunicarse con la Coordinadora de No Discriminación antes indicada o visitar nuestro sitio web en <https://www.env.nm.gov/non-employee-discrimination-complaint-page/> para saber cómo y dónde presentar una queja por discriminación.



SUSANA MARTINEZ
Governor

JOHN A. SANCHEZ
Lieutenant Governor

State of New Mexico
ENVIRONMENT DEPARTMENT

Hazardous Waste Bureau

2905 Rodeo Park Drive East, Building 1
Santa Fe, New Mexico 87505-6313
Phone (505) 476-6000 Fax (505) 476-6030

www.env.nm.gov



BUTCH TONGATE
Cabinet Secretary

J.C. BORREGO
Deputy Secretary

FACT SHEET
FEBRUARY 22, 2018

**NOTICE OF INTENT TO APPROVE A CLASS 3 MODIFICATION
TO CHANGE THE PANEL CLOSURE DESIGN AT THE
WASTE ISOLATION PILOT PLANT (WIPP)
CARLSBAD, NEW MEXICO**

Facility Name: Waste Isolation Pilot Plant

EPA Identification Number: NM4890139088-TSDF

GENERAL BACKGROUND

The New Mexico Environment Department (“NMED”) intends to issue a modification to the Hazardous Waste Facility Permit (“Permit”) for the Waste Isolation Pilot Plant (“WIPP”, or “the WIPP facility”) to manage, store, and dispose hazardous waste, and to close hazardous waste disposal units, in accordance with the New Mexico Hazardous Waste Act (“HWA”) and its implementing regulations. NMED is charged with issuing a permit that will ensure that WIPP’s hazardous waste operations are managed in a manner protective of human health and the environment. Prior to issuing a permit, NMED is required by regulation to release a draft of the revisions to the permit for public comment. NMED is also required to issue a fact sheet which serves two functions: 1) to facilitate public review of that draft permit; and 2) to provide a brief summary of the basis for draft permit conditions.

WIPP is a facility authorized by Congress for the disposal of transuranic (“TRU”) radioactive waste materials generated by atomic energy defense activities of the United States. The Department of Energy (“DOE”) owns the WIPP facility and DOE and Nuclear Waste Partnership LLC (“NWP”) co-operate the WIPP facility. These entities are collectively referred to as “the Permittees” in the draft Permit and this fact sheet.

The Permittees received a Permit from NMED in 1999 to dispose of TRU mixed waste containers 2,150 feet below ground in a mined geologic repository within the Salado Formation. This Permit was renewed in 2010. The WIPP facility is permitted to accept hazardous waste that is managed by DOE as contact-handled (“CH”) TRU mixed waste (transuranic mixed waste with a surface dose rate not greater than 200 millirem per hour). The WIPP facility is also permitted to accept hazardous waste that is managed by DOE as remote-handled (“RH”) TRU mixed waste (transuranic mixed waste with a surface dose rate of 200 millirem or greater). The containers of waste must undergo complete waste characterization by the generator/storage sites in compliance with requirements of the Permit prior to disposal.

This fact sheet describes the general background for the draft Permit, including; a physical description of the WIPP facility, its hazardous waste activities, the draft Permit, how the public may be involved in the permitting process, and the technical and regulatory basis for permit requirements and conditions.

DESCRIPTION OF THE WIPP FACILITY

The WIPP facility is located 26 miles southeast of Carlsbad, New Mexico in a remote desert area where there exists a 2,000-foot-thick salt bed. Openings have been mined 2,150 feet underground near the middle of the salt formation. WIPP is a geologic repository mined within a bedded salt formation, which is defined in 20.4.1.101 New Mexico Administrative Code (“NMAC”) (incorporating 40 CFR §260.10) as a miscellaneous unit. As such,

Hazardous Waste Disposal Units ("HWDUs") within the repository are eligible for permitting according to 20.4.1.900 NMAC (incorporating 40 CFR §270), and are regulated under 20.4.1.500 NMAC, (incorporating 40 CFR §264, Subpart X, Miscellaneous Units).

TYPE AND QUANTITY OF WASTES WHICH ARE STORED AND DISPOSED

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

EPA hazardous waste numbers with the prefixes, "U", "F", "P", and "D", identified at 20.4.1.200 NMAC (incorporating 40 CFR Part 261, Subparts C and D), apply to TRU mixed waste streams managed at the WIPP Facility. Specifically: (1) D codes denote the characteristics of ignitability (D001), corrosivity (D002), reactivity (D003), and toxicity (D004- D043); (2) F codes signify wastes from non-specific sources; and (3) P and U codes denote discarded commercial chemical products, off-specification species, container residues, and spill residues thereof, with the P codes signifying acutely hazardous wastes and the U codes signifying toxic wastes. Wastes with the characteristics of ignitability, corrosivity or reactivity (D001, D002, and D003) are explicitly prohibited from management, storage, or disposal at the WIPP facility. The existing Permit identifies the EPA hazardous waste numbers that are acceptable at the WIPP facility.

PERMIT MODIFICATION SUMMARY AND BASIS FOR THE DRAFT PERMIT

NMED's issuance of the draft Permit is in response to the Permittees' revised Permit modification request dated November 10, 2016. The foundation for the draft Permit is the current Permit as of December 2017.

The Permittees originally submitted a Class 3 permit modification request on March 20, 2013 that included *Panel Closure Redesign, Repository Reconfiguration with Panel 9a and Panel 10a, and Volatile Organic Compound ("VOC") Monitoring Program Changes*. Public meetings were held in Santa Fe and Albuquerque on April 16 and 18, 2013. On July 29, 2013, NMED determined the application to be administratively complete and that it constituted a timely and complete application under the regulations. On September 20, 2013 NMED issued a Technical Incompleteness Determination ("TID"), requesting clarification and additional information. The Permittees provided a response on October 29, 2013. NMED reviewed the response and on February 14, 2014 issued a draft Permit for a 60-day public comment period. On March 21, 2014, NMED withdrew the draft Permit as a result of the ongoing investigations into the salt haul vehicle fire and drum breach that occurred at the WIPP facility in February 2014. No comments had been submitted at the time NMED withdrew the draft Permit. On July 22, 2015, NMED issued a second TID and requested that the Permittees update the modification request to reflect current conditions at the WIPP facility. The Permittees submitted their response to the second TID and also submitted a revised Class 3 Permit modification request on November 10, 2016. The revised Permit modification request did not include *Repository Reconfiguration and VOC Monitoring Program Changes*. The revised Permit modification did include *Modifications to the WIPP Panel Closure Plan*. NMED reviewed the revised request and issued a determination of Administrative Completeness on August 14, 2017, and a subsequent third TID on August 17, 2017 requesting clarification and additional information. On October 6, 2017, the Permittees submitted their response to the third TID. NMED is now issuing this draft Permit. The draft Permit is based on the revised modification request submitted on November 10, 2016, and the additional information requested by NMED.

The currently approved WIPP Panel Closure ("WPC") consists of a 12-foot long concrete block explosion isolation wall and a 26-foot long concrete monolith. Explosion isolation walls have been constructed in Panels 1, 2, and 5, but no concrete monoliths have yet been constructed. The proposed WPC consists of up to two components: bulkheads, used by themselves to close Panels 1 through 9; and bulkheads and run-of-mine ("ROM") salt used to close Panel 10. Closure Performance Standards are also being modified to reflect the modified Panel Closure. Changes proposed by the Permittees in their revised Permit modification and subsequent

typographical and editorial changes proposed in the Permittee responses to NMED, are indicated in the draft Permit as redline/strikeout with a white background. Permit Parts 1, 4, 6, 7, and Permit Attachments A2, A3, B, D, E, G, G1, G1-G, G1-H, H, N, and N1 will change as a result of this modification. Permit Attachment G1 is being replaced by a new Attachment G1. Permit Attachments G1-G, G1-H and N1 will no longer apply and will be removed. Permit Attachments G1-A and G1-B are new and will be added to the Permit. These portions of the Permit are the subject of the modification and are the only portions considered to be opened in this proceeding per 20.4.1.900 NMAC (incorporating 40 CFR §270.41). The draft Permit can be found on NMED's website located at the following link: <https://www.env.nm.gov/hazardous-waste/wipp/>.

NMED PROPOSED ACTION IN DRAFT PERMIT

NMED is issuing a draft Permit for public comment that considers the revised Permit modification submitted by the Permittees, along with subsequent typographical and editorial changes. NMED is proposing to approve the revised Permit modification, as submitted, ensuring compliance with the New Mexico Hazardous Waste Act, NMSA 1978, §§ 74-4-1 to -14 and the New Mexico Hazardous Waste Management Regulations, 20.4.1 NMAC.

PUBLIC REVIEW OF THE DRAFT PERMIT

The Administrative Record for this proposed action consists of the Permit Modification Request, the draft Permit, this Public Notice, the Fact Sheet, and supporting documentation. The Administrative Record may be reviewed, with prior appointment, at the following locations during the public comment period:

NMED - Hazardous Waste Bureau
2905 Rodeo Park Drive East, Building 1
Santa Fe, New Mexico 87505-6303
Phone: (505) 476-6000
Monday – Friday: 8:00 a.m. to 5:00 p.m.
Contact: Pam Allen

NMED- DOE Oversight Bureau
406 N. Guadalupe, Suite C
Carlsbad, NM 88220
Phone: (575) 885-9023
Monday – Friday: 8:00 a.m. to 5:00 p.m.
Contact: Makayla Viehweg

A copy of the draft Permit, this Public Notice, the Fact Sheet, the modification request and an index of the Administrative Record is also available on NMED's website located at the following link: <https://www.env.nm.gov/hazardous-waste/wipp/>. To obtain a copy of the Administrative Record or a portion thereof, please contact Ms. Pam Allen at (505) 476-6000 or at address given above. NMED will provide copies, or portions thereof, of the Administrative Record, including the draft Permit, at a cost to the requestor.

PUBLIC COMMENT AND REQUEST FOR HEARING

NMED shall issue a public notice on **February 22, 2018**, to announce the beginning of a 60-day comment period in accordance with 20.4.1.901 A(3) NMAC that will end at **5:00 p.m. MST, April 23, 2018**. Any person who wishes to comment on the draft Permit or request a public hearing should submit written or electronic mail (e-mail) comment(s) with the commenter's name and mailing address to the address below. Only comments and/or requests received before **5:00 p.m. MST on April 23, 2018** will be considered.

Ricardo Maestas, WIPP Project Manager
Hazardous Waste Bureau - New Mexico Environment Department
2905 Rodeo Park Drive East, Building 1
Santa Fe, New Mexico 87505-6303
Phone: (505) 476-6000
Fax: (505) 476-6030
E-mail: ricardo.maestas@state.nm.us

Ref: WIPP Draft Permit

Written comments should include, to the extent practicable, all referenced factual materials. Documents in the Administrative Record need not be re-submitted if expressly referenced by the commenter. Requests for a public hearing shall provide: (1) a clear and concise factual statement of the nature and scope of the interest of the person requesting the hearing; (2) the name and address of all persons whom the requestor represents; (3) a statement of any objections to the draft Permit, including specific references to any conditions being modified; and (4) a statement of the issues which the commenter proposes to raise for consideration at the hearing. Written comment and requests for public hearing must be filed with Mr. Ricardo Maestas on or before 5:00 p.m. MST, April 23, 2018. NMED will provide a thirty (30) day notice of a public hearing, if scheduled.

PROCEDURES FOR REACHING FINAL DECISION

NMED must ensure that the final Permit is consistent with the New Mexico Hazardous Waste Management Regulations. All written comments submitted will be considered in formulating a final decision and may cause the draft Permit to be modified. NMED will respond in writing to all public comments. This response will specify which provisions, if any, of the draft Permit have been changed in the final decision and the reasons for the changes. All persons presenting written comments or who requested notification in writing will be notified of the decision by mail. These responses will also be posted on the NMED's website.

After consideration of all written public comments received and all data, views, and arguments presented at the public hearing, if one is held, NMED will issue, or modify and issue, the Permit. The Applicants shall be provided by mail a copy of any relevant modified documents and a detailed written statement of reasons for the modifications.

The Secretary of the Environment Department will make the final decision publicly available and shall notify the Applicants by certified mail. The Secretary's decision shall constitute a final agency decision and may be appealed as provided by the HWA (Chapter 74, Article 4 NMSA 1978).

ARRANGEMENTS FOR PERSONS WITH DISABILITIES

Any person having a disability and requiring assistance or auxiliary aid to participate in this process should contact Donna Wright no less than 10 days prior to the end of the public comment period at the following address: New Mexico Environment Department, P.O. Box 5469, 1190 St. Francis Drive, Santa Fe, New Mexico, 87502-6110, (505) 827-9769. TDD or TDY users please access Ms. Wright's number via the New Mexico Relay Network at 1 (800) 659-8331.

NON-DISCRIMINATION STATEMENT

NMED does not discriminate on the basis of race, color, national origin, disability, age or sex in the administration of its programs or activities, as required by applicable laws and regulations. NMED is responsible for coordination of compliance efforts and receipt of inquiries concerning non-discrimination requirements implemented by 40 C.F.R. Part 7, including Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, and Section 13 of the Federal Water Pollution Control Act Amendments of 1972. If you have any questions about this notice or any of NMED's nondiscrimination programs, policies or procedures, you may contact:

Kristine Pintado, Non-Discrimination Coordinator
New Mexico Environment Department
1190 St. Francis Dr., Suite N4050
P.O. Box 5469
Santa Fe, NM 87502
(505) 827-2855
NMED.NDC@state.nm.us

If you believe that you have been discriminated against with respect to a NMED program or activity, you may contact the Non-Discrimination Coordinator identified above or visit our website at <https://www.env.nm.gov/non-employee-discrimination-complaint-page/> to learn how and where to file a complaint of discrimination.