



**PUBLIC NOTICE No. 22-06**

**NEW MEXICO ENVIRONMENT DEPARTMENT  
HAZARDOUS WASTE BUREAU  
SANTA FE, NEW MEXICO  
December 20, 2022**

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

**Facility Name:** Waste Isolation Pilot Plant  
**EPA Identification Number:** NM4890139088-TSDF

The New Mexico Environment Department (NMED) is seeking public comment on a Permit Renewal 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 Renewal Application [WIPP Facility Administrative Record (AR) 200318] to NMED on March 31, 2020, along with an Updated redline strikeout (RLSO) for the Renewal Application [AR 220321] on March 17, 2022. On December 8, 2022, NMED issued a preliminary Renewal Fact Sheet. Along with this Public Notice, a Fact Sheet is being reissued on December 20, 2022. Prior to issuing a Permit, NMED is required by regulation to release a draft of the revisions to the Permit for public comment. This Public Notice, the reissued Fact Sheet, and the draft Permit are available on the NMED Hazardous Waste Bureau (HWB) WIPP News webpage at: <https://www.env.nm.gov/hazardous-waste/wipp/>. Please see information throughout this document to enable public participation in this Permit action.

**GENERAL BACKGROUND**

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 owns the WIPP facility, and DOE and NWP co-operate the WIPP facility.

WIPP manages wastes that are regulated under the federal Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §§ 6901 et seq., the New Mexico Hazardous Waste Act Chapter 74, Article 4 NMSA 1978 (HWA), and their implementing regulations. WIPP is a hazardous waste facility currently operating under a Permit issued by NMED authorizing the management, storage, and disposal of 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. WIPP is currently permitted to manage, store, and dispose of hazardous waste, and to close hazardous waste disposal units, in accordance with these regulations. NMED is charged with issuing a Permit that will ensure WIPP's hazardous waste operations are managed in a manner protective of human health and the environment.

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.

<b>Additional and important details are available in the December 20, 2022 Reissued FACT SHEET.</b>
See Fact Sheet online here: <a href="https://www.env.nm.gov/hazardous-waste/wipp/">https://www.env.nm.gov/hazardous-waste/wipp/</a>
Request Fact Sheet from Ricardo Maestas, WIPP Group Staff Manager here:  E-mail: <a href="mailto:ricardo.maestas@env.nm.gov">ricardo.maestas@env.nm.gov</a> OR Postal Mail: Ricardo Maestas, WIPP Group Staff Manager Hazardous Waste Bureau - New Mexico Environment Department 2905 Rodeo Park Drive East, Building 1 Santa Fe, New Mexico 87505-6303

#### **DESCRIPTION OF THE WIPP FACILITY**

The WIPP facility is located approximately 26 miles east 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 this 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).

#### **PERMIT RENEWAL**

Permit renewals are planned events based on the Permit expiration date. The application for a new Permit is due at least 180 calendar days before the expiration date of the current Permit. The current Permit remains in effect pursuant to 40 CFR §270.51 and Permit Part 1, Section 1.7.4 while the Renewal Application is being processed as long as an on-time application has been received. During the reissuance proceeding for the Permit, pursuant to 20.4.1.901.B.7 NMAC, the Permittees have a duty to comply with all conditions of the existing Permit until a new final Permit is issued.

#### **CURRENT PERMIT RENEWAL ACTIONS TO DATE**

The Permittees developed an internal Renewal Application working group and plan during the January to March 2019 timeframe. On March 30, 2019, the Permittees and NMED held the first scoping meeting to discuss the current Renewal. In July 2019, the Permittees agreed to submit a simple Renewal package with an early submittal date at the behest of NMED. Further scoping meetings were held between NMED and the Permittees August 14-15 and 27, 2019 to discuss changes being introduced for Renewal. On September 10, 2019 in Carlsbad and September 12, 2019 in Santa Fe, the Permittees hosted Renewal

scoping meetings with the public [AR 190907.5]. On December 21, 2019, the Permittees posted the draft version of the Renewal Application RLSO on their webpage. On January 23, 2020 in Santa Fe and on January 30, 2020 in Carlsbad, the Permittees held Pre-Application Public Meetings [AR 191219]. On March 31, 2020, the Permittees submitted the Renewal Application [AR 200318] to NMED ahead of the required 180 days before the Permit expiration date of December 30, 2020. Notice of the availability of the Renewal Application with a link to it on the Permittees' website was posted by NMED on the HWB WIPP News webpage shortly after submittal. On August 28, 2020, NMED issued a Public Notice [AR 200816] announcing the availability of the Renewal Application for review, broadcast a Public Service Announcement [AR 200817], posted documents associated with it on the HWB WIPP News webpage, and placed hard copies of the Renewal Application at the Carlsbad Public Library and the La Farge branch of the Santa Fe Public Library to facilitate public review. Once Covid-19 restrictions were reduced, hard copies also became available at the Carlsbad NMED DOE-Oversight Bureau office and the Santa Fe HWB office. On October 6, 2020, NMED determined administrative completeness [AR 201003], issued an invoice [AR 210320] to the Permittees on March 18, 2021, and received payment by the Permittees [AR 210405] on April 8, 2021. On August 3, 2021, NMED received a Class 3 PMR entitled, "*Construction and Use of Hazardous Waste Disposal Units 11 and 12*" [AR 210718] and the Permittees issued a Public Notice [AR 210804] announcing a public comment period for the PMR. Public comments received by NMED during this comment period on the Class 3 PMR are summarized in AR 211001 with comments added as AR 211001.01 through AR 211001.49. On December 17, 2021, NMED issued a letter [AR 211208] requiring the Permittees to consolidate the Class 3 PMR with the Renewal Application and submit an updated RLSO. On March 17, 2022, the Permittees submitted the Updated RLSO [AR 220321], posted it on their webpage, and provided notification to the WIPP Facility Mailing List [AR 220320]. On April 20, 2022, NMED held an informal stakeholder meeting to provide and gather information on Renewal issues and concerns [AR 220419]. A video recording of the meeting was posted on the HWB WIPP News webpage. On April 28, 2022, the Permittees held a townhall meeting [AR 220420] to provide information on the submittal of the Updated RLSO. On May 13, 2022, NMED issued a Technical Incompleteness Determination (TID) for the Renewal Application and requested additional information in order for NMED to complete its review and prepare a draft Permit. The TID requested two separate response timeframes. The Permittees submitted the 45-Day TID Response [AR 220512] on-time on June 27, 2022, and the 60-Day TID Response on-time on July 12, 2022 [AR 220709]. A preliminary Renewal Fact Sheet was issued on December 8, 2022 [AR 221207]. This Public Notice, the reissued Fact Sheet, a Public Service Announcement, and the draft Permit are being issued on December 20, 2022.

#### **BASIS FOR THE DRAFT PERMIT**

In preparing the draft Permit, NMED considered the March 31, 2020 Renewal Application and supporting documents, the March 17, 2022 Updated RLSO, the 45-Day TID Response, the 60-Day TID Response, public comments received at all stages of the Renewal process and public comments received during the Class 3 PMR comment period for Panels 11 and 12, perspectives gained through NMED's and the Permittees' public outreach efforts, the NMED technical contractor's review, and applicable statutory and regulatory provisions.

The foundation for the draft Permit is the current Permit as of November 2022 with relevant modifications. The entire Permit is the subject of the draft Permit and this Renewal proceeding, and all portions are considered to be opened in this proceeding per 20.4.1.901.B.7 NMAC (incorporating 40 CFR § 270.41). The draft Permit can be found on the HWB WIPP News webpage at: <https://www.env.nm.gov/hazardous-waste/wipp/>.

**PERMIT ORGANIZATION AND FORMAT UPDATES**

The Permit is organized into eight (8) Parts, which contain the required conditions under which the Permittees can conduct their waste management activities, and thirty-four (34) Attachments which provide details of how the Permittees are to comply with the required conditions. The entire Permit comprises approximately 1,200 pages.

The draft Permit is being updated with multiple formatting changes to enhance organization. Within the Parts, cover pages have been added and the tables of contents have been moved to the fronts of the documents. Across all Parts and Attachments, the page numbers have been simplified at the bottom center of the pages and the headers are all left-justified and denote the particular Part or Attachment. The word “Facility” has also been added to one line of the headers. For ease of review, these formatting updates are not shown in RLSO in the draft Permit. Note: NMED has removed lists of “Permit Attachments” at the end of the Parts. These references were artifacts from the last Renewal process.

**PERMITTEES PROPOSED CHANGES IN RENEWAL APPLICATION AND UPDATED RLSO**

The Permittees’ proposed changes are represented by **redline strikeout (RLSO)** in the draft Permit. A detailed description of all changes proposed by the Permittees can be found in the Renewal Application [AR 200318] in the table titled “Summary of Proposed Changes,” as well as in the Updated RLSO [AR 210321] in “Enclosure 2: Consolidation Matrix.” The Permittees have proposed several significant changes including the removal of defined closure dates from the Permit, instead tying closure to when permitted HWDUs are filled or have achieved their maximum capacities as outlined in Permit Part 4, or when the WIPP facility achieves its capacity of Land Withdrawal Act TRU waste volume; the addition of Panels 11 and 12; changes to reference DOE radiation guidance documents; and the consolidation of Permit figures into Attachment M, except where they have been retained in Attachments C and D. The Permittees have also attempted to streamline the Permit by reducing redundant language contained in multiple locations and by removing obsolete information and updating language with current information.

**NMED PROPOSED CHANGES IN DRAFT PERMIT**

NMED is proposing several changes to the Permit, 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.

NMED proposed changes are distinguished from changes made by the Permittees in the Renewal Application and Updated RLSO by **turquoise highlighting**. Similarly, where NMED has retained Permit language proposed for removal by the Permittees, the retained Permit language has turquoise highlighting. Since the Parts are the responsibility of the permitting agency, all language changed within Parts is captured in turquoise highlighting, having been proposed by NMED. NMED proposed changes to the Parts and Attachments in the draft Permit (aside from small editorial changes) are summarized in a table in the December 20, 2022 reissued Fact Sheet, including columns specifying the exact location of the proposed language in the draft Permit, in order to facilitate review.

<b>Additional and important details available in the December 20, 2022 Reissued FACT SHEET.</b>
See Fact Sheet online here: <a href="https://www.env.nm.gov/hazardous-waste/wipp/">https://www.env.nm.gov/hazardous-waste/wipp/</a>

**PUBLIC COMMENT AND REQUEST FOR HEARING**

NMED is issuing this Public Notice on **December 20, 2022**, 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. MT, February 18, 2023**. Any person who wishes to comment on the draft Permit and/or request a public hearing should submit a written comment through NMED’s Public Comment Portal or by email or by postal mail, as detailed below. Please include the commenter’s name, and postal or email address. Only comments and/or requests received before **5:00 p.m. MT on February 18, 2023** will be considered.

**Three Methods to Submit Public Comments and/or Requests for a Public Hearing:**

Method	How to Submit
Public Comment Portal	Please click on this link and fill out your comment: <a href="https://commentinput.com">Waste Isolation Pilot Plant Permit Renewal Public Comment (commentinput.com)</a>
Email	Ricardo Maestas, WIPP Group Staff Manager E-mail: <a href="mailto:ricardo.maestas@env.nm.gov">ricardo.maestas@env.nm.gov</a>
Postal Mail	Ricardo Maestas, WIPP Group Staff Manager Hazardous Waste Bureau - New Mexico Environment Department 2905 Rodeo Park Drive East, Building 1 Santa Fe, New Mexico 87505-6303

Please reference the *WIPP Renewal Draft Permit*.

Written comments should include, to the extent practicable, all referenced factual materials. Documents in the AR 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 comments and/or requests for a public hearing must be submitted before **5:00 p.m. MT, February 18, 2023**. NMED will provide a thirty (30) day notice of a public hearing.

**PUBLIC REVIEW OF THE DRAFT PERMIT/INFORMATION REPOSITORIES**

Electronic access to the draft Permit and associated documents, as well as the WIPP Facility AR, is available on the HWB WIPP News webpage at: <https://www.env.nm.gov/hazardous-waste/wipp/>.

**Hard Copy Information Repositories:**

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: Ricardo Maestas Please call to make an appointment.	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: Amber Gellis Please call to make an appointment.
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Santa Fe Public Library – La Farge Branch 1730 Llano Street Santa Fe, NM 87505 (505) 955-4860	Carlsbad Public Library 101 S Halagueno Street Carlsbad, NM 88220 (575) 885-6776
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To obtain a printed copy of any portion of the AR – including the reissued Fact Sheet, please contact Ricardo Maestas at (505) 476-6000 or by e-mail at: [ricardo.maestas@env.nm.gov](mailto:ricardo.maestas@env.nm.gov).

**PROCEDURES FOR REACHING FINAL DECISION**

NMED must ensure that the final Permit is consistent with the New Mexico Hazardous Waste Management regulations. After consideration of all written and oral public comments received and all data, views, and arguments presented at a public hearing, NMED will issue, modify and issue, or deny the Permit.

All written comments submitted will be considered in formulating a final decision and may cause the draft Permit to be modified or denied. NMED will provide notification of a final decision and a written response to comments, addressing all written public comments received during the comment period, on the HWB WIPP News webpage. The response to comments 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 submitting written comments will be notified of the final decision and the availability of the response to comments through an interested person’s letter.

The Secretary of the Environment Department, or their delegee, will make the final decision publicly available and shall notify the Permittees by certified mail. The 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 Kathryn Becker, Non-Discrimination Coordinator | NMED | 1190 St. Francis Dr., Suite N4050 | P.O. Box 5469 | Santa Fe, NM 87502 (505) 827-2855 or [nd.coordinator@env.nm.gov](mailto:nd.coordinator@env.nm.gov).

Toll-free numbers are available for TDD or TDY users to access the New Mexico Relay Network at 1-800-659-1779 (voice); TTY users: 1-800-659-8331.

**LANGUAGE SERVICES**

Any person needing language services (e.g., an interpreter at a public meeting or hearing, document translation) should contact Ricardo Maestas at (505) 476-6000 or by e-mail at: [ricardo.maestas@env.nm.gov](mailto:ricardo.maestas@env.nm.gov).

Real-time translation is now available on the NMED website, including on the HWB WIPP News webpage. NMED’s new WeGlot translation tool has been implemented and uses all four of the major machine translation services to achieve high-quality machine translation in real-time for the entire NMED website. Please notice a small drop-down box at the top of webpages on the right-hand side. This drop-down can be used to display the website in Spanish or Vietnamese currently.

**INTERNET ACCESS**

If internet access will be an issue for any person wishing to access documents on the HWB WIPP News

Renewal Draft Permit Public Notice  
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webpage, please contact Ricardo Maestas at (505) 476-6000 or by e-mail at: [ricardo.maestas@env.nm.gov](mailto:ricardo.maestas@env.nm.gov) for information on area hot spots and locations with free WiFi access.

**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 CFR Parts 5 and 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 non-discrimination programs, policies or procedures, you may contact: Kathryn Becker, Non-Discrimination Coordinator | NMED | 1190 St. Francis Dr., Suite N4050 | P.O. Box 5469 | Santa Fe, NM 87502 (505) 827-2855 or [nd.coordinator@env.nm.gov](mailto:nd.coordinator@env.nm.gov). If you believe that you have been discriminated against with respect to a NMED program or activity, you may contact the Non-Discrimination Coordinator.

**FACILITY CONTACT**

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: Michael Gerle, Director, Environmental Regulatory Compliance Division, DOE Carlsbad Field Office, P.O. Box 3090, Carlsbad, New Mexico 88221-3090.