

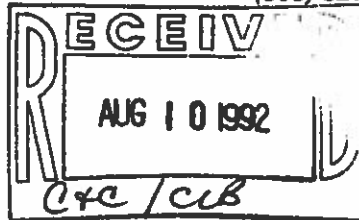


BRUCE KING
GOVERNOR

State of New Mexico
ENVIRONMENT DEPARTMENT
Harold Runnels Building
1190 St. Francis Drive, P.O. Box 26110
Santa Fe, New Mexico 87502
(505) 827-2850

JUDITH M. ESPINOSA
SECRETARY

RON CURRY
DEPUTY SECRETARY



**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

August 4, 1992

A. LaMar Trego
General Manager
Westinghouse Electric Corp.
P.O. Box 2078
Carlsbad, NM 88220

Arlen Hunt, Project Manager
WIPP Project Site Office
P.O. Box 3090
Carlsbad, NM 88220

Re: Waste Isolation Pilot Plant (WIPP); Notice of Deficiency
(NOD); Part A and Chapter B

Dear Messrs Trego & Hunt:

The New Mexico Environment Department (NMED) has completed its technical review of Part A and Chapter B of the Part B Waste Isolation Pilot Plant (WIPP) Application, revision 1.0, dated March 1992. After reviewing the Application, NMED finds it to be deficient. A summary of deficiencies identified in this initial review, and that must be addressed in accordance with the New Mexico Hazardous Waste Management Regulations (HWMR-6, as amended 1991), Part IX, 40 CFR § 264 and 270, are included in the attached Notice of Deficiency, "Completeness and Technical Review, Chapter B." This document includes a technical review of Chapter A, Chapter B and general comments pertinent to the entire Application.

The major deficiencies identified during this partial NOD review include: (1) the scope of the permit application, and (2) the definition of the test phase unit boundary. Discussion of these issues is found in a document entitled: "General Summary of Chapter B Deficiencies." This document was provided to DOE/WIPP during the July 30, 1992 meeting between NMED, A.T. Kearney, DOE, and Westinghouse. A copy has been enclosed with the NOD.

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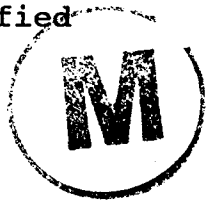
Messrs Trego & Hunt
August 4, 1992
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The technical review of the WIPP Part B permit application is a dynamic process with sequential review on a chapter-by-chapter basis with proactive participation by all parties. Revision of previously "finalized" chapters will very likely be necessary as the review continues. Therefore, while it is NMED's intent to finalize the review process for each chapter or group of chapters by the end of the scheduled six-week interactive period, it is NMED's position that no finalization of a chapter will be considered conclusive until the entire Application review is complete.

In order to facilitate this review process, NMED has agreed to review any "draft" NOD responses during the interactive period. It is not anticipated that the iterative nature of the review process will adversely impact the final date of November 13, 1992 for a complete Application submittal by DOE.

Each of the deficiencies identified in the enclosure must be addressed in detail by September 11, 1992. If the facility has not submitted the revisions prior to the above date, NMED reserves the right to pursue any administrative or enforcement action, including, but not limited to, issuance of a Compliance Order or issuance of a Notice of Intent to Deny (NOID). It is NMED's position the September 11, 1992 date for receipt of Chapter B revisions is a firm date with no flexibility on the part of the applicant. Response to the NOD should be submitted by certified mail to:

Mr. Benito J. Garcia
Environment Department
Hazardous & Radioactive Materials Bureau
525 Camino de los Marquez
P.O. Box 26110
Sante Fe, New Mexico 87502



In addition, two copies of the NOD responses must be submitted to Ms. Susan Collins, also at the above address.

Messrs Trego & Hunt
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If you have any questions regarding this subject, feel free to contact me or Ms. Collins of my staff at (505) 827-4308.

Sincerely,



Benito Garcia
Bureau Chief
Environment Department
Hazardous & Radioactive Materials Bureau

cc: Barbara Hoditschek, Program Manager, H&RMB
Trey Greenwood, Manager for Compliance, DOE
Susan Collins, WIPP Permit Coordinator, NMED



COMPLETENESS AND TECHNICAL REVIEW
CHAPTER B
WASTE ISOLATION PILOT PLANT
PART B PERMIT APPLICATION

GENERAL COMMENTS

1. An abundance of extraneous information is presented in the Part B permit application which is not applicable to the Test Phase. The application must be revised to clearly address the Test Phase, and include only that information concerning the operation period which provides the necessary clarification and background for the reader unknowledgeable in the overall WIPP project.
2. The application relies on a significant amount of references which are identified in the text of the application by name only. The application should limit referencing other documents to the extent possible. Where other documents are referenced in the application, include a brief description of the information being referenced. The reference material cited in the application must be revised to include, as appropriate, the volume number, chapter, and page number from which the referenced information is located.

SPECIFIC COMMENTS

A. PART A APPLICATION: 270.10 (d), 270.11(a) and (d), and 270.13

Page 4 of the Part A application indicates that the process design capacity is 178,290 cubic meters. Pages 7 and 8 state that 6486 metric tons of waste will be received at WIPP annually. The Part A application must be modified to address only the volume intended for the Test Phase since that is the time frame which is addressed in the Part B application and will be addressed in the (Test Phase) operating permit. Revise the application to indicate only the types and quantity of waste that will be emplaced during the Test Phase. Revise the discussion on page 5 (XII. PROCESS CODES AND DESIGN CAPACITIES) to define the Test Phase, which is the subject of this Part B permit application.

Chapter B of the application indicates that wastes received from offsite will be stored and managed in the above-ground Waste Handling Building. All hazardous waste storage, treatment, or handling areas which accept offsite waste must be identified in the Part A application. Revise the Part A application accordingly.

B. FACILITY DESCRIPTION: 270.14(b)(14)

B-1 General Description: 270.14(b)(1)

Include a paragraph in the introductory portion of B-1 that conveys the purpose of the Test Phase. Identify the units for which DOE is seeking a permit. Specify that the wastes to be managed will be both mixed wastes and radioactive wastes.

The application provides abundant information on the regulatory issues at the WIPP. However, a concise description of the location(s) where the waste will be managed during the five-year Test Phase is not provided. Specify all areas that will manage waste during the Test Phase.

Page B-3, Lines 22 through 26

This paragraph indicates that the application is for the Test Phase. However, there is no discussion on the length or specific goals of the Test Phase, activities that will be conducted during the Test Phase, or possible revisions to the Test Phase which could take place. The application indicates that numerous tests may be performed under the Test Phase, but does not adequately describe these tests or the possible test modifications implied within the application. The scope of the Test Phase must be clearly defined, as an "open-ended" application is unacceptable. Provide this information in a more descriptive discussion of the various proposed Test Phase activities.

Page B-4, Lines 1 and 2

This sentence indicates that waste will be fully retrievable during the Test Phase. Reference that portion of the application which describes retrievability procedures. Clarify that at the end of the Test Phase, all waste will be removed, unless a permit for the operational period has been obtained by this time.

Page B-4, Lines 20 and 21

The application states that all waste handling activities will take place in the Waste Handling Building (WHB). Since this waste is not generated onsite and will be received from several locations offsite, this building and any other waste handling areas requires permitting under RCRA and must be included in the permit application. Facilities such as the WHB which store hazardous waste from offsite are not granted an exemption from storage regulations or permitting requirements. Revise the Part A and B applications to address this hazardous waste container storage area(s). The application must include all information concerning storage areas required in the state regulations.

A second container storage area is mentioned on page D-16, lines 8 through 16. Derived wastes from onsite activities are slated to be stored underground in a "vented condition," yet the specific location of the subsurface storage area is not presented. Identify the location of this storage area and indicate whether wastes will be stored for greater than 90 days. If wastes are to be stored for greater than 90 days, the unit must be permitted. Revise the Part A and Part B applications accordingly.

Page B-4, Lines 34 and 35

Chapter B states that the WIPP site boundary will be controlled both administratively and physically during the Test Phase. Identify the administrative controls used. It is unclear when reviewing the figures presented in this section, why cattle are noted on the WIPP property. Clarify the meaning of physical restraints. Additionally, describe the physical constraints with respect to the waste management locations that will be operable during the Test Phase.

Page B-5, Lines 13 through 20

Information on the entire projected repository horizon is presented in this paragraph. Revise the discussion specifically identifying the room(s) and panel which will be used during the Test Phase.

B-2 Topographic Map

B-2a General Requirements: 270.14(b)(19)

The maps presented do not provide a detailed view of Panel 1 or the route test wastes will follow during the Test Phase. Revise the application to include both items.

Page B-6, Line 1

The mention of "potential" production wells is vague. Clarify what is meant by this statement. Identify the material which has the potential to be produced. Describe the location of the wells, number of wells, purpose, anticipated volume to be produced, and the date of installation. Indicate if the production wells will impact the WIPP facility during the Test Phase. Identify any claim(s) to mineral rights that may impact the Test Phase.

**B-2b Additional Requirements for Land Disposal Facilities:
270.14(c)(3) and (4)(i); 264.95; and 264.97**

Page B-6, Lines 13 through 20

The application proposes that the WIPP boundary identified in the Conditional No Migration Variance as the point of compliance for the Test Phase. However, the Test Phase includes only a portion of

the entire repository. Therefore, the point of compliance for the Test Phase unit(s) is not the 16-square mile WIPP boundary, but rather the Test Phase room, panel, and associated waste handling building. There is no apparent justification during Test Phase operations to extend the unit boundary beyond the location of the Waste Handling Building and Panel 1. In an example comparison, when a facility obtains a hazardous waste container storage or tank permit, the permit address releases from the individual tank or container storage area, not the entire facility. Revise the application to identify the limits of the unit to be addressed in this permit for the Test Phase as the dimensions of the areas managing waste during the Test Phase.

Discuss in general how the bins will be managed in the subsurface, including the frequency that the bins will be inspected and the types of monitoring that will be conducted during the Test Phase. The monitoring procedures must be stringent enough to allow the immediate detection of a release from a bin.

B-3 Location Information

Page B-7, Lines 7 through 9

This sentence implies that other tests, including waste package performance testing, will be conducted simultaneously when the bin-scale tests are performed. Clarify this sentence to indicate that no tests being conducted will disrupt the integrity of the test bins during the Test Phase.

B-3b Floodplain Standard: 270.14(b)(11)(iii), 264.18(b)

Page B-8, Lines 1 through 8

Revise the location description to include the elevation of Panel 1 with respect to surficial features.

B-4 Traffic Information: 270.14(b)(10)

Page B-9, Lines 11 through 13

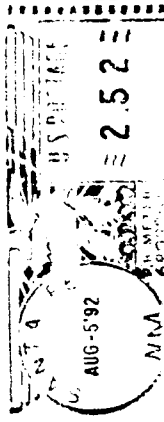
The application indicates that a rail siding may be used to ship waste to the site. Clarify if use of this railway is anticipated during the Test Phase. If so, provide detail on the location and construction of the rail siding and all waste management activities.

No information is provided in this section on the movement of wastes from the Waste Handling Building to Panel 1. This information must be presented in detail, or forward referenced appropriate section of the application.

RECORD

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SS



A
Name
Tel. No.
Address



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ENVIRONMENT DEPARTMENT
Harold Runnels Building
1190 St. Francis Drive, P.O. Box 26110
Santa Fe, New Mexico 87502
515600

Fold at line over top of envelope to the
right of the return address.
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