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# Letter admits wrong time given for WIPP test deadline

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**KATHLEEN SISNEROS**  
NMED water and waste management director

**By JOSH MARGOLIN**  
Current-Argus staff writer

The New Mexico Environment Department is admitting fault in causing the Waste Isolation Pilot Plant to miss its deadline to apply for a temporary go-ahead to test hazardous waste.

Officials at the department, which regulates the non-radioactive part of the transuranic waste that would be dumped at the site, said Thursday that Environment Department sent a letter to the U.S. Energy Department that misled WIPP officials to believe they were to follow a time schedule that ultimately led to the site missing the deadline for "interim status."

"The department's statement is that the letter is incorrect," said Kathleen Sisneros, NMED water and waste management director. "It should not have been sent out without legal review and it was."

The Aug. 27, 1990 correspondence to WIPP Project Site Manager Arlen Hunt from

then-director Richard Mitzelfelt, of the state Environmental Improvement Division, NMED's predecessor, told WIPP it was sticking with dates outlined by the U.S. Environmental Protection Agency.

"You are reminded," Mitzelfelt wrote, "of the following requirements for the WIPP facility to qualify for interim status during the review period of its Part B permit application: the Part A application must be received by Monday, Jan. 22, 1991..."

Federal government officials said early today that WIPP followed that statement pre-

cisely and then NMED changed the game rules at the two-minute warning.

"There was some reliance on it (the letter)," U.S. Justice Department attorney Dan Pinkston said from his Washington, D.C., office. "We complied with its terms."

The Environment Department stood by its announcement this week that WIPP missed the deadline for submitting Part A of the interim status application. Thus, NMED spokesman John Geddie said, the site will not be able to receive any mixed hazardous/radioactive waste until it receives final New Mex-

ico Hazardous Waste Act approval. That process, including hearings and a drafting phase, will take just under a year, Geddie said.

Pinkston, the first official to comment on NMED's announcement, said the August 1990 letter led WIPP to believe that while the state was invoking its own waste legislation, it was actually just following U.S. Resource Conservation and Recovery Act guidelines enforced by EPA.

"Our position is that New Mexico was saying look to the federal regulations to see if there is interim status," Pinkston said. It appeared the Environmental Improvement Division was saying, "If you have interim status according to federal purposes you have it for state purposes."

The state agency was given the authority by EPA several years ago to regulate hazardous wastes. And even though NMED enforces state legislation that is separate from RCRA, the hazardous waste legislation is almost a mirror of federal regulations.

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