PART 1 - GENERAL PERMIT CONDITIONS

1.1. AUTHORITY

This Permit is issued pursuant to the authority of the Secretary of the New Mexico Environment Department (**Secretary**) under the New Mexico Hazardous Waste Act (**HWA**), NMSA 1978, §§74-4-1 through 74-4-14, in accordance with the New Mexico Hazardous Waste Management Regulations (**HWMR**), 20.4.1 NMAC.

Pursuant to the Resource Conservation and Recovery Act (**RCRA**), 42 U.S.C. §§6901 to 6992k, and 40 CFR Part 271 and Part 272 Subpart GG, the State of New Mexico, through the Secretary, is authorized to administer and enforce the state hazardous waste management program under the HWA in lieu of the federal program.

This Permit contains terms and conditions that the Secretary has determined are necessary to protect human health and the environment, pursuant to 20.4.1.900 NMAC (incorporating 40 CFR §270.32(b)(2)).

Any violation of a condition in this Permit may subject the Permittees or their officers, employees, successors, and assigns to:

1) A compliance order under §74-4-10 of the HWA or §3008(a) of RCRA (42 U.S.C. §6928(a));

2) An injunction under §74-4-10 of the HWA or §3008(a) of RCRA (42 U.S.C. §6928(a)), or §7002(a) of RCRA (42 U.S.C. §6972(a));

3) Civil penalties under §§74-4-10 and 74-4-10.1 of the HWA or §§3008(a) and (g) of RCRA (42 U.S.C. §§6928(a) and (g)), or §7002(a) of RCRA (42 U.S.C. §6972(a));

4) Criminal penalties under §74-4-11 of the HWA or §§3008(d), (e), and (f) of RCRA (42 U.S.C. §§6928(d), (e), and (f)); or

5) Some combination of the foregoing.

The list of authorities in this paragraph is not exhaustive and the Secretary reserves the right to take any action authorized by law to enforce the requirements of this Permit.

1.2. EFFECT OF PERMIT

The Secretary issues this Permit to the United States Department of Energy (**DOE**), the owner and co-operator of the Waste Isolation Pilot Plant (**WIPP**) (EPA I.D. Number NM4890139088), and Nuclear Waste Partnership LLC, Management and Operating Contractor (**MOC**), the co-operator of WIPP. This Permit authorizes DOE and MOC (**the Permittees**) to manage, store, and dispose contact-handled (**CH**) and remote-handled (**RH**) transuranic (**TRU**) mixed waste at WIPP, and establishes the general and specific standards for these activities, pursuant to the HWA and HWMR.

As to those activities specifically authorized or otherwise specifically addressed under this Permit, compliance with this Permit during its term shall constitute compliance, for purposes of enforcement, with Subtitle C of RCRA and the HWA, and the implementing regulations at 40 CFR Parts 264, 266, and 268 except for those requirements that become effective by statute after the Permit has been issued [20 4.1.900 NMAC (incorporating 40 CFR §270.4)]

Compliance with this Permit shall not constitute a defense to any order issued or any action brought under Sections 74-4-10.E or 74-4-13 of the HWA; Sections 3008(a), 3008(h), 3013, or 7003 of RCRA; the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. §9601 et seq., commonly known as CERCLA) Sections 106(a), 104, or 107; or any other federal, state, or local law providing for protection of public health or the environment. This Permit does not convey any property rights of any sort or any exclusive privilege, nor authorize any injury to persons or property, any invasion of other private rights, or any infringement of State or local laws or regulations. [20.4.1.900 NMAC (incorporating 40 CFR §§270.4, 270.30(g), and 270.32(b)(1))]

1.3. PERMIT ACTIONS

1.3.1. Permit Modification, Suspension, and Revocation

This Permit may be modified, suspended, and/or revoked for cause as specified in Section 74-4-4.2 of the HWA and 20.4.1.900 NMAC (incorporating 40 CFR §§270.41, 270.42, and 270.43). The filing of a request by the Permittees for a permit modification, suspension, or revocation, or the notification of planned changes or anticipated noncompliance, shall not stay any permit condition. [20.4.1.900 NMAC (incorporating 40 CFR §270.30(f))]

1.3.2. Permit Renewal

The Permittees may renew this Permit by submitting an application for a new Permit at least 180 calendar days before the expiration date of this Permit. In reviewing any application for a Permit renewal, the Secretary shall consider improvements in the state of control and measurement technology and changes in applicable regulations. [20.4.1.900 NMAC (incorporating 40 CFR §§270.10(h) and 270.30(b))]

1.3.3. Permit Review

The Secretary shall review this Permit no later than five (5) years after the effective date of this Permit, and shall modify this Permit as necessary pursuant to Section 74-4-4.2 of the HWA and 20.4.1.900 NMAC (incorporating 40 CFR §270.41). Such modification(s) shall not extend the effective term of this Permit specified in Permit Section 1.7.2. [20.4.1.900 NMAC (incorporating 40 CFR §§270.41 and 270.50(b) and (d))]

1.4. SEVERABILITY

The provisions of this Permit are severable, and if any provision of this Permit, or the application of any provision of this Permit to any circumstance is held invalid, the application of such provision to

other circumstances and the remainder of this Permit shall not be affected thereby. [40 CFR §124.16(a)(1) and (2)]

1.5. DEFINITIONS

Unless otherwise expressly provided herein, the terms used in this Permit shall have the meaning set forth in RCRA, HWA, and/or their implementing regulations.

1.5.1. Contact-handled Transuranic Mixed Waste

"Contact-handled transuranic mixed waste" means transuranic mixed waste with a surface dose rate not greater than 200 millirem per hour. [Pub. L. 102-579 (1992)]

1.5.2. Remote-handled Transuranic Mixed Waste

"Remote-handled transuranic mixed waste" means transuranic mixed waste with a surface dose rate of 200 millirem per hour or greater. For WIPP, the surface dose rate shall not exceed 1,000 rems per hour. [Pub. L. 102-579 (1992)]

1.5.3. Facility

"Facility" or "permitted facility" means the Waste Isolation Pilot Plant (**WIPP**) owned by the DOE and located approximately twenty six (26) miles east of Carlsbad, New Mexico, EPA I.D. Number NM4890139088. The WIPP facility comprises the entire complex within the WIPP Site Boundary as specified in the WIPP Land Withdrawal Act of 1992, Pub. L. 102-579 (1992), including all contiguous land, and structures, other appurtenances, and improvements on the Permittees' land, used for management, storage, or disposal of TRU mixed waste.

1.5.4. Permittees

"Permittees" means the United States Department of Energy (**DOE**), an agency of the Federal government, and the owner and co-operator of the WIPP facility; and Nuclear Waste Partnership LLC, Management and Operating Contractor (**MOC**), the co-operator of the WIPP facility. References to actions taken by "the Permittees" indicate actions that may be taken by either co-Permittee.

1.5.5. Secretary

"Secretary" means the Secretary of the New Mexico Environment Department (**NMED**), or designee.

1.5.6. TRU Waste

"TRU Waste" means waste containing more than 100 nanocuries of alpha-emitting transuranic isotopes per gram of waste, with half-lives greater than 20 years, except for (A) high-level radioactive waste; (B) waste that the DOE Secretary has determined, with the

concurrence of the EPA Administrator, does not need the degree of isolation required by the disposal regulations; or (C) waste that the Nuclear Regulatory Commission has approved for disposal on a case-by-case basis in accordance with part 61 of title 10, Code of Federal Regulations. [Pub. L. 102-579 (1992)]

1.5.7. TRU Mixed Waste

"TRU Mixed Waste" means TRU waste that is also a hazardous waste as defined by the HWA and 20.4.1.200 NMAC (incorporating 40 CFR §261.3).

1.5.8. Contact Handled Packages

"Contact Handled Packages" means TRUPACT-II, HalfPACT, and TRUPACT-III shipping containers and their contents.

1.5.9. Remote-Handled Packages

"Remote-Handled Packages" means both CNS 10-160B and RH-TRU 72-B shipping containers and their contents.

1.5.10. Containment Pallet

"Containment pallet" means a device capable of holding a minimum of one 55-gallon drum, or 85-gallon drum, or 100-gallon drum or a standard waste box, or a ten-drum overpack and that has internal containment for up to ten percent of the volume of the containers on the containment pallet.

1.5.11. Waste Characterization

"Waste characterization" or "characterization" means the activities performed by or on behalf of the waste generator/storage sites (**sites**) to obtain information used by the Permittees to satisfy the general waste analysis requirements of 20.4.1.500 NMAC (incorporating 40 CFR §264.13(a)). Characterization occurs before waste containers have been certified for disposal at WIPP.

1.5.12. Waste Confirmation

"Waste confirmation" or "confirmation" means the activities performed by the Permittees or the co-Permittee DOE, pursuant to Permit Attachment C7 (TRU Waste Confirmation), to satisfy the requirements specified in Section 310 of Pub. L. 108-447. Confirmation occurs after waste containers have been certified for disposal at WIPP.

1.5.13. Substantial Barrier

"Substantial barrier" means salt or other non-combustible material installed between the waste face and the bulkhead to protect the waste from events such as ground movement or

vehicle impacts. The substantial barrier incorporates the chain link and brattice cloth room closure specified in Permit Attachment A2.

1.5.14. Bulkhead

"Bulkhead" means a steel structure, with flexible flashing, that is used to block ventilation as specified in Permit Attachment A2 (Geologic Repository).

1.5.15. Explosion-Isolation Wall

"Explosion-isolation wall" means the 12-foot wall intended as an explosion isolation device that is part of the approved panel-closure system specified in Permit Attachment G1 (Detailed Design Report for an Operation Phase Panel Closure System).

1.5.16. Filled Panel

"Filled panel" means an Underground Hazardous Waste Disposal Unit specified in Permit Part 4 that will no longer receive waste for emplacement.

1.5.17. Internal Container

"Internal container" means a container inside the outermost container examined during radiography or visual examination (**VE**). Drum liners, liner bags, plastic bags used for contamination control, capillary-type labware, and debris not designed to hold liquid at the time of original waste packaging are not internal containers.

1.5.18. Observable Liquid

"Observable liquid" means liquid that is observable using radiography or VE as specified in Permit Attachment C (Waste Analysis Plan).

1.5.19. Filled Room

"Filled Room" means a room in an Underground Hazardous Waste Disposal Unit as specified in Permit Part 4 that will no longer receive waste for emplacement.

1.5.20. Active Room

"Active Room" means a room in an Underground Hazardous Waste Disposal Unit as specified in Permit Part 4 that contains emplaced TRU waste and is not a filled room.

1.6. EFFECT OF INACCURACIES IN PERMIT APPLICATION

This Permit is based on the assumption that all information contained in the permit application and the administrative record is accurate and that the Facility will be constructed and operated as specified in the application. The permit application consists of information submitted in September 2009 and supplementary technical documents.

Any inaccuracies found in the submitted information may be grounds for the termination or modification of this Permit in accordance with 20.4.1.900 NMAC (incorporating 40 CFR §270.41, §270.42, and §270.43) and for potential enforcement action.

1.7. DUTIES AND REQUIREMENTS

1.7.1. Duty to Comply

The Permittees shall comply with all conditions of this Permit, except to the extent and for the duration such noncompliance is authorized in an emergency permit specified in 20.4.1.900 NMAC (incorporating 40 CFR §270.61). Any Permit noncompliance, except under the terms of an emergency permit, constitutes a violation of RCRA and/or HWA and is grounds for enforcement action; for Permit modification, suspension, or revocation; or for denial of a Permit modification or renewal application. [20.4.1.900 NMAC (incorporating 40 CFR §270.30(a))]

1.7.2. Permit Term

This Permit shall be effective for a fixed term not to exceed ten years from the effective date. The effective date of this Permit shall be 30 days after notice of the Secretary's decision has been served on the Permittees or such later time as the Secretary may specify. [20.4.1.900 NMAC (incorporating 40 CFR §270.50(a))]

1.7.3. Duty to Reapply

If the Permittees wish to continue an activity regulated by this Permit after the expiration date of this Permit, the Permittees shall apply for and obtain a new Permit. The Permittees shall submit an application for a new Permit at least 180 calendar days before the expiration date of this Permit. [20.4.1.900 NMAC (incorporating 40 CFR §§270.10(h), 270.30(b))]

1.7.4. Continuation of Expiring Permits

If the Permittees have submitted a timely and complete application for renewal of this Permit as specified in 20.4.1.900 NMAC (incorporating 40 CFR §§270.10, 270.13 through 270.29), this Permit shall remain in effect until the effective date of the new Permit if, through no fault of the Permittees, the Secretary has not issued a new Permit on or before the expiration date of this Permit. [20.4.1.900 NMAC (incorporating 40 CFR §270.51)]

1.7.5. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for the Permittees in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this Permit. [20.4.1.900 NMAC (incorporating 40 CFR §270.30(c))]

1.7.6. Duty to Mitigate

In the event of noncompliance with this Permit, the Permittees shall take all reasonable steps to minimize releases to the environment, and shall carry out such measures as are reasonable to prevent significant adverse impacts on human health or the environment. [20.4.1.900 NMAC (incorporating 40 CFR §270.30(d))]

1.7.7. Proper Operation and Maintenance

The Permittees shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Permittees to achieve compliance with the conditions of this Permit. Proper operation and maintenance shall include effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance/quality control procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of this Permit. [20.4.1.900 NMAC (incorporating 40 CFR §270.30(e))]

1.7.8. Duty to Provide Information

The Permittees shall furnish to the Secretary, within a reasonable time frame as specified by the Secretary, any relevant information which the Secretary may request to determine whether cause exists for modifying, suspending, or revoking this Permit, or to determine compliance with this Permit. The Permittees shall also furnish to the Secretary, upon request, copies of records required to be kept by this Permit. Information and records requested by the Secretary pursuant to this condition shall be provided in a paper or an electronic format acceptable to the Secretary. [20.4.1.500 and .900 NMAC (incorporating 40 CFR §§264.74(a) and 270.30(h))]

1.7.9. Inspection and Entry

The Permittees shall allow the Secretary, or authorized representatives, upon the presentation of credentials and other documents as may be required by law and at reasonable times, the following inspection and entry privileges specified in 20.4.1.900 NMAC (incorporating 40 CFR §270.30(i)):

1.7.9.1. Entrance to Premises

To enter upon the Permittees' premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this Permit;

1.7.9.2. Access to Records

To have access to and copy any records that must be kept under the conditions of this Permit;

1.7.9.3. Inspection

To have access to, inspect, and obtain photographs of any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Permit; and

1.7.9.4. Sampling

To sample or monitor, for the purposes of assuring Permit compliance or as otherwise authorized by RCRA and/or HWA, any substances or parameters at any location. If the Secretary obtains any sample, prior to leaving the premises the Secretary shall give the Permittees a receipt describing the sample obtained and, if requested, a portion of each sample of equal weight or volume to the portion retained. If any analysis is made of the sample, the Secretary shall promptly furnish a copy of the results of the analysis to the Permittees.

Permit Section 1.7.9 shall not be construed to limit, in any manner, the Secretary's authority under Section 74-4-4.3 of the HWA.

1.7.10. Monitoring and Records

1.7.10.1. Representative Sampling

For the purposes of monitoring, the Permittees shall take samples and measurements representative of the monitored activity. [20.4.1.900 NMAC (incorporating 40 CFR §270.30(j)(1))]

1.7.10.2. Record Retention

Beginning with the effective date of this Permit, the Permittees shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, and copies of all reports and records required by this Permit until closure. If original strip chart recordings are more than three years old, copies are acceptable. The Permittees shall retain the waste minimization certification required by 20.4.1.500 NMAC (incorporating 40 CFR §264.73(b)(9)), and records of all data used to complete the application for this Permit for a period of at least 3 years from the date of certification or application. The Secretary may extend these periods at any time, and these periods shall be automatically extended during the course of any unresolved enforcement action

regarding this facility. The Permittees shall maintain records from all ground-water monitoring wells and associated ground-water surface elevations, during the active life of the facility and the post-closure period. [20.4.1.500 NMAC (incorporating 40 CFR §264.74(b)), 20.4.1.501 NMAC, and 20.4.1.900 (incorporating §270.30(j)(2))]

1.7.10.3. Monitoring Records Contents

As specified by 20.4.1.900 NMAC (incorporating 40 CFR §270.30(j)(3)), records of monitoring information shall include:

i. The dates, exact place, and times of sampling or measurements;

ii. The names of individuals who performed the sampling or measurements;

iii. The dates analyses were performed;

iv. The names of individuals who performed the analyses;

v. The names of analytical techniques or methods used; and

vi. The results of such analyses.

1.7.11. Reporting Requirements

1.7.11.1. Reporting Planned Changes

The Permittees shall give notice to the Secretary, as soon as possible, of any planned physical alterations or additions to the permitted facility. The Permittees shall post a link to the planned change notice transmittal letter on the WIPP Home Page and inform those on the e-mail notification list as specified in Permit Section 1.11. [20.4.1.900 NMAC (incorporating 40 CFR §270.30(l)(1))]

1.7.11.2. Reporting Anticipated Noncompliance

The Permittees shall give advance notice to the Secretary of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements. The Permittees shall post a link to the planned change notice transmittal letter on the WIPP Home Page and inform those on the e-mail notification list as specified in Permit Section 1.11. The Permittees shall not store or dispose TRU mixed waste in any modified portion of the facility (except as provided in 20.4.1.900 NMAC (incorporating 40 CFR §270.42)) until the following conditions specified in 20.4.1.900 NMAC (incorporating 40 CFR §270.30(l)(2)) are satisfied:

i. The Permittees have submitted to the Secretary, by certified mail or hand delivery, a letter signed by the Permittees and a New Mexico registered professional engineer stating that the facility has been constructed or modified in compliance with this Permit, and:

ii. The Secretary has either inspected the modified portion of the facility and finds it is in compliance with the conditions of this Permit; or waived the inspection or, within 15 calendar days of the date of submission of the letter required above, has not notified the Permittees of his intent to inspect.

1.7.12. Transfer of Permits

The Permittees shall not transfer this Permit to any person, unless the Secretary has approved a permit modification request for such transfer in writing. The Secretary shall require modification or revocation and reissuance of this Permit as specified by 20.4.1.900 NMAC (incorporating 40 CFR §§270.40 and 270.41(b)(2)) to identify the new Permittees and incorporate other applicable requirements under the HWA, RCRA, and their implementing regulations. The prospective new Permittee shall file a disclosure statement with the Secretary, if applicable and as specified at §74-4-4.7 of the HWA, prior to modification or revocation and re-issuance of the Permit.

Before transferring ownership or operation of the facility during its active life or post-closure care period, the Permittees shall notify the new owner or operator in writing as required by 20.4.1.500 and .900 NMAC (incorporating 40 CFR §§264.12(c) and 270.30(l)(3)).

1.7.13. 24 Hour and Subsequent Reporting

1.7.13.1. Oral Report

As required by 20.4.1.900 NMAC (incorporating 40 CFR §270.30(l)(6)(i)), within 24 hours from the time the Permittees become aware of the circumstances, the Permittees shall report orally to the Secretary any noncompliance which may endanger human health or the environment, including:

i. Information concerning release of any TRU mixed or hazardous waste that may cause an endangerment to public drinking water supplies; and

ii. Any information of a release or discharge of TRU mixed or hazardous waste, or of a fire or explosion from the facility, which could threaten the environment or human health outside the facility.

The oral report shall be made by calling the Hazardous Waste Bureau's main telephone number during regular business hours, or by calling the New Mexico Department of Public Safety dispatch telephone number during non-business hours, and requesting that the report be forwarded to the NMED spill number.

1.7.13.2. Description of Occurrence

The description of the occurrence and its cause shall include:

i. Name, address, and telephone number of the Permittees;

ii. Name, address, and telephone number of the facility;

iii. Date, time, and type of incident;

iv. Name and quantity of materials involved;

v. The extent of injuries, if any;

vi. An assessment of actual or potential hazards to the environment and human health outside the facility, where this is applicable; and

vii. Estimated quantity and disposition of recovered material that resulted from the incident. [20.4.1.900 NMAC (incorporating 40 CFR §270.30(l)(6)(ii))]

1.7.13.3. Written Notice

As required by 20.4.1.900 NMAC (incorporating 40 CFR §270.30(l)(6)(iii)), the Permittees shall submit a written notice within five calendar days of the time the Permittees become aware of the circumstances. The written notice shall contain the information required in Permit Section 1.7.13.2 and the following information:

i. A description of the noncompliance and its cause;

ii. The period(s) of the noncompliance including exact dates and times and, if the noncompliance has not been corrected, the anticipated time it is expected to continue; and

iii. Steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

The Secretary may waive the five-day written notice requirement in favor of a written report within 15 calendar days if justifiable cause is provided in advance. The Permittees shall post a link to the written notice or report

transmittal letter on the WIPP Home Page and inform those on the e-mail notification list as specified in Permit Section 1.11.

1.7.13.4. Contingency Plan Implementation

If the Contingency Plan is implemented, the Permittees shall comply with the reporting requirements specified in Permit Attachment D (RCRA Contingency Plan). [20.4.1.500 NMAC (incorporating 40 CFR §264.56(j))]

1.7.14. Other Noncompliance

The Permittees shall report to the Secretary all other instances of noncompliance not otherwise required to be reported above, in Permit Sections 1.7.10 through 1.7.13, at the time monitoring reports are submitted annually in October. The reports shall contain the information specified in Permit Section 1.7.13 and 20.4.1.900 NMAC (incorporating 40 CFR §270.30(l)(10)).

1.7.15. Other Information

Whenever the Permittees become aware that they failed to submit any relevant facts in the Permit application, or submitted incorrect information in the Permit application or in any report to the Secretary, the Permittees shall promptly submit such facts or information in writing to the Secretary. The Permittees shall post a link to the transmittal letter on the WIPP Home Page and inform those on the e-mail notification list as specified in Permit Section 1.11. [20.4.1.900 NMAC (incorporating 40 CFR §270.30(l)(11))]

1.8. ADMISSIBILITY OF DATA

The Permittees waive any objection to the admissibility as evidence of any data required by this Permit in any administrative or judicial action to enforce a condition of this Permit.

1.9. SIGNATORY REQUIREMENT

The Permittees shall sign and certify, as specified in 20.4.1.900 NMAC (incorporating 40 CFR §270.11) all applications, reports required by this Permit, or information submitted to or requested by the Secretary. [20.4.1.900 NMAC (incorporating 40 CFR §270.30(k))]

1.10. SUBMITTAL OF REPORTS, NOTIFICATIONS, AND INFORMATION TO THE SECRETARY

1.10.1. Information Submittal

The Permittees shall submit, by certified mail or hand delivery or by electronic transmittal with a subsequent hard copy, all reports, notifications, or other submissions which are submitted to or requested by the Secretary or required by this Permit, to:

Chief, Hazardous Waste Bureau
New Mexico Environment Department
2905 Rodeo Park Drive East, Building 1
Santa Fe, New Mexico 87505

Telephone Number: (505) 476-6000
Facsimile Number: (505) 476-6060

1.10.2. Approval of Submittals

All documents prepared by the Permittees under the terms of this Permit and submitted to the Secretary that are subject to the provisions of 20.4.2 NMAC shall be subject to the procedures set forth therein. Documents requiring the Secretary's approval that are not subject to the provisions of 20.4.2 NMAC may be reviewed and approved, approved with modifications or directions, disapproved, denied, or rejected by the Secretary.

Submittals and associated schedules, upon the Secretary's written approval, shall become enforceable as part of this Permit in accordance with the terms of the Secretary's written approval, and such documents, as approved, shall control over any contrary or conflicting requirements of this Permit. This provision does not affect any public process that is otherwise required by this Permit, the HWA, or its implementing regulations, including 40 CFR §270.42 and 20.4.1.901 NMAC.

1.10.3. Extension of Time

The Permittees may seek an extension of time in which to perform a requirement of this Permit, for good cause, by sending a written request for extension of time and proposed revised schedule to the Secretary. The request shall state the length of the requested extension and describe the basis for the request. The Secretary will respond in writing to any request for extension following receipt of the request. If the Secretary denies the request for extension, reasons for the denial will be stated.

1.11. PUBLIC E-MAIL NOTIFICATION LIST

The Permittees shall develop and maintain an e-mail list to notify members of the public concerning actions identified in this Permit requiring e-mail notification. The Permittees shall send e-mail notifications required by this Permit to the e-mail list within seven days of the submittal date to the Secretary and shall include in the e-mail a direct link to the specific document to which it relates. The Permittees shall provide a link on the WIPP Home Page <http://www.wipp.energy.gov> whereby members of the public may review the actions requiring e-mail notification and submit a request to be placed on this list.

1.12. CONFIDENTIAL INFORMATION

The Permittees may claim confidentiality for any information submitted to or requested by the Secretary or required by this Permit. Any such claim must be asserted at the time of submittal in the manner prescribed on the application form, or in the case of other submittals, by stamping the words

"confidential business information" on each page containing such information. If no claim is made, the Secretary may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with the procedures in 40 CFR Part 2 (Public Information), to the extent authorized by Section 74-4-4.3(D) and (F) of the HWA and 20.4.1.100 and .900 NMAC (incorporating 40 CFR §260.2 and §270.12).

1.13. DOCUMENTS TO BE MAINTAINED AT THE FACILITY

The Permittees shall comply with the recordkeeping and reporting requirements specified in 20.4.1.500 NMAC (incorporating 40 CFR §264.73(a)) and elsewhere in this Permit.

The Permittees shall maintain at the facility, until closed as specified in Part 6, the following documents and all amendments, revisions and modifications to these documents:

1. Waste Analysis Plan, as required by 20.4.1.500 NMAC (incorporating 40 CFR §264.13(b)) and this Permit, and records and results of waste analyses performed as specified in 20.4.1.500 NMAC (incorporating 40 CFR §264.13).

2. Inspection schedules, as required by 20.4.1.500 NMAC (incorporating 40 CFR §264.15(b)(2)) and this Permit, and records and results of inspections as required by 20.4.1.500 NMAC (incorporating 40 CFR §264.15(d)).

3. Personnel training documents and records, as required by 20.4.1.500 NMAC (incorporating 40 CFR §264.16(d)) and this Permit.

4. Contingency Plan, as required by 20.4.1.500 NMAC (incorporating 40 CFR §264.53(a)) and this Permit, including summary reports and details of all incidents that require implementation of the contingency plan as specified in 20.4.1.500 NMAC (incorporating 40 CFR §264.56(j)).

5. Operating record, as required by 20.4.1.500 NMAC (incorporating 40 CFR §264.73) and this Permit.

6. Closure Plan, as required by 20.4.1.500 NMAC (incorporating 40 CFR §264.112(a)) and this Permit.

7. Post-Closure Plan as required by 20.4.1.500 NMAC (incorporating 40 CFR §264.118(a)) and this Permit.

8. Procedures for limiting air emissions, as required by 20.4.1.500 and .900 NMAC (incorporating 40 CFR §§264.601(c) and 270.23(a)(2)) and this Permit.

9. All other documents required by Part 1, Permit Section 1.7.10, and Part 2.

1.14. INFORMATION REPOSITORY

1.14.1. Requirement for Information Repository

The Permittees shall establish and maintain an electronic Information Repository (**IR**) in accordance with the requirements of 20.4.1.1102 NMAC (incorporating 40 CFR §§124.33(c) through (f)) and 20.4.1.900 NMAC (incorporating 40 §270.30(m)). The documents contained in the IR shall be accessible to the public from the WIPP Home Page.

The Permittees shall establish the IR no later than the effective date of this Permit.

1.14.2. Contents of Information Repository

The Permittees shall ensure that the IR contains the following documents:

1. The Permittees' Part A and Part B Permit Applications associated with the permit renewal;

2. A complete copy of this Permit, as it may be modified;

3. Permit modification notifications and requests associated with this Permit submitted pursuant to 20.4.1. 900 NMAC (incorporating 40 CFR §270.42) and any associated responses from the Secretary;

4. The Waste Minimization Report submitted pursuant to Permit Section 2.4;

5. Requests for extensions of time submitted pursuant to Permit Section 1.10.3;

6. Corrective action documents submitted pursuant to Permit Part 8;

7. Each report submitted pursuant to Permit Sections 1.7.11 and 1.7.13 if such report is required to be submitted in writing;

8. Notices of deficiency or disapproval (**NODs**), NOD responses, final approval letters, and directives from the Secretary associated with the documents identified in paragraphs 1, 3, and 6 above;

9. Notices of violation, administrative compliance orders, responses to these documents required by the Secretary, and directives from the Secretary associated with the Permit;

10. Biennial Report submitted pursuant to Permit Section 2.14.2.

1.14.3. Index of Information Repository

The Permittees shall ensure that the IR includes an index of the documents contained in the IR identifying all document titles, publications dates, and authors. This index shall be

accessible on the internet through the WIPP Home Page. The Permittees shall ensure that all documents are searchable and printable.

The Permittees shall add new documents to the IR within ten days after the new documents are submitted to, or received from, the Secretary.

1.14.4. Notification to Public of Information Repository

The Permittees shall inform the public of the existence of the IR and how it may be accessed by the following methods:

1. Written notice to all individuals on the facility mailing list 30 days after the IR becomes operational;

2. Public notice in area newspapers, including the Carlsbad Current-Argus, Albuquerque Journal, and Santa Fe New Mexican, when the IR becomes operational;

3. Continuous notice on the WIPP Home Page of the existence of the IR; and

4. In the public notice related to any permit modification notification or request submitted by the Permittees, including permit renewals.

1.15. COMMUNITY RELATIONS PLAN

1.15.1. Requirement for Community Relations Plan

The Permittees shall establish and implement a Community Relations Plan (**CRP**) to describe how the Permittees will keep communities and interested members of the public informed of Permit-related activities, including waste management, closure, post-closure, and corrective action, as specified in 20.4.1.900 NMAC (incorporating 40 CFR §270.32(b)(2)). The CRP shall explain how communities and interested members of the public can participate in Permit-related activities.

The Permittees shall implement and post the CRP on the WIPP Home Page within 180 days of the effective date of this Permit. The Permittees shall maintain the CRP until the termination of this Permit.

1.15.2. Contents of Community Relations Plan

The CRP must describe how the Permittees will accomplish the following elements:

1. Identify and establish an open working relationship with communities and interested members of the public;

2. Establish a productive government-to-government relationship between the Permittee DOE and affected tribes and pueblos;

3. Keep communities and interested members of the public informed of permit actions of interest (e.g., implementation of the Contingency Plan, Permit modification requests, Permit compliance issues);

4. Minimize disputes and resolve differences with communities and interested members of the public;

5. Provide a mechanism for the timely dissemination of information in response to individual requests; and

6. Provide a mechanism for communities and interested members of the public to provide feedback and input to the Permittees.

1.15.3. Government to Government Consultation

DOE shall consult on a government-to-government basis with affected tribes and pueblos in New Mexico when developing the CRP in an effort to ensure the program is responsive to their needs. DOE shall document in the operating record of this Permit and post on the WIPP Home Page all consultations, communications, agreements, and disagreements between DOE and affected tribes and pueblos in New Mexico only with the express approval of those entities, regarding the development of the CRP. The CRP shall specify how DOE will consult on a government-to-government basis with affected tribes and pueblos annually concerning how they may be made better informed of the issues related to this Permit.

1.15.4. Initial Consultation on Community Relations Plan

The Permittees shall communicate with and solicit comments from communities and interested members of the public when developing the CRP in an effort to ensure the program is responsive to their needs. The Permittees shall document in the operating record of this Permit all consultations, communications, agreements, and disagreements between the Permittees and all participating entities, with the approval of those entities, regarding the development of the CRP.

1.15.5. Annual Compilation of Comments on Community Relations Plan

The CRP shall specify how the Permittees will solicit comments from communities and interested members of the public annually concerning how they may be made better informed of the issues related to this Permit. The CRP shall specify that the Permittees will annually post on the WIPP Home Page a compilation of all such comments, including any statements of disagreement, with the approval of those entities in a manner set forth in the CRP.

1.16. DISPUTE RESOLUTION

1.16.1. Applicability

In the event DOE disagrees, in whole or in part, with either an action on a final audit report by NMED (as specified in Permit Section 2.3.2.4) or an evaluation by NMED of DOE's provisional approval of an AK Sufficiency Determination Request for a particular waste stream (as specified in Permit Attachment C), DOE may seek dispute resolution. The dispute resolution procedure in this Permit Section shall be the exclusive mechanism for resolving disputes related to NMED's final audit report action or a determination that DOE's provisional approval for a particular waste stream is inadequate.

1.16.2. Notice to NMED

To invoke dispute resolution, DOE shall notify NMED in writing within seven calendar days of receipt of the action or determination in dispute. Such notice shall be sent to the Hazardous Waste Bureau Chief and must set forth the specific matters in dispute, the position DOE asserts should be adopted, a detailed explanation for DOE's position, and any other matters considered necessary for the dispute resolution. For AK Sufficiency Determination disputes, DOE shall also submit all factual data, analysis, opinion, and other documentation upon which they relied for their provisional approval, and any other information that supports their position. NMED shall acknowledge receipt of notification by e-mail sent to DOE's representative as designated in their written notification.

1.16.3. Tier I - Informal Negotiations

DOE and NMED shall make all reasonable, good faith efforts to informally resolve disputes related to NMED's determination. DOE and NMED shall meet or teleconference within 15 calendar days from NMED's receipt of notice to commence negotiations to resolve the dispute. DOE and NMED shall have 30 calendar days from NMED's receipt of notice to resolve the dispute. If an agreement is reached, NMED shall promptly inform DOE of the terms of the agreement in writing. DOE shall comply with the terms of such agreement or, if appropriate, submit a revised submittal and implement the same in accordance with such agreement. If an agreement is not reached, NMED shall promptly inform DOE in writing that an agreement has not been reached.

1.16.4. Tier II - Final Decision of the Secretary

In the event agreement is not reached within the 30 calendar day period, DOE may submit a written Request for Final Decision to the Secretary. The Request must be submitted within seven calendar days after receipt of notification from NMED that an agreement under Tier I was not reached. The Secretary will notify the Permittees in writing of the decision on the dispute, and the Permittees shall comply with the terms and conditions of the decision. Such decision shall be the final resolution of the dispute and shall be enforceable under this Permit.

1.16.5. Actions Not Affected by Dispute

With the exception of those matters under dispute, the Permittees shall proceed to take any action required by those portions of the submission and of this Permit that NMED determines are not affected by the dispute.

1.16.6. E-Mail Notifications

If DOE submits a notice to NMED pursuant to Permit Section 1.16.2, the Permittees shall post a link to the notice on the WIPP Home Page, and inform those on the e-mail notification list as specified in Permit Section 1.11. After receipt of NMED's letter concerning the conclusion of any Tier I negotiations, the Permittees shall post a link to the NMED letter on the WIPP Home Page, and shall inform those on the e-mail notification list as specified in Permit Section 1.11. If a Tier I agreement is not reached and DOE submits a Tier II request for final decision to the Secretary, the Permittees shall post a link to the request on the WIPP Home Page, and shall inform those on the e-mail notification list as specified in Permit Section 1.11. After receiving notice of the final action by the Secretary, the Permittees shall post a link to the final action on the WIPP Home Page and shall inform those on the e-mail notification list as specified in Permit Section 1.11.

PERMIT ATTACHMENTS

Permit Attachment A2 (as modified from WIPP Hazardous Waste Facility Permit Amended Renewal Application, “Geologic Repository” - Appendix M2).

Permit Attachment C (as modified from WIPP Hazardous Waste Facility Permit Amended Renewal Application, “Waste Analysis Plan” - Chapter B).

Permit Attachment C7 (as modified from WIPP Hazardous Waste Facility Permit Amended Renewal Application, “Permittee Level TRU Waste Confirmation Processes” - Appendix B7).

Permit Attachment D (as modified from WIPP Hazardous Waste Facility Permit Amended Renewal Application, “RCRA Contingency Plan” - Chapter F).

Permit Attachment G1 (as modified from WIPP Hazardous Waste Facility Permit Amended Renewal Application, “Detailed Design Report for an Operation Phase Panel Closure System” – Appendix I1)

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