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State of New Mexico
ENVIRONMENT DEPARTMENT

Hazardous Waste Bureau

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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: 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 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.