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FACT SHEET
NOVEMBER 23, 2005

**NOTICE OF INTENT TO APPROVE A CLASS 3 MODIFICATION
TO THE
HAZARDOUS WASTE FACILITY PERMIT
FOR THE
WASTE ISOLATION PILOT PLANT
CARLSBAD, NEW MEXICO
EPA ID NO. NM4890139088**

ACTION: The New Mexico Environment Department (**NMED**) intends to approve, subject to public review and comment, a Class 3 permit modification, which consolidates the pending Class 3 remote-handled (**RH**) transuranic (**TRU**) waste permit modification request (**PMR**) and the Class 3 PMR submitted pursuant to Section 311 of the Energy and Water Development Appropriations Act for Fiscal Year 2004, Public Law 108-137.

FACILITY: Waste Isolation Pilot Plant (**WIPP**)
Carlsbad, New Mexico

PERMITTEES: United States Department of Energy, owner and co-operator
Washington TRU Solutions LLC, co-operator

PERMIT NO.: NM4890139088-TSDF

BACKGROUND

The New Mexico Environment Department (**NMED**) proposes to approve a modification to the Hazardous Waste Facility Permit (**Permit**) for the Waste Isolation Pilot Plant (**WIPP**) pursuant to the New Mexico Hazardous Waste Act, NMSA 1978 §§74-4-1 through 74-4-14 and the New Mexico Hazardous Waste Management Regulations, 20.4.1 NMAC. WIPP is located north of Jal Highway (State Highway 128) in Eddy County, New Mexico, approximately 26 miles east of Carlsbad. WIPP operates under a permit issued by NMED that authorizes the Permittees to manage, store, and dispose of contact-handled (**CH**) transuranic (**TRU**) mixed waste.

ADMINISTRATIVE HISTORY

On June 28, 2002, the Permittees submitted a Class 3 permit modification request (**PMR**) to NMED that would allow WIPP to accept remote-handled (**RH**) TRU mixed wastes for storage and disposal. NMED issued a notice of deficiency for the RH PMR on March 5, 2003. The Permittees responded by submitting a revised RH PMR to NMED on May 5, 2003.

On December 1, 2003, Congress enacted Section 311 of the Energy and Water Development Appropriations Act for Fiscal Year 2004, Public Law 108-137 (**Section 311**), which states:

“(a) The Secretary of Energy is directed to file a permit modification to the Waste Analysis Plan (WAP) and associated provisions contained in the Hazardous Waste Facility Permit for the Waste Isolation Pilot Plant (WIPP). For purposes of determining compliance of the modifications to the WAP with the hazardous waste analysis requirements of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), or other applicable laws waste confirmation for all waste received for storage and disposal shall be limited to: (1) confirmation that the waste contains no ignitable, corrosive, or reactive waste through the use of either radiography or visual examination of a statistically representative subpopulation of the waste; and (2) review of the Waste Stream Profile Form to verify that the waste contains no ignitable, corrosive, or reactive waste and that assigned Environmental Protection Agency hazardous waste numbers are allowed for storage and disposal by the WIPP Hazardous Waste Facility Permit.

(b) Compliance with the disposal room performance standards of the WAP shall be demonstrated exclusively by monitoring air borne volatile organic compounds in underground disposal rooms in which waste has been emplaced until panel closure.”

In response to Section 311, the Permittees submitted a Class 3 PMR to NMED on January 9, 2004. Congress subsequently enacted Section 310 of the Consolidated Appropriations Act for 2005, Public Law 108-447 on December 8, 2004, which was essentially identical to Section 311. NMED then issued a NOD for the Section 311 PMR on December 30, 2004.

NMED and the Permittees held informal meetings from January through March 2005 to discuss both RH TRU wastes and Section 311. On March 29, 2005, NMED issued a second NOD for the RH PMR, which directed the Permittees to develop a consolidated response for both RH TRU wastes and Section 311. The Permittees submitted the revised consolidated PMR to NMED on April 29, 2005.

The Permittees reissued the PMR on June 9, 2005 to correct certain layout and typographical errors. NMED issued a NOD on September 1, 2005 on the consolidated PMR, to which the

Permittees responded with additional revisions on September 22, 2005. This Fact Sheet concerns the draft Permit developed by NMED based upon the June 9 and September 22, 2005 consolidated PMR submittals from the Permittees.

PERMIT MODIFICATION REQUEST SUMMARY

The consolidated PMR, which formed the basis for this draft Permit, is the most comprehensive proposed modification to the Permit since it was originally issued on October 27, 1999. Major changes proposed by the Permittees in this PMR are summarized below.

Allowing for the management, storage, and disposal of remote-handled transuranic mixed wastes pursuant to the 1992 WIPP Land Withdrawal Act. The WIPP Permit authorizes the management, storage or disposal of CH TRU mixed waste. Although the WIPP Land Withdrawal Act (**LWA**, Pub. L. 102-579 (1992)) allows for the disposal of RH TRU waste, the Permit expressly prohibits the management, storage, or disposal of RH TRU wastes. RH waste is defined as TRU waste with a surface dose rate of 200 millirem per hour (mrem/hr) or more. TRU waste with a surface dose rate of less than 200 mrem/hr is defined as CH waste. The Permittees have proposed language changes throughout the Permit to allow for the management, storage and disposal of RH TRU mixed wastes at WIPP. RH TRU mixed wastes would be characterized using the same procedures as for CH TRU mixed wastes (see below). The Permittees have proposed amendments to Module III - Container Storage to accommodate RH TRU mixed wastes (see below). A maximum of 730 RH TRU mixed waste canisters would be emplaced in each panel. RH TRU mixed wastes would be placed in horizontal borings in the panel walls. Once the canisters are emplaced, the borehole opening will be closed with a shield plug to provide radiation shielding. CH TRU mixed waste emplacement in a room would take place after the RH TRU mixed waste emplacement has been completed.

Making significant changes to the TRU mixed waste characterization process. The accurate **characterization** of all TRU wastes destined for

WIPP is necessary to ensure that the waste will not adversely impact human health or the environment over the disposal facility's lifespan. The initial burden for making the determination if a waste is hazardous belongs to the generator. Characterization means those activities performed by the generator/storage site to identify the physical and chemical properties of the waste to obtain all of the information necessary to safely treat, store, and dispose of the waste. Characterization includes acceptable knowledge (**AK**), which is the compilation of all relevant historical information on a waste into an auditable record, and/or sampling and analysis. The term "waste analysis" encompasses both the process of identifying wastes in accordance with 40 CFR §262.11 and characterizing wastes in accordance with 40 CFR §264.13.

Generator/storage sites that plan to send TRU mixed wastes to WIPP are required by the current Permit to use a number of methods to fully characterize their wastes. These sites begin by using AK to delineate individual waste containers into distinct waste streams. The sites then use headspace gas sampling on 100% of the containers in a waste stream to identify if hazardous volatile organic compounds (**VOCs**) are present that were not identified in the compilation of the AK record. The headspace gas sampling data is also provided to WIPP to assist the Permittees in effectively managing the emplacement of wastes. Generator/storage sites also use representative solids sampling to determine concentrations of hazardous waste constituents and toxicity characteristic contaminants for homogeneous wastes. The sites also use the following two physical analytical techniques on 100% of the containers to characterize wastes by determining the physical contents of the containers (such as residual liquids, compressed gasses, etc) and verifying the waste form:

- Real time radiography (**RTR**), which uses x-ray and video equipment to examine the contents of closed containers.
- Visual examination (**VE**), which uses radiation containment glove boxes to examine the contents of open containers.

Under 40 CFR §264.13(b), a permitted disposal facility such as WIPP must develop and follow a written waste analysis plan (**WAP**), which describes the procedures that will be employed

at the facility to comply with 40 CFR §264.13(a). That is, the WAP must define how all wastes will be fully characterized prior to disposal. Typical private sector treatment, storage, and disposal facilities (**TSDFs**) visually inspect every bulk shipment and container received to determine if the color, physical state, texture and odor are consistent with the waste description on the shipping manifest. In addition, the TSDF will chemically analyze samples from a representative number of containers for "fingerprint" parameters in accordance with 40 CFR §264.13(c) to evaluate the consistency between the waste received in the shipment and the manifest.

Unlike a typical private sector TSDF, the WIPP Permittees do not perform fingerprinting or other on-site characterization activities to verify that the waste chemically and physically matches the generator's characterization. Under the current Permit, the Permittees conduct audits at the generator/storage sites rather than performing any on-site characterization at WIPP. The WAP general checklist used by the Permittees during audits is designed to ensure that the generator/storage sites are conducting waste sampling and analysis in accordance with the WAP and that the information supplied by each site to satisfy the waste screening and acceptability requirements for disposal at WIPP is being properly managed. NMED personnel may observe these audits to validate the implementation of the WAP requirements. Waste may not be accepted at WIPP until NMED approves the Permittees' audits of the pertinent waste summary category groups.

The headspace gas sampling results for VOCs combined with VOC monitoring in the repository are used to ensure that the environmental performance standards under the Permit are not exceeded.

The Permittees have proposed to modify this TRU mixed waste characterization process. These proposed changes include, but are not limited to, the following:

- *The option to use acceptable knowledge (AK) as the sole basis for assigning Environmental Protection Agency (EPA) hazardous waste numbers.* The Permittees have proposed a new waste characterization

process, which includes the following steps: (1) The generator/storage site may submit an AK Sufficiency Determination Request (**Determination Request**), which includes an AK summary and supporting documentation, to the Permittees; (2) The Permittees review the Determination Request for technical adequacy and compliance with the Permit; (3) If the Permittees determine that the AK is sufficient they provisionally approve the Determination Request and forward it to NMED for an evaluation that the provisional approval is adequate; (3) If NMED finds that the provisional approval is adequate it notifies the Permittees, who then approve the Determination Request; and (4) The generator/storage site completes a Waste Stream Profile Form (**WSPF**) and Characterization Information Summary (**CIS**) to prepare the waste stream for shipment to WIPP.

- *The elimination of mandatory headspace gas sampling and analysis on 100% of containers.* The Permittees have proposed to limit the use of headspace gas sampling in three ways, by: (1) Performing waste characterization primarily through the use of AK; (2) Performing headspace gas sampling and analysis only when NMED determines that the Permittees' provisional approval of the Determination Request is inadequate or the Permittees do not approve the Determination Request; and (3) Performing headspace gas sampling and analysis on a representative sample of the waste stream rather than on every container.
- *The elimination of the requirement that 100% of containers undergo verification of AK by either VE and/or RTR.* The Permittees have proposed to replace this current Permit Condition with a new Section 311 waste confirmation process (see below).

Creating a new Section 311 waste confirmation process. The Permittees have proposed a Permittee level waste **confirmation** process pursuant to Section 311 to ensure that waste disposed of at WIPP contains no ignitable, corrosive, or reactive waste or prohibited items. This process, which is detailed in Attachment B7 of the PMR, would require the Permittees to use RTR, VE or a review of VE records to examine a statistically representative subpopulation each

waste stream in each shipment that is sent to WIPP. The Permittees are proposing to perform these confirmation activities at either the generator/storage site or at WIPP. Seven percent of the containers from each waste stream in each shipment would be randomly selected and reviewed by RTR, VE or reviewing VE records. A minimum of at least one container in each wastes stream would be examined. The Permittees have not proposed to open any containers at WIPP. Confirmation activities at WIPP would be limited to performing RTR or reviewing VE records (video tapes, packaging logs) from the generator/storage sites.

If the results of the Permittees' waste confirmation activities demonstrate that the waste does not match the waste stream description or contains prohibited items, the waste would be designated as non-compliant waste and a corrective action process would be initiated. If the non-compliant waste were discovered during waste confirmation activities at the generator/storage sites the waste would not be shipped to WIPP until the corrective action process is completed. If the non-compliant waste is detected during waste confirmation activities at WIPP, the Permittees propose to return the entire shipment or the nonconforming portion of the shipment to a generator or another off-site facility.

Amending Module III - Container Storage to accommodate RH TRU mixed wastes. The Permittees have proposed to manage and store RU TRU mixed wastes within the Waste Handling Building (**WHB**) Unit in an area designated as the RH Complex, which includes the following locations: the RH Bay, the Cask Unloading Room, the Hot Cell, the Transfer Cell and the Facility Cask Unloading Room. They have also proposed to add storage for up to 14 RH packages in the Parking Area Container Storage Unit (**Parking Area Unit**). The maximum RH TRU waste storage capacity proposed by the Permittees is 545 ft³.

Amending Module III - Container Storage to increase CH TRU mixed waste storage capacity. The Permittees have proposed to increase the storage capacity in the CH Bay Storage Area in the WHB Unit from 1,856 ft³ to 5,440 ft³ and in the Parking Area Unit from 12 to 50 CH

packages (e.g., TRUPACT-II shipping containers).

Designating separate holding areas at WIPP for TRU mixed wastes undergoing waste confirmation prior to storage and disposal. The Permittees are proposing to designate specific portions of the Parking Area Unit and the WHB Unit at WIPP as holding areas for waste containers that are undergoing waste confirmation by the Permittees. The holding areas in the WHB would be the WHB Holding Area, Room 108 and Airlock 107 Holding Area, TRUPACT Maintenance Facility Holding Area, and the TRUDOCK Holding Area. These areas would be used to allow holding of CH TRU mixed wastes until waste confirmation activities are completed, at which time the waste containers would be transferred to permitted storage areas prior to disposal. The Parking Area Unit Holding Area would be used for both CH and RH TRU mixed wastes.

These holding areas would be used for waste that is undergoing manifest review, awaiting placement in a permitted storage area, or undergoing waste confirmation. The Permittees state that wastes will typically be held in a holding area for a maximum of 10 days. Wastes that are found to be non-compliant (e.g., the waste does not match the waste stream description or contains prohibited items) during waste confirmation activities could be kept in a holding area for a maximum of 60 days.

Increasing the volume of TRU wastes that may be emplaced in each panel. The current panel capacities shown in Table IV.A.1 are less than the actual design capacities of each panel. The original panel capacities were calculated by dividing the total volume of waste allowed under the LWA (6.2 million ft³) by the number of panels (10). The Permittees have proposed to increase the maximum capacities and container equivalents with the addition of RH waste volumes, and to allow disposal of mixed and non-mixed TRU waste to exceed the stated maximum capacity as long as the maximum repository capacity under the LWA is not exceeded.

Changing the method for demonstrating that the WIPP underground disposal rooms comply with the environmental performance standards for

VOCs, pursuant to Section 311. The current Permit requires headspace gas sampling and analysis on all TRU waste containers for the purposes of identifying and quantifying the concentrations of VOCs in the total waste inventory in order to ensure compliance with the repository environmental performance standards. The Permittees propose to eliminate headspace gas sampling for this purpose, and to instead demonstrate compliance with the environmental performance standards solely by sampling, analyzing, and quantifying VOC concentrations in the rooms of active disposal panels where TRU waste has been emplaced. A sample head would be installed inside both ends of each active disposal room, and samples would be collected bi-weekly. Once a disposal room is filled, ventilation barriers would be installed in the filled room and collection of closed room sampling would begin, while open room monitoring would continue in the next active disposal room. This monitoring would continue until the entire panel was filled and closed. The Permittees did not propose any changes to the environmental performance standards themselves.

The Permittees have proposed action levels modeled after the current confirmatory VOC monitoring program. If the results of the bi-weekly monitoring show that the one half of the Room-Based Limit (**RBL**) has been reached for any target analyte, the Permittees propose to increase the sampling frequency to once per week for that room. This increased sampling frequency would continue until the concentrations in the room falls below 50% of the RBL or until closure of the panel, whichever comes first. In the event that the monitoring results demonstrate that any target analyte concentration in a closed room immediately adjacent to an active room is at 95% of the RBL, the Permittees propose to collect a verification sample from the room within three working days of receipt of the analytical data. This data would be reported to NMED within five working days of the Permittees' receipt of the data. If the verification data confirms the original results the Permittees propose to discontinue the use of the disposal room and proceed to the next room.

PROPOSED ACTION IN DRAFT PERMIT

NMED is issuing a draft Permit for public comment that considers both the consolidated PMR submitted by the Permittees and all comments received during the public comment period on the PMR. This draft Permit therefore reflects NMED's proposed action on those requests.

1. NMED is proposing to approve the following modification requests, with and without changes, in the draft Permit:

The management, storage, and disposal of RH TRU mixed wastes pursuant to the 1992 Land Withdrawal Act. NMED has consistently held the position that the CH waste characterization program should be the basis for an RH waste characterization program at WIPP. That is, the Permittees must be able to demonstrate that:

- The RH program was developed based on the accepted CH program, with deviations from the CH program technically justified and based on operational and safety concerns. The resulting RH program must be compliant with the waste characterization requirements specified in 40 CFR §264.13;
- The foundation of the RH program was based upon an AK program that has been augmented and strengthened, as necessary, to resolve the assignment of EPA hazardous waste numbers to ensure adequate data assembly, compilation, and assessment. RH waste should be delineated by waste stream, just as CH waste is presently delineated; and
- A process is in place for verifying AK-derived hazardous waste determinations and AK-derived waste matrix codes. This process need not be identical to the CH program, but should require that some quantity of analytical data be obtained to adequately confirm AK. The amount and type of information could be commensurate with the adequacy of the AK record.

NMED believes that the Permittees' proposed AK Sufficiency Determination process provides a technically sound approach for characterizing RH TRU mixed wastes that would both satisfy the Resource Conservation and Recovery Act (RCRA) and protect human health and safety. NMED believes that the characterization

information collected for approximately 95% of the RH TRU mixed wastes should not require chemical or physical sampling and analysis because the waste packaging or repackaging activities will be carried out under a stringent quality assurance program. NMED anticipates that a number of CH TRU mixed waste streams with well-documented AK may also be able to meet the AK Sufficiency Determination criteria and therefore not require additional verification by sampling and analysis.

Significant changes to the TRU mixed waste characterization process. The primary objective of the general waste analysis requirements in RCRA is to ensure, at a minimum, that the characterization record must contain all of the information, which must be known to treat, store, or dispose of the waste in accordance with 40 CFR §264.13. At WIPP, these characterization requirements are focused on obtaining the following information:

- Identifying the physical form of the waste (homogeneous solids, soil/gravel or debris);
- Identifying the appropriate hazardous waste constituents associated with the waste; and
- Identifying prohibited items (free liquids; non-radionuclide pyrophoric materials; hazardous wastes that are not mixed with TRU wastes; chemically incompatible wastes, explosives and compressed gases; polychlorinated biphenyls not authorized under an EPA waste disposal authorization; and ignitable, corrosive and reactive wastes).

As discussed above, the current Permit contains a number of characterization requirements such as mandatory headspace gas sampling and analysis on 100% of containers and 100% of containers undergoing verification of AK by either VE and/or RTR. These characterization activities are not required by RCRA, but were self-imposed by the Permittees in their original permit application and incorporated as Permit requirements by NMED. RCRA allows wastes to be characterized by sampling and analysis, acceptable knowledge, or a combination of the two.

NMED has approved previous modifications to the Permit waste characterization requirements, including:

- Allowing the compositing of headspace gas samples prior to analysis;
- Allowing statistical headspace gas sampling and analysis for thermally treated wastes; and
- Allowing facilities to perform VE as a quality control check on RTR on a summary category group rather than on individual waste streams for determining the RTR miscertification rate.

NMED found in these circumstances that the Permittees met their burden of proof that the proposed changes were technically defensible and protective of human health and the environment. NMED believes that the majority of the waste characterization modifications proposed by the Permittees in this consolidated PMR are also technically defensible and protective of human health and the environment for the following reasons:

- The proposed AK sufficiency pathway provides for a determination of adequacy by NMED of the Permittees' provisional approval of a generator/storage site's Determination Request. That is, the Permittees will be prohibited from disposing of CH or RH TRU mixed wastes that are characterized by AK alone if NMED determines that the Permittees' evaluation of the AK record (or their conditional approval of AK sufficiency) was inadequate.
- An alternative reduced sampling and analysis waste characterization pathway is designed to collect data, when necessary, to resolve the assignment of EPA hazardous waste numbers. The more extensive collection of VOC data is no longer required to demonstrate compliance with environmental performance standards in the repository.
- The current permit requirement that 100% of containers undergo verification of AK by either VE and/or RTR will be amended to require the generator/storage site to perform RTR or VE on 100% of containers in those waste streams where AK does not substantiate the absence of prohibited items.

To ensure that the revised waste characterization process satisfies the standard in 40 CFR §264.13, NMED has included detailed

technical criteria in Attachment B for the Permittees' review of Determination Requests.

The creation of a new Section 311 waste confirmation process. NMED has included the Permittees' proposed Section 311 waste confirmation process in the draft Permit, with several modifications. NMED has included language throughout the draft Permit to clarify that all CH and RH TRU mixed wastes must be accurately characterized, including performing verification procedures, and found acceptable prior to shipment from the generator/storage site to WIPP.

The draft Permit would allow the Permittees to perform waste confirmation activities only at the generator/storage sites instead of at both the generator/storage sites and at WIPP. The Permittees have not adequately responded to the following question in the September 1, 2005 Notice Of Deficiency: *"If the Permittees identify a container with a prohibited item during confirmation activities at WIPP, how will the Permittees remedy the problem?"* The Permittees' statement that if non-compliant waste is detected during waste confirmation activities at WIPP, the Permittees will return the entire shipment or the nonconforming portion of the shipment to a generator or another off-site facility does not provide the procedural detail necessary for NMED to approve waste confirmation at WIPP at this time. The Nuclear Regulatory Commission (NRC) certificates of compliance for TRUPACT-II and HalfPACT shipping containers issued to one of the Permittees (Washington TRU Solutions LLC) do not allow for the transportation of certain prohibited items in the wastes. The Permittees have not adequately explained how they will return or otherwise transport off-site any shipments that contain a nonconforming waste. The Permittees must explain how they will address the NRC prohibitions and ship in an NRC certified container (as required by the LWA) the nonconforming waste to an off-site facility within 60 days. Because the draft Permit does not allow the Permittees to perform waste confirmation activities at WIPP, NMED has also rejected the Permittees' proposal to create holding areas in the WHB and the Parking Area Unit.

Amend Module III - Container Storage to accommodate RH TRU mixed wastes. NMED has incorporated in the draft Permit the Permittees' request to increase container storage capacity to manage RU TRU mixed wastes in an RH Complex in the WHB Unit and the Parking Area Unit.

Amend Module III - Container Storage to increase CH TRU mixed waste storage capacity. NMED has incorporated in the draft Permit the Permittees' request to increase container storage capacity for the management CH TRU mixed wastes in the WHB Unit and the Parking Area Unit.

Increase the volume of TRU wastes that may be emplaced in each panel. NMED agrees with Permittees that it is appropriate to increase the maximum capacity for each panel, as long as the total volume under the LWA is not exceeded. NMED has included language in the draft Permit that would define the capacity of a panel as its maximum design capacity, with the limitations that both the maximum design capacity of a panel and the maximum capacity of the repository allowed under the LWA are not exceeded. NMED has also included a provision in the draft Permit that, upon completion of disposal activities in a panel, the Permittees must provide written notification to the Secretary of the actual final volume of waste emplaced.

Change the method for demonstrating that the WIPP underground disposal rooms comply with the environmental performance standards for volatile organic compounds, pursuant to Section 311. NMED believes that the Permittees' proposed method for demonstrating that the air quality in the underground disposal rooms does not exceed environmental performance standards reflects experience gained from monitoring data collected during the past six years of operation and is, therefore, protective of human health and the environment.

2. NMED does not propose to approve the following items included in the PMR:

- Performing Section 311 confirmation activities at WIPP until significant concerns regarding how the Permittees will address any noncompliant waste found during confirmation are thoroughly addressed; and

- Designating separate holding areas for TRU mixed wastes awaiting or undergoing waste confirmation prior to storage and disposal.

3. NMED has proposed a dispute resolution process in the draft Permit, which would apply in the following circumstances:

- The Permittees disagree, in whole or in part, with an audit finding by NMED; or
- The Permittees disagree, in whole or in part, with an evaluation by NMED of the Permittees' provisional approval of a generator/storage sites' AK Determination Request.

A two-tier process would involve informal negotiations between the Permittees and NMED and, if agreement is not reached within 30 days, the Permittees may submit a written request for Final Determination to the Secretary. The Secretary's decision would become the final resolution of the dispute and an enforceable Order under the Permit.

4. Finally, NMED inserted section subtitles, corrected several miscellaneous typographical and wording errors, and incorporated new wording and subtitle numbering as needed to conform with the permit modification requests and for consistency.

NMED believes the modifications proposed in the draft Permit continue to be as protective of human health and the environment as the current Permit.

AVAILABILITY OF ADDITIONAL INFORMATION

The Administrative Record for this proposed action consists of this Fact Sheet, the Public Notice, the permit modification request, all public comments received during the previous comment period, the draft Permit, and all other relevant correspondence. The administrative record may be reviewed from Monday through Friday 8:00 AM to 5:00 PM at the following location:

New Mexico Environment Department
Hazardous Waste Bureau
2905 Rodeo Park Drive East, Building 1
Santa Fe, New Mexico 87505-6303
Phone: 505-428-2500
Attn: Mr. James P. Bearzi

To obtain a copy of the administrative record or any part thereof, please contact Mr. James P. Bearzi of the New Mexico Environment Department at the above address. The draft Permit, Fact Sheet, and Public Notice are also available on the NMED web site (www.nmenv.state.nm.us/wipp).

Permittees and each person who submitted a written comment during the public comment period or testimony at a Public Hearing, if held, of the final decision, including any approved change to the proposed modification, and a detailed statement of reasons for any such change. The final decision will be made according to applicable State and Federal laws.

PUBLIC COMMENT AND REQUEST FOR HEARING

Any person who wishes to comment on this permit modification or to request a Public Hearing should submit all written comments/requests, along with the commenter's/requester's name and address, to Mr. James P. Bearzi at the above address. All requests for Public Hearing must 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 requester represents; (3) a statement of any objections to the permit modification, including specific references; and (4) a statement of the issues which such persons propose to raise for consideration at the hearing. Written comment and requests for Public Hearing must be filed with Mr. James P. Bearzi on or before January 23, 2006 at NMED Hazardous Waste Bureau, 2905 Rodeo Park Drive East, Building 1, Santa Fe, New Mexico, 87505.

If, after the public comment period, the Secretary determines to hold a Public Hearing based either on a request for Public Hearing submitted on or before January 23, 2006, or on his own initiative, the hearing will be scheduled to begin on March 8, 2006, in Santa Fe, New Mexico. A Public Notice of the hearing time, place and procedures will be issued at least 30 days prior to the hearing date.

FINAL DECISION

All written comments received during the Public Notice period and issues raised at a Public Hearing, if held, will become part of the administrative record and will be considered in formulating the final decision. NMED may approve, modify and approve, or deny the requested permit modification based on the comments received. NMED will notify the