



BILL RICHARDSON
Governor

DIANE DENISH
Lieutenant Governor

NEW MEXICO
ENVIRONMENT DEPARTMENT

Hazardous Waste Bureau

2905 Rodeo Park Drive East, Building 1
Santa Fe, New Mexico 87505-6303
Phone (505) 476-6000 Fax (505) 476-6030
www.nmenv.state.nm.us



RON CURRY
Secretary

JON GOLDSTEIN
Deputy Secretary

March 7, 2008

**SUBJECT: NOTICE OF PUBLIC COMMENT PERIOD AND INTENT TO APPROVE
A CLASS 3 PERMIT MODIFICATION TO THE WASTE ISOLATION
PILOT PLANT RCRA PERMIT – CORRECTED**

Dear Interested Person:

On February 28, 2008, the New Mexico Environment Department (NMED) sent you a letter announcing its intent to approve a Class 3 Permit modification to the Waste Isolation Pilot Plant (WIPP) Resource Conservation and Recovery Act (RCRA) Permit. However, NMED failed to enclose the Public Notice with the letter, and is therefore re-noticing this action and extending the public comment period.

The enclosed Public Notice provides locations where the administrative record, including the Class 3 permit modification request, Fact Sheet/Statement of Basis, and related documents for this action can be reviewed, and provides procedures for submitting comments and requesting a Public Hearing. Comments and requests for Public Hearing will now be received through **5:00 pm, May 6, 2008**.

Any person seeking additional information regarding this notice or the draft permit may contact:

Mr. Steve Zappe
NMED Hazardous Waste Bureau
2905 Rodeo Park Drive East, Bldg 1
Santa Fe, NM 87505-6303

E-mail: steve.zappe@state.nm.us
Telephone: (505) 476-6000
Fax: (505) 476-6060

Sincerely,

A handwritten signature in black ink, appearing to read "J. Kielling".

John E. Kielling
Program Manager
Permits Management Program
Hazardous Waste Bureau



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PUBLIC NOTICE NO. 08-03

**NEW MEXICO ENVIRONMENT DEPARTMENT
HAZARDOUS WASTE BUREAU
SANTA FE, NEW MEXICO
Issued February 28, 2008
Revised March 7, 2008**

**NOTICE OF PUBLIC COMMENT PERIOD AND INTENT TO APPROVE A
MODIFICATION TO THE WASTE ISOLATION PILOT PLANT RCRA PERMIT**

Under authority of the New Mexico Hazardous Waste Act (Section 74-4-1 *et seq.*, NMSA 1978, as amended, 1992) and the New Mexico Hazardous Waste Management Regulations (20.4.1 NMAC), the New Mexico Environment Department (NMED) can approve or deny hazardous waste permits, closure plans, permit modifications, and amendments. Under this authority, NMED intends to approve, pending public input into this decision, an August 27, 2007 Class 3 permit modification request received from the U.S. Department of Energy and Washington TRU Solutions LLC (**the Permittees**) for the Waste Isolation Pilot Plant (**WIPP**), EPA ID# NM4890139088. NMED issued a Resource Conservation and Recovery Act (**RCRA**) permit, which incorporated corrective action requirements, to the Permittees on October 27, 1999.

WIPP is located in Eddy County in southeastern New Mexico, approximately 26 miles east of Carlsbad. The facility boundary corresponds to a 16-section Federal land area known as the WIPP Land Withdrawal Area, which was created when Congress approved the WIPP Land Withdrawal Act in October 1992. WIPP is an industrial facility that consists of 16 square miles of land surface, surface buildings and structures, an underground network of subsurface excavated openings, and vertical shafts that connect the surface and the subsurface areas. The Permittees have developed a 1,454 acre exclusive use area located in the center of the 16 square miles. Land uses within this area are limited to activities associated with the disposal of transuranic waste.

The Permittees' primary contact for this action is Mr. Jody Plum, US DOE/Carlsbad Field Office, 4021 National Parks Highway, Carlsbad, New Mexico, 88220.

If approved, the proposed modification would grant no further action (**NFA**) status for fifteen Solid Waste Management Units (**SWMUs**) and eight Areas of Concern (**AOCs**) (see list below).

Table 2 (SWMUs Requiring an RFI) and Table 3 (AOCs Included in the Permit) of Module VII of the WIPP Permit identify the SWMUs and AOCs at the facility that are proposed for NFA status. NMED has issued a draft permit to modify Module VII by moving the SWMUs and AOCs from Tables 2 and 3 to a new Table 4 (SWMUs/AOCs Requiring No Further Action).

NMED's approval of the SWMUs/AOCs proposed for NFA by the Permittees is on the basis that they have been characterized or remediated in accordance with current applicable state and/or federal regulations, and the available data indicate that contaminants pose an acceptable level of risk under current and projected future land use.

The following SWMUs and AOCs are the subject of this action:

1. SWMU 001g, H-14/P-1 Mud Pits
2. SWMU 001h, H-15/P-2 Mud Pits
3. SWMU 001j, P-3 Mud Pit
4. SWMU 001k, P-4 Mud Pit
5. SWMU 001L, WIPP-12/P-5 Mud Pits
6. SWMU 001m, P-6 Mud Pit
7. SWMU 001n, P-15 Mud Pit
8. SWMU 001o, Badger Unit Mud Pits
9. SWMU 001p, Cotton Baby Mud Pits
10. SWMU 001q, DOE-1 Mud Pits
11. SWMU 001s, ERDA-9 Mud Pit
12. SWMU 001t, IMC-374 Mud Pit
13. SWMU 001x, WIPP-13 Mud Pit
14. SWMU 004a, Portacamp Storage Yard, West Side
15. SWMU 007b, SW Evaporation Pond
16. AOC 001r, D-123 Mud Pit
17. AOC 001u, IMC-376 Mud Pit
18. AOC 001v, IMC-456 Mud Pit
19. AOC 001w, IMV-457 Mud Pit
20. AOC 001ac, DSP-207 Mud Pit
21. AOC 001ae, IMC-377 Mud Pit
22. AOC 010b, Waste Handling Shaft Sump
23. AOC 010c, Exhaust Shaft Sump

PUBLIC REVIEW OF THE ADMINISTRATIVE RECORD

The Administrative Record for this proposed action consists of the WIPP No Further Action Petition, the Permittees' Class 3 Permit Modification Request, the Fact Sheet / Statement of Basis, this Public Notice, the Draft Permit consisting of revised Tables 2, 3, and new Table 4 of Permit Module VII, and the referenced supporting documentation for each site. The complete Administrative Record may be reviewed at the following location during the public comment period:

NMED – Hazardous Waste Bureau
2905 Rodeo Park Drive East, Building 1
Santa Fe, NM 87505-6303
Telephone: (505) 476-6000
Monday-Friday: 8:00 am – 5:00 pm

To obtain a copy of the Administrative Record or a portion thereof, please contact Ms. Pamela Allen at (505) 476-6000, or at the Santa Fe address given above. NMED will provide copies, or portions thereof, of the Administrative Record at a charge to the requestor.

A copy of the Fact Sheet/Statement of Basis, the Public Notice, and the Draft Permit consisting of revised Tables 2, 3, and new Table 4 of Permit Module VII are available electronically on the NMED WIPP Information Page at <www.nmenv.state.nm.us/wipp> or may be reviewed at the following location during the public comment period:

WIPP Information Center
Skeen-Whitlock Building
4021 National Park Highway
Carlsbad, NM 88220
Telephone: (575) 234-7502, (800) 336-9477
Monday-Friday: 7:00 am – 4:30 pm

Any person seeking additional information regarding this notice or the Draft Permit may also contact:

Steve Zappe, WIPP Project Leader
NMED – Hazardous Waste Bureau
2905 Rodeo Park Drive East, Bldg 1
Santa Fe, NM 87505-6303
Ref: WIPP No Further Action Petition
E-mail: steve.zappe@state.nm.us
Telephone: (505) 476-6000
Fax: (505) 476-6060

NMED issues this revised public notice on **March 7, 2008** to announce the beginning of a 60-day comment period that will now end at **5:00 pm MDT, May 6, 2008**. Any person who wishes to comment on this action or request a public hearing should submit written or electronic mail (e-mail) comment(s) with the commenter's name and address to Mr. Steve Zappe at the respective address above. Only comments and/or requests received on or before **5:00 pm MDT, May 6, 2008** will be considered.

Written comments must be based on the Administrative Record. Documents in the Administrative Record need not be re-submitted if 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 proposed action, 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. Steve Zappe on or before **5:00 pm MDT, May 6, 2008**. NMED will provide a thirty (30) day notice of a public hearing, if scheduled.

NMED must ensure that the approved final Permit will be consistent with the New Mexico Hazardous Waste Management Regulations. All written comments submitted on the draft Permit will become part of the administrative record, will be considered in formulating a final decision, and may cause the draft Permit to be modified. NMED will respond in writing to all significant public comment. The response will specify which provisions, if any, of the draft Permit have been changed in the final Permit decision, and the reasons for the change. This response will also be posted on the NMED website in addition to NMED notifying all persons providing written comments.

After consideration of all written public comments received, NMED will issue, or modify and issue, or disapprove the Permit modification. If NMED modifies the Permit, the Permittees shall be provided by mail a copy of the modified Permit and a detailed written statement of reasons for the modifications. The NMED Secretary will make the final Permit decision publicly available and shall notify the Permittees by certified mail. The Secretary's decision shall constitute a final agency decision and may be appealed as provided by the Hazardous Waste Act. All persons on the mailing list, or that provided written comments, or who requested notification in writing, will be notified of the final decision by mail.

The final decision will become effective thirty days after service of the decision to the Permittees, unless a later date is specified or review is requested under the New Mexico Hazardous Waste Management Regulations, 20.4.1 NMAC, Section 901.E, *Hearings*.

ARRANGEMENTS FOR PERSONS WITH DISABILITIES

Any person with a disability requiring assistance or auxiliary aid to participate in this process should contact Judy Bentley by 10 days prior to the end of the public comment period at the following address: New Mexico Environment Department, Room N-4030, P.O. Box 26110, 1190 St. Francis Drive, Santa Fe, New Mexico 87502-6110, (505) 827-9872. TDD or TDY users please access Ms. Bentley's number via the New Mexico Relay Network at 1-800-659-8331.