

**Notice of RCRA Class 1 Permit Modification
in Accordance with 20 NMAC 4.1.900
(40 CFR Part 270)**

**Waste Isolation Pilot Plant
Carlsbad, New Mexico**

April 20, 2000

Notice of RCRA Permit Modification
in Accordance with 20 NMAC 4.1.900 (40 CFR Part 270)

Consistent with the requirements of 20 New Mexico Administrative Code (NMAC) 4.1.900 (incorporating 40 CFR §270) the U.S. Department of Energy, Carlsbad Area Office is submitting to the New Mexico Environment Department (NMED) this Notice of Class 1 Permit Modifications to the Hazardous Waste Facility Permit (#NM4890139088-TSDF) for the Waste Isolation Pilot Plant (WIPP). Specifically, this information is provided to comply with the requirements of 20 NMAC 4.1.900 (incorporating 40 CFR 270.42(a)(I)).

A single modification is included in this submittal. This is submitted as an administrative change under item A.1 as identified in Appendix I to 20 NMAC 4.1.900 (incorporating 40 CFR 270.42).

The identified change does not substantially alter the permit conditions or reduce the capacity of the facility to protect human health or the environment and the modified permit is no less stringent than the current permit.

Class 1 Permit Modification

Description:

Replace the requirement in Module IV.B.2.b to clearly indicate that placement of TRU mixed waste in a Hazardous Waste Disposal Unit (HWDU), is not affected by the existence of TRU non-mixed waste in the HWDU that was disposed of prior to the effective date of the WIPP's Hazardous Waste Facility Permit (the permit) and was not characterized in accordance with the Waste Analysis Plan in the permit.

Basis:

This item removes the ambiguity of the specific prohibition in Module IV.B.2.b and clarifies that this requirement does not apply to, nor does it have any residual impacts from waste that was disposed of prior to the permit's effective date. Revising this language will alleviate concerns that the permit condition could be interpreted as affecting the Permittees' authority to dispose of WAP-characterized, TRU mixed waste in the same panel with TRU non-mixed waste that was disposed of prior to the effective date of the permit and that was not characterized in accordance with the Waste Analysis Plan in the permit. The new language is consistent with the NMED's intent expressed in the October 27, 1999 *Final Order of the Secretary of the New Mexico Environment Department* which accompanied the issuance of the WIPP's Hazardous Waste Facility Permit. In the Order, the NMED Secretary stated, "Furthermore, Permit Applicants are concerned that they will not be able to dispose of additional waste in panel 1 after the HWA Permit becomes effective, because there is already waste in panel 1 not characterized in accordance with the WAP. These concerns are misplaced. The terms of the HWA Permit only apply after the permit becomes effective." The new language is also consistent with the NMED's position regarding Module IV.B.2.b in the attachment to NMED's March 9, 2000 approval of the final audit report for the Rocky Flats Environmental Technology Site.

Discussion:

The item above is a Class 1 permit modification under 20 NMAC 4.1.900 (incorporating 40 CFR 270.42, Appendix I, A.1). This change to the permit is most appropriately classified as an administrative and informational change. The item neither substantially alters the permit conditions nor reduces the capacity of the facility to protect human health and the environment, rather, it clarifies the meaning of the permit to be consistent with the NMED position referenced above.

Revised Permit Text:

Module IV.B.2.b, Page IV-2

Specific prohibition - after this Permit becomes effective, ~~(1)~~ the Permittees shall not dispose non-mixed TRU waste in any Underground HWDU unless such waste is characterized in accordance with the requirements of the WAP specified in Permit Condition II.C.1, ~~and (2)~~. ~~the~~ **The** Permittees shall not dispose TRU mixed waste in any Underground HWDU if the Underground HWDU contains non-mixed TRU waste **which was disposed of after this permit became effective and was** not characterized in accordance with the requirements of the WAP.