



GARY E. JOHNSON
GOVERNOR

State of New Mexico
ENVIRONMENT DEPARTMENT

Hazardous Waste Bureau
2905 Rodeo Park Drive East, Building 1
Santa Fe, New Mexico 87505-6303
Telephone (505) 428-2500
Fax (505) 428-2567

www.nmenv.state.nm.us



PETER MAGGIORE
SECRETARY

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

February 25, 2002

Dr. Inés Triay, Manager
Carlsbad Field Office
Department of Energy
P. O. Box 3090
Carlsbad, New Mexico 88221-3090

Mr. John Lee, General Manager
Westinghouse TRU Solutions LLC
P.O. Box 2078
Carlsbad, New Mexico 88221-5608

**RE: ADMINISTRATIVE COMPLETENESS DETERMINATION, CLASS 1 NOTIFICATIONS
WIPP HAZARDOUS WASTE FACILITY PERMIT
EPA I.D. NUMBER NM4890139088**

Dear Dr. Triay and Mr. Lee:

The New Mexico Environment Department (NMED) acknowledges receipt of numerous notifications of Class 1 permit modifications to the WIPP Hazardous Waste Facility Permit. NMED reviewed the following documents for administrative completeness:

- Notification of Class 1 Permit Modifications, Dated 7/21/00, Rec'd 7/25/00
- Notification of Class 1 Permit Modifications (B6 Checklist), Letter Dated 5/25/01, Rec'd 5/29/01
- Notification of Class 1 Permit Modifications (General Manager, etc.), Letter Dated 6/28/01, Rec'd 7/2/01
- Notification of Class 1 Permit Modifications Updating Emergency Coordinator List, Letter Dated 10/26/01, Rec'd 10/29/01
- Notification of Class 1 Permit Modifications, Letter Dated 2/7/02, Rec'd 2/8/02

NMED has reviewed these documents and determined that they are administratively complete. With the exceptions of those modifications identified in Attachment 1 as being

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either withdrawn, rejected, or accepted with changes, all other modifications identified in the Notices of Class 1 Modification listed above have been put into effect as requested by the Permittees under the conditions specified in 20.4.1.900 NMAC (incorporating 40 CFR §270.42(a)(1)).

NMED notes that the July 21, 2000 modification was undoubtedly the most difficult Class 1 modification to implement of all modifications submitted by the Permittees to date. It required extensive time and resources to review and incorporate into the Permit, far beyond what would be expected of a typical Class 1 modification. The volume of comments in the Attachment attests to the complexity of this modification. However, NMED hopes the Permittees now have a much clearer understanding of how permit modifications are classified under 20.4.1.900 NMAC (incorporating 40 CFR §270.42), and that notification of this magnitude will not be submitted as a Class 1 modification in the future.

The New Mexico Hazardous Waste Fee Regulations require assessment of fees when administrative review of a document is complete, as specified in 20.4.2.301 NMAC. NMED will issue an invoice to you under a separate letter. Payment is due within sixty (60) calendar days from the date that you receive the invoice.

If you have any questions regarding this matter, please contact Steve Zappe at (505) 428-2517.

Sincerely,

/Signed/

James P. Bearzi
Chief
Hazardous Waste Bureau

Attachment

cc: Greg Lewis, NMED WWMD
Steve Zappe, NMED HWB
Cindy Abeyta, NMED HWB
Laurie King, EPA Region 6
Connie Walker, TechLaw
File: Red WIPP '02

NMED General Comments Regarding Class 1 Permit Modifications

July 21, 2000 Notice of Class 1 Permit Modifications

Item 1.a.3 The inserted paragraph was written to mandate that the Waste Stream Characterization Package include the Waste Stream Profile Form (**WSPF**), the Characterization Information Summary (**CIS**), and complete AK summary, to be consistent with Section B3-12b(2). The last sentence was also edited to reflect requirements in Section B3-12b(2).

The acronym for Waste Stream Profile Form was also introduced here, and every subsequent reference to it was replaced by the acronym WSPF.

Item 1.a.5 The proposed elimination of items in the information list for contents of the WSPF was compared to the list in Item 1.c.18. Certain items were subsequently added to Section B3-12b(1).

A minor editorial change was made to the inserted paragraph, so that it reads, “As stated in the Introduction of this WAP...” to be consistent with the rest of the Attachment.

Item 1.a.7 The proposed language to the first paragraph of Section B-4 was not modified from the correct version of the Permit. Only the word “that” was inserted in the first sentence, while other changes to the rest of the paragraph were as requested.

Item 1.a.9 References to Permit Attachment B6 were not changed (i.e., the language “specified in Permit Attachment B6” was retained).

Item 1.a.11 According to convention in the Permit, citations to specific sections in an attachment appear as “Section B3-X”, while citations to entire attachments appear as “Permit Attachment B3”.

The final paragraph suggested for insertion in Section B-4a(6) was completely new, not existing as presented in the modification. This new paragraph was inserted following the large section of the first paragraph that was struck. The correct reference for this document is (DOE, 2001), and has been added to the list of references in the WAP in Section B-5.

The paragraph regarding submittal of the WSPF has been edited to include information contained in the struck portions of the first paragraph, clarifying that the WSPF, the CIS, and information from the WWIS will be used as the basis for acceptance of waste characterization information.

Item 1.a.13 The word “WIPP” was replaced with “Permittee” to avoid ambiguity over definition of who performs the waste screening in Section B-4b.

Item 1.a.14 In the first paragraph of Section B-4b(1), the proposed struck language including verification of the waste stream characterization summary report package completeness as part of Phase 1 activities. The language was edited to state that this process includes “verification that all of the required elements of the Waste Stream Profile Form and the Characterization Information Summary are present...”

The third paragraph struck the requirement for the Site Project Manager to verify that waste stream characterization meets applicable WAP requirements, as well as the prohibition on management, storage, or disposal of such waste at WIPP. This language has been retained with minor revision to keep it consistent with the rest of the modification.

The fifth paragraph (dealing with the WWIS) apparently attempts to eliminate requirements for consideration of WWIS information in evaluating the WSPF, which is not within the realm of a Class 1 modification. Such language as was in the original Permit has been retained.

In the sixth paragraph, language was proposed that would add that the waste stream would not be approved “for disposal.” This language was apparently part of an earlier proposal (central characterization) that would distinguish between waste characterization requirements for storage versus disposal. The Permit makes no such distinction, and this language was not incorporated.

Item 1.a.15 By definition, all edit/limit checks in the WWIS are applicable, thus adding the word “applicable” is redundant and may cause confusion. This change was not made.

Under the Waste Container Data Report bullet, the reference to Table B-8 was retained because it contains the relevant requirements for the report.

Item 1.a.16 The definition of the acronym “CBFO” was added to the opening paragraph.

Although the modification didn’t indicate the presence of the paragraph starting with “Waste data transferred via the WWIS after WSPF approval”, this paragraph has been retained.

Item 1.c.3 The second paragraph in B3-10 proposed adding the phrase “in either electronic or hard copy format” for Batch Data Reports. This language is beyond the scope of a Class 1 modification and was not incorporated.

The paragraph dealing with raw analytical data proposed language saying it would be readily available for review “when requested by the Permittees.” This language is too restrictive, since the data should be available to any party reviewing the Analytical Batch Data Report. The phrase has been changed to read “upon request.”

The new statement regarding On-line Batch Data Reports was made a bulleted item to retain consistency with the rest of this section.

Item 1.c.4 The phrase regarding analytical raw data stating “however, it need not be included in the Batch Data Report” was deleted from this section, since it is irrelevant to the data generation level reviewer and potentially created confusion.

Item 1.c.5 The global caveat “as applicable,” referring to the bulleted items the independent technical reviewer must ensure, was overly vague and not included. All bulleted items are required.

The first bullet proposed eliminating the requirement to ensure the correct number of significant figures was used in reporting is rejected. Incorrect use of significant figures or incorrect rounding protocols can impact the use of project data and subsequent project decisions.

Item 1.c.6 The global caveat “as applicable,” referring to the bulleted items the independent technical reviewer must ensure, was overly vague and not included. All bulleted items are required.

The phrase “as applicable” in the third bullet appears problematic. This item was edited to read in the same manner as the bullet under Independent Technical Review.

Item 1.c.7 The global caveat “as applicable,” referring to the bulleted items the independent technical reviewer must ensure, was overly vague and not included. All bulleted items are required.

Item 1.c.9 The global caveat “as applicable,” referring to the bulleted items the independent technical reviewer must ensure, was overly vague and not included. All bulleted items are required.

The first bullet proposed eliminating the requirement to ensure the correct number of significant figures was used in reporting is rejected. Incorrect use of significant figures or incorrect rounding protocols can impact the use of project data and subsequent project decisions.

Item 1.c.10 Rather than delete the third bullet under the responsibilities of the Site Project Manager, this bullet was edited to be identical to the same bullet under the Site Project QA Officer's responsibilities.

Item 1.c.11 The proposed change in the first paragraph of new section B3-10b(3) would allow the QA Officer Summary and Data Validation Summary to be "incorporated into the Site Project QA Officer and Site Project Manager checklists." This language is unclear as to whether the summaries would simply be checklist items instead of a report. The language has been changed to state, "These reports may be combined to eliminate redundancy, and may be included with the Site Project QA Officer and Site Project Manager checklists."

Further requirements were imposed here that were deleted in Item 1.a.11 from the first paragraph in Section B-4a(6), such as including all waste container numbers, referencing nonconformance reports if necessary, and including signature releases.

Item 1.c.13 The proposed change in the first paragraph of Section B3-10c would reduce the scope of the Permittees' review of Batch Data Reports to those evaluated during an audit at the generator/storage site. The proposed change also eliminates specific completeness elements that must be evaluated, but does not proposed alternative information that must be checked for each batch report. This does not meet the intent of a Class 1 modification, and is therefore rejected. If the Permittees wish to pursue this modification, it is better suited to the Class 2 process.

The proposed change also included new language discussing the method for WSPF approval, apparently limiting the verification of the actual form to the initial WSPF submittal. The language has been changed to require this verification for each WSPF submitted for approval. The language regarding use of limit checks in the WWIS for subsequent shipments has been made part of the verification, requiring the Permittees to review the WSPF each time it is submitted, either for initial approval or for revision approval.

- Item 1.c.14 The parenthetical phrase, “(if applicable),” has been moved to the beginning of the section before the bullets, and stated, “as applicable.” Also, the phrase “waste stream profile form” has been replaced by the previously defined acronym “WSPF”.
- Item 1.c.15 As in Item 1.c.13, the proposed language limits data reconciliation by the Permittees to review of original WSPFs and items evaluated during audits at generator/storage sites. Again, this does not meet the intent of a Class 1 modification, and is therefore rejected. If the Permittees wish to pursue this modification, it is better suited to the Class 2 process.
- Item 1.c.16 The second paragraph included language that eliminated the requirement that Batch Data Reports be forwarded to the Site Project Manager. This is inconsistent with Section B3-10b(2), and so the original language has been retained.
- Item 1.c.17 The initial paragraph was rearranged to mention the WSPF first, followed by the CIS and Waste Stream Characterization Package. This improves the logical flow of information. Also, the statement regarding where summarized data are included was changed to reference the CIS, not the WSPF.

The second paragraph, which was reduced to a single sentence in the proposed modification, was rewritten to retain more of the original language, simply replacing “Summarized testing, sampling, and analytical data” with “Waste Stream Characterization Package.”

- Item 1.c.18 Broke the new section for WSPF and CIS into two separate sections, renumbering each successive section as appropriate.

For the WSPF, added items deleted from Section B-1d that should still appear on the WSPF, such as original generator of waste stream, description of waste stream, the waste stream WIPP ID number, a listing of the acceptable knowledge documentation, and a listing of the waste characterization procedures.

For the CIS, rearranged the order of bullets and added a bullet for totals analysis to reflect what is currently provided in the CIS. NMED expanded the overly broad list of AK summary information to reflect what is currently provided in the AK summary report accompanying the CIS. Also defined the acronym AK as acceptable knowledge, and spelled out radiography and visual examination.

Relocated the concluding paragraph to become the second paragraph in Section B3-12b.

- Item 1.c.19 Incorporated with minor editorial changes for consistency between sections, and to reference section for the WSPF, CIS, and AK summary.
- Item 1.c.22 On Table B3-11, made the reporting of “indication of vented rigid liners” a required element of radiography batch reports. Under “description of container contents” revised the comment to require providing enough detail to identify all discernible waste items, etc. Under “operator signature and date of test” revised the comment to clarify that the signatures of both operators are required for visual verification. Under “signature of visual examination expert and date” deleted the comment since there are no circumstances in which the VEE would not be required to sign the report. Under “data review checklists” add the comment that all data review checklists will be identified.
- Item 1.c.23 On Table B3-12, made the reporting of “sample location” a required element. Made “drum age”, “equilibration time”, “verification of rigid liner venting”, and “verification that sample volume taken is small in comparison to the available volume” all required element of HSG sample reports. Under “data review checklists” add the comment that all data review checklists will be identified.
- Item 1.c.24 On Table B3-13, made “holding time”, “date and time analyzed”, and “TIC evaluation” all required elements. Made “operator signature and analysis date” a required element. Under “data review checklists” add the comment that all data review checklists will be identified.

May 21, 2001, Notification of Class 1 Modifications

This modification was a complete replacement of the checklists in Permit Attachment B6 (i.e., the “B6 checklists”). NMED made changes to the following checklist items to bring them into conformance with the Permit as modified:

- Item 4 The statement regarding assignment of a Waste Stream WIPP Identifier was deleted in Permit Attachment B. The requirement was moved to Permit Attachment B3, Section B3-12b(1). Checklist Item 4 has been revised to reflect the new reference.
- Item 6 References to USEPA were changed to EPA to remain consistent with usage elsewhere in the Permit.

NMED General Comments

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- Item 36 Change reference to Section B3-10a.
- Item 37 Add missing reference to Section B3-10a(1).
- Item 38 Change reference to Section B3-10a(2).
- Item 39 Change reference to Section B3-10a(3).
- Item 40 Change reference to Section B3-10b(2).
- Item 41 Change reference to Section B3-10b(1).
- Item 42 Change reference to Section B3-10b.
- Item 42 For the QA Officer Summary, the requirement to include the validation checklist on a waste container basis was removed to be consistent with the Permit. Also, change reference to Section B3-10b(3).
- Item 49 The statement requiring procedures for data transmittal from Level 1 to Level 2 are not in the Permit. This item was deleted, but the blank row was retained.
- Item 51a Change reference to Section B3-12b(4).
- Item 54 The requirements for this item were originally specified in Section B-4a(6), not Sections B3-10 or B3-12. However, the language in B-4a(6) was deleted, and orphaned requirements were incorporated into Section B3-10b(3). This item was deleted, but the blank row was retained.
- Item 56 For the list of required elements for the Waste Stream Profile Form, the language from Section B3-12b(1) was directly pasted into the checklist.
- Item 56a For the list of required elements for the Characterization Information Summary, the language from Section B3-12b(2) was directly pasted into the checklist.
- Item 57 The requirements for this item were originally specified in Section B-4a(6), which was subsequently deleted. The orphaned requirements were incorporated into Section B3-10b(3). This item was deleted, but the blank row was retained.
- Item 61 This requirement for completing a Waste Stream Profile Form was incorrectly referenced. The correct reference to Section B3-12b was

added. Also, the requirement is for the site project office, not the Site Project Manager.

- Item 62 This item incorrectly referenced Section B3-12b(1), in addition to correctly referencing Section B-4a(6). The incorrect reference was deleted.
- Item 65 Section B-4a(7) was revised to identify “analytical records”, not “analytical QA data”. The Item was edited to reflect this.
- Item 73 Changed reference to Section B-4b(2).
- Item 78 Changed acronym from CAO to CBFO.
- Item 80 Changed reference to Section B2-2a.
- Items 90, 91 Renumbered as Items 89 and 90. Applied the number 91 to the blank item on the following page.
- Item 123 Changed reference to Section B-3a(3).
- Item 124 Section B1-4 was revised to change the situations governing requirements for laboratories to maintain sample custody. Language in this Item was modified to reflect this change.
- Item 170 Add reference to Section B4-3f.
- Item 214 Same edit as Item 124 above.

June 28, 2001, Notification of Class 1 Modifications

- Item 1.a.1 This proposed language was incorporated with the exception of the phrase “elements of” when referring to how the Contingency Plan is triggered.
- Item 1.a.2 The Permittees withdrew this item in a letter dated September 26, 2001.
- Item 1.a.3 The Permittees withdrew this item in a letter dated September 26, 2001.
- Item 1.a.5 The item on Table F-6, “Site-wide Evacuation Alarm” to strike “supplemental audible alarm in high ambient noise areas” was already incorporated in a previous version of the permit.

- Item 1.b.1 This proposed change to the Underground ambulance Weekly Check List was not incorporated because all checklists from Attachment D1 were previously removed.
- Item 4.a.6 The education requirements for the newly defined Transportation Engineer (formerly the Waste Operations Administrative Assistant) were already a bachelors degree, not the associate degree as identified in the proposed language. No change to educational requirements were necessary.
- Item 6.a.1 This proposed change to the dimensions of disposal room entries was incorporated with the exception that “feet” was abbreviated to “ft” to be consistent with the rest of the section.

August 8, 2001, Notification of Class 1 Modifications

- Item 2 NMED received a letter from Matthew Silva of the Environmental Evaluation Group dated October 9, 2001, requesting NMED to review this item under 40 CFR §270.42(a)(1)(iii). The request expressed concern about the safety of placing filters on the body of various containers instead of restricting them to the lids only. NMED has removed all references in Permit Attachment M1 to placement of filters on the body of containers.

NMED has also deleted language previously implemented by mistake regarding direct loading of ten drum overpack containers. On August 30, 2001, NMED rejected the Class 1 modification dated July 20, 2001, Item 2.d (allowing the direct loading of ten-drum overpack containers) as not being a non-substantive change.

Other changes implemented by NMED

1. Attachment B, Section B-5, List of References: Add references to the two Performance Demonstration Program Plans for headspace gas and sampling of solid waste forms to be consistent with the references in Section B-3a(3), Laboratory Qualification.