
From: Nick Maxwell <inspector@sunshineaudit.com>
Sent: Wednesday, September 20, 2023 6:21:17 PM
To: McLean, Megan, ENV <Megan.McLean@env.nm.gov>
Cc: Kenney, James, ENV <James.Kenney@env.nm.gov>
Subject: [EXTERNAL] Preliminary Comments Regarding the "Proposed Final Permit" for the Waste Isolation Pilot Plant (WIPP)

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Megan McLean, Acting WIPP Group Program Manager
Hazardous Waste Bureau - New Mexico Environment Department
2905 Rodeo Park Drive East, Building 1
Santa Fe, New Mexico 87505-6303

September 20, 2023

Subject: Preliminary Comments Regarding the "Proposed Final Permit" for the Waste Isolation Pilot Plant (WIPP)

Dear Megan,

I am writing to express my concerns in anticipation of submitting a formal notice of opposition to the "Proposed Final Permit" for the Waste Isolation Pilot Plant (WIPP) facility. My concerns pertain to several aspects of the permitting process, but I am particularly alarmed by the reduced comment period for the Proposed Final Permit, which appears to contradict the 45-day comment period mandated under the Resource Conservation and Recovery Act (RCRA).

As you are likely aware, the RCRA guidelines specify that draft permits should have a public comment period of at least 45 days. However, it has come to my attention that the comment period for the Proposed Final Permit for WIPP, beginning with its publication on August 15, 2023, has been reduced to conclude on September 22, 2023, potentially limiting public engagement on a subject of critical importance. Given that this is a matter that involves both public safety and environmental stewardship, it is crucial that all interested parties have sufficient time to examine, understand, and provide constructive feedback on the Proposed Final Permit.

I further assert that the Proposed Final Permit should be treated as a

"draft permit" under RCRA regulations. A draft permit typically implies a permitting document that has not yet been finalized and remains subject to public comment and potential modification. Given that the Proposed Final Permit is open for public comment and incorporates substantive changes from its predecessor, it seems to meet these criteria and should, therefore, be subject to the 45-day comment period mandated under RCRA.

Failure to provide the 45-day comment period could raise questions about the legal validity of the permitting process. It might also compromise public trust in both the New Mexico Environment Department (NMED) and the WIPP facility. I urge you to consider these ramifications seriously, as they could lead to legal challenges and/or delays that serve no one's best interests.

In conclusion, I hereby demand that NMED adhere to the 45-day public comment period as specified under RCRA guidelines. Furthermore, I encourage you to clarify that the Proposed Final Permit qualifies as a draft permit, thereby ensuring that all relevant laws and regulations are followed. Given these pressing concerns, NMED must not only revise and reissue its public notice but also include the previously omitted fact sheet, all in accordance with state and federal regulatory requirements.

Thank you for your attention to this matter. I look forward to engaging more substantively, and I sincerely hope that NMED takes the necessary steps to rectify the issues outlined in this letter.

Sincerely,

Nicholas R. Maxwell
PO Box 1064
Hobbs, NM 88241
inspector@sunshineaudit.com

Cc. James Kenney, Cabinet Secretary