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**ENVIRONMENT DEPARTMENT**

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Reading  
Mailed  
12/14/00  
26

**CERTIFIED MAIL  
RETURN RECEIPT REQUESTED**

December 13, 2000

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

Mr. Joe Epstein, General Manager  
Westinghouse Waste Isolation Division  
P.O. Box 2078  
Carlsbad, New Mexico 88221-5608

**RE: APPROVAL OF TEMPORARY AUTHORIZATION REQUEST  
WIPP HAZARDOUS WASTE FACILITY PERMIT  
EPA I.D. NUMBER NM4890139088**

Dear Dr. Triay and Mr. Epstein:

The New Mexico Environment Department (NMED) received your "Temporary Authorization Request, Drum Age Criteria" on December 7, 2000 as an attachment to your letter transmitting a request for a Class 2 permit modification to establish the drum age criteria (DAC) necessary for taking a representative headspace gas sample based on packaging configuration groups. In the temporary authorization request from DOE and Westinghouse (the Permittees), you stated that this change is necessary "to assure that TRU and TRU mixed waste were available to allow INEEL (Idaho National Engineering and Environmental Laboratory) to maintain current shipping rates to WIPP." You further stated that inability to implement these revised DAC "has caused a disruption in the shipping and disposal schedule for TRU and TRU mixed waste from INEEL."

As stated in our September 5, 2000 letter denying a previous request for temporary authorization, the regulations governing approval or denial of temporary authorization requests are specified in 20.4.1.900 NMAC (incorporating §270.42(e)(3)), which require that two independent criteria must be met:

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- The authorized activities are in compliance with the standards of 20.4.1.500 NMAC (incorporating 40 CFR §264); and
- The temporary authorization is necessary to achieve one of five listed objectives before action is likely to be taken on the modification request.

With regard to the first criterion, NMED has performed a preliminary review of the proposed Class 2 permit modification. This analysis indicates that the modification request is administratively complete compared to the standards specified in 20.4.1.500 NMAC (incorporating 40 CFR §264). With regard to technical adequacy, NMED recognizes that the technical basis for the proposed modification (the 1995 Lockheed report referenced in Permit Attachment B1) was incorporated into the permit, and that the recently issued technical report cited in the modification request (the 2000 Bechtel report) primarily extends this technical basis to additional packaging configurations and sampling scenarios. The proposed revision appears to maintain the requirement that the minimum DAC ensure that the drum contents have reached 90 percent of steady state concentration within each layer of confinement. Based upon this preliminary analysis, NMED believes that the proposed activities are in compliance with the standards of 20.4.1.500 NMAC.

With regard to the second criterion, the justification for the objective identified in the temporary authorization request is summarized below:

- To prevent disruption of ongoing waste management activities [§270.42(e)(3)(ii)(C)] – the Permittees state that INEEL has an inventory of retrievably stored debris waste, and that all the containers are unvented. Because INEEL does not sample at the time of venting, they are forced to wait an additional DAC prior to headspace gas sampling. The proposed modification indicates a much shorter DAC is sufficient to re-establish the required equilibrium after venting and prior to sampling. However, the requirement to wait an additional 100 or more days before sampling has created a bottleneck in the waste characterization process at INEEL and resulted in the cancellation of 8 out of 19 shipments from the facility to WIPP. As a consequence, WIPP has experienced a disruption in its ongoing waste management activities by reduced receipt of waste from INEEL.

Based upon this information, NMED believes that failure to implement this temporary authorization will have a direct impact on ongoing waste management activities at WIPP.

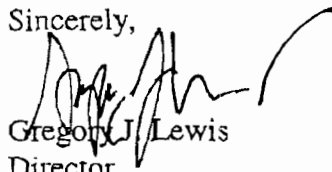
Following review of this temporary authorization request and the relevant regulations specified in 20.4.1.900 NMAC (incorporating §270.42(e)), NMED hereby approves the request for temporary authorization allowing INEEL to use the revised DAC as described in the proposed permit modification. Please note that this approval of the temporary authorization request does not

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prejudice NMED action on the actual modification request. If public comment identifies issues resulting in NMED approving the modification with changes, NMED will identify the corrective action necessary for the Permittees to ensure continued compliance with the permit.

If you have any questions regarding this matter, please contact Steve Zappe at (505) 827-1560, x1013.

Sincerely,



Gregory J. Lewis  
Director  
Water and Waste Management Division

GJL/soz

cc: Paul Ritzma, NMED  
James Bearzi, NMED HWB  
John Kieling, NMED HWB  
Steve Zappe, NMED HWB  
Susan McMichael, NMED OGC  
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Connie Walker, TechLaw  
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