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**State Environment Department Denies WIPP Permit Modifications,
Issues Notice of Violation to Department of Energy and Westinghouse**

(Santa Fe, NM) -- The New Mexico Environment Department (NMED) has rejected a request to consider several changes as Class 1, or non-substantive, modifications to the Waste Isolation Pilot Plant (WIPP) operating permit, and has issued the Department of Energy (DOE) and Westinghouse a "notice of violation" for putting into effect the Class 1 modifications which were improperly classified.

The Class 1 modifications submitted by the DOE and Westinghouse for the WIPP permit included one for compositing gas samples from up to 20 waste-containing drums into a single sample for analysis to measure hazardous constituents, rather than analyzing individual samples from each drum. The other proposed permit modifications were to establish safety conditions for visual examination of waste, and requirements for sampling gases through the existing vent hole in waste drums.

Today the NMED rejected all of these Class 1 modifications because they are considered substantive changes. According to the regulations, Class 1 changes "are minor in nature and for the most part should be easily reversible." They include administrative and informational changes and correction of typographical errors. Although the public is notified of Class 1 modifications, no public comment period is necessary due to their non-substantive nature.

Because Class 1 changes may be implemented immediately by the permittees at their own risk, shipments to WIPP have included those characterized using procedures in the now-denied Class 1 modifications, including composite gas analysis.

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Consequently, the NMED issued a notice of violation for the improperly characterized shipments and improper classification. The NMED will also issue a completion schedule to bring the facility back into compliance with the permit. The WIPP will be allowed to continue to manage, store, and dispose of waste which was characterized prior to September 24, 2001, using some of the procedures previously submitted as Class 1 permit modifications. The WIPP may not, according to the NMED, continue to use or implement the procedures previously submitted as Class 1 modifications that have been rejected.

The NMED also denied the DOE /Westinghouse request for temporary authorization for Class 1 modifications put into effect between July 20 and December 12, 2000 and resubmitted as Class 2 modifications on August 28, 2001.

The NMED is also requiring the Permittees immediately provide a revised public notice of their Class 2 modification. Several technical deficiencies in the proposed permit modifications will also have to be addressed.

Class 2 modifications are considered minor changes to a permit, and address common or frequently occurring changes needed to maintain a facility's capability to manage wastes safely or to conform with new regulatory requirements. The public is notified of the modification and is offered an opportunity to submit public comment to the Environment Department before a final action is taken on the modification request.

The final class of modification is a Class 3, which substantially alters the facility or its operation. The public is notified of the proposed changes, and is offered expanded opportunities for public comment on the proposed modification as well as the proposed implementation of the modification in a draft permit. A public hearing may also be held before a final decision is made.

For additional information, contact Paul Ritzma, General Counsel, at (505) 827-2855, or Cathy Tyson, Communications Director, NMED, at (505) 827-0314.

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