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JUDITH M. ESPINOSA  
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CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

October 20, 1992

A. LaMar Trego  
General Manager  
Westinghouse Electric Corporation  
P.O. Box 2078  
Carlsbad, New Mexico 88220



Arlen Hunt, Project Manager  
WIPP Project Site Office  
P.O. Box 3090  
Carlsbad, New Mexico 88220

Re: Waste Isolation Pilot Plant (WIPP):  
Part A and Chapter B, Revision 2, Request for Information

Dear Messrs Trego and Hunt:

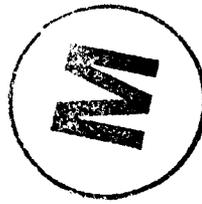
The New Mexico Environment Department (NMED) has completed the technical review of the revised Part A application and Chapter B of the Part B Waste Isolation Pilot Plant (WIPP) permit application, submitted by U.S. Department of Energy/Westinghouse Electric Corp, Waste Isolation Division (DOE/WID) to NMED on September 11, 1992. The review resulted in several questions and indicated the need for additional information for clarification purposes. An enclosed summary of these information gaps is submitted for your attention. As indicated in the working meeting between NMED and DOE/WID on October 13, 1992, NMED requires a submission of your response on or before October 30, 1992 if a reevaluation of the Part A application and Chapter B is anticipated. Should you choose not to respond at this time, the Request for Information detailed in this letter, and any other outstanding issues remaining on November 13, 1992 will be addressed in a NOD to DOE.



NMED has examined the regulatory definition of "land disposal" as it applies to LDR, and origin of the definition cited by DOE/WID in the Part B application. 40 CFR 268.2 indicates that placement within a salt formation constitutes "disposal", which appears to be supported by previous EPA clarifications of the definition (i.e. as

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stated in the July 8, 1987 Federal Register Notice, Volume 52, No. 130). Regulations and EPA clarifications therefore support the LDR definition of "land disposal" presented in the application.

However, NMED questions whether the Test Phase activities constitute disposal, as defined by 40 CFR 260.10. As defined herein, "Disposal means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted to the air or discharged into any waters, including ground waters". While small quantities of VOC's may enter the air during the Test Phase, the intent of the Test Phase is to test stored wastes to determine the viability of long-term disposal. Since removal of wastes following the Test Phase could be required, NMED believes that wastes are to be stored during the Test Phase, not disposed. Therefore NMED asserts that the regulatory definition of disposal does not apply to the Test Phase, hence the intended activities at the WIPP facility during the Test Phase constitute storage, not disposal.

Further, the pending Land Withdrawal Bill defines disposal as "permanent isolation of transuranic waste from the accessible environment with no intent of recovery, whether or not such isolation permits the recovery of such waste". These definitions indicate that while the WIPP Test Phase fits the LDR description of "land disposal", the Test Phase does not correspond with other regulatory definitions of disposal. Therefore, NMED requests that DOE/WID modify Chapter B of the application discussing Land Disposal to clearly state that no disposal is intended during the Test Phase, although a No Migration Petition was apparently required to meet LDR requirements.

In summary, it is NMED's position, which is also supported by the Land Withdrawal Bill, that during the Test Phase no disposal is to occur at the WIPP facility. NMED recognizes the applicability of LDR definitions with regard to land disposal at the WIPP site, as defined by EPA. Nevertheless, based on the LWB language regarding the intent of disposal and 40 CFR 260.10 definition of disposal, NMED requests that DOE/WID state clearly in the application that storage - not disposal - of wastes will occur during the Test Phase. Additionally, NMED requests that DOE/WID modify or omit from the Application the statement in Chapter B, Lines 4 through 11, "...the placement of hazardous waste in a salt bed formation is defined as land disposal."

This letter, with modified specific comment # 5, Page B-4, Lines 4 through 11, supercedes the October 15, 1992 hand delivered Part A and Chapter B Request for Information letter to Daryl Mercer, WPIO.

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I apologize for any confusion or inconvenience this action might have caused.

Should you have any questions regarding the information presented in this letter, please contact me or Susan Collins (505) 827-4304.

Sincerely,

*Barbara Hoditschek*

Barbara Hoditschek, RCRA Program Manager  
Environment Department  
Hazardous & Radioactive Materials Bureau

cc: Connie Walker, Manager, A.T.Kearney  
Bob Kerman, WID  
Daryl Mercer, WPIO  
Susan Collins, WIPP Permit Coordinator, NMED





COMPLETENESS AND TECHNICAL REVIEW  
PART A APPLICATION AND CHAPTER B, REVISION 2  
WASTE ISOLATION PILOT PLANT  
PART B PERMIT APPLICATION REVIEW

SPECIFIC COMMENTS

- A. **Part A Application:** 270.10 d), 270.11(a) and (d), 20.14
- 1) The capacity of waste to be managed at the WIPP (in the Test Rooms and Waste Handling Building) in the Part A application is not the same as the amounts identified in the Part B application. Revise the Part A to be equivalent to the capacities identified in the Part B application. (Note that the Part A may only reflect the amount of wastes that are applicable to the Test Phase, not the potential amount of wastes that may be received if the facility is permitted for the Operational Phase).
  - 2) The pages of the revised Part A application did not include a new certification. Due to the identification of a new hazardous waste management unit, the Waste Handling Building, a new certification signature is necessary.
  - 3) Item XVI in the Part A application requires the submittal of a map. No map is included with the Part A application. Provide a map which depicts the locations of the hazardous waste management units at the facility. Alternatively, the Part A may reference the location of an appropriate map(s) in the Part B application.
- B. **FACILITY DESCRIPTION:** 270.14(b) (14)
- B-1 **General Description:** 270.14(b) (1)
- 4) Revise the application to include introductory information on the WIPP as presented in Revision 1 of the application. Include a discussion of why the WIPP location was selected as a research and development site. Also, expand the discussion to indicate the generator sites that will ship wastes to the WIPP.
- Page B-4, Lines 4 through 11
- 5) The application states that "...the placement of hazardous waste in a salt bed formation is defined as land disposal." NMED recognizes that this definition is supported by the regulatory definition of land disposal, however during the Test Phase NMED asserts that no disposal, i.e. permanent isolation of waste, is to occur.

Revise the application accordingly.

Page B-5, Lines 10 through 12

- 6) The application indicates that the total area of the Waste Handling Building (WHB) is 84,000 square feet and the container storage area is 36,000 square feet. Figure B-2 is referenced to illustrate the location of the container storage area. However, Figure B-2 appears to indicate that the entire building is the container storage area. Revise Figure B-2 to illustrate the portion of the WHB that is to be permitted with respect to the entire WHB.

Page B-7, Lines 25 through 30

- 7) These lines of the application present confusing language. The application indicates that there is a major geologic barrier within the facility. Identify the geological barrier. Also, describing the salt as intact implies that there are locations where the salt is not intact. Indicate if these areas are the excavated areas which comprise the underground portion of the WIPP. A brief discussion of the land withdrawal and its significance is also warranted.
- 8) The application has been revised to delete any mention of other tests that will occur in the underground during the Test Phase. This information should remain in the application. Briefly describe the types of tests that are conducted. Indicate whether these tests will have any impact on the test bins or routine operations of the facility.

Page B-9, Lines 20 through 21

- 9) The application states that the James Ranch Well bypasses the salt formation. This statement implies that there is no salt formation within Section 6 (or outside the WIPP boundary). Revise the application to indicate that the salt formation is not penetrated within Section 31 by the James Ranch Well, if that is the intent of the sentence.

Figure B-3

- 10) Figure B-3 is confusing. There are more dashed lines than are identified in the legend. Revise the figure. It is suggested that the area of the units be illustrated using shading or cross hatching.

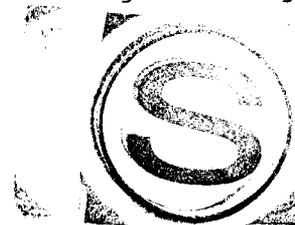
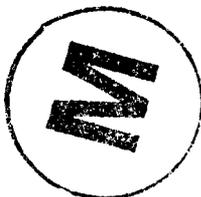


Figure B-8

- 11) This figure indicates that the unit boundary is larger than Panel 1 as the legend defines the dashed line as the unit boundary marker. The dashed line outlines Panel 1. This indicates that Rooms 1 and 3 are not separate hazardous waste management units. Revise the figure to illustrate that the unit boundaries as those for (are the limits of) Rooms 1 and 3.

Figure B-11

- 12) This figure indicates that no excavation has been conducted north of Rooms 4, 5, and 6. However, Figures B-3 and B-8 illustrate that excavation has occurred north of these rooms. Additionally, Figure B-4 illustrates excavation north of Rooms 3, 4, 5, and 6. Revise the application to include figures which provide consistent information.

Figure B-15

- 13) This figure illustrates the grazing leases within the WIPP boundary. No legend is provided to enable the determination of which areas are leased. Revise the figure (to include identification of leased areas.). Alternatively, this information may be provided in the text of the application.



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