

# WHAT WASTE COMES TO WIPP?

Since passage of the WIPP Land Withdrawal Act of 1992 (Public Law 102-579), what waste could and could not come to the world's first nuclear waste repository has been decided. The law says that the dump is for "the safe disposal of radioactive waste materials generated by atomic energy defense activities," and the volume limit is 6.2 million cubic feet of transuranic (plutonium-contaminated) waste, of which no more than 250,000 cubic feet can be "remote-handled"



Workers at Los Alamos National Laboratories (LANL) preparing a shipment for delivery to WIPP.

(more highly radioactive) waste. Although the law has not changed, the Department of Energy (DOE) continues to try to redefine some of its waste in order to bring waste for which WIPP was not intended.

DOE has acknowledged public opposition to renaming waste by delaying decisions until the next administration for some, but not all, of the attempts to expand WIPP. But many New Mexicans have understood that WIPP as the only repository would be considered for other wastes, including high-level waste and commercial waste, despite the law's prohibitions.

In 2003, DOE began proclaiming publicly that 8 or 12 or 20 of the 177 high-level waste tanks at the Hanford site in Washington actually contain transuranic (TRU) waste that could come to WIPP. New Mexicans and Governor Bill Richardson strongly opposed that effort, and in 2004 the New Mexico Environment Department (NMED) changed the WIPP operating permit to place additional barriers on such wastes. (See *Voices from the Earth*, Winter 2004.)

Citizens also strongly objected to tank wastes being included in the WIPP Inventory for the Environmental Protection Agency (EPA) recertification, which resulted in substantially delaying the recertification decision, while DOE and EPA considered how to respond to the opposition. EPA's April 10, 2006, recertification decision reiterated that it "will not allow high-level waste or spent nuclear fuel to be shipped to WIPP." But the decision also said that it is DOE's responsibility for "waste determinations" as to which classification was given to waste materials. DOE agreed to make such determinations through a to-be-developed "public process." DOE has yet to start that process.

In December 2003, in its *Final West Valley Demonstration Project Waste Management Environmental Impact Statement*, DOE also proposed bringing transuranic waste from West Valley (WVDP), New York to WIPP. That waste is prohibited because it was commercially generated, not defense waste. Objections by Southwest Research and Information Center (SRIC) and New Mexico Senator Jeff Bingaman stopped that decision. On June 16, 2005, DOE

announced that it was "deferring a decision on the disposal of WVDP TRU waste, pending a determination by the DOE that the waste meets all statutory and regulatory requirements for disposal at the WIPP." Further, "DOE will further respond to SRIC comments when a decision on WVDP TRU waste disposal is made."

DOE now has decided to defer the decisions about bringing high-level and West Valley wastes to WIPP to the next administration. In October 2007, DOE decided to exclude the high-level wastes from the new WIPP Inventory for the 2009 recertification application. In February 2008, in the Budget Request to Congress, DOE stated that it was delay the West Valley waste decision for two years, until 2010.

Nonetheless, on March 7, 2008, DOE stated that it would ship wastes from 12 or 14 sites to the Idaho National Lab (INL) and then ship it on

to WIPP. DOE admitted that two of the sites — NRD, LLC in New York, and Babcock and Wilcox in Virginia — might not be able to ship since they might not have defense waste. However, five other sites were not included in the *DOE Waste Management Programmatic Environmental Impact Statement*. Moreover, some of the sites had wastes that are not allowed at WIPP. About 84 percent of the more than 9,000 cubic meters (317,700 cubic feet) of waste included in the March decision are at two sites — Hanford and Livermore in California. Those two sites have shipped waste to WIPP, but the DOE decision did not examine any alternative to shipping waste from those sites to INL.

On May 14, five organizations — Natural Resources Defense Council, Snake River Alliance (Idaho), Heart of America Northwest (Washington), Tri-Valley CAREs (Livermore), and SRIC — wrote DOE Secretary Samuel Bodman, requesting that he withdraw the March decision. In addition to the lack of analysis of alternatives and no environmental analysis of some of those sites, the letter also pointed out that there was no analysis of the transportation impacts of some of those sites or the large TRUPACT-III shipping container that was to be used, and that some of the waste volumes were several times different than those in the just released WIPP Inventory. The letter also pointed out that several sites "may not be able to send waste to WIPP, resulting in waste from those sites remaining at INL, in violation of the Idaho Settlement Agreement." That 1995 DOE-State of Idaho agreement requires all TRU waste to be shipped out of state. The letter noted that DOE had issued no analysis of what would happen to any waste stranded in Idaho. The letter asked DOE to respond by May 30, 2008.



Specialized container used to transport Remote-Handled (RH) waste to WIPP.

## DOE PAYS FINE FOR PROHIBITED WASTE DRUM

In June 2007, the INL Advanced Mixed Waste Treatment Project (AMWTP) shipped a 55-gallon drum to WIPP that contained liquids that are prohibited by the operating permit. Although DOE wanted to leave the drum underground, NMED Secretary Ron Curry ordered it to be removed, and it was shipped back to INL on August 18. (See *Voices from the Earth*, Fall 2007.) On March 26, 2008, DOE agreed to pay a \$110,700 fine for violating the permit requirements.

## WATER LEAK SHUTS DOWN WIPP


On April 23, 2008, workers at WIPP discovered a leak in the water line for the fire suppression system in the waste handling building where all waste is received, unloaded, and sent to the underground disposal rooms. Waste shipments were suspended until May 7, while an alternative water source was installed. The broken water line will take several weeks to replace. DOE has not yet provided any explanation for why the 24-year-old water line failed.

## WIPP PERFORMANCE WELL BELOW THAT PROMISED

Even before the two-week halt in shipments, WIPP has continued its historic practice of receiving substantially less waste each year than it had promised to Congress and in its "Performance Management Plans" (PMP). For the five-year period of October 1, 2002 to September 30, 2007, WIPP disposed of 43,091 cubic meters of TRU waste, less than 83 percent of the 51,988 cubic meters of waste it told Congress in its annual Budget Requests that it would dispose during that period. In its PMPs, DOE said that during those five years it planned to dispose of 56,915 cubic meters of waste. Despite underperforming, WIPP received more than 105% of its requested funding for those years, a total of \$1,119,383,000.

## MORE PROHIBITED WASTE RETURNED

On June 6, 2008, DOE announced that a 55-gallon drum of waste with several liters of liquids was found nine rows deep in the WIPP underground. On June 13, the container was returned to the Los Alamos National Laboratory. Although DOE officials maintain that they had not violated the WIPP permit, NMED will decide. The drum clearly violated the permit provision requiring "as little residual liquid as is reasonably achievable by pouring, pumping and/or aspirating," which was not done for that container.

Among many other issues, the next administration (and perhaps Congress) will have to make decisions about what wastes it will try to bring to WIPP, how it will deal with wastes that cannot come to WIPP without changing the law, how to deal with "orphan" wastes (see *Voices from the Earth*, Fall 2007), and whether to continue to reward underperformance with additional funding. 

### FOR MORE INFORMATION

WIPP: [www.wipp.energy.gov](http://www.wipp.energy.gov)

NMED WIPP: [www.nmenv.state.nm.us/wipp/index.html](http://www.nmenv.state.nm.us/wipp/index.html)

SRIC: [www.sric.org](http://www.sric.org)