

Class 1* Permit Modification Request

Update Attachment A of the Hazardous Waste Facility Permit

**Waste Isolation Pilot Plant
Carlsbad, New Mexico**

WIPP HWFP #NM4890139088-TSDF

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Acronyms and Abbreviations

CFR	Code of Federal Regulations
DOE	Department of Energy
HWFP	Hazardous Waste Facility Permit
NMAC	New Mexico Administrative Code
NMED	New Mexico Environment Department
PMR	Permit Modification Request
WGES	Westinghouse Government Environmental Services
WIPP	Waste Isolation Pilot Plant
WTS	Washington TRU Solutions LLC

Overview of the Permit Modification Request

This document contains a Class 1* Permit Modification Request (**PMR**) to the Hazardous Waste Facility Permit (**HWFP**) at the Waste Isolation Pilot Plant (**WIPP**), Permit Number NM4890139088-TSDF, hereinafter referred to as the WIPP HWFP.

This PMR is being submitted by the U.S. Department of Energy (**DOE**) and Washington TRU Solutions, LLC (**WTS**), collectively referred to as the Permittees, as a Class 1* permit modification consistent with the related designations contained in 20.4.1.900 New Mexico Administrative Code (**NMAC**), incorporating Title 40 of the Code of Federal Regulations (**CFR**) Section 270.42(a)(7). This change does not reduce the ability of the Permittees to continue to protect human health and the environment.

The requested modification to the WIPP HWFP and related supporting documents are provided in this PMR. The proposed modification to the text of the WIPP HWFP has been identified using a double underline and revision bar in the right hand margin for added information, and a ~~strikeout~~ font for deleted information. All direct quotations are indicated by *italicized* text.

Attachment A

Description of the Class 1* Permit Modification Request

Table 1. Class 1* Hazardous Waste Facility Permit Modification Request

No.	Affected Permit Section	Item	Category	Attachment A Page #
1	a.1. Attachment A	Change to chronology of events in Permit Attachment A-6.	A.7	A-3

Item 1

Description:

This PMR notifies the New Mexico Environment Department (**NMED**) of a change within Westinghouse Government Environmental Services Company (**WGES**), an affiliate of Washington TRU Solutions, LLC, co-permittee under the WIPP HWFP. WTS is owned by WGES, the managing member, and Weston Solutions, Inc. BNFL's prior interest in the former Westinghouse government services businesses, which includes BNFL's prior interest in WGES, has been acquired by Washington Group International, Inc., another WTS affiliate. This PMR proposes to update related information in the chronology of events listed in Attachment A-6 of the WIPP HWFP.

The announcement letter for this change is attached.

Basis and Discussion:

Pursuant to 20.4.1.900 NMAC, incorporating 40 CFR § 270.40(b), a permittee must notify the NMED of certain changes in the ownership or operational control at a hazardous waste facility by filing a Class 1* PMR (requiring prior agency approval) and submitting a revised permit application at least 90 days before the scheduled change. The Permittees must also submit a written statement containing the specific date for transfer of permit responsibility between the current and new permittees.

The DOE and WTS do not interpret 20.4.1.900 NMAC, incorporating 40 CFR § 270.40(b), as mandating submission of a Class 1* PMR, for the following reasons: (1) WTS' co-permittee responsibilities under the WIPP HWFP will not change; (2) WTS' responsibilities under the WIPP HWFP will not be transferred to any other entity; (3) WGES will continue as managing member of WTS; (4) WTS is already designated as co-permittee under the terms and conditions of the WIPP HWFP; and (5) no changes are necessary to Attachment O, *Hazardous Waste Facility Permit Application Part A*, of the WIPP HWFP. Nonetheless, the Permittees have opted to submit a Class 1* PMR because (a) Attachment A-6 of the WIPP HWFP, *Chronology of Events Relevant to Changes in Ownership or Operational Control*, currently contains information related to WTS' corporate affiliates, and (b) the NMED has not yet clarified circumstances under which a Class 1* PMR or revised application are required under 20.4.1.900 NMAC, incorporating 40 CFR § 270.40(b), this recent change is similar to other information that NMED has requested be placed in Attachment A-6 of the HWFP.

This Class 1* PMR will add this information to the HWFP.

The Permittees are submitting this PMR as a Class 1*, consistent with the related designations contained in 20.4.1.900 NMAC, incorporating 40 CFR § 270.42(a)(7).

Revised Permit Text:

a. 1. Attachment A, Section A-6 Chronology of Events Relevant to Changes in Ownership or Operational Control

- December 19, 1997 NMED received notification of a change of name/ownership from Westinghouse Electric Corporation to CBS Corporation. The WIPP Management and Operating Contractor (**MOC**), Westinghouse Waste Isolation Division (**WID**), became a division of Westinghouse Electric Company, which in turn was a division of CBS Corporation. Notification to NMED was made by the permit applicant in a letter dated December 18, 1997. The permit application was under review, but a draft permit was not yet issued.
- September 22, 1998 NMED received notification of a pending transfer of ownership for the MOC, Westinghouse WID, from CBS Corporation to an as-yet-to-be-named limited liability company owned jointly by British Nuclear Fuels, plc and Morrison-Knudsen Corporation. The transfer of ownership was scheduled to occur on or about December 15, 1998. Notification to NMED was made by the permit applicant in a letter dated September 17, 1998. The draft permit had been issued for public comment, but the final permit was not yet issued.
- March 9, 1999 NMED again received notification of the pending divestiture of the MOC, Westinghouse WID, by CBS Corporation to the limited liability company owned jointly by British Nuclear Fuels, plc and Morrison-Knudsen Corporation known as MK/BNFL GESCO LLC. The new MOC would be renamed to Westinghouse Government Environmental Services Company LLC. Notification to NMED was made by the permit applicant in a letter dated March 2, 1999. The public hearing on the permit was underway, but the final permit was not yet issued.
- March 26, 1999 NMED received official notification of the divestiture of Westinghouse Electric Company by CBS Corporation to MK/BNFL GESCO LLC effective March 22, 1999. The MOC was renamed Westinghouse Government Environmental Services Company LLC (**WGES**), of which Westinghouse Waste Isolation Division was a division. This transaction constituted a change of operational control under 20.4.1.900 NMAC (incorporating 40 CFR §270.40). Notification to NMED was made by the permit applicant in a letter dated March 24, 1999. The public hearing on the permit was nearly concluded, but the final permit was not yet issued.
- April 28, 1999 NMED received a revised Part A Permit Application in a letter dated April 21, 1999, reflecting that the Westinghouse Waste Isolation Division, co-operator of the WIPP hazardous waste facility, was now a part of WGES. However, the final permit, issued October 27, 1999, did not reflect the change in ownership.

- July 25, 2000 NMED received a Class 1 permit modification in a letter dated July 21, 2000, changing the name in the Permit from Westinghouse Electric Corporation to Westinghouse Government Environmental Services Company LLC (WGES), Waste Isolation Division (WID). However, this notification did not constitute the required permit modification under 20.4.1.900 NMAC (incorporating 40 CFR §270.40) necessary to reflect the transfer of the permit to a new operator.
- December 15, 2000 DOE announced that it had awarded a five-year contract for management and operation of WIPP to Westinghouse TRU Solutions LLC, a limited liability company owned jointly by WGES LLC and Roy F. Weston, Inc. The announcement further stated that, following a brief transition period, the new contractor would assume MOC responsibilities on February 1, 2001. This transaction constituted a change of operational control under 20.4.1.900 NMAC (incorporating 40 CFR §270.40) requiring a Class 1 permit modification with prior written approval of NMED.
- February 5, 2001 NMED received a Class 1 permit modification in a letter dated February 2, 2001, which notified NMED of an organizational name change of the MOC from Westinghouse Government Environmental Services Company LLC Waste Isolation Division to Westinghouse TRU Solutions LLC (**WTS**). However, this notification did not constitute the required permit modification under 20.4.1.900 NMAC (incorporating 40 CFR §270.40) necessary to reflect the transfer of the permit to a new operator.
- December 31, 2002 NMED received a Class 1 permit modification in a letter dated December 27, 2002, which changed the name of the MOC from Westinghouse TRU Solutions LLC to Washington TRU Solutions LLC. Again, this notification did not constitute the required permit modification under 20.4.1.900 NMAC (incorporating 40 CFR §270.40) necessary to reflect the transfer of the permit to a new operator.
- February 28, 2003 NMED received a Class 1 permit modification requiring prior agency approval in a letter dated February 28, 2003, to satisfy the requirements specified in 20.4.1.900 NMAC (incorporating 40 CFR §270.40) to reflect the transfer of the permit to a new operator.
- September 16, 2004 NMED received a Class 1* permit modification notifying the NMED of a change within WGES, an affiliate of WTS. WTS is owned by WGES, managing member, and Weston Solutions, Inc. BNFL's prior interest in the former Westinghouse government services businesses, which includes BNFL's prior interest in WGES, has been acquired by Washington Group International, Inc., another WTS affiliate.

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NEWS RELEASE

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FOR RELEASE:

August 25, 2004

Washington Group International Acquires Remaining Interest In Westinghouse Government Services Businesses from BNFL

Boise, Idaho – Washington Group International, Inc. (NASDAQ: WGII) announced today that it has acquired BNFL’s interest in the former Westinghouse government services businesses that the two companies jointly purchased five years ago from CBS Corporation. The acquisition is subject to concurrence by the United States Department of Energy (DOE), the businesses’ primary client.

The businesses manage highly complex facilities and programs for the DOE and the U.S. Department of Defense (DoD) and provide engineering, construction, management, and risk-analysis services for a variety of governmental markets.

“This action reinforces our commitment to this important market at a time when the DOE is embarking on an aggressive period of contract competition to accelerate the closure of many of its Cold War-era facilities and to bring new operating standards to its national security and scientific infrastructure,” said Stephen G. Hanks, Washington Group President and Chief Executive Officer. “Our involvement with the DOE and its predecessor agencies dates back to the Manhattan Project and we look forward to continuing this mutually beneficial relationship in the future.”

Under the terms of the agreement, Washington Group will control the Westinghouse Government Services Company and the Westinghouse Government Environmental Services Company. Washington Group will pay BNFL 40 percent of the profits from the existing legacy contracts of the two businesses, 40 percent of the profits on future Washington Group contracts at certain DOE sites and one DoD operation, and 10 percent of the profits from all other contracts Washington Group holds with DOE through September 30, 2012. BNFL will not share in any losses of those businesses if they occur in the future, but it will maintain its portion of the liabilities the businesses incurred prior to the date of today’s buyout.

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