



June 8, 2026

Megan McLean, WIPP Program Manager
Hazardous Waste Bureau - NMED
2905 Rodeo Park Drive East, Building 1
Santa Fe, New Mexico 87505-6303
HWB-WIPP-Comment@env.nm.gov

Dear Megan McLean,

SUBJECT: NYSERDA Comments on Agency-Initiated Draft Hazardous Waste Facility Permit Modification for the Waste Isolation Pilot Plant, EPA ID No. NM4890139088-TSDF – Public Comment Period Ending June 22, 2026

The New York State Energy Research and Development Authority (NYSERDA) submits this letter in strong support of the New Mexico Environment Department's (NMED) proposed Agency-Initiated Modifications (AIM) to the Waste Isolation Pilot Plant (WIPP) Hazardous Waste Facility Permit. NYSERDA commends NMED for its leadership in codifying key commitments from the 2023 settlement agreement with the U.S. Department of Energy (DOE) and for establishing clear, enforceable provisions to prioritize the disposal of legacy transuranic (TRU) mixed waste nationwide.

NYSERDA holds title to the Western New York Nuclear Service Center and serves as a key participant in the West Valley Demonstration Project (WVDP) and has a direct stake in the safe and timely disposal of legacy TRU waste. The WVDP currently stores approximately 609 cubic meters of TRU waste that was generated from atomic energy defense activities and meets the requirements of the WIPP Land Withdrawal Act. Consistent with NYSERDA's January 2, 2025 comments to DOE on the Legacy TRU Waste Disposal Plan, we view NMED's proposed definition of "Legacy Waste" and the associated prioritization, metrics, deadlines, and transparency requirements as valuable tools for advancing risk reduction across the DOE complex.

NYSERDA stands ready to collaborate with NMED, DOE, and other stakeholders to ensure that eligible legacy TRU waste streams are appropriately characterized and incorporated into WIPP's disposal framework. We appreciate the opportunity to comment and commend the citizens and regulators of New Mexico for their steadfast commitment to protecting public health and the environment while advancing responsible stewardship of the nation's nuclear legacy.

BMF/26eje011

New York State Energy Research and Development Authority

Albany

17 Columbia Circle, Albany, NY 12203-6399
(P) 1-866-NYSERDA | (F) 518-862-1091
nyserda.ny.gov | info@nyserda.ny.gov

Buffalo

726 Exchange Street
Suite 821
Buffalo, NY
14210-1484
(P) 716-842-1522
(F) 716-842-0156

New York City

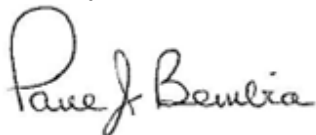
1359 Broadway
19th Floor
New York, NY
10018-7842
(P) 212-971-5342
(F) 518-862-1091

West Valley Site

Management Program
9030-B Route 219
West Valley, NY
14171-9500
(P) 716-942-9960
(F) 716-942-9961

Thank you for your consideration. Please contact Brad Frank, Program Manager – WVDP and End State Planning at 716-557-5582 or brad.frank@nyserda.ny.gov if you require additional information.

Sincerely,

A handwritten signature in dark ink, reading "Paul J. Bembia". The signature is fluid and cursive, with the first name "Paul" and last name "Bembia" clearly legible.

Paul J. Bembia

Senior Director

Paul.Bembia@nyserda.ny.gov

NYSERDA West Valley Site Management Program

Attachments:

1. *NYSERDA Comments on Agency-Initiated Draft Hazardous Waste Facility Permit Modification for the Waste Isolation Pilot Plant, EPA ID No. NM4890139088-TSDF*, dated June 8, 2026.
2. *NYSERDA Comments on the Legacy TRU Waste Disposal Plan*, dated January 2, 2025.

CC: James C. Kenney, NMED Cabinet Secretary, James.Kenney@env.nm.gov
C. Cooper, NYSERDA-Albany, Christopher.Cooper@nyserda.ny.gov
J. A. Dean, NYSERDA-Albany, Janice.Dean@nyserda.ny.gov
J. G. Williams, NYSERDA-Albany, John.Williams@nyserda.ny.gov
B. M. Frank, NYSERDA-WV, Brad.Frank@nyserda.ny.gov
T. A. Riese, NYSERDA-WV, Tara.Riese@nyserda.ny.gov

**New York State Energy Research and Development Authority (NYSERDA)
Comments on Agency-Initiated Draft Hazardous Waste Facility Permit
Modification for the Waste Isolation Pilot Plant (WIPP),
EPA ID No. NM4890139088-TSDF**

Date: June 8, 2026

NYSERDA submits these substantive comments regarding the New Mexico Environment Department's (NMED) proposed Agency-Initiated Modifications (AIM) to the WIPP Hazardous Waste Facility Permit. NYSERDA appreciates NMED's efforts in codifying key commitments from the 2023 settlement agreement with the U.S. Department of Energy (DOE) and for establishing clear, enforceable provisions to prioritize the disposal of legacy transuranic (TRU) mixed waste nationwide.

NYSERDA Contact: Brad Frank, Program Manager – WVDP and End State Planning
Email: brad.frank@nyserda.ny.gov
Phone: 716-557-5582

1. Support for the Proposed Definition of “Legacy Waste”

NYSERDA endorses the draft Permit's new definition in Part 1, Section 1.5.24:

“Legacy Waste” means waste placed in retrievable storage that is part of a TRU or TRU mixed waste stream without a projected waste component.

NYSERDA submits this definition directly addresses a gap identified in NMED's Fact Sheet: the absence of a clear permit-level definition for legacy waste. The definition provides a consistent, nationally applicable framework that will reduce uncertainty for historic inventories and support equitable prioritization across the DOE complex.

NYSERDA views this clarification as a valuable tool for advancing risk reduction and is consistent with our prior input to DOE emphasizing the importance of not losing sight of “potential WIPP TRU waste streams” that could be identified as WIPP-bound in the future.

2. West Valley Demonstration Project (WVDP) Context and Eligibility

As the entity that holds title to the Western New York Nuclear Service Center and serves as a key participant in the West Valley Demonstration Project (WVDP), NYSERDA has a direct stake in the safe and timely disposal of legacy TRU waste. The WVDP currently stores approximately 609 cubic meters of TRU waste that was generated from atomic energy defense activities during the 1966–1972 reprocessing operations and meets the requirements of the WIPP Land Withdrawal Act.

This inventory has been consistently represented in the Annual Transuranic Waste Inventory Report (ATWIR) as “potential TRU waste” due to historical classification considerations. While the West Valley inventory is identified as ‘potential’, historic New York State records clearly demonstrate that the WVDP waste streams were derived from atomic energy defense activities (e.g., 619 MT or 99.9% of the recovered uranium was transferred to the Feed Materials Production Center for use in nuclear weapons production). Under the proposed legacy waste definition, these wastes qualify for consideration within WIPP’s disposal framework.

NYSERDA’s January 2, 2025 comments to DOE on the Legacy TRU Waste Disposal Plan highlighted this exact issue and urged that such inventories not be overlooked (2025 comments attached). The draft permit’s framework provides an appropriate and constructive pathway forward.

3. Offer of Collaboration and Information Exchange

In addition to continued collaboration with DOE and other stakeholders, NYSERDA would be pleased to facilitate an understanding of the West Valley inventory for NMED, and NYSERDA offers to schedule appropriate meetings (virtual or in-person) with NMED staff. The purpose of such sessions would be to enable an information exchange in which NYSERDA technical staff would present and discuss the documented atomic energy defense connections and activities at West Valley during the 1966–1972 operating period, thus confirming the West Valley inventory as meeting the new definition of both Legacy Waste and Defense Waste.

We believe such dialogue will be mutually beneficial, strengthen inter-agency coordination, and advance the shared goal of responsible stewardship of the nation’s nuclear legacy.

Thank you for the opportunity to provide these comments. NYSERDA supports NMED’s efforts through these proposed regulations to promote timely progress on the nation’s cleanup obligations. The measures proposed by NMED support equity and focus attention on legacy inventories nationwide, including those at West Valley. NYSERDA appreciates NMED’s leadership on this important matter and looks forward to continued engagement.

NYSERDA Comments on the Legacy TRU Waste Disposal Plan

From Frank, Brad M (NYSERDA) <Brad.Frank@nyserda.ny.gov>
Date Thu 01/02/2025 2:58 PM
To LTWDP@wipp.doe.gov <LTWDP@wipp.doe.gov>
Cc Bembia, Paul J (NYSERDA) <Paul.Bembia@nyserda.ny.gov>

Dear Sir or Ma'am,

The New York State Energy Research and Development Authority (NYSERDA) holds title to the Western New York Nuclear Service Center, the location of DOE's West Valley Demonstration Project in southwestern New York State. NYSERDA has no comments on the definition provided by DOE for Legacy TRU. NYSERDA does wish to note, however, that the 609 cubic meters of TRU presently in storage at the West Valley Demonstration Project is not discussed anywhere in the WIPP TRU Legacy Waste Disposal Plan. While it appears that the WIPP Legacy TRU Waste Disposal Plan includes consideration only of the TRU waste streams DOE has currently identified as "WIPP-bound" in the 2023 Annual Transuranic Waste Inventory Report, it is important not to lose sight of the additional TRU waste inventories in storage that are presently considered "potential WIPP TRU waste streams" that could be identified as "WIPP-bound" in the future.¹

1) NYSERDA has compiled information demonstrating that the West Valley Reprocessing Facility conducted atomic energy defense activities during its operational period. As such, the West Valley TRU is eligible for disposal at WIPP.

Thanks for your time,
Brad

Bradley M. Frank
Program Manager
West Valley Demonstration Project
and End-State Planning Program
9030-B Route 219
West Valley, NY 14171
Cell: 716.512.3312