



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

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OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE

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Mr. Jack Ellvinger, Chief
Hazardous Waste Bureau
New Mexico Health and Environment Dept.
1190 St. Francis Dr.
Santa Fe, NM 87503

Dear Mr. Ellvinger:

On November 18, 1991, the U.S. Department of Energy (DOE), pursuant to Section 3004(h) of the Resource Conservation and Recovery Act (RCRA), submitted a case-by-case petition to the Environmental Protection Agency (EPA) requesting an extension of the effective date of the land disposal restrictions (LDR) for radioactive mixed wastes generated at a number of DOE facilities. These wastes contain both radioactive and hazardous waste constituents, hereafter, referred to as radioactive mixed wastes (RMW). The petition requests a capacity extension for those RMW included in the Third Thirds; it does not, however, include solvent, dioxin, and California list wastes.

Within the State of New Mexico, this case-by-case petition affects two DOE sites:

- o Los Alamos National Laboratory in Los Alamos
- o Sandia National Laboratories-Albuquerque in Albuquerque

The purpose of this letter is to provide you with background information regarding the DOE petition and to inform you of the general course of action that will be taken by EPA in processing this case-by-case petition. A copy of the petition is enclosed.

Background

DOE, in coordination with private contractors, owns and operates facilities nationwide that engage in research and production activities in the areas of nuclear weapons, energy, and medicine. These facilities have been operated by DOE and its predecessor agencies since the early 1940's and the generation of RMW has long been a by-product of these activities. DOE has also been storing and treating RMW.



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As amended by the Hazardous and Solid Waste Amendments of 1984, Sections 3004(g) and 3004(m) of RCRA required EPA to promulgate regulations pertaining to treatment standards and land disposal of hazardous waste, including RMW. In accordance with 55 FR 22688, June 1, 1990, 40 CFR 268.35 prohibits RMW from land disposal effective May 8, 1992, unless it meets treatment standards per section 268.40.

DOE submitted, as provided in section 268.5, a case-by-case petition requesting a one year extension of the May 8, 1992, effective date of the LDR for RMW. Overall, this petition covers 28 DOE facilities and involves 214 waste streams that DOE expects to generate, store, and treat after the LDR effective date. (A list of the affected DOE facilities is enclosed.) DOE also has indicated that, as allowed under section 268.5, a one year renewal of the extension, if approved, will be requested. It is important to note that the effect of approving an extension of the LDR for DOE's RMW would allow DOE to continue storing their RMW in compliance with the Subtitle C hazardous waste regulations for an additional two years, at most--until May 8, 1994.

The DOE petition presents and discusses issues that, according to DOE, demonstrate a lack of treatment, recovery, and disposal capacity to manage RMW. DOE believes there is insufficient commercially available capacity to treat wastes covered by the case-by-case petition. Also, DOE believes that certain circumstances beyond DOE's control prevent it from providing compliant treatment, recovery, or disposal capacity by May 8, 1992. According to DOE, these points are:

- o The lack of existing proven technologies to specifically treat and dispose of RMW to meet LDR treatment standards.
- o The large backlog of other RMW currently stored at DOE facilities awaiting treatment and disposal.
- o The lack of adequate funding for implementation of treatment and disposal technologies.
- o The historical lack of clarity regarding the applicability of RCRA to RMW.
- o The time required to develop, review, and evaluate National Environmental Policy Act (NEPA) before each facility providing LDR treatment and disposal capacity can be engineered and constructed.
- o The time required to prepare a RCRA Part B application for each facility providing LDR treatment and disposal capacity and the time required by EPA and the states to review and approve each RCRA Part B application.



We recently have learned from DOE that certain stored RMW, generated prior to the May 8, 1992, effective date, may need to be taken out of storage during the requested extension period and, for example, repackaged and then placed back into storage. The repackaged RMW would remain at the same facility but may be stored in a different on-site location. Because these wastes, if taken out of storage subsequent to the LDR effective date, would then be subject to the LDR, DOE plans to supplement their original petition and request that these RMW likewise be granted a case-by-case extension to allow their continued storage. This information will be forwarded to you as soon as it is submitted to EPA.

Course of Action by EPA

EPA's Office of Solid Waste, Capacity Programs Branch, will review DOE's case-by-case petition to determine if DOE has met the requirements of the demonstrations that must be discussed in accordance with section 268.5(a). Our review will include an evaluation of all the data and issues provided by DOE in the petition.

One of the regulation requirements that must be met is for EPA to consult with States. Therefore, when you've had the opportunity to review the enclosed DOE petition, we, in conjunction with the EPA Regional office, plan to consult with you. We would expect to conduct these consultations via a conference call in mid-January 1992.

Our current plan is to issue in February 1992 a Federal Register notice proposing the Agency's tentative decision to deny or approve DOE's case-by-case petition and request public comment regarding that decision. It is our intent to publish a final decision to deny/approve the DOE petition in the Federal Register by May 8, 1992.

We look forward to receiving your comments and discussing this matter with you. In the meantime, if you have any questions, please call Mr. Richard Mayer, the EPA Region 6 mixed waste coordinator at (214) 655-6775, or Les Otte or Bill Kline, of my staff, at (703) 308-8480 and (703) 308-8440/347-5071, respectively.

Sincerely,



Matthew A. Straus
Director
Waste Management Division

Enclosure



List of DOE Sites Requesting a Case-by-Case Extension

EPA Region 2

- o Brookhaven National Laboratory - Upton, NY
- o Knolls Atomic Power Laboratory - Niskayuna, NY
- o Knolls Atomic Power Laboratory(Kesserling Site)-West Milton, NY
- o West Valley Demonstration Plant - West Valley, NY

EPA Region 3

- o Bettis Atomic Power Laboratory - West Mifflin, PA

EPA Region 4

- o Paducah Gaseous Diffusion Plant - Paducah, KY
- o Savannah River Site - Aiken, SC
- o K-25 - Oak Ridge, TN
- o Oak Ridge National Laboratory - Oak Ridge, TN
- o Y-12 - Oak Ridge, TN

EPA Region 5

- o Argonne National Laboratory-East - Argonne, IL
- o Fermi National Accelerator Laboratory - Batavia, IL
- o Feed Materials Production Center - Fernald, OH
- o Mound Plant - Miamisburg, OH
- o Portsmouth Gaseous Diffusion Plant - Piketon, OH

EPA Region 6

- o Los Alamos National Laboratory - Los Alamos, NM
- o Sandia National Laboratories-Albuquerque - Albuquerque, NM
- o Pantex Plant - Amarillo, TX

EPA Region 7

- o Kansas City Plant - Kansas City, MO

EPA Region 8

- o Rocky Flats Plant - Golden, CO

EPA Region 9

- o Energy Technology and Engineering Center - Canoga Park, CA
- o Lawrence Berkeley Laboratory - Berkeley, CA
- o Lawrence Livermore National Laboratory -Livermore, CA
- o Sandia National Laboratories, Livermore - Livermore, CA
- o Nevada Test Site - Mercury, NV

EPA Region 10

- o Argonne National Laboratory-West - Idaho Falls, ID
- o Idaho National Engineering Laboratory -Idaho Falls, ID
- o Hanford Site - Richland, WA

