

12/18/03
SOE



The Road to Changing the WIPP Permit Via Federal Law

presentation to N. NM Citizen Advisory Board, WIP (Committee)

1. Development of Application and Final WIPP Permit Waste Analysis Plan (WAP)
 - a. General use of "process knowledge" by DOE complex in 1990's
 - b. EPA developed a more formal definition of "acceptable knowledge" (AK) in guidance manual on waste characterization (1994)
 - c. NMED worked with Permittees to develop a robust (i.e., legally, technically, and regulatorily defensible) AK program (1995 – 1996)
 - d. AK program in Final Permit (1999)
 - i. Specified required information (auditable trail)
 - ii. Specified how AK information is assembled, compiled, and confirmed
 - iii. Required initial and annual audits of AK at each site
 - e. Characterization methods specified in Final Permit
 - i. Sampling and analytical methods
 - ii. AK
 - iii. Radiography and visual examination
 - f. NMED testified at WIPP permit hearing that waste characterization is the "linchpin" of the permit to ensure compliance with hazardous waste laws and regulations

2. Permit Modification Process
 - a. Numerous modifications proposed and approved over the years to modify the WAP
 - i. Compositing of headspace gas samples
 - ii. Reduced frequency of headspace gas sampling for certain wastes
 - iii. Revise drum age criteria for headspace gas sampling
 - iv. Numerous other changes approved
 - b. Other modifications withdrawn by Permittees, rejected or not yet acted upon by NMED
 - i. Central Confirmation Facility at WIPP (withdrawn)
 - ii. Digital radiography (withdrawn)
 - iii. Remote-handled waste (no action yet – submitted 6/28/02)
 - iv. Electronic data management/ WAP re-write (no action yet – submitted 6/28/02)
 - v. Panel closure design (no action yet – submitted 10/7/02)
 - vi. Construct additional panels (no action yet – submitted 5/12/03)
 - c. "Operational Efficiencies" initiative
 - i. Started discussions with Permittees July 2001
 - ii. Intention was to discuss options to reduce characterization requirements in the WAP
 1. Data management
 2. Material parameter weights



- 3. Headspace gas sampling/analysis
 - 4. Solids sampling/analysis
 - 5. "Standardized" AK
 - iii. Expected submittal of Operational Efficiencies modification in September 2002, but never happened
3. WIPP and the National Academy of Sciences
- a. "Improving Operations and Long-Term Safety of WIPP", 2000-2001
 - i. Recommended elimination of "self-imposed waste characterization requirements that lack a legal or safety basis."
 - ii. DOE's response identified "strategy to systematically improve the [WAP]..." and listed modifications to permit approved to date
 - b. "Characterization of RH TRU Waste for WIPP", 2001-2002
 - i. Convened by DOE to evaluate draft RH TRU waste characterization program and recommend improvements
 - ii. Final report recommended "DOE should propose only characterization activities that have a technical, health and safety, or regulatory basis."
 - c. "Optimizing the Characterization and Transportation of TRU Waste Destined for WIPP", in progress
 - i. Started on September 1, 2002 to review DOE's waste characterization program for TRU waste and recommend improvements to program
 - ii. Five meetings held between October 2002 and September 2003
 - iii. Received input from DOE, generator sites, NMED, EPA, and other interested parties, most notably:
 - 1. White Paper – "Improvements in the RCRA Waste Characterization Program" by J. Winston Porter, DOE consultant (January 10, 2003)
 - 2. "WIPP TRU Characterization Cost Analysis" by DOE Center for Acquisition and Business Excellence (June 10, 2003)
 - 3. Five technical reports from DOE, various authors (September 8, 2003)
 - iv. Final report with recommendations not expected until January 2004
4. Chronology of events from introduction of federal legislation
- a. Jul 17, 2003 – Senator Domenici introduces S. 1424, which includes Section 310 language limiting confirmation activities in WIPP WAP
 - b. Jul 18, 2003 – NMED becomes aware of language
 - c. Jul 29, 2003 – WIPP Quarterly Meeting: Roger Nelson of CBFO denies any WIPP involvement in drafting bill language, saying Domenici and/or his staff wrote it

- d. Aug 5, 2003 – article in ABQ Journal reports NMED saying the proposal undercuts the state’s authority to regulate WIPP and would prevent the state from turning down the DOE [permit modification] request
- e. Aug 8, 2003 – article in ABQ Journal reports that NAS and EEG say the bill misrepresents their views
- f. Aug 23, 2003 – ABQ Journal published editorial by Rep John Heaton entitled “Nuke Waste Tests Wasteful”
- g. Sep 8, 2003 – CBFO submits five technical papers to NAS WIPP Committee describing scientific arguments for changing WIPP WAP
- h. Sep 9, 2003 – NMED Secretary Curry sends letter to Senator Bingaman stating opposition to changes proposed by legislation
- i. Sep 10, 2003 – NM Attorney General Madrid sends letters to Senators Domenici and Bingaman expressing concern over legislation
- j. Sep 12, 2003 – article in ABQ Journal reports that Senator Bingaman objects to legislation
- k. Sep 12, 2003 – NAS responds to Aug 25 letter from Rep. Heaton, stating legislation language “overgeneralized the conclusions” of previous reports and “was subject to misinterpretation.”
- l. Sep 15, 2003 – NM Environmental Evaluation Group releases report EEG-86, “CH TRU Waste Characterization Requirements at WIPP”
- m. Sep 16, 2003 – Senator Bingaman questions Senator Domenici regarding Section 310 on Senate floor; Senate passes bill (now H.R. 2754) 92-0
- n. Nov 6, 2003 – Carlsbad Current Argus reports bill made it out of House-Senate conference committee unchanged
- o. Nov 7, 2003 – NMED provides comments on technical papers by DOE to the NAS WIPP Committee
- p. Nov 20, 2003 – H.R. 2754 passed by both chambers of Congress
- q. Dec 1, 2003 – President signs H.R. 2754 into law (PL 108-137)
- r. Dec 10, 2003 – NMED meets with attorneys from DOE, WTS, and contractors to discuss meaning of law
- s. Dec 16, 2003 – WIPP public information workshop held to explain proposed permit modification and receive input
- t. > Dec 31, 2003 – WIPP submits permit modification to NMED consistent with federal law
- u. Jan 15, 2004 – NAS to release final report on WIPP waste characterization findings