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Additional Information: Steve, for your review & concurrence as discussed earlier today. Thanks!

Beth

of Pages to Follow: 6



RCRA Story (1,122 w not including title and text box)

Before the Secretary of Energy can decide in October 1997 whether to use the Waste Isolation Pilot Plant (WIPP) as a permanent disposal facility for transuranic waste, the Carlsbad Area Office (CAO) must obtain a Resource Conservation and Recovery Act permit from the New Mexico Environment Department.

The Resource Conservation and Recovery Act, which Congress passed in 1976, establishes procedures for the management of hazardous waste. In addition to containing radioactive contamination, much of the waste to be disposed of at the WIPP contains traces of hazardous chemicals. Therefore, the WIPP must have a permit in order to be in compliance with the act. The New Mexico Environment Department, which was delegated permitting authority by the Environmental Protection Agency, is responsible for granting or denying a permit for the WIPP.

The Resource Conservation and Recovery Act permit application consists of two parts. Part A and Part B. Part A is a set form that identifies the types and quantities of waste intended to be disposed at the site. Key components of Part A include scale drawings and photographs of the WIPP; a description of the process for disposing of the waste; types of hazardous chemicals found in transuranic mixed waste; an estimate of quantities of hazardous waste; and a general description of waste handling processes.

Part A qualifies a facility for interim status, meaning it is treated as having been issued a permit until a final determination on the permit application. The New Mexico Attorney General has

challenged the WIPP' permit status. The U.S. Department of Justice is representing the Department of Energy in an effort to resolve the issue.

Part B of the permit application is an extensive narrative on how the facility will operate to meet the requirements of the Resource Conservation and Recovery Act. Part B includes waste characterization information on the hazardous wastes to be handled at the WIPP, a description of procedures for handling hazardous wastes, security procedures and equipment, seismic and flood plain information, and closure and post-closure plans, including ground water monitoring. Some technical data, such as design drawings and specifications and engineering studies, must be certified by a registered professional engineer.

Parts A and B of the permit application were initially submitted to the New Mexico Environment Department in 1991. The original permit application included sections pertaining to tests with radioactive waste in the WIPP underground. DOE requested and was granted in September 1994 the opportunity to revise Part B because of its decision in 1993 to perform experiments with radioactive waste in national laboratories, rather than in the WIPP underground. From October 1994 to March 1995, the RCRA application draft chapters were made available to the New Mexico Environmental Department, other state and federal offices, and the WIPP reading rooms to solicit comments prior to the development and submittal of the revised Part B permit application. In May 1995, the DOE submitted its revised Part B, which reflected the program changes.

The New Mexico Environment Department's approval process begins with an administrative review. During the administrative review, the New Mexico Environment Department could have required the DOE to revise the application if there were serious deficiencies. No serious deficiencies were noted and the permit application was certified administratively complete in July 1995.

Part B of the permit application is undergoing technical review. In November 1995, the New Mexico Environment Department requested additional information. The information requested was to provide necessary and important details required for a thorough technical evaluation of Part B.

The New Mexico Environment Department also may obtain additional information by formally issuing a "notice of deficiency." Notices of deficiency may be issued either independent of or subsequent to a previous request for information. The CAO must respond to all notices of deficiency within 30 days unless the New Mexico Environment Department approves an extension. Deficiencies may be as simple as requiring a copy of procedures or providing detail on information previously submitted; or as complex as rewriting one or more chapters of Part B of the permit application.

If the New Mexico Environment Department issues a notice of deficiency, it has several options after reviewing the CAO response:

- certify the Part B permit application technically adequate and write the draft Resource Conservation and Recovery Act permit;

- certify the Part permit application technically adequate and write the draft permit, but impose conditions that must be met for the permit to be in effect;
- issue an additional notice of deficiency; or
- declare the application technically inadequate by issuing an intent to deny.

A draft permit must contain all conditions, schedules, monitoring requirements, and technical standards for waste treatment, storage, and/or disposal. The Notice Of Intent to deny must specify the secretary's reasons for the intended denial.

Once the New Mexico Environment Department prepares a draft permit or a notice of intent to deny, the secretary must allow 45 days for public review and comment. If a draft permit is issued and the secretary receives a timely written notice of opposition, the New Mexico Environment Department and the CAO will respond to the request in an attempt to resolve the issues causing opposition.

Once the secretary has issued a draft permit or an intent to deny, a public hearing can be initiated in one of three ways:

- at the request of anyone from the general public;
- at the request of the CAO; or
- at the direction of the secretary of the New Mexico Environment Department.

After public review and comment, the secretary issues a response to comments, which addresses significant areas of concern and includes reasons for changing any original decisions. The final

permit decision become effective 30 days after the CAO has received notice of the decision.

The Carlsbad Area Office anticipates issuance of the facility's permit as early as August 1996.

While the permitting process is based on the facility's ability to protect human health and the environment at the time of issuance, equally important is maintaining that level of protection for the life of the permit. The WIPP site will be inspected periodically until decommissioning to ensure the facility complies with the terms of the Resource Conservation and Recovery Act permit.

The secretary of the New Mexico Environment Department may terminate a permit for any of the following reasons:

- noncompliance with any permit condition;
- failure in the application or during the permit issuance process to disclose fully all relevant facts, or misrepresentation of any relevant facts at any time; or
- upon the determination that termination is necessary to protect human health and the environment.

Note: The radioactive portions of the waste are governed by a different set of regulations: 40 Code of Federal Regulations part 191. DOE will submit a compliance certification application to the EPA in June 1996 to demonstrate how the WIPP disposal system will

contain the radioactive wastes within the repository. A future edition of TRU Progress will describe that process.

"...wherever feasible, the generation of hazardous waste is to be reduced or eliminated as expeditiously as possible. Waste that is nevertheless generated should be treated, stored, or disposed of so as to minimize the present and future threat to human health and the environment."

-- The Resource Conservation and Recovery Act
