



State of Idaho Idaho National Engineering & Environmental Laboratory
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PHILIP E. BATT
Governor
KATHLEEN E. TREVER
Coordinator-Manager

August 14, 1998

VIA FACSIMILE AND U.S. MAIL.

Dr. Robert Dinwiddie
NMED Hazardous and Radioactive Materials Bureau
P.O. Box 26110
Santa Fe, NM 87502
Fax (505) 827-1344

Re: RCRA Part B Draft Permit for the Waste Isolation Pilot Plant

Dear Dr. Dinwiddie:

The State of Idaho respectfully submits the following comments on the State of New Mexico's draft RCRA Part B permit for the Waste Isolation Pilot Plant, located near Carlsbad New Mexico:

1. Based on its experience in regulating hazardous waste disposal, Idaho recommends that New Mexico use a one-stage permitting scheme rather than the proposed two-stage scheme. Instead of issuing a permit that does not practically allow the disposal of any waste at WIPP until each generator is added through separate permit modifications, Idaho recommends that New Mexico place the burden on the receiving facility (WIPP in this case) to demonstrate the waste it accepts meets the waste acceptance criteria established in the permit. So long as the receiving facility can demonstrate the acceptance criteria are being met with regard to any particular waste received, there does not appear to be a practical or environmental value to offset the cost and time it would take to modify the permit to add each generator site.
2. Idaho also recommends that New Mexico consider ALARA concerns in establishing permit requirements to balance the protectiveness of public health and the environment with worker safety. For mixed waste treatment, storage and disposal facilities at the Idaho National Engineering and Environmental Laboratory, for example, Idaho reduced its waste verification requirement from 10% of containers to 5% when ALARA concerns are present. Given the nature of the WIPP disposal facility and ALARA concerns, Idaho would also suggest eliminating the requirement for limiting waste drums and boxes to a nominal life of 20 years.
3. Like Idaho, New Mexico's hazardous waste program is limited by state law (NMSA § 74-4-4) to being no more stringent than federal RCRA regulations. Based on Idaho's interpretation, there appear to be some requirements in the draft permit that are more stringent than RCRA. New Mexico may wish to verify that permit provisions are not more stringent than RCRA.



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For example:

a. New Mexico is requiring financial assurances for WIPP, but under 40 C.F.R. § 264.140(c) federal facilities are exempt from financial requirements.

b. Under RCRA, the Hazardous Waste Numbers (RCRA codes) a disposal facility may manage are identified in the Part A of the facility's permit. The Number indicates whether the waste is characteristic or listed. Under RCRA, listed wastes are not regulated merely on the presence of hazardous constituents; they must be tied through process knowledge to the Hazardous Waste Numbers. Permit Condition II.C.1.a appears to be more stringent than RCRA by proposing to regulate hazardous constituents that are not necessarily tied to Hazardous Waste Numbers.

If you have any questions regarding these comments, please contact me at (208) 373-0498 or Brian Monson, Idaho Division of Environmental Quality Hazardous Waste Permitting Bureau Chief at (208) 373-0502.

Sincerely,



Kathleen E. Trever
Coordinator-Manger

KET/ds

cc: Jeff Schrade, Special Assistant to Governor Batt
Brian Monson, IDEQ Hazardous Waste Permitting Bureau Chief
Kate Kelly, Idaho Deputy Attorney General