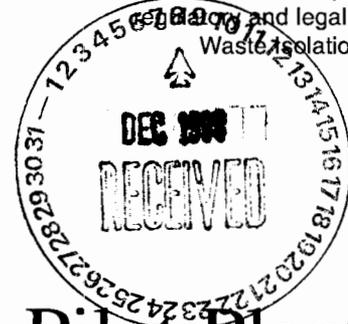


WIPP WATCH

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The U.S. Department of Energy Carlsbad Area Office has prepared this bulletin to update stakeholders on the rapidly changing schedule and legal status of the Waste Isolation Pilot Plant.



Waste Isolation Pilot Plant schedule and legal issues

The U.S. Department of Energy (DOE) is working to resolve legal issues delaying the opening of the Waste Isolation Pilot Plant (WIPP). The date for the first receipt of transuranic waste remains uncertain. DOE believes that these issues will be resolved in early 1999.

Original Schedule

- The scheduled opening date of June 19, 1998, reflected certification of the WIPP in May by the U.S. Environmental Protection Agency (EPA) and notification to Congress of DOE's decision to open the WIPP.
- Prior to EPA's certification of WIPP, the DOE had decided to ship non-mixed transuranic waste to the WIPP due to the delay in issuance of a hazardous waste permit from the New Mexico Environment Department (NMED). This permit would allow DOE to dispose of mixed waste at WIPP; it is not required to dispose of non-mixed waste.
- Since the EPA certification of the WIPP, a legal action was filed against the EPA. A previous legal action was filed against the DOE and the U.S. Department of Interior (DOI) in 1991.

Lawsuits against DOE

- In the 1991 lawsuit against the DOE and the DOI, an injunction was issued in 1992 barring the shipment of transuranic waste to

the WIPP in order to conduct experimental research as part of the test phase. This injunction was based on the Resource Conservation and Recovery Act (RCRA), the National Environmental Policy Act (NEPA) and the Federal Land Policy and Management Act.

- The New Mexico Attorney General and others have taken the position that the injunction is still in effect.
- The DOE disagrees, saying that the grounds for the injunction were removed when Congress passed the WIPP Land Withdrawal Act of 1992. The test phase was canceled in 1993 and the NEPA evaluations of WIPP were completed by issuance of the Record of Decision for disposal in January 1998.
- In May 1998, the New Mexico Attorney General asked that the court prevent the disposal of transuranic waste at WIPP, asserting lack of a hazardous waste permit from the State of New Mexico and lack of interim status under RCRA.
- The DOE may begin operations at the WIPP before it obtains the hazardous waste permit if it disposes of transuranic waste that is not a hazardous waste subject to RCRA.
- The NMED has raised concerns about the adequacy of DOE's waste characterization



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of the first drums of waste to be shipped to the WIPP from the Los Alamos National Laboratory. At issue is whether this waste is a hazardous waste that is regulated by RCRA. The DOE has agreed to test the waste to verify that the waste is not hazardous. The DOE expects to complete these tests in November 1998.

- The court recently agreed to postpone the hearing on the requests for an injunction until waste verification has been completed. A ruling is expected in early 1999.

Lawsuits against the EPA

- Another set of lawsuits was filed in July 1998 against the EPA challenging its decision to certify the WIPP. The lawsuits, filed by the New Mexico Attorney General, three environmental groups and a private individual, ask the court to declare that the EPA's certification of WIPP was improper.
- These lawsuits allege that the EPA's certification process was flawed and that certain scenarios concerning possible disturbance of the repository in the future were not con-

sidered by the EPA. They also say that the EPA did not provide for sufficient public involvement.

Draft Hazardous Waste Permit

- The NMED issued a draft hazardous waste permit in May 1998. The issuance of a final permit will not happen until July 1999 at the earliest according to a revised NMED timeline issued in October 1998.

Next steps

- The Department of Justice, DOE and EPA are working to resolve the legal challenges.
- The NMED revised timeline calls for the release of a revised draft permit by the end of 1998. For more information on the permitting process, visit the NMED's home page at www.nmenv.state.nm.us.
- The DOE is working cooperatively with the NMED to resolve technical and procedural issues concerning the permit and to complete the permitting process quickly.



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This bulletin and other information about the Carlsbad Area Office and the Waste Isolation Pilot Plant can be found on the National Transuranic Waste Program Home Page at:
www.wipp.carlsbad.nm.us