



SOUTHWEST RESEARCH AND INFORMATION CENTER

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May 25, 2010

Steve Zappe
NMED
2905 Rodeo Park Drive East, Building 1
Santa Fe, NM 87505

RE: Initial comments on WIPP Draft Renewal Permit

Dear Steve,

Southwest Research and Information Center (SRIC) agrees with most provisions of the draft permit, including the changes regarding confirmation and audits being DOE's responsibility. SRIC expects that it will make other comments during the comment period. However, these initial comments are designed to highlight matters that should be included in upcoming discussions in June about possible changes in the draft permit.

The comments are in three parts: (1) "small" changes in permit language to improve the draft permit that, pending discussion with other parties, may not be controversial; (2) more substantial changes that SRIC believes should be considered in discussions, but which we expect will be controversial among some parties; and (3) suggested editorial changes that should be noncontroversial and which likely need little or no discussion.

1. *"Small" changes in the draft permit.*

A. Additional e-mail notifications

SRIC believes that the innovation of e-mail notification has proven its usefulness in providing additional information to the public. SRIC believes that in addition to continuing the e-mail notification in the existing permit, as are included in the draft permit, that additional provisions are e-mail notification are warranted: SRIC proposes that e-mail notification be added to the following provisions:

- (1) 1.7.11.1 – Report planned change
- (2) 1.7.11.2 – Report anticipated noncompliance
- (3) 1.7.13.3 – 24-hour notice of noncompliance
- (4) 1.7.15 – Report other information
- (5) 4.6.1.3 – Geomechanical notification
- (6) 4.6.2.3 – Repository VOC exceedances
- (7) 4.6.3.2 – Disposal room VOC exceedances
- (8) 6.4 – Underground HWDU closure
- (9) 6.10.1 – Panel closure volume

B. Requirement for an electronic Information Repository

Draft Permit Part 1.14 requires establishment of an Information Repository (IR). Because of the widespread interest in WIPP from people throughout New Mexico (and in other states), an electronic IR should be required. Virtually all of the documents that would be in the electronic IR are currently available on the WIPP website, so SRIC knows of no reason that such an electronic IR would be controversial. From past experience, SRIC expects that the permittees will be concerned about any requirement to make copyrighted material available, because of possible costs. SRIC believes that any reasonable concerns can be accommodated. If during the public comment period, there is public interest in a physical IR that could also be required.

C. Standardization of description of the Department of Energy (DOE)

Draft Permit Part 1.2 states that the permit is issued to “the United States Department of Energy (**DOE**), the owner and co-operator” of WIPP, which also is the language of the existing permit Module I.A. There is a similar identification of DOE in Draft Permit Part 1.5.4 and in existing permit Module I.D.4.

The existing Part A Application, included in Attachment B of the draft permit, states: “The U.S. Department of Energy (DOE), through its Carlsbad Field Office, has signed as ‘owner and operator’....” However, Draft Permit Attachments C, C1, C2, C3, C4, C5, C6, and C7 each include new language: “The Department of Energy Carlsbad Field Office (DOE)...” Also, in Attachment D, on page D-17 there are two references to CBFO.

SRIC believes that the language should be standardized throughout the permit, either using the existing permit description of DOE or including the CBFO throughout the permit. Also, the reference to the “National TRU Program” on page C4-16 should be changed to “DOE.”

D. BRT should be added

The magnesium oxide racks (or BRTs) are used in underground Hazardous Waste Disposal Units and have been involved in at least one accident that resulted in a 55-gallon drum being punctured. Thus, SRIC believes that those units should be included in the Permit Attachment A2 figures.

E. Shorten the time period for notification of changes of authorized representatives

The new sentence in Part 1.9 requires written notification within 30 days of changes in the names of and contact information for the responsible corporate and principal executive officers of the permittees. The requirement is justified, but 15 days, not 30 days, is a sufficient time period for such notification. Changes in such positions will normally be known in advance, so the 15-day period should be more than sufficient to provide for the notification.

F. Update discussion of closed circuit cameras

Attachment A1, page A1-11, line 20, change “will have” to “has.” Delete the two sentences on lines 21-24.

G. Update closure plan schedule

Attachment G, page 7, lines 2-4 and lines 39-41 should be updated and there should be consistency in the text and Tables G-1 and G-2.

2. ***More substantive changes in the draft permit***

A. Elimination of the surge provisions

A major rationale stated when the permit was modified in 2006 was that surge capacity was needed because of the large amounts of waste that were coming to WIPP. Although the surge provisions for the Waste Handling Building (WHB) and Parking Area Unit (PAU) have been in effect since November 16, 2006, they have never been used. Fiscal Year 2006 was by far the peak year for the number of shipments to WIPP (1,126 shipments) and amount of waste disposed (10,556 cubic meters). Subsequent years have been substantially less than that peak year, and SRIC knows of no basis to continue those provisions in the Permit. Thus, SRIC supports elimination of all provisions in the draft permit related to surge capacity in the WHB and PAU.

B. Elimination of the Acceptable Knowledge Sufficiency Determination

The rationale stated when the permit was modified in 2006 was that there were a few waste streams that had been characterized with full characterization information that should not require sampling and analysis. During that past 3-1/2 years, DOE has submitted AKSD requests for seven waste streams. SRIC believes that the AKSD process is an unnecessary exception to normal characterization requirements. Insofar as it had a purpose, it should have been fulfilled during the time that the provision has been in effect. Thus, SRIC supports elimination of the requirement in the draft permit. The draft permit as changed can contain a brief explanation about the process was used between November 2006 and 2010 so that there is no question about the validity of that process when it was in effect.

C. Reinstate the requirement for the explosion/isolation wall for panel closure

SRIC did not oppose the permit modification in early 2007 to allow for hydrogen/methane monitoring in panel 3 or the modification in early 2008 to allow for hydrogen/methane monitoring in other panels. However, at those times there were not known exceedances of carbon tetrachloride levels. Over the past 18 months, there have been dozens of such exceedances above the 165 ppbv level in the permit. SRIC has reiterated on numerous occasions over the past six months the need to reconsider the need for explosion/isolation walls in light of those exceedances. While we have had some discussions with the permittees about this matter, it appears to SRIC that the existing partial closure system is not adequate and the explosion/isolation wall needs to be further discussed in these proceedings.

D. VOC risk level of 10^{-6}

Scientific and health data clearly show that a risk level of 10^{-6} is more protective of public health and is a reasonable and achievable risk level. Given the multiple carcinogens that are in the WIPP wastes and the fact that the permittees have re-opened the risk levels for VOCs in their permit modification and temporary authorization requests, a risk level of 10^{-6} should be basis for VOC concentrations of concern.

There is substantial support for this more stringent risk level in Environmental Protection Agency (EPA) practice. For example, in both cancer and non-cancer assessments, that agency has defined 1 in 1,000,000 excess risk as a *de minimis* risk level. Further, the President's Cancer Panel's April 2010 report states clearly that "The Panel was particularly concerned to find that the true burden of environmentally induced cancer has been grossly underestimated." Thus, a more protective risk level of 10^{-6} should be used for VOCs.

3. ***Editorial changes in the draft permit***

- A. Part 3, Table 3.1.1 – delete second “,” in Facility Total Area. Also, make same change in Attachment J, Table J-1.
- B. Part 3.3.1.1 to 6 should be: Each [container...has], i.e., – Each Standard 55-gallon drum has a gross internal volume of 7.3 ft³ (0.21 m³).
- C. Part 6.3 – change “whenever necessary” to “as necessary.”
- D. Part 7, page VII-6 – delete “?” from second reference.
- E. Attachment A – delete the “[SOZ_]” on pages 2 and 3.
- F. Attachment A1, page A1-1, line 21 – change “one volume percent” to “one percent of the volume”.
- G. Attachments A1 and C lack “Page _ of _” throughout.
- H. Attachment A2, page A2-2, line 16 – change “per panel” to “in some panels.”
- I. Attachment G, page G-2, line 23 – change “(175,600)” to (175,594)” and page G-5, line 25 – change “(175,600 m³)” to “(175,594 m³)”; and page G-5, line 26 - change “(7,080 m³)” to “(7,079 m³)”.
- J. Attachment G, page G-5 – Delete the sentence on lines 37-38 as not accurate and unnecessary.
- K. Attachment G, page G-6, line 37 – delete the extra space after “monitoring”.

Sincerely,



Don Hancock