

SUPPLEMENTARY INFORMATION: The proposed administrative settlement concerns the Pipe and Piling Nebraska Superfund Site located in Omaha and Avoca, Nebraska. In November 1992, EPA Region VII issued a CERCLA Section 106 unilateral administrative order (UAO) to Pipe & Piling Supplies requiring it to remove asbestos-containing materials from two locations in Nebraska. EPA treated the two locations, one in Omaha and one in Avoca, as one site. Pipe & Piling conducted the removal action as required by the UAO.

Pipe & Piling did not agree to reimburse EPA's costs of overseeing the removal action at the time EPA issued the UAO. By letter dated February 29, 1996, EPA sent Pipe & Piling a cost reimbursement bill for \$34,684.15. Pipe & Piling responded by questioning the appropriateness of some charges included within the bill. In the proposed settlement, Pipe & Piling has agreed to reimburse EPA \$20,000.

Dated: November 15, 1996

Dennis Grams,

Regional Administrator.

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[FRL-5657-2]

Termination of Review of Department of Energy Petition to EPA for a No-Migration Determination for the Waste Isolation Pilot Plant (WIPP) Under the Resource Conservation and Recovery Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency announces that the Office of Solid Waste has terminated its review of the final no-migration petition for the Department of Energy's (DOE) Waste Isolation Pilot Plant (WIPP). The WIPP is a geological repository intended for the disposal of mixed hazardous and radioactive wastes. The hazardous portion of the waste was originally subject to EPA's land disposal restrictions of the Resource Conservation and Recovery Act (RCRA). On September 23, 1996 the President signed Public Law 104-201 that, among other things, exempts WIPP from the provisions of the land disposal restrictions. Consequently, EPA has terminated its review of DOE's no-migration petition, effective October 1, 1996.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA

Hotline at (800) 424-9346 or TDD (800) 553-7672 (hearing impaired). In the Washington, DC, metropolitan area, call (703) 412-9810 or TDD (703) 412-3323.

For more detailed information on specific aspects of the issues discussed in this notice, contact Reid Rosnick (703-308-8758), (rosnick.reid@epamail.epa.gov), or Chris Rhyne (703-308-8658), (rhyne.chris@epamail.epa.gov), Office of Solid Waste (5303W), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

SUPPLEMENTARY INFORMATION: Wastes proposed for disposal at WIPP are mixed wastes, and are defined as a mixture of hazardous waste regulated under Subtitle C of RCRA, and radioactive materials regulated under the Atomic Energy Act. Consequently, these wastes have been regulated by EPA and the State of New Mexico as a hazardous waste, and by EPA (the Office of Radiation and Indoor Air) as a radioactive material.

Prior to the National Defense Authorization Act for Fiscal Year 1997, the hazardous portion of the wastes were subject to the land disposal restrictions found in section 3004 (m) of RCRA, and codified in the Code of Federal Regulations at 40 CFR part 268. The regulations require that hazardous wastes be treated to specific standards prior to any land disposal, unless a "no-migration" demonstration can be made in accordance with 40 CFR 268.6. Persons seeking a no-migration determination must submit a petition to the EPA Administrator "* * * demonstrating, to a reasonable degree of certainty, that there will be no migration of hazardous waste, or hazardous waste constituents from the disposal unit or injection zone for as long as the wastes remain hazardous."

In June 1996, DOE submitted a no-migration petition to the Agency. This petition was designed to demonstrate that there would be no migration of the hazardous wastes disposed of at the WIPP for at least 10,000 years. The Agency announced the availability of the petition in the Federal Register on August 19, 1996 (see 61 FR 42899), and provided 60 days of public comment on the petition. EPA then began a completeness check and technical review of the petition.

In September 1996, the President signed the National Defense Authorization Act for Fiscal Year 1997. Included as a subsection of the Act was the Waste Isolation Pilot Plant Land Withdrawal Amendments Act, which prescribed significant changes to the way that RCRA applies to WIPP. The

Act states that transuranic mixed waste designated by the Secretary of DOE for disposal at WIPP is exempt from the treatment standards promulgated pursuant to section 3004(m) of the Solid Waste Disposal Act and is not subject to the land disposal restrictions in sections 3004 (d), (e), (f), and (g) of the Solid Waste Disposal Act (the land disposal restrictions). Consequently, EPA terminated review of the no-migration petition for the WIPP when the bill was signed into law. It was the sense of the Congress that the land disposal restrictions, which restrict the land disposal of the hazardous portion of the mixed waste, were redundant with EPA's radioactive waste compliance certification standards at 40 CFR 191 and 194 (Congressional Record, June 20, 1996, page S6591). The 191 and 194 standards must be met by DOE prior to shipment of waste to WIPP, and in essence require that the transuranic waste be contained within the prescribed boundaries for at least 10,000 years.

In addition to EPA's role in regulation of the WIPP through the radiation protection standards, the hazardous portion of the mixed transuranic waste will continue to be regulated by the State of New Mexico through the RCRA hazardous waste permitting program. DOE must obtain a permit from the State that shows that the hazardous portion of the waste will be safely handled during the operating life of the facility, the closure period (when the facility shafts are sealed and permanent markers are installed), and for a period of time after closure known as the post-closure period. The State's RCRA permit, along with the compliance certification issued by EPA, will ensure that there is adequate protection of human health and the environment during and after disposal operations at WIPP.

EPA will continue to participate in the regulation of the WIPP under RCRA by offering assistance to the State of New Mexico in the preparation of the RCRA permit for the facility.

Dated: November 22, 1996.

Elliott P. Laws,

Assistant Administrator for Solid Waste and Emergency Response.

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