

US EPA ARCHIVE DOCUMENT



Notice of Intent to Deny a RCRA Permit Application for Romic Environmental Technologies Corporation – Southwest



August 2007

FIRST-CLASS MAIL
POSTAGE & FEES
PAID
U.S. EPA
Permit No. G-35

United States Environmental Protection Agency, Region 9
75 Hawthorne Street (WST-4)
San Francisco, CA 94105
Attn: Cheryl Nelson
Official Business
Penalty for Private Use, \$300
Address Service Requested

PUBLIC MEETINGS/HEARINGS

The United States Environmental Protection Agency (U.S. EPA) invites you to attend two public meetings/hearings to learn about U.S. EPA's Notice of Intent to Deny a RCRA Permit Application for the Romic Facility and listen to or offer public comments on the Notice of Intent to Deny as follows:

Wednesday, September 26, 2007
Kyrene del Pueblo Middle School
Multi-purpose Room
360 S. Twelve Oaks Blvd., Chandler, Arizona
85226
(480) 783-2400
6 pm to 9 pm

Thursday, September 27, 2007
Gila River Indian Community
District 4 Service Center
Stotonic and W. Sesame Road, Sacaton, Arizona
85247
(520) 418-3661
6 pm to 9 pm

PUBLIC COMMENT PERIOD

The public comment period starts on August 24, 2007 and will run for 45 calendar days, ending on October 9, 2007.

IMPORTANT INFORMATION

The U.S. Environmental Protection Agency (U.S. EPA) invites you to attend two public meetings/hearings to learn about U.S. EPA's Notice of Intent to Deny a RCRA Permit for the Romic Facility on:

Wednesday, September 26, 2007 - 6 pm to 9 pm
Kyrene del Pueblo Middle School 360 S. Twelve Oaks Blvd Chandler, AZ, 85226

Thursday, September 27, 2007 6 pm to 9 pm - Gila River Indian Community District 4 Service Center, Corner of Stotonic Road and W. Sesame Road Sacaton, AZ, 85247

FACILITY LOCATION

Romic is located near Chandler, Arizona, on land of the Gila River Indian Community. The Romic facility is approximately three acres in size and is within the Lone Butte Industrial Park at 6760 West Allison Road.



PROPOSED ACTION

The United States Environmental Protection Agency ("U.S. EPA") is proposing to deny the application from Romic Environmental Technologies Corporation – Southwest ("Romic") for a Resource Conservation and Recovery Act ("RCRA") permit to continue to treat and store hazardous waste.

U.S. EPA is proposing to deny the Romic permit application because the application is lacking a land owner's signature and certification, as required by 40 C.F.R. §§ 270.10, 270.11.

Prior to making a final decision, U.S. EPA will provide for a 45-day public comment period. After receipt of public comments, U.S. EPA will decide whether or not to proceed with denial. If a final decision is made to deny the permit application, Romic would have to stop treatment and storage of hazardous waste subject to permit requirements, unless an appeal to U.S. EPA's final decision is filed, as provided in 40 C.F.R. § 124.19.

FACILITY DESCRIPTION AND STATUS

The facility has been in existence since 1975, when it was operated by Southwest Solvents. Romic purchased the facility in 1988 and has been in operation since that time as a hazardous waste storage and treatment facility that recycles solvents. All wastes that are disposed are shipped off-site for disposal.

The most common hazardous wastes accepted at Romic include solvents, corrosives, waste paint and paint thinner, metal sludges, and laboratory chemicals. The most common non-hazardous wastes accepted include waste oil, antifreeze, non-hazardous solvents, scrap metal, fluorescent light tubes, and wastewater.

Federal regulations requiring a permit for Romic's hazardous waste activities were promulgated in 1980, well after the facility had been in operation. In such cases, facilities can acquire "interim status" that allows them to continue operations until U.S. EPA makes a final permit decision. Under interim status, Romic must comply with extensive regulations designed to protect human health and the environment.

Romic submitted a final permit application to U.S. EPA in February 2005, requesting a ten year permit to continue to treat and store hazardous waste.

U.S. EPA has reviewed Romic's permit application and this Fact Sheet and Notice of Intent to Deny Permit Application documents U.S. EPA's proposed decision on the permit application.

REQUIREMENT FOR LAND OWNER'S SIGNATURE

Consistent with Congressional intent, U.S. EPA holds owners (i.e. land owners) and operators of hazardous waste treatment, storage, and disposal facilities ("TSD facilities") jointly responsible for complying with RCRA and its implementing regulations. RCRA and its regulations require that all owners and operators of facilities that treat, store, or dispose of hazardous waste obtain a RCRA permit. 42 U.S.C. § 6925(a). The regulations require that permit applications include both the facility owner's signature and certification and the operator's signature when a facility is owned by one person, but is operated by another person. 40 C.F.R. § 270.10(b).

The Gila River Indian Community ("GRIC"), as the beneficial owner of the land underlying the Romic plant, is an owner of the Romic facility. While the United States holds title to the land, it holds bare legal title. GRIC, as the equitable owner of the land, receives the benefits of land ownership, including lease revenues. Therefore, GRIC is the owner of the facility for purposes of RCRA and the Romic permit application must include GRIC's signature and certification.

FAILURE TO CORRECT DEFICIENCY

Romic submitted its final revised Part B permit application on February 18, 2005. The application lacked a signature from the owner. U.S. EPA has had numerous formal and informal discussions with Romic and representatives from GRIC regarding the need for the land owner signature. On July 15, 2005, U.S. EPA wrote to GRIC describing the status of Romic's permit application and requesting information from GRIC on its process and timeline for deciding whether or not to sign the permit application.

On February 12, 2007, U.S. EPA wrote to Romic to inform Romic that the application appeared to be complete with the exception of the land owner signature. U.S. EPA requested that Romic provide U.S. EPA with a report detailing steps that Romic had taken to obtain the landowner signature and certification and a schedule of steps to be taken if the signature has not yet been obtained.

U.S. EPA gave a presentation in March 2007 to the Tribal Governor and several members of the Tribal Council regarding the status of the Romic facility and to inquire of GRIC whether or not it intended to sign Romic's permit application.

On May 30, 2007, U.S. EPA sent a letter to GRIC's Natural Resources Standing Committee describing the status of the permit application and providing information on U.S. EPA's process for granting and denying permits.

Subsequently, on June 20, 2007, the GRIC Community Council passed a "Resolution Disapproving of Romic Environmental Technologies Corporation's Part B Permit Application Under the Federal Resource Conservation and Recovery Act." The Resolution noted that "the RCRA regulations, specifically 40 C.F.R. 270.11 require that the landowner, which

is the Community, certify and sign the Part B permit application submitted by Romic" and that "the U.S. EPA recently asked the Gila River Indian Community to inform the U.S. EPA whether it would sign Romic's Part B application." In addition, the Resolution referred to a motion unanimously approved by the Community Council on May 16, 2007 that placed a "moratorium on the establishing or permitting of any permanent facility accepting hazardous wastes in the Community...."

Because the owner of the Romic facility, GRIC, has refused to sign the permit application, U.S. EPA is proposing to deny the permit application as incomplete.

AUTHORITY TO DENY PERMIT

RCRA regulations require that land owners provide a signature and certification with the permit application. See 40 C.F.R. §§ 124.3(a)(3), 270.10, 270.11. If an applicant fails or refuses to correct deficiencies in a permit application, U.S. EPA may deny the permit. See 40 C.F.R. § 124.3(d). Because the land owner signature for Romic's permit application has not been provided, U.S. EPA is authorized to initiate RCRA permit denial proceedings.

APPEAL PROCEDURES

A party may appeal an U.S. EPA final permit decision by filing an appeal within 30 calendar days of the time a final decision is made. Only parties who file comments on the proposed permit denial during the public comment period or who speak at the public hearing may file an appeal. See 40 C.F.R. § 124.19.

An appeal should be filed with the Environmental Appeals Board in U.S. EPA Headquarters. The address is:

All filings delivered to the Board by **hand or courier, including Federal Express, UPS, and U.S. Postal Express Mail**, must be delivered to the following address:

**Colorado Building
1341 G Street, NW
Suite 600
Washington, D.C. 20005**

All documents that are sent through the **U.S. Postal Service** (except by Express Mail) must be addressed to the EAB's mailing address, which is:

**U.S. Environmental Protection Agency
Clerk of the Board, Environmental Appeals Board (MC 1103B)
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460-0001**

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If you have questions about the upcoming meetings, need special accommodations, or prefer to submit your comments by fax, email, or mail, please contact Cheryl Nelson or Pui Man Wong (contact information below). Or you may leave a message on U.S. EPA's toll-free number 800-231-3075 and we will return your call.

PUBLIC COMMENT PERIOD

After the comment period closes, U.S. EPA will review and prepare a response to all substantive comments received, and then make a final decision on its proposed decision to deny the permit. All parties who comment on this proposed decision will receive notice of the final decision. Comments may also be given orally or in writing at one of two public hearings, which will be held on September 26th and 27th, 2007.

Si usted desea recibir información en Español, por favor comuníquese con Pui Man Wong al número de teléfono (800) 231-3075.

The public comment period starts on August 24, 2007 and will run for 45 calendar days, ending on October 9, 2007.

To comment, you may write, email, fax, or call the following people:

Cheryl Nelson, Romic Project Manager U.S. EPA, Region 9
75 Hawthorne Street, WST-4 San Francisco, CA 94105
Phone: 415-972-3291 / Fax: 415-947-3533
nelson.cheryl@EPA.gov

Pui Man Wong Community Involvement Coordinator
U.S. EPA, Region 9, 75 Hawthorne Street, SFD-3
San Francisco, CA 94105
Toll-Free: 800-231-3075 / Phone: 415-972-3242
wong.puiman@EPA.gov

FOR MORE INFORMATION

The official Administrative Record for this proposed decision, including key documents regarding U.S. EPA's proposed decision, and fact sheet summarizing Romic's activities, is available for viewing at:

U.S. EPA's San Francisco office: 75 Hawthorne Street, San Francisco, CA 94105 (please call 415-947-4597 to set up an appointment to review the file).

GRIC Department of Environmental Quality: 35 Pine Street, Sacaton, AZ (please call 520-562-2234 to set up an appointment to review the file)

Key documents may also be viewed or downloaded from U.S. EPA's web site on Romic at: <http://www.epa.gov/region09/waste/romic/index.htm>