

cc: Marc  
GK-C

Kelley

Rec'd 5-26-88



**Department of Energy**  
Albuquerque Operations  
Los Alamos Area Office  
Los Alamos, New Mexico 87544

MAY 20 1988



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CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Michael Burkhardt, Director  
Environmental Improvement Division  
P. O. Box 968  
Santa Fe, NM 87504-0968

NM0890010515

Dear Mr. Burkhardt:

This letter provides information in response to your letter, dated 29 March 1988, regarding the Department of Energy (DOE) budget projections for a new incinerator at the Los Alamos National Laboratory (Laboratory). The DOE appreciates your interest in this important project and is pleased to provide you additional information.

While the Federal Facilities Information System Pollution Status Report indicates the Laboratory will construct a new production incinerator for hazardous waste, this description is not totally accurate. Several years ago, the Laboratory carefully evaluated the generation of low-level radioactive waste and decided that a facility to treat and reduce the volume of low-level radioactive waste was needed. With this in mind, the Laboratory pursued and obtained funding for a new production incinerator. However, as the Laboratory continued to evaluate other waste sources including mixed waste (radioactive and chemical constituents) and hazardous waste, it became apparent that the most cost effective approach would be to include capabilities for treatment of these wastes in the design of the new production incinerator.

Following a discussion with Mr. C. Kelley Crossman of your staff on 18 March 1988, it was determined that construction and operation of a new hazardous waste incinerator would require a two-phased permit. The first phase would be a partial permit allowing construction of a new hazardous waste unit as required under Section 302.A.1.c [Code of Federal Regulations (CFR), Title 40, Part 270.10(f)]. The second phase would permit the operation of the unit as specified by Section 301.A [40 CFR 270.1(c)]. As you reiterated in your letter, review of the application for the construction phase of the permit could take at least one year and, therefore, impact the schedule dictated under the low-level waste program.



Because of the urgency of moving towards better treatment of low-level radioactive, mixed, and hazardous waste and because of the time constraints for Environmental Improvement Division (EID) review, other options were evaluated. In a recent meeting with Mr. Crossman on 4 May 1988, personnel from the Laboratory discussed the possibility of construction of a low-level radioactive waste incinerator that would later be evaluated and permitted for operation of a hazardous waste treatment unit. As a low-level waste incinerator, compliance with Section 302.C.3.b requiring approval for construction of a new hazardous waste unit would not be required at this time.

The DOE has also reviewed the Environmental Protection Agency (EPA) guidance memorandum, dated 30 July 1987, from Bruce Weddle, Director of Permits and State Programs Division, Office of Solid Waste to Resource Conservation and Recovery Act (RCRA) Branch Chiefs, Regions I-X regarding "State Program Advisory #2-RCRA Authorization to Regulate Mixed Wastes" (Enclosure). This memorandum clarifies that "mixed waste handlers are not subject to RCRA regulation until the State's program is revised and approved by EPA to include this authority." As the State of New Mexico has not yet been delegated this authority, mixed waste handlers in New Mexico would not currently be subject to RCRA requirements. This memorandum also states that, pursuant to RCRA Section 3005(e)(1)(a)(ii), a facility may qualify for interim status provided the mixed waste treatment, storage and/or disposal unit(s) exists on the date a state is authorized to regulate mixed waste and the facility submits a Part A application within six months of this date.

In light of this memorandum, it appears that there are two options for permitting the mixed waste component. The first option is to treat the mixed waste in the same manner as hazardous waste and apply for an operating permit later on for treatment of mixed waste. The second and preferred option is to construct the incinerator as a low-level radioactive/mixed waste incinerator and meet the interim status requirements.

We believe that several advantages would be provided by having a mixed waste incinerator with interim status. For example, although hazardous waste could not be destroyed in the incinerator without an operating permit, a mixed waste incinerator would enable DOE to perform the activities necessary to complete the hazardous waste permit application process (i.e., a trial burn) in a more timely manner. In addition, DOE is cognizant of EID's concern regarding the storage of mixed waste at the Laboratory. An incinerator with broad mixed waste capabilities and interim status would assist DOE in minimizing mixed waste storage needs.

The DOE would like to pursue the latter option and begin construction of a low-level/mixed waste incinerator within the next six months. We will be happy to provide information including plans and designs for this facility as they are developed. However, application for a hazardous waste operating permit or a major modification to the Part B permit would be submitted at a future, more appropriate time.

Mr. Michael Burkhart

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The DOE hopes this approach meets with EID approval and provides an acceptable solution to all the issues discussed above. We will continue to provide information as indicated and would appreciate a response at your earliest convenience. If you should have any further questions regarding this matter, or would like to meet with us for additional discussion, please contact Donna M. Lacombe of my staff at 667-5288.

Sincerely,



Harold E. Valencia  
Area Manager

Enclosure

cc:

- A. Tiedman, LANL, ADS, MS-A120
- J. Puckett, LANL, HSE-DO (AI #58), MS-K491
- M. Martz Emerson, LANL, (HSE8-88-231-1, AI #30 5/9),  
HSE-8, MS-K490
- R. Koenig, LANL, HSE-7, MS-E518
- A. Davis, Region VI, EPA, Dallas, Texas
- C. K. Crossman, EID, Santa Fe, New Mexico
- E. Nunez, Chief, P&FM Branch, LAAO

XC  
Tanga Winkle, EPA (6H-HS)

5/30/88

June 6, 1988

Region 6 DALLAS

LOS ALAMOS NATIONAL LABORATORY (LANL)  
PROPOSED  
MIXED WASTE INCINERATOR

NM 0890010513

- ISSUE:
1. Can LANL construct a new mixed waste incinerator with no permit?
  2. Can LANL burn mixed waste without a permit before the State receives mixed waste authorization under RCRA?
  3. Can LANL construct the incinerator now and then obtain interim status after the State receives mixed waste authorization under RCRA?

TIMING: LANL internal time constraints for getting a unit on-line to reduce volume/meet waste acceptance criteria for mixed waste projected for WIPP.

CONCERNED GROUPS: Citizens in areas surrounding Los Alamos and particularly those involved in State air permit processing of Los Alamos Municipal incinerator. Regulatory Agencies, Congress, etc.

- DISCUSSION:
1. LANL can construct a new mixed waste incinerator without a permit since such mixed waste units are not currently subject to RCRA.
  2. LANL can burn mixed waste without a RCRA permit since mixed waste is not subject to RCRA before the State is authorized. The practical matter is that the proposed unit is still in the design phase so the timing is such that it won't be operational before mixed wastes are regulated under RCRA (7/89) in the State. Also the incinerator will have to get an air permit for emissions before burning mixed waste.
  3. LANL can construct the unit now and obtain interim status after the State is authorized provided the unit is "in existence" on the date of the State's authorization and a Part A is submitted within 6 months of that date.

BACKGROUND: EID is actively processing LANL's permit application and developing a permit. EID leans toward letting LANL construct the proposed unit as a low level mixed waste unit under an interim status change because permitting the unit prior to construction will delay the State's schedule for permitting the other units. LANL cannot burn hazardous waste in the incinerator until a RCRA permit is issued. EID expects some public opposition if they allow a new mixed waste incinerator to be constructed, particularly without a permit.

KEY CONTACT: William K. Honker, Chief  
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Prepared by:  
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