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February 10, 1986

Mr. Alan I. Roberts  
Director, Office of Hazardous  
Materials Transportation  
U. S. Department of Transportation  
400 Seventh Street, S.W.  
Washington, D. C. 20590

Dear Mr. Roberts:

As you know, the EEG was established to conduct an independent technical evaluation of the U. S. Department of Energy's Waste Isolation Pilot Plant (WIPP) Project near Carlsbad.

EEG believes that the shipping container slated to be used to transport defense transuranic waste to WIPP does not meet the regulations issued by the U. S. Department of Transportation that effectively prohibit continuous venting during shipment. The shipping container, designated the Transuranic Package Transporter, (TRUPACT) being designed by DOE is to qualify as a Type B Packaging System. DOE estimates there will be 24,000 shipments through 29 States over a 20 year period and that approximately 6 accidents involving radionuclide releases will occur. The purpose of this letter is to request your evaluation of our interpretation. The salient facts follow.

The Department of Energy stated in their Final Environmental Impact Statement on WIPP (1) in October 1980 that they would comply with the regulations of the U. S. Department of Transportation and the corresponding regulations of the U. S. Nuclear Regulatory Commission for the transportation of radioactive waste to the WIPP site. Their commitment to DOT Regulations is without caveats. EEG believes that the design of the transporter should meet existing transportation regulations without the need for exemptions.

The DOT regulations "49 CFR 173. 413, Requirements for Type B Packages" state that each Type B package must be designed and constructed to meet the applicable requirements of the U. S. Nuclear Regulatory Commission in 10 CFR 71.

DOE incorporated a continuous venting feature in the design of the TRUPACT in 1981. The DOE also issued internal regulations



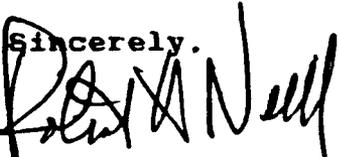
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(DOE Order 5480.1A) on May 1, 1981 prohibiting direct venting to the atmosphere. No mechanisms for variances or exemptions were provided in that Order.

In August, 1983, the U. S. Nuclear Regulatory Commission issued regulations stating that a package must not incorporate a feature which is intended to allow continuous venting during transport (10 CFR 71.43(h)).

Although we recognize that 49 CFR 173.7(d) allows the U. S. Department of Energy to evaluate, approve and certify packaging made under their direction against packaging standards "equivalent" to those specified by NRC in 10 CFR 71, we don't see how a shipping container designed to permit continuous venting during transport can be shown to be equivalent to a design requirement prohibiting continuous venting during transport. Our conclusion is that this design feature is in violation of the regulations issued by the U. S. Department of Transportation, the NRC, the DOE, and the 1985 IAEA regulations.

Although DOE informed us in September 1985 that they are reconsidering the need for continuous venting, plans are underway to construct additional TRUPACTS in FY 86 and it is essential to have a timely interpretation of the issue by DOT.

Sincerely,  
  
Robert H. Neill  
Director

Rec: [Handwritten note]

## References

1. Final Environmental Impact Statement, Waste Isolation Pilot Plant DOE/EIS-0026 Vol I and II, October 1980 Vol I, page 6-1.
2. Code of Federal Regulations, Transportation, Title 49 Parts 100 to 177 revised as of November 1, 1984.
3. Code of Federal Regulations, Energy, Title 10 Parts 0 to 199.