



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

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OFFICE OF
AIR AND RADIATION

Mr. Robert H. Neill
Director, Environmental Evaluation Group
320 E. Marcy Street
P.O. Box 968
Santa Fe, New Mexico 87503

Dear Mr. Neill:

This is in response to your letter of July 9, 1986, requesting replies to some questions you have on the Waste Isolation Pilot Plant (WIPP) and the plans of the Department of Energy (DOE) to show compliance with the Environmental Protection Agency's (EPA) standards for the management and disposal of high-level (HLW) and transuranic (TRU) wastes.

In general, the responses to your questions revolve around the definitions of "storage" and "disposal" as given in 40 CFR 191 Sections 191.02 (k) and (l), respectively. During the time that DOE is using the WIPP as a pilot project experiment with full capability to readily retrieve such waste, we would consider the activity to be storage. During that period the WIPP would be subject to the Subpart A provisions of the standard. At such time as DOE declares its intention to use the facility for "Disposal," without any intention of recovery, we would expect them to show that such disposal could meet the Subpart B provisions of the standard. The Subpart B provisions would not be actually in effect, however, until after the repository is closed for waste receipt and the final seals are in place.

Your three specific questions are answered below:

(1) Would EPA concur in DOE's plans to emplace TRU Waste for a period up to 5 years in WIPP prior to completing the performance assessment?

While we encourage DOE to complete a performance assessment as soon as possible, yes, we would have to accept a DOE decision to store, as defined in 40 CFR 191.02(k), the wastes in this manner without completing a post closure performance assessment. We do, of course, require DOE to comply with Subpart A of 40 CFR 191 during that period.

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(2) Will EPA make a formal determination of the adequacy of DOE's performance assessment at any point in time?

Yes. We expect DOE to issue an environmental impact statement concerning the disposal, as defined in 40 CFR 191.02(1), of wastes in WIPP and at that time we would make our determination.

(3) Was it EPA's intention in 40 CFR 191 to allow DOE to emplace TRU or HLW in a repository without demonstrating compliance until the decision is made whether to retrieve?

We would expect DOE to show compliance with Subpart B of the standard at the time of the decision to "dispose" of the wastes at a repository and prior to the further emplacement of wastes for disposal.

I hope these responses clarify our positions on these issues. If you have further questions please contact me again.

Sincerely yours,

Sheldon Meyers

Sheldon Meyers, Director
Office of Radiation Programs (ANR-458)