

November 10, 1995

<b>LWA AMENDMENT TOPICS AND POSITIONS</b>		
<b>CURRENT LWA</b>	<b>SKEEN BILL</b>	<b>CRAIG BILL</b>

<b>1. Section 31 Oil and Gas Lease Acquisition:</b>		
<p>The acquisition decision is to be made by the EPA and is to be a pre-certification activity.</p> <p>Sec. 4(b)(5) Sec. 7(b)(4)</p>	<p>The acquisition decision is not a prerequisite for disposal operations.</p> <p>Sec. 5</p>	<p>Same as Skeen position. Plus, the DOE is authorized to acquire these leases if necessary for the long-term protection of the WIPP.</p> <p>Sec. 3 Sec. 7</p>
<b>2. Retrieval plan and annual retrieval demonstrations required through test phase and beyond as may be needed:</b>		
<p>Required.</p> <p>Sec. 5 Sec. 10</p>	<p>Repealed.</p> <p>Sec. 3 Sec. 8</p>	<p>Repealed.</p> <p>Sec. 4 Sec. 12</p>
<b>3. Biennial Performance Assessment Reporting:</b>		
<p>Required biennially.</p> <p>Sec. 6(d)</p>	<p>Required biennially.</p> <p>Sec. 4</p>	<p>Repealed.</p> <p>Sec. 5</p>

SENT BY WESTINGHOUSE-WIPP : : -25-96 : : 10:4AM : : EXTERNAL AFFAIRS : : GOV'T AFFAIRS : :



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<b>4. Authorizing non-defense transuranic waste at WIPP</b>		
Does not address the issue.	Authorizes non-defense transuranic waste from the Secretary.  Sec. 10	Authorizes non-defense transuranic waste from the Secretary that is under the control of the Secretary on the date of enactment of the LWA Amendment.  Sec. 6
<b>5. Post Certification 180 Day Waiting Period:</b>		
Required prior to initiating disposal operations.  Sec. 7(b)(3)	Repealed.  Sec. 5	Repealed.  Sec. 7
<b>6. DOE prepare and submit comprehensive TRU Waste Disposal Plan and schedule for disposal:</b>		
Required prior to disposal operations.  Sec. 7(b)(5)	Repealed.  Sec. 5	Required within three years of amendment act passage date. No duplication of efforts is mandated, i.e., existing reports may be incorporated by reference.  Sec. 8

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**7. DOE conduct a WIPP TRU Waste Survey. Report results for each facility that plans to contribute to WIPP inventory. Make reports of each survey results available to the public and the EPA for comment. No Administrative Procedures Act rulemaking process is required for this action.**

**Required prior to disposal operations.**

**Repealed.**

**Required within three years of act passage. No duplication of efforts is mandated, i.e., existing reports may be incorporated by reference.**

**Sec. 7(b)(6)**

**Sec. 5**

**Sec. B**

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<p><b>8. EPA's certification role and responsibilities. Schedule for review activities and certification decisions:</b></p>		
<p>EPA is the certification authority. One year time limit for the review process and certification decision by the EPA.</p>	<p>Replaces the one-year EPA certification process with a two-month EPA review and a one-month DOE response process.</p>	<ul style="list-style-type: none"> <li>• Replaces the EPA criteria for certification of compliance in 40 CFR 194 with criteria limited to those specified in the Act.</li> <li>• The EPA shall disapprove the Application only if it finds through a preponderance of the evidence that the DOE has failed to adequately address long-term environmental and human health-related risks.</li> <li>• Provides for incremental submission to the EPA of chapters of the Application from the DOE.</li> <li>• Requires EPA review of the final Application within six months of receipt, after which it shall be deemed certified unless the EPA disapproves the Application under the criteria.</li> </ul> <p>☆ Additional details on page 5.</p>
Sec. 8(d)(1)	Sec. 6	Sec. 9

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**8. EPA's certification role and responsibilities. Schedule for review activities and certification decision (Continued):**

Craig Bill in detail:

- Replaces the EPA criteria for certification of compliance in 49 CFR 194 with criteria limited to those specified in the Act:
  - Completeness of the Application [from the DOE]
  - Reasonableness of the Application, i.e., scientifically sound
  - Quality of the Application, i.e., objective evidence of quality
  - Result of the Application, i.e., bounding assumptions in long-term performance of the WIPP are reasonable and any conditions imposed are technically feasible.
  
- The EPA shall disapprove the Application only if it finds through a preponderance of the evidence that the DOE has failed to adequately address long-term environmental and human health-related risks.
  
- Provides for incremental submission to the EPA of chapters of the Application from the DOE, with:
  - Forty-five days allowed for EPA review of each chapter.
  - Requests from the EPA for additional information only if the information is needed to avoid rejection of the Application under the criteria.
  
- Requires EPA review of the final Application within six months of receipt, after which it shall be deemed certified unless the EPA disapproves the Application under the criteria.

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<b>9. Land Disposal Restrictions (LDR) compliance and requirement for No-Migration Variance Petition (NMVP) submittal:</b>	
<p>Compliance with LDR aspects of SWDARCRA provisions is a certification prerequisite. NMVP must be submitted (or TRU mixed waste must be treated to LDRs) and a No-Migration Determination must be granted by the EPA-Office of Solid Waste and Emergency Response.</p>	<p>Repeated.</p>
<b>Sec. 9</b>	<b>Sec. 11</b>
<b>10. Economic assistance payments to the state of New Mexico</b>	
<p>Authorization for annual appropriations of \$20 million for a period of 15 years beginning at waste receipt are to be made to the DOE. The DOE shall arrange payments to the state of New Mexico under same schedule terms and conditions.</p>	<p>Payments are to begin upon enactment of the amendment and are to be direct appropriations to the State of New Mexico. The annual payments are to be in the amount of \$20 million annually and the 15 year term limit still applies.</p>
<b>Sec. 15(a)</b>	<b>Sec. 10</b>
	<b>Sec. 15</b>