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

FEB 22 2007

OFFICE OF
AIR AND RADIATION

Dave Moody, Ph.D., Manager
Carlsbad Field Office
P.O. Box 3090
Carlsbad, NM 88221

Dear Dr. Moody:

In your letter dated January 11, 2007, the Department of Energy (DOE) renewed its request for the Environmental Protection Agency's (EPA) approval of changes to the design of panel closures at the Waste Isolation Pilot Plant (WIPP). In our review of your letter, we identified three issues for which you have requested EPA action:

1) DOE requests that EPA defer the responsibility for the any approval of the design and construction of the panel closure system at WIPP to the New Mexico Environment Department (NMED).

   Panel closures are primarily operational period features that are designed to control volatile organic compound emissions during disposal operations. And although EPA's Compliance Criteria (40 CFR194) do not require a panel closure system for WIPP, panel closures are part of the disposal system design and their characteristics must be properly incorporated into long-term performance assessment, which is the regulatory authority of EPA (40 CFR 194.14). Hence, we do not approve DOE's request for EPA to defer the approval panel closure design and construction to NMED, but we will work with them to address this issue.

2) DOE requests EPA approval of a change in the design of the panel closure system from the mandated Option D to a redesigned WIPP Panel Closure (WPC).

   In Condition 1 of EPA 1998 Certification Decision, EPA required DOE to use one of the four panel closure system options, Option D, when it conducts closure of the disposal system. DOE proposed Option D as part of its Compliance Certification Application (CCA). In setting Condition 1, EPA required the use of Salado mass concrete instead of fresh water concrete in the Option D panel closure system.

   Because the panel closure design was a condition of EPA's 1998 Certification Decision, EPA has determined that a change in the panel closure design is a significant departure from the most recent compliance application. Therefore, under

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