

PPC 9489.1991(05)

PERFORMANCE STANDARDS FOR DISPOSAL IN SALT DOMES

OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

FEB 22 1991

David Case
General Counsel
Hazardous Waste Treatment Council
1440 New York Avenue, N.W.
Suite 310
Washington, D.C. 20005

Dear Mr. Case:

Thank you for your letter of November 21, 1990, regarding performance standards for disposal of hazardous waste in salt domes.

Enclosed is a legal opinion from the Environmental Protection Agency's (EPA's) Office of General Counsel concerning a permit application for placing hazardous waste in a salt dome, along with the remand in Natural Resources Defense Council (NRDC) v. 907 F.2d 1146 (D.C. Cir.). This opinion generally agrees that to lift the specific prohibition in Section 3004(b)(1)(B) of RCRA, EPA must promulgate specific regulations for placement of liquid hazardous waste in salt formations. EPA further agrees that the placement of any hazardous waste in salt domes or other geological repositories should be pursuant to appropriate standards consistent with the RCRA mandate to protect human health and the environment.

To the extent that this practice could now occur under Section 3004(b)(2), it would be limited to non-liquid or containerized hazardous waste subject to a RCRA permit issued pursuant to 40 CFR Parts 264 and 270. As you are aware, a RCRA permit allowing such disposal may be issued only when human health and the environment are adequately protected. For example, a Subpart X permit--which would be appropriate for disposal in salt domes--may contain any provisions needed to achieve this overall standard of protection, including those found in other parts of the RCRA regulations, or other relevant standards, such as those at 40 CFR Part 146 implementing the Underground Injection Control (UIC) program. Of course, a state authorized to implement RCRA might also use some analogous standards when writing an environmentally protective RCRA permit

for the disposal of hazardous waste in salt domes. I believe that this comprehensive approach can provide the type of environmental protection envisioned by Section 3004(b)(2) of RCRA.

Unlike RCRA Section 3004(b)(1), Section (b)(2) does not, as a prerequisite to receiving a permit, require promulgation of specific performance or unique permitting standards for salt dome formations. Of course, any RCRA permit covering disposal in salt domes would contain a full set of requirements to ensure protection of human health and the environment. Neither the NRDC opinion nor any EPA statements in the Federal Register notice (53 FR 28118) that is the subject of the court opinion purport to construe RCRA Section 3004(b)(2). Thus, as explained above, EPA or an authorized state can permit disposal in salt domes or other geologic repositories under Section 3004(b)(2) using the existing Subpart X permit standards found in 40 CFR Part 264, as well as other appropriate state or federal standards.

We will most certainly consider any rulemaking petition you may wish to submit for hazardous waste disposal in salt domes, as mentioned in your letter. However, for the reasons discussed above, we believe that existing RCRA permit procedures and standards are fully protective of human health and the environment. Given EPA's limited resources and formidable regulatory agenda in the RCRA area, I anticipate that, for the near term, EPA or the authorized states will use existing standards to regulate the disposal of containerized and non-liquid wastes in the geological repositories covered by RCRA Section 3004(b)(2). If you have any suggestions on how to improve the contents of such permits, or on RCRA's applicability, please feel free to call Elizabeth Cotsworth at (202) 382-4206. If you have further questions regarding UIC-related rulemakings, please contact Francoise Brasier at (202) 382-5530.

I appreciate your continuing interest in this issue and your concern for the safe management of hazardous waste.

Sincerely yours,

Don R. Clay
Assistant Administrator

Enclosure