

QUESTION: In filing a Part B permit application for a Department Of Energy (DOE) facility, what State regulations are applicable according to the Memorandum of Understanding (MOU) between EPA and DOE on hazardous waste and radioactive mixed waste management?

ANSWER: On April 13, 1984, the United States District Court for the Eastern District of Tennessee, Northern Division, concluded “. . . that application of the RCRA regulation at Y-12 (one of the DOE facilities at Oak Ridge, Tennessee) will not be inconsistent with the Atomic Energy Act (AEA).” DOE has indicated to EPA's Office of Solid Waste and Emergency Response (OSWER) that it will not appeal the court's decision and will in fact comply with RCRA on a nationwide basis. The status of the MOU is currently unclear. In terms of filing a permit application, the DOE applicant must comply with the State's standards even if they are more stringent than EPA's under RCRA. The issue of how to handle radioactive mixed waste was not addressed by the court and is still being contemplated by EPA.

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