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**Date:** Fri, Aug 4, 2006 10:46 AM  
**Subject:** Comments on NUREG-1854 -Docket Nos.: PROJ0734, PORJ0735, PROJ0736, and POOM-32

Please accept the attached comments for the above matter.

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August 4, 2006

SUBMITTED BY E-MAIL

Anna Bradford  
Project Manager Waste Determinations  
US Nuclear Regulatory Commission  
Washington, D.C 20555

Subject: Docket Nos.: PROJ0734, PORJ0735, PROJ0736, and POOM-32  
Comments on Draft NRC SRP for Activities Related to US DOE Waste  
Determinations (NUREG -1854)

Enclosed please find our comments on the above NUREG which was noticed for comment in the Federal Register on May 31, 2006. These comments are in addition to the comments that we previously submitted to the NRC on concentration averaging which we understand are being considered by the NRC and, therefore, do not need to be resubmitted.

We are available to discuss these comments at your convenience if you would find that helpful.

Sincerely,

John Greeves  
greevesj@aol.com

Jim Lieberman  
[jxlr@comcast.net](mailto:jxlr@comcast.net)

enc. As stated

## Comments on Draft NUREG-1854, SRP for Activities Related to US DOE Waste Determinations

Overall, we find that this document should be a helpful document for the consistency of the review process. In general the document is well written and balanced in its approach to meeting responsibilities under section 3116. For example, the discussions on highly radioactive radionuclides and maximum extent practical are well done. However, a few areas go beyond what appears to be a reasonable approach. For example, section 10 Monitoring should be focused on measurements that indicate overall performance of the facility, similar to monitoring performed at other contaminated sites. The current section may go well beyond what is reasonable under the provisions of the NDAA.

We offer the following specific comments for consideration and clarification:

- 1) Page 1-9 line 12                      NRC should also reference the 2000 Waste Determination review for SRS.
  
- 2) Page 4-7 line33                      This should address the case where the buffer zone needs to be larger based on source terms in the vicinity of the tanks such that the public should not have access. The point of maximum exposure for the public may be at a distance larger than 100m from the disposal area. DOE sites are not like typical part 61 sites and the size of the buffer zone needs to reflect such differences. DOE in coordination with the state typically agree on a point of compliance for receptors that is reasonable for local conditions. Site specific discussions are needed to address this issue. For example, the 2000 Waste Determination for SRS accepted a larger buffer zone.
  
- if 3) Page 4-45 line21                      This should address the NRC response should DOE request the use of ICRP 72 etc. What factors will NRC consider such a request was made?
  
- 4) Page 8-1 line 22                      NUREG 1757 does not contain requirements. It may used for guidance. Any reference to requirements should be removed. The requirements of 10 CFR 50 Appendix B are not applicable. NRC guidance on graded quality assurance should be followed, however these are not requirements.
  
- 5) Page 9-2 line11                      NRC has a role in monitoring DOE activities at West Valley in accordance with section 2 C.4 of the WVDA. In addition

NRC will have a role in regulating the outcome of a West Valley Waste Determination once the license is reinstated. Considering the factors for compliance with the performance objectives when reviewing the West Valley determination would seem appropriate if it is the NRC intent to rely on it when the license is reinstated. In this way the NRC staffs developing the factors are fully aware of the determination and its basis.

## Section 10 Monitoring

NRC monitoring is clearly required, however, this section appears to go beyond what is intended under the NDAA.

### 6) Page 10-1 line25

The West Valley site should be included and is a good example of how monitoring can and should be performed. The WVDA calls for Commission to monitor the activities for the purpose of assuring the public health and safety. This is similar to the role under the NDAA. NRC staff has been monitoring the West Valley site under the act for over 25 years. Each year an environmental report is prepared and provided to NRC that includes environmental data for the site. NRC's regional inspectors periodically visit the site and monitor health and safety activities. NRC headquarters staffs have full access to the site and periodically visit the site to review health and safety issues. If and when there are safety issues, NRC would notify DOE and affected parties. This approach has served NRC well under the WVDA and has not been an unreasonable burden on DOE in completing its responsibilities.

West Valley monitoring should be considered in this document and should provide a benchmark to measuring monitoring proposals under the NDAA.

The objective of NRC's monitoring is to assess whether DOE's disposal actions are in compliance with 10CFR 61 Subpart C. The intent is to monitor for performance. The focus should be on protection of the public and any future intruders. Protection of the workers is well covered under other sections of the SRP and does not need special focus by NRC under the monitoring section. Monitoring activities should be based on a risk informed-performance based approach. Such monitoring should include measurable data such as concentrations or settlement measurements. Infiltration rates and waste form degradation will be difficult

to monitor. How would NRC propose to monitor these topics?

7) Page 10-2 line33

The NDAA has no requirements for DOE to submit a plan for monitoring to the NRC. However, DOE as the designer of the tank closure system is in the best position to design the monitoring system as it designs the details of the closure system. NRC's role in monitoring should be one of auditing DOE's activities for the purpose of compliance with the performance objectives. While it may be helpful for NRC to review DOE's monitoring program to assist the NRC in developing its program, it is beyond the statute for NRC to require DOE to develop a monitoring plan for NRC review under its consultation role.

Implementing a graded approach to monitoring is reasonable. Reviewing site monitoring reports or other environmental reports is very appropriate and consistent with NRC practice at West Valley and other sites.

Regarding reviewing additional modeling performed by DOE, it is reasonable to expect that DOE will periodically update the performance assessment associated with tank closure. However such updates likely will be at intervals of 5 to 10 years and subject to much scrutiny and oversight by NRC and others. These analyses are not part of a normal monitoring program. DOE and NRC can agree on periodic PA review cycles that can be scheduled to fulfill this need.

The NDAA does not require DOE to develop a monitoring plan for NRC acceptance. Developing a monitoring plan goes beyond what is already current practice will be an unreasonable burden on DOE. Similar to the West Valley site, there already exist annual monitoring reports and environmental reports that can serve as the base documents for data that is gathered each year and monitored. If information important to public health and safety or site stability is identified as missing, it can be added to the current annual reports. Such monitoring reports are normally publicly available.

8) Page 10-3 line1

Monitoring by NRC of each batch of waste seems unreasonable. There are no requirements for batch sampling. Setting sampling frequency for waste sampling appear to go beyond monitoring specifications at any other NRC licensed

disposal site. NRC had oversight for both the Hanford and Barnwell disposal sites until that license was withdrawn in 1990's. NRC inspectors and headquarters staff inspected both facilities each year and reviewed the annual monitoring data to assure that the site continued to operate in compliance with the Part 61 performance objectives. The states and NRC can conduct similar monitoring visits as often as necessary to fulfill their obligations under the NDAA.

Annual monitoring reports should be similar in format to regional inspection reports. The topics reviewed (including data) should be listed, dates and results of on-site visits documented and any compliance issues identified for DOE response. NRC procedures for documenting visits (such as regional visits at West Valley), compliance issues and appropriate responses are well established and do not result in an unreasonable burden on DOE. If monitoring of DOE's disposal actions indicates compliance concerns, such reports would provide a reasonable notification to DOE and others and allow time for effective corrective action as needed. Such a graded approach is reasonable and fundamental to NRC's approach to compliance with all of its regulatory activities. Ultimately if compliance issues can not be resolved NRC has an obligation to inform Congress and would do so accordingly. However, DOE would expect to resolve any such issues well before any such report would be needed.

9) Page 10-3 lines 2-5

The purpose of the monitoring plan is to monitor to determine if the Performance Objectives of Part 61 are met. It is not to determine if the requirements in the State plans are met. The purpose of NRC coordination on the development of the plan is, therefore, not to expand the plan to cover the State's needs but to obtain the State's views on whether the monitoring program will obtain the information necessary to monitor compliance with the Performance Objectives. Thus, monitoring should not be modified to satisfy the requirements of the State unless NRC needs that information to carry out its responsibility. This is similar to the issue in the State of Maine for Maine Yankee where the NRC did not agree to the State's demand that it inspect to the State's lower dose standard.

10) Page 10-3 line 30

The State is not necessarily in a position to take action. The phrase "Congress, the State, and DOE" should be changed to "Congress, State to the extent legally authorized, and DOE".

11) Page10-4

As discussed above monitoring DOE's assumptions and analyses is impractical in an annual monitoring cycle. DOE will update the PA on a reasonable cycle and such updates can be used to assess previous assumptions and update analyses based on among other things monitoring data that is obtained over a number of years. This approach is consistent with PA updates at existing Part 61 sites such as the Barnwell site near SRS.

Monitoring environmental performance indicators is quite appropriate and is included in current DOE reports. Any data monitoring that is unique to disposal actions and needed, can be added to the annual reporting program on a reasonable schedule. Such monitoring should indicate any early releases and provide opportunity for action before releases occur beyond the buffer zone.

Any concerns with intrusion should be addressed through periodic PA review. Since intrusion performance will not be tested until well beyond 100 year institutional control period, monitoring plans would not be pertinent.

Protection of individuals during operations and off site releases are well covered by various DOE orders consistent with 10 CFR part 20. There is no need for duplication of this effort under a monitoring role. If necessary, such concerns could also be easily covered in annual monitoring reports similar to what was done at West Valley, Hanford and Barnwell.

11) Page10-5 lline33 -37

The draft noncompliance report should also be provided DOE. In addition to clarify the disclosure issue on the draft and comments, a new sentence should be added to state that "At the time the final report is released to the public, DOE and State comments on the draft report will be released together with the NRC response." This is similar to reports of the GAO and other auditors.

12) Page 10-5 line 45

The State is not necessarily in a position to take action. The phrase "Congress, the State, and DOE" should be changed to "Congress, State to the extent legally authorized, and DOE".

In summary, the content of this section 10 appear to go beyond what has been implemented at other NRC regulated sites. It may be premature to establish guidance on monitoring. There should be a public meeting on monitoring to develop a reasonable

protocol consistent with other sites like West Valley. Such an approach should lead to a reasonable monitoring program using existing reporting mechanisms which can be supplemented, if necessary, to address any new or unique monitoring issues posed by 3116 waste determinations.