Facilitator Introduction

Bret Leslie, PhD

NRC Public Meeting on Potential Changes to Commercial LLW Regulation: 10 CFR Part 61

March 2, 2012

Marriott Renaissance Phoenix Downtown Hotel

Phoenix, Arizona 85004

U.S.NRC

United States Nuclear Regulatory Commission

Protecting People and the Environment

NRC Public Meeting on Potential Changes to Commercial LLW Regulation: 10 CFR Part 61

Larry W. Camper, CEP, Director

Division of Waste Management and Environmental Protection

March 2, 2012
Marriott Renaissance Phoenix Downtown Hotel
Phoenix, Arizona 85004

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Welcome

Mark A. Satorius, Director

Office of Federal and State Materials and Environmental Management Programs

March 2, 2012

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Part 61
Public Meetings

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- Recent Commission Direction (01/19/2012)
  - SRM-COMWDM-11-0002/COMGEA-11-0002
- Emergent Policy/Technical Issues
- SECY-10-0165 Options/Other Options
- Stakeholder Feedback
- First of Several Public Meetings
- Impact on Future Direction

Recent Commission Direction (01/19/2012)

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- Process
- Policy
- Timeline
- Public Outreach

Emerging Policy/ Technical Issues

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- Role of Institutional Controls
- Exposure Scenarios
- 61.55 Concentration Tables
- Engineered Barriers System Performance
- Clearance
- Revise Part 61 EIS Assumptions
- Protection of Intruder

SECY-10-0165 Options/ Other Options

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- Risk-Inform the Current Part 61 Waste Classification Framework
- Comprehensive Revision
- Site-Specific Waste Acceptance Criteria
- International Alignment
- Supersede Direction in SECY-08-0147

Maximizing Stakeholder Input (Recent Events)

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EVENT	DATE
Conduct public workshop on CA BTP *	February 2011
DOE/NRC workshop on Part 61 Revision (Phoenix) *	March 2011
Issue blending Interim Guidance	March 2011
Close comment period on CA BTP *	April 2011
Conduct public meeting on Part 61 Period of Performance *	May 2011
Brief ACRS on Part 61 SSA Rulemaking (2x)	July/August 2011
Brief ACRS on CA BTP (2x)	June/December 2011
Issue draft VRPS for public comment *	October 2011
Conduct public workshop on CA BTP (Albuquerque) *	October 2011
Issue Commission paper with proposed final VRPS	January 2012

Maximizing Stakeholder Input (Future Events)

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LOCATION	DATE	EVENT
Phoenix, AZ	March 2, 2012	NRC-Sponsored Public Meeting #1 (following WM2012 Meeting)
San Francisco, CA	April 23, 2012	LLW Forum Spring Meeting
Orlando, FL	May 7, 2012	CRCPD Annual Meeting
Dallas, TX	May 15, 2012	NRC-Sponsored Public Meeting #2
Tucson, AZ	June 22, 2012	EPRI Annual LLW Meeting
Rockville, MD	Mid-July, 2012	NRC-Sponsored Public Meeting #3
Sacramento, CA	July 22, 2012	HP Society Annual Meeting

LLW Program Timeline

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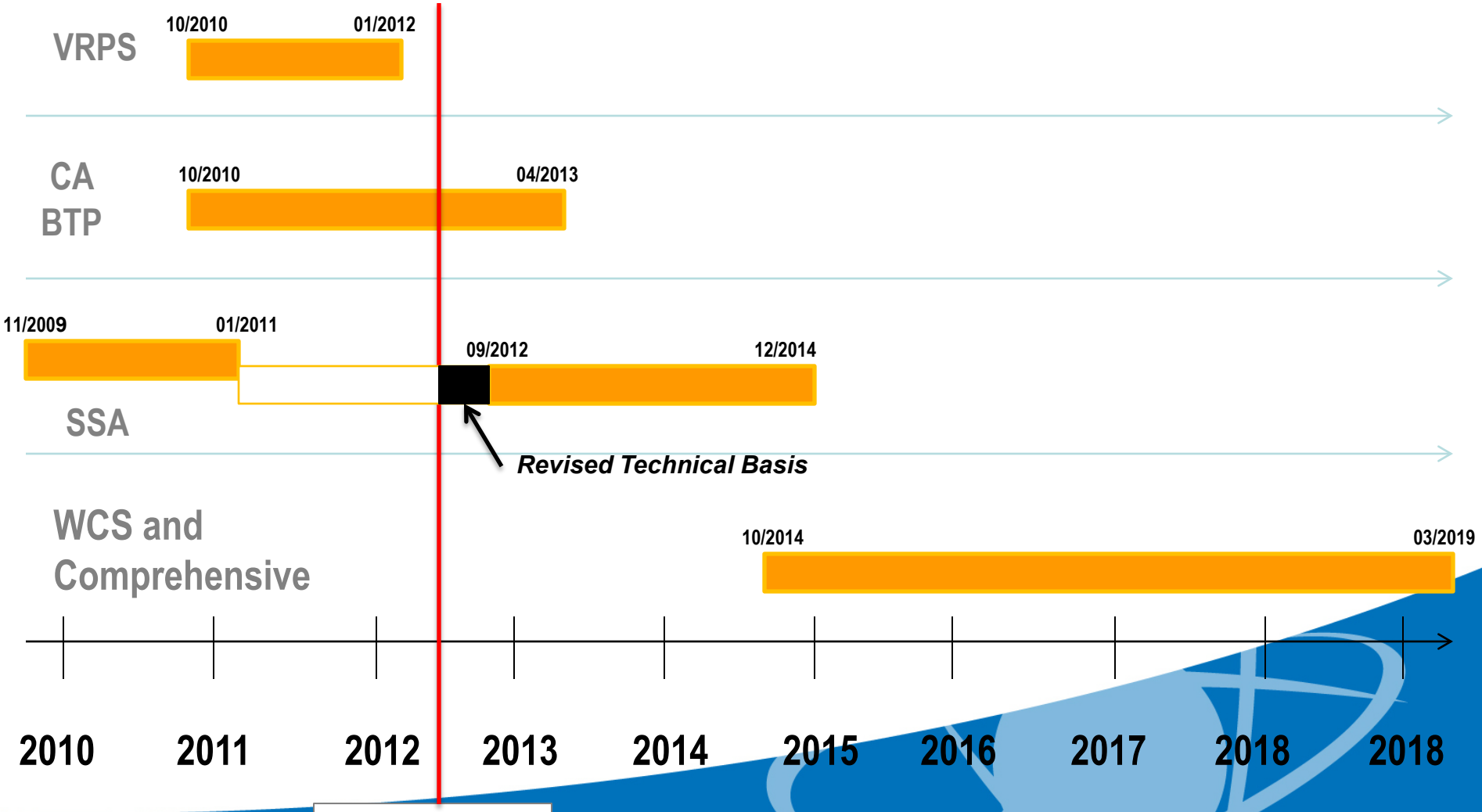

Site-Specific Analyses Rulemaking

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Overview

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- Background
- Commission Direction
- Site-Specific Analyses
- Issues
- Path Forward

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BACKGROUND

10 CFR Part 61

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- Requirements for land disposal of LLW
- Performance objectives assure safe disposal
  - Protection of general public
  - Protection of inadvertent intruders
  - Protection of individuals during operations
  - Stability after site closure
- Demonstrate performance via technical analyses and waste classification

Recent Developments

- Waste classification limits based on 1980's understanding of low-level waste streams[1]
- Recent waste streams not envisioned during development of Part 61
- Disposal may be appropriate, but not under all conditions[2]

[1] NUREG-0945, NUREG-0782
[2] SECY-08-0147, SECY-10-0043

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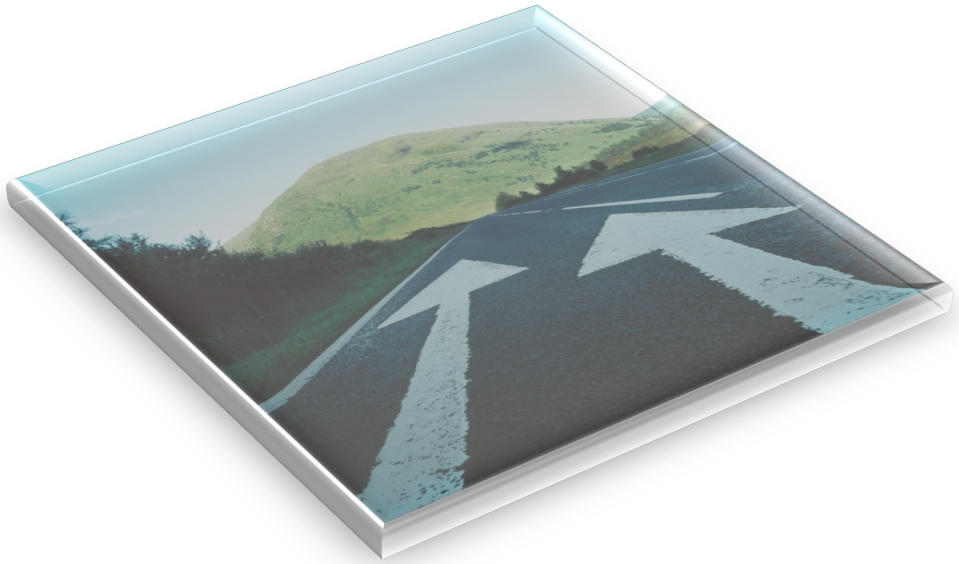

COMMISSION DIRECTION

Initial Commission Direction

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- Require site-specific analyses to demonstrate compliance with the performance objectives
- Specify technical requirements of the analyses
- Develop accompanying guidance
- Other Assignments

New Commission Direction

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- Consider:
  - Flexibility to use current International Commission on Radiological Protection (ICRP) dose methodologies
  - Two-tiered period of performance:
    - Reasonably foreseeable compliance period
    - Longer period of performance that is not *a priori*
  - Flexibility to establish site-specific waste acceptance criteria
  - Balance Federal-State alignment and flexibility

Path Forward

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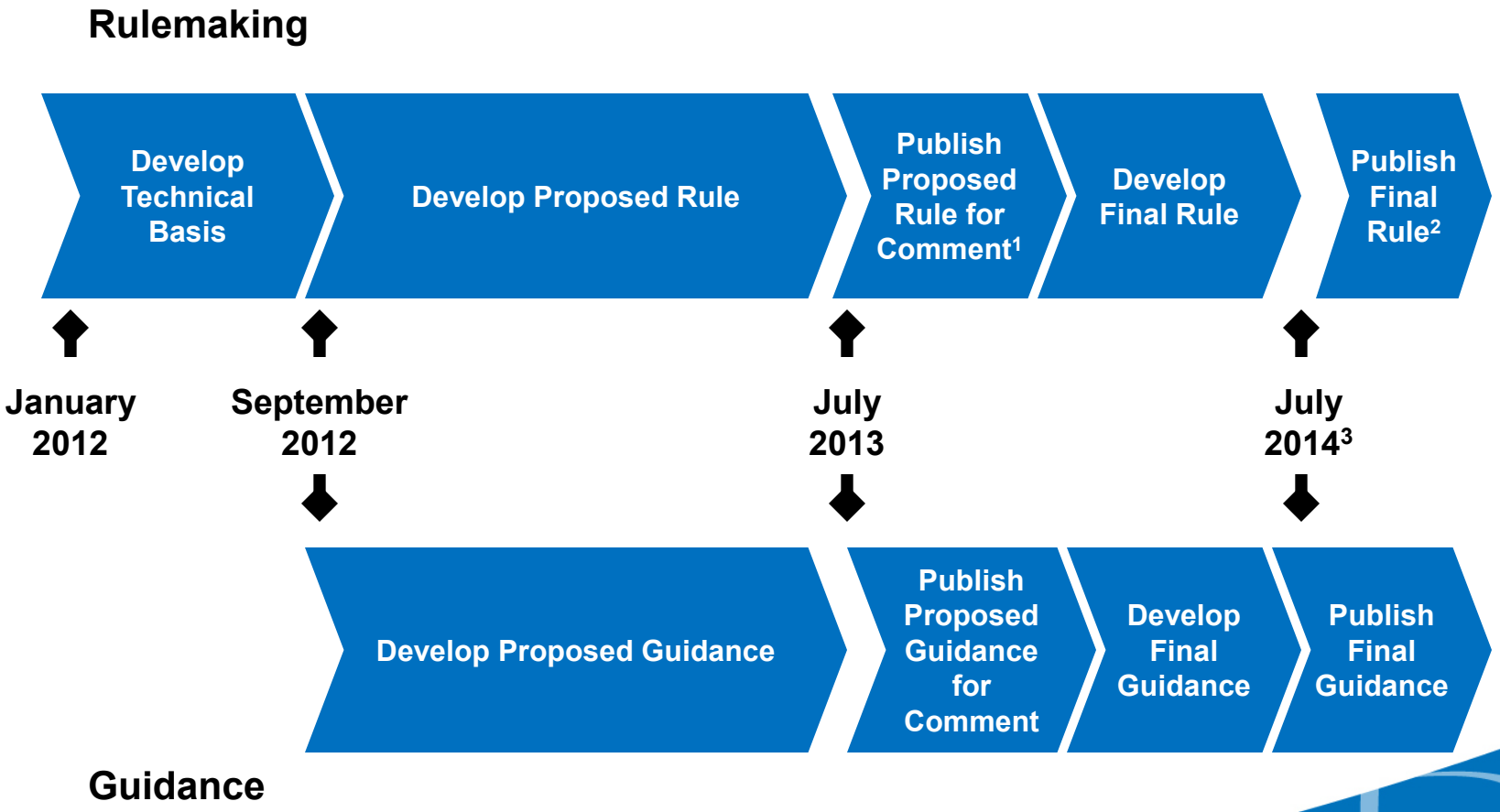

[1] Pending Commission approval; Comment period lasts approximately 75 days
[2] Pending Commission approval
[3] Dependent upon the complexity of public comments received

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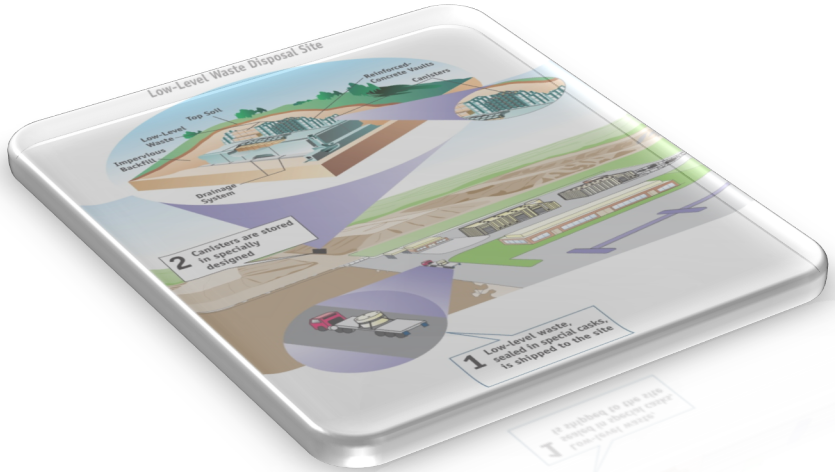


SITE-SPECIFIC ANALYSES

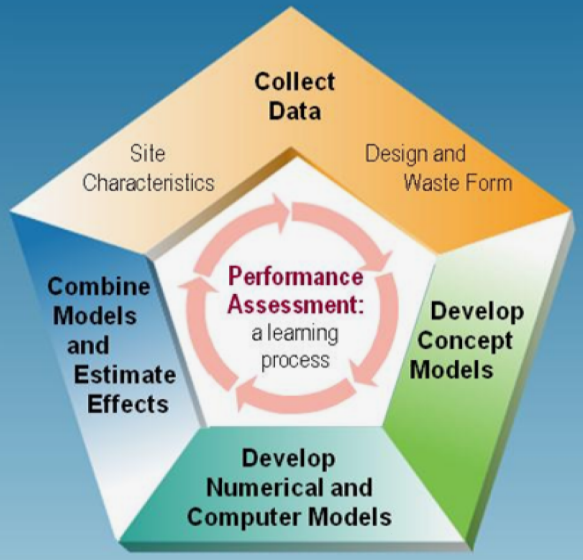
Overview of Performance Assessment

What is Performance Assessment?

- Systematic analysis of what could happen at a site

Why use it?

- Complex system
- Systematic way to evaluate data
- Internationally accepted approach



What is assessed?

- What can happen?
- How likely is it?
- What can result?

How is it conducted?

- Collect data
- Develop scientific models
- Develop computer code
- Analyze results

NRC would require a Performance Assessment to:

- Provide site and design data
- Describe barriers that isolate waste
- Evaluate features, events, and processes that affect safety
- Provide technical basis for models and inputs
- Account for variability and uncertainty
- Evaluate results from alternative models, as needed

Intruder Assessment

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- Demonstrate protection of inadvertent intruder
  - Currently Part 61 relies on waste classification
- Identify design and control measures to:
  - Preclude intrusion
  - Limit radiological impacts
- Similar to PA, except assumes intrusion

Long-Term Assessment

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- Estimates potential performance beyond compliance period
- Identify features to reduce long-term impacts

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NEW DIRECTION

ICRP Methodology: *Direction*

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- Consider allowing licensees the flexibility to use ICRP dose methodologies in a site-specific performance assessment for the disposal of all radioactive waste

[1] SRM-SECY-0148

ICRP Methodology: *Context*

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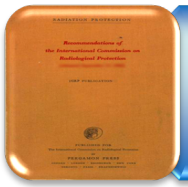
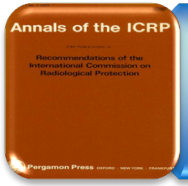
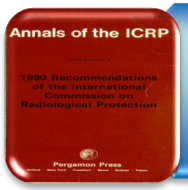


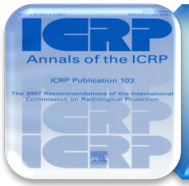
ICRP 2
1959



ICRP 26
1977



ICRP 60
1990



ICRP 103
2007

- NRC regulations based on various methodologies
- Commission policy[1] presently allows exemption for current methodology

[1] SRM-SECY-0148

ICRP Methodology: *Feedback*

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- Commission is seeking stakeholder feedback on allowing licensee's the flexibility to use ICRP dose methodologies in a site-specific performance assessment for the disposal of radioactive waste

Period of Performance: *Direction*

- Consider a two-tiered PoP for analyses:
  - *Tier 1*: Compliance period covering reasonably foreseeable future
  - *Tier 2*: Longer period based on site characteristics and peak dose to a designated receptor

Period of Performance: *Context*

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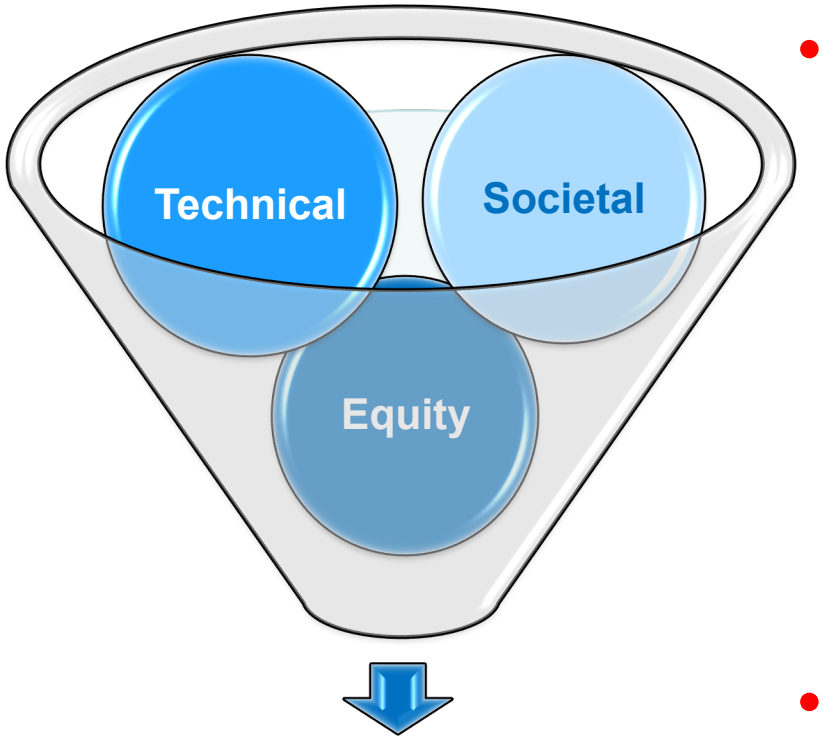
- Part 61 does not currently specify a PoP
- In response to initial direction, NRC staff developed technical analysis of factors for Commission to consider in selecting PoP[1]
  - Recommended a two-tiered approach

[1] ML111030586

Tier 1: Compliance Period



Reasonably Foreseeable Future

- Possible factors
  - ***Societal*** – human activities
  - ***Technical*** – hazard, site characteristics
  - ***Equity*** - inter- and intra-generational
- Fixed, Site-specific, Combo

Compliance Period Comparisons

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Material	Hazard	Hazard Duration	Action	Compliance Period
EPA RCRA	Chem	∞	Disposal	30+ yrs
Uranium Mill Tailings	Rad	LL	Remediate	200 yrs (<1000 yrs)
Part 20 Decommission Criteria	Rad	VSL	Release	1000 yrs
DOE Order 435.1	Rad	SL	Disposal	1000 yrs
LLW Disposal Facility	Rad	SL	Disposal	[10,000 yrs]
EPA Underground Injection	Chem	∞	Disposal	10,000 yrs
DOE WIR Determinations	Rad	SL-LL	Remediate	DOE: 1000 yrs NRC: 10,000 yrs
DOE Siting Guidelines (10 CFR 960)	Rad	LL	Screening Action	100,000 yrs
EPA HLW/SNF/TRU Generic Standards	Rad	LL	Disposal	10,000 yrs
EPA HLW/SNF Site-Specific Standards	Rad	LL	Disposal	10,000 yrs – 15 mrem 1,000,000 yrs – 100 mrem

∞ infinity LL: long-lived SL: short-lived VSL: very short-lived

Tier 2:
Site Characteristics

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- Commission identified characteristics for consideration:
  - Waste Package
  - Waste Form
  - Disposal Technology
  - Cover Technology
  - Hydrogeology
- §§61.50 and 61.51 specify site suitability and design requirements
- Uncertainty in characteristics over time

Tier 2: Designated Receptor

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- Receptor Characteristics
  - Metabolic
  - Behavioral
  - Physical
- Fixed, site-specific, combination
  - Current biosphere

Tier 2: Performance Metric

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- Should NRC consider metrics for a second tier?
- What metrics should NRC consider?
  - Quantitative (Dose, Risk)
  - Qualitative

Period of Performance: *Feedback*

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Commission is seeking public feedback on a two-tiered approach:

- Defining a reasonably foreseeable compliance period
- Defining a longer period of performance that is not *a priori*, but developed based on site characteristics and the peak dose to a designated receptor

Waste Acceptance Criteria: *Direction*

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Commission directed staff to consider flexibility to establish site-specific WAC based on the results of the site's performance assessment and intruder assessment

Waste Acceptance Criteria: *Context*

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- General WAC specified in §§61.55-61.57
- §61.58 currently allows requests for alternative waste classification
  - Site-specific exemption
  - Compatibility: H&S (i.e., State adoption not required)
- Generic or site-specific; other ways?

Waste Acceptance Criteria: *Feedback*

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Commission is seeking public feedback on adding flexibility for disposal facilities to establish site-specific waste acceptance criteria based on the results of the site's performance assessment and intruder assessment

Compatibility: *Direction*

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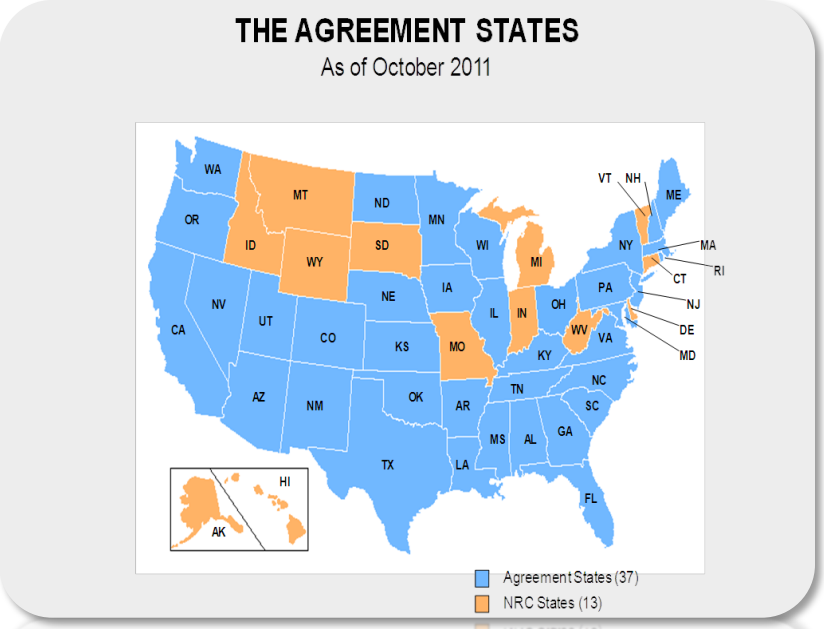
- Category for the site-specific analyses and site-specific WAC requirements that:
- Ensures alignment between the States and Federal government on safety fundamentals
- Provides States with the flexibility to determine how to implement these requirements

Compatibility: *Context*



- Section 274 of the Atomic Energy Act
- Promote orderly regulatory pattern
- Discontinuation of certain NRC authorities
- NRC maintains oversight

Compatibility: *Context*

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- Essentially Identical Categories
  - A – Basic standards and related definitions
  - B – Direct trans-boundary implications
- Essential Objective Categories
  - C – Required to avoid conflicts, duplications or gaps
  - H&S – Particular health and safety significance
  - States can be more restrictive
- Other Categories
  - D – Not required for compatibility
  - NRC – Cannot be relinquished to States

Compatibility: *Feedback*

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- Commission is seeking public feedback on a compatibility category for the elements of the revised rule that establish:
  - the requirements for site-specific performance assessments and
  - the development of site-specific waste acceptance criteria
- Alignment between States and Federal government on safety fundamentals
- Providing the States with the flexibility to determine how to implement these safety requirements

Public Feedback

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Part 61 Emerging Technical Issues

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Outline

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- Background
- Stakeholder Involvement
- Emerging Issues
- Path Forward

Stakeholder Involvement

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- Public Workshop on BTP (February 2011)
- Public Comment on Updated Volume Reduction Policy Statement (August 2011)
- ACRS Meetings on BTP (October and December 2011)
- Rulemaking Development (DU Workshops 2009, Waste Management 2011)

Emerging Issues

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- Inadvertent Intruder Protection
  - Concept of an Inadvertent Intruder is flawed
  - Assumption that intrusion will occur is not risk-informed (probability of 1)
  - Need to protect future generations is over emphasized

Emerging Issues *(continued)*

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- Institutional Control Period
  - Current 100 Year control period too short
  - Financial Assurance requirements for some states preclude loss of control indefinitely

Emerging Issues *(continued)*

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- Definitions and Concepts
  - "Reasonably Foreseeable" is not understood or well defined
  - "*De minimus*" or clearance levels should be established
  - Separate disposal requirements and criteria should be established for depleted uranium, distinct from classic 'LLW'

Emerging Issues *(continued)*

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- Definitions and Concepts
  - Compatibility category for 10 CFR Part 61.58 should be changed to ‘B’ from ‘D’
  - Changes should be restricted to new sites (Grandfather current sites)
  - Eliminate the 10 CFR Part 61.55 Waste Classification Tables

Emerging Issues *(continued)*

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- Definitions and Concepts
  - Explicitly account for uranium and its daughter products in waste classification tables
  - Reflect latest ICRP dosimetry
  - Expand tables to include a more comprehensive suite of isotopes

Path Forward

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- Engage Stakeholders and Public
  - Gather comments to inform decision-making
  - Facilitate information exchange through web page
  - Docket # **NRC-2011-0012** at *www.regulations.gov*
- Report Back to the Commission

Public Feedback

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Summary of SECY-10-0165

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Background

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- Part 61 Revision First Suggested in LLW Strategic Assessment (SECY-07-0180)
  - Low priority item
- SECY-08-0147
  - Near-surface of DU may be appropriate
  - Recommend introducing an explicit performance assessment requirement to Part 61
- SECY-10-0165
  - Outline approach to initiate activities to revise Part 61

Background *(continued)*

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- First Public Meeting: March 4, 2011 in Phoenix, AZ
  - Concepts for comprehensively revising Part 61 introduced
  - Briefing materials and transcript posted on NRC web-site
    - *http://www.nrc.gov/about-nrc/regulatory/rulemaking/potential-rulemaking/potential-part61-revision.html*

- Questions for Stakeholders
  - Should existing Part 61 be revised or left as is?
  - What recommendations do you have for specific changes to the current rule?
  - What are your suggestions for possible new approaches to commercial LLW management?

Challenges to Change

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- Part 61 is fully protective of public health and safety

- Four decades of operations/regulatory experience
  - Adopted by all Agreement States
  - Implemented at 4 disposal sites (WA, UT, TX, SC)
  - Waste classification system understood by thousands of waste generators
  - Other Federal/State laws invoke Part 61

SECY-10-0165 Options

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1. Risk-Inform Part 61 Waste Classification Framework
2. Comprehensive Revision Option
3. International Alignment Option
4. Site-Specific Waste Acceptance Criteria (WAC) Option
5. Maintain *Status Quo* Option

1. Risk-Inform Waste Classification Framework

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- Original Regulatory Motivation
  - Address shortcomings in earlier disposal practices
  - Provide uniform set of standards for operation of future multiple disposal sites nationally

- Regulatory Thesis
  - Dose exposures managed by controlling source term
  - Radiological hazard diminishes with time

1. Waste Classification *(continued)*

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- What-if Dose Studies Examining Influence of:
  - Dominant LLW isotopes
  - Engineering measures
  - Institutional controls
  - Administrative practices (waste segregation)

- Dose Calculations Yielded Tables 1 and 2 at §61.55
  - Based on inverse calculations (max 500 mrem)
  - Considered both activity- and exposure-limited pathways
  - Assumed exposure scenarios
  - Considered only humid sites

1. Waste Classification *(continued)*

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- Option Consistent with Previous Commission Direction (SECY-08-0147)
  - Revisions Limited to Tables 1 and 2 at §61.55
    - Preserve existing waste classification system
    - Introduce additional radionuclides
    - Re-evaluate using updated ICRP dosimetry
  - §61.55 Table Revision Decisions
    - Rely on original Sandia Laboratory computer codes?
    - Conduct new generic modeling?
    - Conduct new generic modeling and consider receptor scenario?

2. Comprehensive Revision to Part 61

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- Clean Slate Approach

- Embrace RI/PB Regulatory Philosophy
  - Focus on performance objectives
  - Strike a balance between regulations and guidance

- Re-visit Basic Questions Raised When Part 61 was First Developed
  - Identify types of LLW to be managed
  - Determine appropriate management method
  - Decide on *de minimis* provision

2. Comprehensive Revision *(continued)*

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- Approach Likely to Include
  - Updated waste generator survey, including consideration of DOE inventory
  - One or more generic performance assessments
  - Updated Environmental Analysis
  - Review of engineering ‘best practices’ in waste management
  - Consideration of international experience
  - Revised and/or updated guidance

3. International Alignment Option

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- Adopt Recommendations of the International Atomic Energy Agency (IAEA)
  - IAEA system focuses on entire nuclear fuel cycle
    - Spent nuclear fuel and other high-level radioactive waste
    - Greater-than-Class-C LLW (or transuranic radioactive wastes)
    - Naturally occurring radioactive material
    - Wastes amendable to decay in storage
  - Disposal strategy defined by nature of radiological hazard
  - Depleted uranium not classified by IAEA

3. International Alignment *(continued)*

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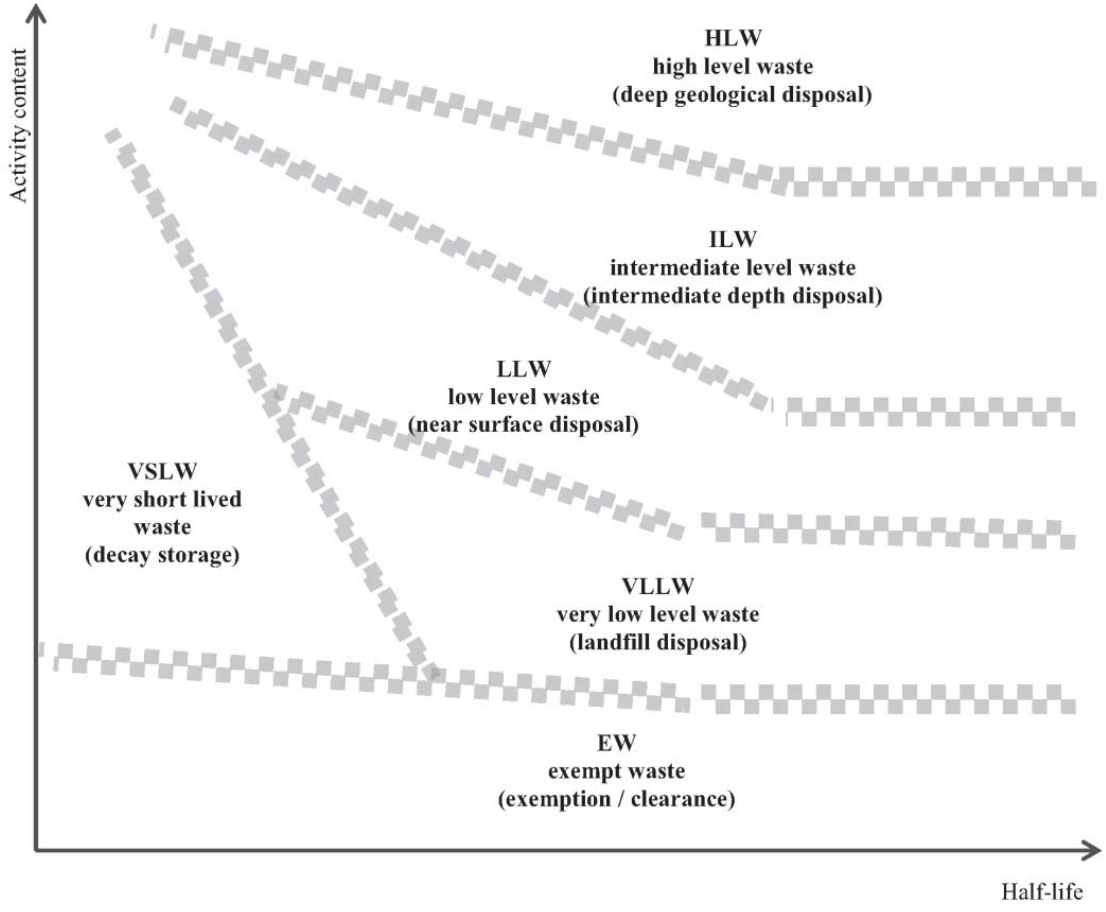

3. International Alignment *(continued)*

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- IAEA Guidance Documents
  - Classification of Radioactive Waste: General Safety Guide-1
  - Disposal of Radioactive Waste: Specific Safety Requirements-5
- *http://www-pub.iaea.org/MTCD/publication*

4. Site-Specific Waste Acceptance Criteria Option

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- Part 61 Intended as a 'One-Size-Fits-All' Regulation
  - Applicable to any geographic/geologic setting
  - Relies on generic waste acceptance criteria

- Regulatory Framework Based on:
  - Assumed waste streams
  - Static disposal practices/technology
  - Conservative site performance scenario

4. Site-Specific WAC *(continued)*

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- Eliminate §61.55 waste classification tables

- Each site develops site-specific WAC
  - Concentration limits
  - Inventory limits (if necessary)
  - Waste form requirements

- Site-specific WAC consistent with:
  - Part 61 performance assessment
  - Subpart C performance objectives

4. Site-Specific WAC *(continued)*

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- Increased Flexibility
  - Rely on site characteristics
  - Site-specific engineered features
  - Current operational approaches/practices
- Reflects RI/PB Regulatory Approach
  - Performance assessment informs acceptability of waste stream
  - Focus on management of radiological hazard
  - Improved nexus between WAC and risk assessment
- Compacts could site and design a disposal for wastes with specific radiological properties

4. Site-Specific WAC *(continued)*

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- Increased Flexibility
  - Rely on site characteristics
  - Site-specific engineered features
  - Current operational approaches/practices
- Reflects RI/PB Regulatory Approach
  - Performance assessment informs acceptability of waste stream
  - Focus on management of radiological hazard
  - Improved nexus between WAC and risk assessment
- Compacts could site and design a disposal for wastes with specific radiological properties

5. No Action Option

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- No additional changes to Part 61
  - Complete site-specific analysis rulemaking (SECY-08-0147)

- No update of Tables 1 and 2 at §61.55

Public Feedback

NRC Public Meeting on Potential Changes to Commercial LLW Regulation: 10 CFR Part 61

March 2, 2012

Marriott Renaissance Phoenix Downtown Hotel

Phoenix, Arizona 85004

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Summary of Stakeholder Comments and Opportunity for Public Exchange

Bret Leslie, PhD

NRC Public Meeting on Potential Changes to Commercial LLW Regulation: 10 CFR Part 61

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Recap and Closing

Larry W. Camper, CEP, Director

Division of Waste Management and Environmental Protection

Office of Federal and State Materials and Environmental Management Programs

March 2, 2012

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