

April 2, 2012

MEMORANDUM TO: Andrew Persinko, Deputy Director
Division of Waste Management
and Environmental Protection
Office of Federal and State Materials
and Environmental Management Programs

FROM: Michael P. Lee, Senior Project **/RA/**
Low-Level Waste Branch
Division of Waste Management
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Office of Federal and State Materials
and Environmental Management Programs

SUBJECT: SUMMARY OF MARCH 2, 2012, PUBLIC MEETING IN PHOENIX,
ARIZONA, ON POTENTIAL REVISIONS TO 10 CFR PART 61

On March 2, 2012, staff from the Office of Federal and State Materials and Environmental Management Programs conducted its first of three public meetings for the purpose of gathering stakeholder views and comments concerning the ongoing site-specific analysis rulemaking, to revise the Commission's commercial Low-Level Radioactive waste (LLW) regulation at 10 CFR Part 61. In a January 12, 2012, Staff Requirements Memorandum (SRM), designated SRM-COMWDM-11-0002/COMGEA-11-0002, the Commission directed the staff to seek stakeholder views on the following additional regulatory features (requirements to be included in the ongoing Part 61 rulemaking:

- Allowing licensees the flexibility to use International Commission on Radiation Protection (ICRP) dose methodologies in a site-specific performance assessment for the disposal of all radioactive waste.
- A two-tiered approach that establishes a compliance period that covers the reasonably foreseeable future and a longer period of performance that is not a priori and is established to evaluate the performance of the site over longer timeframes. The period of performance is developed based on the candidate site characteristics (waste package, waste form, disposal technology, cover technology and geo-hydrology), and the peak dose to a designated receptor.
- Flexibility for disposal facilities to establish site-specific Waste Acceptance Criteria (WAC) based on the results of the site's performance assessment and intruder assessment.

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- A compatibility category for the elements of the revised rule that establish the requirements for site-specific performance assessments and the development of the site-specific WAC that ensures alignment between the States and Federal government on safety fundamentals, while providing the States with the flexibility to determine how to implement these safety requirements.

The March 2, 2012, public meeting was conducted immediately following the *Waste Management 2012 Symposium* in Phoenix, Arizona. The meeting agenda and staff presentations were made publicly available prior to the meeting and can be found in the Agencywide Documents Access and Management System (ADAMS) (ML120300507 and ML120590652, respectively), the agency's official recordkeeping system. The announcement for this facilitated public meeting was published in the *Federal Register* (FR) on February 22, 2012, (77 FR 10401). Approximately 80 individuals participated in this facilitated public meeting, both in person and remotely (electronically) via webinar. Attendance included representatives from the Electric Power Research Institute, the Nuclear Energy Institute, the U.S. Department of Energy (DOE), several National Laboratories, the LLW Forum, and current disposal facility operators. The list of registered attendees is enclosed.

Consistent with the Commission's January 2012 SRM, the staff delivered technical presentations that focused on the four additional rulemaking directives submitted by the Commission. Following the formal staff presentations, stakeholders and other interested members of the public provided comments on the material discussed. The public meeting was transcribed to serve as an official record of the event, and the stakeholder comments and suggestions provided as a result of those presentations can be found in the transcript. The meeting transcript is publicly available at the following location: <http://www.nrc.gov/aboutnrc/regulatory/rulemaking/potential-rulemaking/uwstreams.html>. In its introductory remarks, the staff noted that it intended to review the March 2 meeting transcript and consider both oral and written comments received as it prepares a revised technical basis document in support of the limited Part 61 rulemaking. The staff also noted that the public comment period for this rulemaking will end on July 13, 2012. The next Part 61 meeting is scheduled for May 15, 2012, in Dallas, Texas, followed by the final meeting in mid-July in Rockville, Maryland.

With respect to the aforementioned Commission directives themselves and public responses thereto, stakeholders recommended that the staff specifically target the Agreement States and the Conference of Radiation Control Program Directors, at some future public meeting, to obtain their respective views.

In addition to expressing views on the four rulemaking directives identified by the Commission in its January 2012 SRM, stakeholders provided additional comments concerning potential revisions to Part 61:

Disposition of past public comments. A key area of stakeholder interest concerned the existing draft proposed Part 61 rulemaking language first discussed with the public at a May 18, 2011, public workshop (76 FR 24831). Some stakeholders expressed an interest in better understanding what the disposition of their earlier comments were as a result of that 2011 public workshop, and which aspects of that draft rulemaking text would be preserved and 'grandfathered' into the next iteration of the rulemaking. Stakeholders noted that they sought to

avoid repeating any previously-submitted comments, particularly on those aspects of the rulemaking initiative that might now be superseded by the Commission's January 2012 direction. To improve the transparency of the overall rulemaking process, given the multiple sets of Commission direction, this staff agreed to prepare some type of cross-walk in response to this stakeholder observation and make it publicly available on NRC's LLW website in the near future. The staff also agreed to confirm with the Commission's Technical Assistants (TAs) that the May 2011 version of the draft rule text was the current 'reset' point for the rulemaking.

Future public meetings. Several stakeholders expressed a preference for a 'round-table' type of meeting format instead of the meeting structure employed in Phoenix. Moreover, at future public meetings, stakeholders requested that the staff identifying and summarizing stakeholder comments from previous public meetings.

Expand Existing Rulemaking Scope. A number of stakeholders also expressed a preference for the staff to expand the scope of the proposed rulemaking amendments to other areas of the Part 61 regulation. Those other areas included:

- Updating the waste concentration tables at Section 61.55 to reflect the latest dose conversion factors and dose methodologies.¹
- Revisit the current basis for the duration of institutional controls, currently specified as 100 years in Section 61.30.
- Revisit the earlier assumptions concerning the so-called phantom 4 isotopes (i.e., carbon-14, chlorine-36, iodine-126, and tritium) in LLW manifest reporting.

Criteria for the disposal of greater-than-Class C (GTCC) LLW. A DOE representative suggested that the GTCC disposition issue needs to be factored into any broader discussions concerning revisions to Part 61 now that work at Yucca Mountain, Nevada, has been essentially terminated and the Department has issued a draft Environmental Impact Statement addressing this particular LLW class.

Criteria for the disposal of low-activity LLW. Several comments were received that Part 61 needs to be amended to include criteria for the management of LLW that is very short-lived and amendable to disposal in municipal waste facilities.

¹ Particular reference was made to an earlier 2010 EPRI-sponsored analysis entitled "Options for Improved Low Level Waste Disposal Using 10 CFR 61.58," for which it was suggested the authors had already examined how updated ICRP dosimetry might change some of the isotope assignments currently found in Tables 1 and 2 of Section 61.55 of the regulation. The document number pertaining to this free EPRI report is 1021098.

A. Persinko

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SECY-10-0165. Some stakeholders also expressed the view that *SECY-10-0165*, concerning options for a comprehensive revision to Part 61, was no longer relevant in light of the current January 2012 SRM and that staff should disengage from further work in this area. In response, the staff noted that until it receives direction from the Commission to the contrary, it is obliged to complete the *SECY-10-0165* public outreach assignment.

The staff indicated that it intended to bring these recommendations to the Commission TAs attention as well.

Enclosure:
List of Attendees

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Enclosure:
List of Attendees

ML120860043

OFC	DWMEP	DWMEP	DWMEP	DWMEP
NAME	MLee	TMoon	GSuber	MLee
DATE	3/26/12	3/27/12	3/29/12	4/02/12

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PHOENIX, ARIZONA, PUBLIC MEETING ATTENDANCE LIST

March 2, 2012

H.M. Anderson/WMG, Inc.	M. Lee/NRC
S. Bader/AREVA	B. Leslie/NRC
P. Black/Neptune & Co.	T. Lovinger/LLW Forum
R. Black/Idaho National Laboratory	D. Lowman/NRC*
W. Brinkow/UNERCO, USA	J. Liberman/Talisman International*
L. Camper/NRC	T. Magette/Energy Solutions
K. Catlett/Neptune & Co.	P. Macbeth/DOE
J. Carilli/DOE	D. Martin/DOE
J. Cochran/Sandia National Laboratory	S. McCandless/EnergySolutions
B. Cox/EPRI	L. Manning/US Navy
T. Curtis/Palo Verde-STARs	T. Moon/NRC
J. Deneen	M. Nutt/Argonne National Laboratory
T. Dickinson/Arizona Public Service	M. Odell/DOE
W. Dornsife/Waste Control Specialists	D-K Park/Korea Institute of Nuclear Safety
T. Dubenville/WMG, Inc.	D. Persinko/NRC
D. Eaton/CWI	B. Petras/DOE-Savannah River
A. Edelman/DOE	M. Petrovic/CANDU
I. Edwards/EPRI	J. Raymont/Kurion, Inc.
L. Eriksson/Nuclear Waste Dispositions	C. Ridge/NRC
F.L. Fox/Savannah River Nuclear Solutions	M. Roadhorse/Nauso-UMTRA
B. Geddes/DTS	M. Ryan/ACRS
C. Gelles/DOE	M. Satorius/NRC
S. Goldston/EnergySolutions	J. Schlueter/NEI*
J. Greeves/Talisman International	R. Seitz/Savannah River National Laboratory
C. Grossman/NRC	D. Shrum/EnergySolutions
R. Halstead/State of Nevada	L. Slosky/Rocky Mountain Compact
B. Hearty/US Army Corps of Engineers	L. Smith/CORAR
K. Hauer/DOE-Savannah River	H. Stevens/Studsvik, Inc.
S. Herness/Radwaste Monitor	R. Stigert/PPL Susquehanna
H. Honerlatt/US Army Corps of Engineers	G. Suber/NRC
J. Hyatt/Savannah River Nuclear Solutions	L. Suttora/DOE
R. Jubin/Oak Ridge National Laboratory	R. Tadesse/NRC
H. Jung/Korea Institute of Nuclear Safety	J. Tauxe/Neptune & Co.
C. Judd/CM Environmental	T. Tharp/DOE
T. Kalinowski/DW James Consulting	J. Tseng/ DOE-Savannah River
J. Kennedy/NRC	J. Vincenti/Acurei.net
M. Kozak/INTERA, Inc.	M. Vogel
L.D. Lacy/Nye County, Nevada	J. Williams/WEIB
T. LaGuardia/LaGuardia & Associates	B. Wilmart/Savannah River National Laboratory
M. Laytin//DOE-Savannah River	B. Yook//Korea Institute of Nuclear Safety
L. Lehman/CH2M Hill	

Enclosure