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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
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JAN 10 2000

Jack D. Parrott, Project Scientist
Office of Nuclear Material Safety and Safeguards
Mail Stop T-8F37
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Dear Mr. Parrott:

As I indicated at the Public Meeting on the U.S. Nuclear Regulatory Commission's draft policy statement on decommissioning criteria for the West Valley site held on January 5, 2000, at the Ashford Office Complex in West Valley, New York, I am forwarding my full Statement for inclusion in the public record and for your consideration.

Sincerely,

Jeanette Eng

Jeanette Eng

c: F.X. Cameron, NRC

Enclosure

NMSS01 Public

Statement on
NRC Draft Policy Statement on the Application of
10 CFR 20 Subpart E to West Valley Site
January 5, 2000

Good Evening. I am Jeanette Eng with the United States Environmental Protection Agency's Region 2 office located in New York City. EPA's involvement with the West Valley site goes back to the mid-1970s, when EPA looked into the problems at the commercial low-level radioactive waste disposal area. In addition, EPA assisted in efforts that lead to the West Valley Demonstration Project for the high-level radioactive waste that resulted from the early spent fuel reprocessing that occurred at West Valley. West Valley provided many lessons learned with respect to siting, waste treatment, disposal practices, and now decommissioning.

I would like to offer some comments on the Nuclear Regulatory Commission's draft Policy Statement on the application of the NRC's License Termination Rule, 10 CFR 20 Subpart E, as the decommissioning criteria for the West Valley Demonstration Project and the West Valley site itself.

Because West Valley is a complex and unique site, EPA believes it will be important for federal agencies (NRC, DOE, EPA), New York State and the local community to work together to address foreseeable issues and seek consensus. Our collective goal should be to remediate the West Valley site of all hazardous and radioactive contaminants in a coordinated operation, and to not approach it as an iterative process.

EPA agrees with the NRC draft policy to prescribe decommissioning criteria for the West Valley site before completion of the EIS. By doing so, the U.S. Department of Energy will have a consistent basis to identify, compare and assess various decommissioning options for the site. However, EPA does have concerns on the cleanup standard, waste disposal, groundwater protection, institutional controls, non-radiological contaminants, etc., that EPA believes should be addressed as the DOE proceeds to develop cleanup options and decommissions the West Valley site.

Cleanup Standard

Under the Atomic Energy Act, EPA has authority to establish generally applicable standards for protection of human health and the environment. After the NRC license has been terminated and the site has been released from NRC regulatory authority, EPA standards will apply to the site. Therefore, it would be prudent to coordinate and address other conditions and requirements that need to be met in order to avoid the need for future remedial actions once the NRC license at West Valley is terminated.

With respect to the NRC dose criterion for unrestricted release of 25 millirems per year, it is EPA's understanding that NRC expects that at most NRC-licensed sites, the application of the principle to reduce doses to levels as low as reasonable achievable, ALARA, will achieve

cleanup levels that will be within the risk range EPA considers protective. The EPA risk range, as established in the 1990 revisions to the National Contingency Plan and EPA guidance under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) for cleanups and remedial actions under the Superfund program, is 10^{-4} to 10^{-6} excess lifetime cancer risk from all radiological and non-radiological carcinogens. We urge the DOE to meet the Superfund risk range.

For restricted release of a site, the NRC License Termination Rule limits are 25 mrem/yr with the institutional controls in-place, and 100 to 500 millirems per year when the institutional controls fail. These specific levels are not protective of public health, and future actions under CERCLA may be necessary. If the site cannot be released for unrestricted use, EPA recommends that the site be reviewed under a five-year cycle to evaluate the effectiveness of the institutional and engineering controls, and the adequacy of the financial and institutional resources to maintain the controls. Although NRC recommends such review at 500 mrem/yr level, EPA recommends the 5-year review be instituted at any level that requires institutional controls to maintain the 25 millirems annual dose, including the 100 mrem/yr level.

More important than these dose numbers will be how the DOE intends to achieve them. Issues such as waste disposal options, how much residual radioactivity remains on-site, institutional controls, financial resources for long-term care, and public acceptance will define the decommissioning choices.

Groundwater Protection

The EPA and NRC place different emphasis on the protection of groundwater. NRC includes the protection of groundwater in its annual dose criterion of 25 millirems. EPA specifically calls for the protection of groundwater to meet 4 millirems annual dose and the Maximum Contaminant Levels in the Safe Drinking Water Act. EPA would like to see a specific analysis that addresses protection of groundwater at West Valley to Safe Drinking Water Act levels. If significant quantities of residual contaminants are allowed to remain on-site after license termination, long-term monitoring of groundwater needs to be included to ensure groundwater is adequately protected in the future.

Hazardous Waste

Again, in the desire to avoid future, additional remedial actions, the DOE should be cognizant and address non-radiological contaminants during the decommissioning designed to meet the NRC License Termination Rule. EPA has authority under the Resource Conservation and Recovery Act (RCRA) to regulate hazardous waste. Mixed waste, waste that contains radioactive materials and hazardous constituents, is jointly regulated by the NRC and EPA, or the respective Agreement/Authorized State. Hazardous waste is regulated solely by the EPA or RCRA Authorized State which New York State is one.

Radionuclide Air Emissions

Since the enactment of air emissions standards for radionuclides under the National Emissions Standards for Hazardous Air Pollutants, 40 CFR 61, Subpart H, the DOE has obtained permits and operated well below the radionuclide air emissions dose limit of 10 millirems per year. EPA expects that the DOE will continue to comply with these regulations as it moves forward with decommissioning activities at the West Valley site.

Conclusion

Let me conclude by reiterating that EPA believes it will be important for EPA, NRC, DOE, New York State and the local community to work together to address foreseeable issues and seek consensus. Our collective goal should be to clean up the West Valley site of hazardous and radioactive contaminants in one coordinated operation, and to not approach it as an iterative process. EPA stands ready to participate with other stakeholders in ensuring the decommissioning and cleanup activities at West Valley are protective of public health and the environment.