



Department of Energy

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RULES AND DIRECTIVES
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U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

RECEIVED

4/25/2011
76 FR 18807 (1)

Subject: Docket ID NRC-2011-0073: "DOE Comments on the Nuclear Regulatory Commission Proposed Generic Communication; Licensee Justification of Long-term Surveillance Charge"

Reference: Publication in the *Federal Register* Volume 76, Number 65, Page 18807, April 5, 2011

Dear Ms. Bladey:

The Department of Energy (DOE) appreciates the opportunity to submit the following comments on the subject draft Regulatory Issue Summary (RIS). Overall, DOE believes the publication of the draft RIS clarifies the criteria for determining the long-term surveillance charge and agrees with the content. Specific comments are presented below.

- DOE agrees that groundwater monitoring for reclaimed UMTRCA Title II disposal site may be required as a consequence of the selected remedy (e.g., alternate concentration limits) and that these requirements result in costs to the long-term custodian in excess of the costs anticipated under the "passive monitoring" scope defined in NUREG 0706, Appendix R, Scenario I. DOE notes that groundwater monitoring may also be required to comply with Title 40 *Code of Federal Regulations* Part 192.03, "Monitoring," and this may need to be reflected in the long-term surveillance charge. In addition, based on experience with natural attenuation, transient drainage, cell performance, departures from model predictions, and stakeholder (e.g., State regulator) concerns, DOE believes that monitoring may be required at some sites after transition to demonstrate that the sites remain protective and in compliance with applicable regulations. Therefore, DOE agrees that NUREG 0706, Appendix R, Scenario II is the most applicable cost model for calculating long-term surveillance charge for sites with a continuing groundwater monitoring requirement. Under this scenario, the long-term custodian conducts regular groundwater sampling and analysis.

SONSI Review Complete
Memorandum = ADM-013

F-REDS = ADM-03
Cdd = P. Przygodzki
(RAP11)



2. The RIS does not address an estimate of the duration of required groundwater monitoring. Due to the experience mentioned above in Comment 1, DOE expects that monitoring will be required for a longer period than had been anticipated previously.
3. DOE finds no inconsistency in the regulations and guidance (including this draft RIS) pertaining to criteria for assessing the long-term surveillance charge. DOE contends the draft RIS is also consistent with the 1998 "License Termination/Site Transfer Protocol between the U.S. Department of Energy and the U.S. Nuclear Regulatory Commission (NRC)."
4. Generally, DOE expects to continue the groundwater monitoring program implemented by the licensee. Therefore, DOE agrees with the RIS language that indicates the licensee should implement the program that will carry over to the monitoring program that DOE will implement. However, DOE understands that the monitoring program may also be modified through development and acceptance of the long-term surveillance plan.
5. DOE also expects to implement a vegetation control program if it is a component of the remedy (i.e., if it is required to maintain cell performance). DOE submits that the need for vegetation control should be based, in part, on considering the long-term effect of the climax plant community on disposal cell performance rather than considering the need for vegetation control only at the time of transition. If vegetation control is required, DOE agrees that, as stated in the draft RIS, this may constitute grounds for increasing the long-term surveillance charge.
6. DOE has informed NRC in previous communications that there are additional costs transferred to the federal government resulting from becoming the custodian of federal land, such as control of noxious and invasive weeds. DOE acknowledges the NRC position that the long-term surveillance charge will reflect only those costs having a "nexus to radiological health and safety."
7. DOE will submit to NRC on a site-by-site basis the rationale for suggesting that a given scenario is the appropriate model for determining the long-term surveillance charge. For example, DOE evaluated groundwater conditions at three sites that will transition to DOE in the near future for long-term surveillance and maintenance (Bear Creek, Gas Hills East, and Gas Hills North, Wyoming). At all three sites, alternate concentration limits were selected as the groundwater remedy. DOE found that the licensee monitoring program should generally be continued with some reductions in locations, frequencies, and analytes. Therefore, DOE submits that Scenario II of NUREG 0706, Appendix R is the most applicable cost model for calculating long-term surveillance charge for these sites.

U.S. Nuclear Regulatory Commission staff may contact me at (202) 586-1782 or Richard Bush at (970) 248-6073 to discuss these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas C. Pauling". The signature is fluid and cursive, with a large initial "T" and a long, sweeping underline.

Thomas C. Pauling
Director
Office of Site Operations
Office of Legacy Management

cc: Paul Michalak, NRC
Dominick Orlando, NRC
Richard Bush, DOE
Tracy Plessinger, DOE
David Shafer, DOE
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