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RULEMAKINGS AND
ADJUDICATIONS STAFF

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PR 10 CFR Part 61
(77FR72997)

THE TEXAS SOLUTION

January 4, 2013

Secretary,
U.S. Nuclear Regulatory Commission,
Washington, DC 20555-0001.
ATTN: Rulemakings and Adjudications Staff

References:
(1) Texas Radioactive Material License N0. R04100, Amendment 17
(2) Federal Register Notice, "Low-Level Waste Disposal", FR Vol.77, No.236, Friday, December 7, 2012, pp.72997-72998
(3) WCS letter dated July 25, 2012 to Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, U.S. Nuclear Regulatory Commission
(4) USNRC Staff "Regulatory Analysis for Proposed Revisions to Low-Level Disposal Requirements", November 29, 2012

Subject: WCS Comments on Part 61Update, Docket ID NRC-2011-0012

Waste Control Specialists LLC (WCS) is pleased to provide comments on the preliminary language for amendments to Title 10 of the Code of Federal Regulations, Part 61 (10 CFR Part 61) as requested in References 2. WCS participated in all public meetings conducted on this issue and suggested substantive comments for the record at that time. These comments are in addition to and supplement those provided at the public meetings and our previous comments on the Part 61 Update submitted as Reference 3.

This rulemaking is very important to WCS in that we are currently operating a Low-Level Radioactive Waste (LLRW) disposal facility in West Texas as authorized in Reference 1. This is the first disposal facility that was designed, analyzed, constructed, and operated completely under the framework of 10 CFR Part 61 regulations. It is hoped that this rulemaking can provide the necessary guidance and requirements to ensure that Part 61 is being uniformly implemented by the Agreement State regulators.

General Comments:

WCS is generally supportive of the changes that are being proposed to 10 CFR Part 61. They reflect the previous comments that WCS has provided to the USRNC. We greatly appreciate the opportunities to provide input to this important rulemaking and your consideration of our comments.

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WCS is supportive of the proposed period of compliance of 10,000 years, as indicated in our previous comments. This time period provides a reasonable safety objective that will adequately capture the impacts of radionuclides that are important in the reasonably foreseeable future and should be limited to the dose standard of 25 millirems/yr (0.25 mSv/y).

Concerning required analysis and acceptance standards during the performance period, the requirement for an ALARA (As Low As Reasonably Achievable) analysis is somewhat vague and subject to different interpretations. For a well designed and sited facility, such as the WCS site located in Andrews County, Texas, the methodology for the performance period is much more important since long-lived radionuclides will peak during this period. WCS believes that the analyses during this extended period should primarily be used to establish inventory limits for long lived radionuclides. The methodology used for this longer term analyses should be fairly specific and not just characterized as an ALARA analysis. For example, likelihood of future events and a discounted dose standard could be specified for use in the ALARA analysis. A compatible standard is needed so that this requirement is uniformly implemented by Agreement State regulators.

Flexibility should be provided, regarding the use of a deterministic or probabilistic analysis for demonstrating compliance with the provisions of Part 61. If a probabilistic analysis is used, reasonable likelihood of events and scenarios need to be included in the analysis. Also, compatible acceptance standards need to be provided to ensure uniform implementation by the licensed community.

WCS supports the use of updated ICRP methodologies in a site specific performance assessment (PA) and the flexibility provided for inclusion of future updates without the need to change regulations.

WCS is generally supportive of the changes to Part 61.58 that allows flexibility to establish site specific waste acceptance criteria using site specific performance assessment. Strict compatibility for implementation should be required in any guidance issued for use by Agreement States.

WCS is very supportive of retaining the existing waste classification tables in Part 61.55. The rationale, as stated in Reference 4, is supportive of our previous comments on this important issue.

Specifying the category of Agreement State compatibility for the various sections any 10 CFR Part 61 changes is critically important to insuring that the requirements are uniformly implemented to satisfy all of the intended health and safety implications. WCS strongly believes, at a very minimum, that any 10 CFR 61, Subpart C changes and the technical analysis (section 61.13) sections that support these changes should be Category A compatibility. In the initial Part 61 rule, Subpart C was the equivalent of Category A compatibility and this should be maintained. If strict compatibility is not required then the rule may not be uniformly implemented, since all LLRW sites are regulated by Agreement States. The somewhat vague disposition of this very important issue in Reference 4 is very disappointing.

The NRC still needs to address the important issue of current over reporting of long-lived mobile radionuclides on the NRC manifests. These radionuclides include Cl-36 (which is not a class driver and hence sometimes not reported on the manifest), I-129, Tc-99, and C-14. Of these, I-129 is probably the most abused. There are two issues related to this problem: (1) consistency in reporting of the Minimum Detectable Concentration (MDC) and (2) providing a methodology to estimate real values that are below the MDC. WCS believes that reducing the over conservative levels of radiological measurements being reported on the NRC Manifest would significantly conserve the disposal capacities of existing disposal facilities. WCS will support and participate in all efforts to address this important issue.

When detailed guidance is issued to support this rulemaking, WCS believes that this guidance should be very transparent and provide a clear methodology how the regulatory process will be conducted and harmonized under a consistent national framework. Some measure of Agreement State compatibility needs to be specified for this guidance.

WCS believes that a Performance Assessment Management Plan should be required. This plan would require periodic updating of the PA to evaluate changes to the source term and updated site characterization data.

Specific comments by Part 61 Section:

Part 61.2 Intruder Assessment
It is not clear that the term "reasonably foreseeable" includes the likelihood that an event or scenario will occur. For a probabilistic PA this is extremely important and allows the creation of an analysis that is much more realistic for a specific site. This definition and other sections should be modified to insure that the likelihood of an event or scenario is included as a consideration in the analysis.

Part 61.7(a)(2)
Existing language in10 CFR Part 61.7(a)(2) states that site characteristics should be evaluated for at least a 500-year time frame. WCS believes that the time frame for evaluation of site characteristics in this section should be at least as long as the period of compliance. Otherwise the compliance period is meaningless, since projected changes to site characteristics are critical to a realistic performance assessment. A 500-year timeframe for evaluating site characteristics would not even support lower proposed performance periods, such as 1,000 years, such as is currently required for decommissioning of nuclear facilities as specified in the License Termination Rule (i.e., 10 CFR 20, Subpart E).

Part 61.7(c)(4)
The likelihood that an event or scenario will occur should be a consideration for the intruder scenario analysis. Assuming a probability of one for all intruder scenarios is not reasonable or realistic.

Part 61.7(e)(4)
The example for more robust intruder barriers is stated as burial below 30 meters. This is the definition for intermediate depth disposal. A disposal depth of greater than 5 meters is required in other sections of Part 61 for intruder protection and should be referenced here for consistency.

Part 61.13(a)(1)
Again, the likelihood of an event or process should be a consideration for probabilistic PA's.

Part 61.13(a)(6)
It is not clear whether foreseeable climate changes need to be considered. This could be particularly important for the assessment during the performance period and should be a consideration.

Part 61.13(b)(1)
Reasonable foreseeable pursuits should specifically include their likelihood.

Part 61.58(b)
This section states that each applicant shall provide acceptable methods for characterizing the waste for acceptance. The disposal site operator can only provide verification of the data submitted by the generator. It would appear that this should primarily be a requirement for the generator, with appropriate quality assurance by the site operator to insure compliance.

WCS requests that a copy of all correspondence regarding this matter be submitted directly to my attention by fax (717-540-5102) or email (bdornsife@valhi.net). Thank you for your consideration of this submission.

Sincerely,

William P Dornsife

William P. Dornsife, PE
Executive Vice President, Licensing and Regulatory Affairs

cc:
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RulemakingComments Resource

From: Vickie Watson [vwatson@VALHI.NET]
Sent: Friday, January 04, 2013 1:29 PM
To: RulemakingComments Resource
Cc: Bill Dornsife
Subject: Comments on NRC Draft Part 61
Attachments: 61Udate Comments001.pdf

Letter attached.

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