

HEAL Utah Comments On Part 61 Revisions

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HEAL Utah

- Nonprofit advocacy organization w/approx. 12,000 supporters
- More than a decade as stakeholder in nuclear waste issues in Utah
- Big nuclear waste campaigns over the years:
 - Advocated for ban on B&C wastes
 - Fought to keep foreign waste out of Utah
 - Sought to limit size of Clive site
 - Worked to keep Depleted Uranium, high level waste out of Utah
- Also work on clean air and clean energy issues

Part 61 comments

- First, thanks for “hybrid” approach, allowing Utah to maintain ban on B&C wastes in classification tables
- A high priority of Gov. Gary Herbert, staff at Division of Radiation Control
- Do have some concern/confusion about language of “Hybrid waste acceptance approach.”
 - “to allow licensees...to develop site-specific WAC from the results of the technical analyses or from the requirements of the existing LLRW classification system.” (p. 16100 of 3/26/15 FR)
 - So licensee decides which approach? Can licensee sidestep ban choosing technical analyses approach?
 - NRC Staff at public hearings said that in fact state regulator chooses; perhaps rules need clarifying.

Part 61 Concerns:

Why was staff over-ruled?

Compliance period

- **NRC staff originally proposed** a “20,000 year compliance period...” (*May 2011 Preliminary Proposed Rule Language.*)
- **NRC Commissioners overruled staff.** “The proposed rule should be revised to include a regulatory compliance period of 1,000 years.” (*February 2014 guidance to staff.*)

Intruder Assessment

- **NRC staff originally proposed** “...must assume that an inadvertent intruder occupies the disposal site after closure...” (*May 2011 Preliminary Proposed Rule Language.*)
- **NRC Commissioners overruled staff.** “should be based on intrusion scenarios ...consistent with expected activities in and around the disposal site at the time of site closure.” (*February 2014 guidance to staff.*)

Overruling Staff Reduces Public Faith in Rulemaking

- Commissioners orders same as industry requests
- **Energy Solutions comments:** “EnergySolutions is of the view that while a compliance period of 10,000 years may be workable, a compliance period of 1,000 years is preferable.” *(June 2011 comments to NRC)*
- **EnergySolutions comments** proposed a standard of “reasonably foreseeable scenarios” for the intruder assessment, not including the assumption that an intruder would occupy a site. *(June 2011 comments to NRC)*

Concerns with “Site Suitability Analysis” approach

- Utah is undergoing a PA review in its consideration of Depleted Uranium
- We’re the “test case” for how it works
- A PA is a massive, dense technical document – largely beyond ability of public to read, let alone comment on
- Development of PA puts enormous discretion and power in hands of consultants – hired by industry
- Advantage of bright lines of classification tables is it allows elected officials, public to participate in a robust debate
- Move to PA approach will limit public debate and participation. See Texas example.

Should the NRC classify DU?

Yes

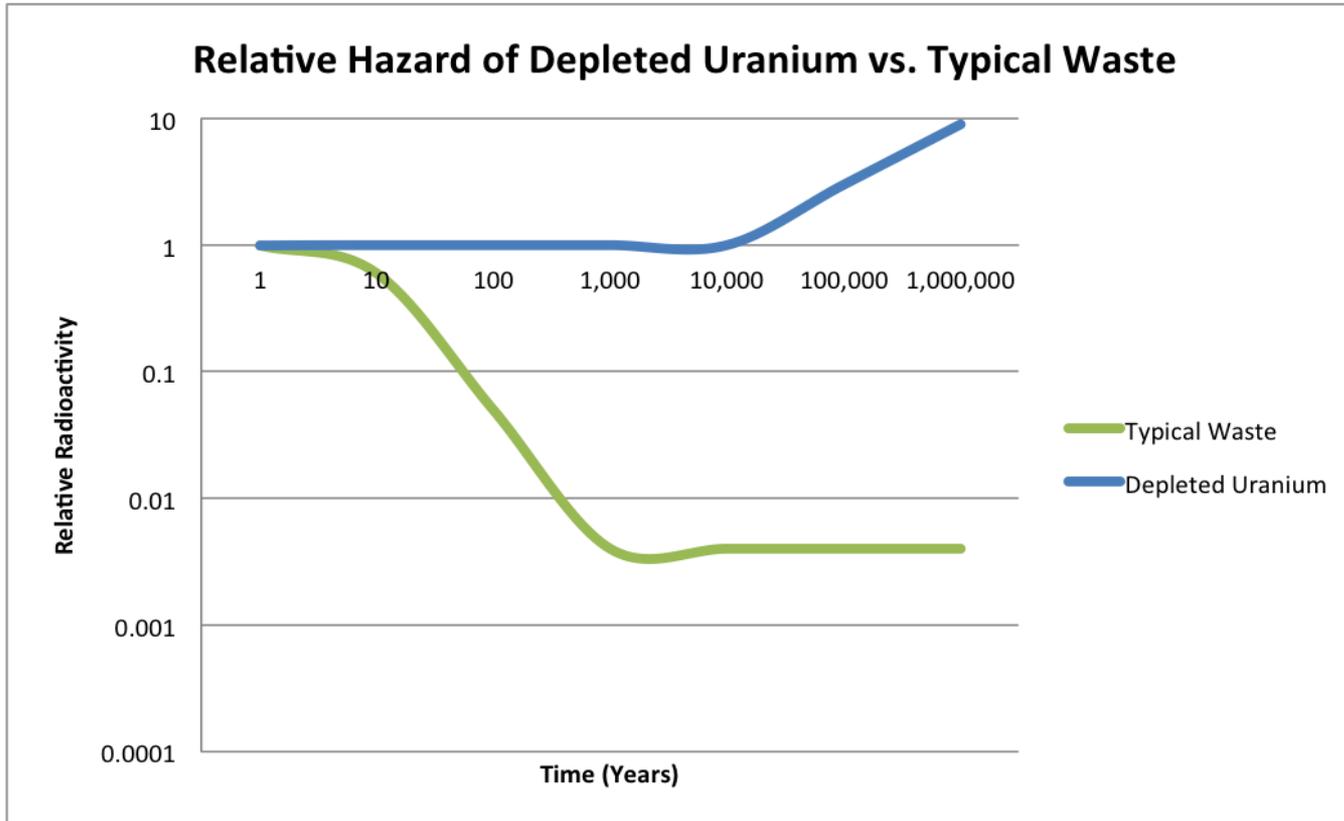
- Single most important “unique waste” decision Part 61 revisions are addressing is whether Utah and Texas should take DU
- Yet revisions won’t go into effect until after at least one, and most likely both, of those decisions are made
- NRC still has an opportunity to play a role in one of those decisions
- Utah officials – Gov. Gary Herbert, most prominently – are pleading with agency to classify Depleted Uranium before decision is final.
- "I expect the Nuclear Regulatory Commission to follow up on that and make their decision," he added. "Until that happens, I'm not comfortable having depleted uranium in Utah." (4/16/15 *Salt Lake Tribune*.)



How Should the NRC Classify DU? Greater than Class A

- While classification is defined by current radiological hazard, duration has always been part of conversation
- Utah's debate on B&C ban was much about comfort with length of hazard
- The very Part 61 revisions document does this too
 - "Class C LLRW may require either greater burial depth or an engineered barrier that will prevent inadvertent intrusion for 500 years." (p. 16085.)
 - "wasteforms or containers should be designed to maintain gross physical properties and identity over 300 years, approximately the time required for Class B waste to decay to innocuous levels." (p. 16085.)
- But, right now, a regulatory loophole could allow waste that *doesn't reach a peak hazard for 2.1 million years* to be treated just like waste which loses 90 percent of its hazard in less than 200.

Why Re-Classify DU



Source: NRC