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POLICY ISSUE
(Notation Vote)

December 15, 1999

SECY-99-284

FOR: The Commissioners
FROM: William D. Travers
 Executive Director for Operations
SUBJECT: CLASSIFICATION OF SAVANNAH RIVER RESIDUAL TANK WASTE
 AS INCIDENTAL

PURPOSE:

To request Commission approval to transmit the attached draft letter (Attachment 1) from W.F. Kane, U.S. Nuclear Regulatory Commission (NRC), to R.J. Schepens, U.S. Department of Energy (DOE), at Savannah River (SR). The draft letter provides the results of the NRC staff review of the DOE-SR proposed methodology for classification of residual high-level tank waste at SR as incidental.

SUMMARY:

DOE-SR requested that NRC staff review the DOE-SR methodology for classification of residual tank waste at SR as incidental [letter request dated December 20, 1996 (Attachment 2), from A.L. Watkins/DOE-SR, to C.J. Paperiello/NRC]. The DOE-SR methodology relates to DOE-SR's plan to retrieve and process defense high-level waste (HLW) stored in 51 tanks at SR, and close the tanks once they are emptied of their contents. Specifically, using the methodology as a basis, DOE-SR intends to determine whether essentially all the HLW has effectively been removed from the tanks such that DOE-SR can classify the residual wastes as incidental. Staff previously advised the Commission of DOE's request (see J. Taylor, to the Commissioners, dated September 13, 1996; and H. Thompson, to the Commissioners, dated February 18, 1997). Staff indicated it would seek Commission approval of its response to the DOE-SR request (SECY-97-096, L. Callan, to the Commissioners, dated May 2, 1997).

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DOE-SR based its methodology on three criteria for incidental waste classification previously developed as a guide for DOE to classify, as incidental, certain wastes removed from HLW tanks at DOE's Hanford site. These criteria were approved by the Commission in a Staff Requirements Memorandum (SRM) dated February 16, 1993, in response to SECY-92-391, "Denial of PRM 60-4 - Petition for Rulemaking from the States of Washington and Oregon Regarding Classification of Radioactive Waste at Hanford," and described in a letter from R. Bernero/NRC, to J. Lytle/DOE, dated March 2, 1993 (Attachment 3).

DOE-SR has the responsibility for classifying its waste, including the responsibility of determining whether residual waste in the DOE-SR HLW tanks should be classified as incidental waste. Further, DOE-SR has the responsibility for identifying the criteria it will use for its incidental waste classification decisions, as well as the methodology it will implement.

Therefore, viewing its role as providing technical assistance to DOE-SR, the NRC staff reviewed the DOE-SR methodology and supporting documents and concluded that the DOE-SR methodology appears to reasonably analyze the relevant considerations for Criterion One and Criterion Three of the three incidental waste criteria that DOE-SR proposes to use. The DOE-SR methodology would not meet Criterion Two, which provides that waste "...not exceed the applicable concentration limits for Class C low-level waste." However, DOE-SR's methodology relies on alternative classification considerations similar to those contained in the Commission's regulations (10 CFR 61.58).

The staff has prepared a draft response letter. The staff also notes that, while this draft response relates only to DOE-SR, DOE will also likely need to make future classification decisions about residual tank waste for tank closures at other sites including West Valley, Idaho National Engineering and Environmental Laboratory, and Hanford.

BACKGROUND:

The SR Site, a 310-square-mile area adjacent to the Savannah River, is owned by DOE and operated by the Westinghouse Savannah River Company. DOE-SR's mission includes production of nuclear materials for national defense, environmental restoration, and the receipt and disposition of research reactor fuels. While separating fissionable material from irradiated fuel, DOE-SR generated large volumes of defense-related liquid HLW. DOE-SR stored the HLW, which amounts to approximately 34 million gallons, in 51 underground tanks located in F-Area and H-Area tank farms. DOE-SR is currently retrieving and processing the waste into low-level waste forms through the saltstone process, and into HLW glass through vitrification, for eventual disposal at a geologic repository. After bulk removal, DOE-SR will close the HLW tanks and ancillary equipment in accordance with South Carolina Department of Health and Environmental Control (SCDHEC) regulations.¹ DOE-SR has already closed two tanks, numbers 17 and 20, and has cleaned but not closed a third tank, Tank 16.

DOE-SR plans to remove as much waste as is technically and economically practical from each tank, and then fill the tank with layers of grout. A key part of its disposal plans will be

¹ DOE-SR informed the staff that SCDHEC concurrence on DOE's tank closure methodology is contingent on NRC agreement that the residual tank waste is incidental. The staff believes its response will provide a basis for DOE to go forward with SCDHEC.

classification of the residual tank waste as "incidental." If DOE-SR classifies the residual waste as incidental, then DOE-SR believes it would be appropriate for DOE-SR to conclude that neither the tank itself nor the residual waste it contains is HLW. By letter dated December 20, 1996, from A.L. Watkins/DOE-SR, to C.J. Paperiello/NRC, DOE-SR submitted a request for NRC review of DOE's incidental waste classification methodology. Subsequent to that request, NRC and DOE-SR established a Memorandum of Understanding and an Interagency Agreement to provide funding for the staff review (SECY-97-096, L. Callan, to the Commissioners, dated May 2, 1997).

DISCUSSION:

As requested, the NRC staff evaluated the DOE-SR waste classification methodology. DOE-SR used, as the basis for the DOE-SR methodology, the three criteria for incidental waste classification that were previously developed as a guide for DOE to classify, as incidental, certain wastes removed from HLW tanks at DOE's Hanford site. The criteria were approved by the Commission in an SRM dated February 16, 1993, in response to SECY-92-391, "Denial of PRM 60-4 - Petition for Rulemaking from the States of Washington and Oregon Regarding Classification of Radioactive Waste at Hanford," and described in a letter from R. Bernero/NRC, to J. Lytle/DOE, dated March 2, 1993 (Attachment 3). As reflected in the staff's draft letter response, the NRC staff, from a safety perspective, does not disagree with DOE-SR's proposed methodology for meeting the three criteria. However, the draft staff letter response also notes that application of Criterion Two, which specifies Class C concentration limits, may be problematic in that options for addressing radionuclide concentrations in the tanks are limited. Residual tank waste typically is inaccessible to standard separation technologies (i.e., ion exchange, liquid-liquid separation). Mechanical removal technologies can remove bulk quantities of waste, but cannot preferentially remove key radionuclides. Reduction of volume by waste removal does not change concentration. Some chemical treatments, such as oxalic washing, which can remove key radionuclides, appear to be technically practical, but DOE-SR could find them not to be economically practical for every HLW tank (see the discussion for Criterion One below).

After evaluating a range of options, DOE-SR has selected bulk waste removal followed by water washing as its base case removal strategy. From Tank 16 clean-up data, DOE-SR predicts that bulk waste removal and water washing will remove approximately 98 percent of initial tank activity. Oxalic acid washing, another option evaluated by DOE-SR, could remove an additional 2 percent. Total removal efficiency with oxalic acid washing is 99.99 percent of the total tank activity. The DOE-SR estimate for oxalic acid washing is \$1,050,000 per tank, including disposal costs. If DOE-SR selected oxalic acid washing as a base case removal strategy for all tanks, it would reduce the dose (from F-Tank Farm) to a member of the public from 1.9 mrem per year to 1.7 mrem/year (10 percent), and would reduce drinking water dose (from F-Tank Farm) to an inadvertent intruder from 130 mrem per year to 110 mrem per year (15 percent). Note that the current base case for the F-tank farm does include oxalic acid washing for 10 of the 22 tanks to the extent necessary to meet the performance objectives of 10 CFR Part 61. The listed dose reduction factors apply to oxalic acid washing the remaining 10 tanks in F-Tank Farm. (Two tanks have already been closed.) DOE-SR has concluded that, for the F-Tank Farm, oxalic acid washing the 10 remaining tanks would add approximately \$10,500,000 for a limited dose reduction benefit. DOE-SR expects results for individual tanks in the H-Tank Farm to be similar in terms of additional costs.

For the discussion of the staff review of the DOE-SR methodology, the staff comments follow the three incidental waste criteria that DOE-SR proposes to use.

Criterion One:

Criterion One specifies that "...wastes have been processed (or will be processed) to remove key radionuclides to the maximum extent that is technically and economically practical." The first step in evaluating removal of radionuclides is establishing initial waste volumes and radionuclide concentrations. The NRC staff has evaluated the DOE-SR tank sampling methodology for the characterization of the waste content. Although the DOE-SR sampling procedures and methods are reasonable, the staff recommends that DOE-SR establish a set protocol for tank sampling (i.e., sampling locations and number of samples taken).

Based on information provided by DOE-SR, it appears that few technologies have been demonstrated for the removal or separation of key radionuclides from residual tank waste. After evaluating a range of options, DOE-SR selected bulk waste removal followed by water washing as its base case removal strategy. (See discussion above.) With respect to Criterion One, DOE-SR considers oxalic acid washing to be technically, but not economically, practical. Accordingly, removal of key radionuclides by bulk waste removal followed by water washing is considered by DOE-SR to be the most technically and economically practical removal strategy. However, DOE-SR does intend to perform oxalic acid cleaning on approximately 37 tanks to the extent necessary to meet performance objectives.

The staff concludes that DOE-SR has reasonably analyzed the relevant considerations for Criterion One. Its methodology should result in removal of key radionuclides to the maximum extent economically and technically practical. DOE-SR will have to determine if it is cost-beneficial to expend more than \$15 million² (for F- and H- Tank Farms) to achieve limited dose savings. It is up to DOE-SR to make the determination; and additional cleaning can be performed if they choose. It should be noted also, that the projected doses for F-Tank Farm (without additional cleaning) appear to meet the performance objectives of 10 CFR Part 61 (see discussion for Criterion Three, below) and appear to meet the radiological criteria for license termination (10 CFR 20.1402). Finally, neither ALARA (as low as reasonably achievable) nor safety considerations require the expenditure of the additional funds.

Criterion Two:

Criterion Two states that "...wastes will be incorporated in a solid physical form at a concentration that does not exceed the applicable concentration limits for Class C low-level waste as set out in 10 CFR Part 61." Based on information provided by DOE-SR, it appears that the waste will be in a solid physical form. DOE-SR will fill each tank with over 30 feet of grout after bulk waste removal. DOE-SR further specifies that the bottom layer will be a reducing grout that is used to limit the release of radionuclides into the ground water. The second layer is a low-strength grout used to fill most of the tank to prevent any subsidence, and fill void space. The top layer of grout will be a high-strength grout that will protect the waste from physical penetration.

² It would cost approximately \$15 million to clean the additional 14 tanks which are projected to meet the Class C concentration limits, and that are not projected to need any oxalic acid cleaning to meet performance objectives.

DOE-SR expects that, with the application of concentration averaging in accordance with the NRC "Branch Technical Position [BTP] on Concentration Averaging and Encapsulation," dated January 17, 1995, and 10 CFR 61.55(a)(8), 14 of the 51 HLW tanks at SR will meet Class C concentration limits after bulk waste removal and water washing.³ According to DOE-SR, the remaining 37 tanks would require chemical cleaning via oxalic acid washing to meet Class C concentration limits, even if concentration averaging were used.

DOE-SR therefore relies on alternative considerations for the classification of the waste, rather than planning to use oxalic acid cleaning to meet Class C concentration limits. In particular, DOE-SR relies on its plans, described above, to solidify the waste in layers of grout, some 30 feet below the surface of the ground; further, DOE-SR relies on the disposal site which it considers to be stable. Finally, DOE-SR relies on its plans to clean the remaining 37 tanks, using oxalic acid, to the extent necessary to meet the performance objectives of Part 61 (see discussion below under Criterion Three).⁴ These alternative considerations – waste form, method of disposal and stability of the site – are viewed by DOE-SR as providing comparable protection for an inadvertent intruder to that which would be provided if the waste met Class C limits.

The draft staff letter response notes that the DOE-SR methodology does not assure waste is Class C in accordance with Criterion Two. However, the draft response also notes that the DOE-SR methodology relies on an approach that is similar to that in section 61.58 of the Commission's regulations which provides for alternative considerations for classification "if after evaluation, of the specific characteristics of the waste, disposal site, and method of disposal, [the Commission] finds reasonable assurance of compliance with the performance objectives of [10 CFR Part 61] Subpart C." As discussed below, DOE-SR has provided information showing the DOE-SR methodology will meet the performance objectives of Part 61. Further, DOE-SR's methodology relies on the presence and stability of the waste form and the depth of the waste to protect the inadvertent intruder.⁵

The staff recommends that an alternative waste classification be administered at SR for HLW tank residuals similar to that provided for in 10 CFR 61.58. Staff considers that residual tank waste concentrations should be limited to avoid unreasonably high concentrations, and to further protect the public health and safety. The following limits are related to the development of the Class C concentration limits, which is discussed in the Draft Environmental Impact

³ The staff believes that concentration averaging in accordance with the BTP is generally acceptable in this context to meet Class C concentration limits.

⁴ DOE-SR provided cost information for bulk waste removal plus water washing, and for oxalic acid cleaning to meet Class C concentration limits. However, cost information is not available for bulk waste removal plus water washing plus oxalic acid cleaning only to the extent necessary to meet performance objectives. Note that tanks cleaned with oxalic acid to meet performance objectives may not necessarily meet Class C concentration limits.

⁵ Assuming the contaminant zone of the waste form is not disturbed, the radionuclide of greatest impact on drinking water dose to the intruder is Tc-99 which is well below the limits of Table 1 of 10 CFR Part 61 (i.e., the greatest dose contributor is not above the Class C concentration limits).

Statement (DEIS) for the 10 CFR 61 rulemaking. Staff recommends the following alternative waste classification be administered at SR for HLW tank residuals similar to that provided for in 10 CFR 61.58. The reclassification shall redefine the maximum allowable radionuclide concentrations as follows: no radionuclide concentration shall exceed ten times the value specified in Table 1 of 10 CFR 61.55, at 500 years following the proposed Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) closure for each tank grouping, and no radionuclide concentration shall exceed the value specified in Table 2 Column 3 in 10 CFR 61.55. The procedure established in 10 CFR 61.55(a)(7) shall be followed such that the sum of the fractions for all Table 1 radionuclides shall not exceed ten, and the sum of the fractions for all Table 2 radionuclides shall not exceed one. The administration of an alternative waste classification does not supercede the need to meet all aspects of Criterion One and Criterion Three.

Criterion Three:

Criterion Three states that "...wastes are to be managed, pursuant to the Atomic Energy Act, so that safety requirements comparable to the performance objectives set out in 10 CFR Part 61, Subpart C are satisfied." Each performance objective is discussed below, along with staff's evaluation of the DOE-SR tank farm performance assessment (PA) for the entire F-Area tank farm, which addresses each of the different dose receptors.

10 CFR 61.41, Protection of the general population

With respect to 10 CFR 61.41, "Protection of the general population from releases of radioactivity," DOE provided information showing a site limit equivalent to a 4 mrem/year drinking water dose to the public. (The DOE-SR information indicates the drinking water dose pathway is expected to be the highest dose pathway to the public.) According to DOE-SR, because the PA results indicate that the 4 mrem/year drinking water limit can be met, the 25 mrem/year whole body dose equivalent in 10 CFR 61.41 should be met.

As indicated by the PA, DOE-SR projects the combined doses to the public from all pathways to be below the 25 mrem/year limit; therefore, DOE-SR considers that safety requirements comparable to 10 CFR 61.41 can be satisfied, provided that it meets its goal of tank cleaning efficiency. Staff agrees.

10 CFR 61.42, Protection of an Inadvertent intruder

The agriculture scenario consists of a farmer who lives at the tank farm, and drills a well near the tank farm and then uses the well water to irrigate his crops and feed his livestock as well as himself. DOE-SR has provided only calculated drinking water doses for this intruder scenario. DOE's intruder PA showed that the maximum drinking water dose the farmer would receive via the ground-water pathway was 130 mrem/year at a well distance of 1 meter from the tank farm, at approximately 700 years. According to DOE-SR, the drinking water dose pathway is expected to be the highest dose contributor, and therefore provides reasonable assurance that the 500 mrem/year limit, used as a basis for waste classification, to show protection of individuals from inadvertent intrusion, can be met. The DOE-SR analysis assumes all activity is contained within the reducing grout layer located at the bottom of each tank, and that this contaminant zone is not disturbed. This then implies that there is no activity

in any vertical component of the tank structure, and therefore, a typical construction scenario (with a 10 foot deep basement) would not disturb any contaminated portion of the tank structure.

In order for the DOE methodology to be consistent with the DEIS for 10 CFR Part 61, staff recommends that future performance assessments for SR tank closures, including individual tank closure modules, and the H-Tank Farm Fate and Transport Modeling, include the full agriculture scenario (all pathways) as well as the discovery scenario, as described in the DEIS. Staff also notes that closure of ancillary piping and equipment must consider an inadvertent intruder. That is, performance assessment must consider disturbed surface piping and equipment, which in addition to tank sources, must not exceed the 500 mrem per year (all pathways, total effective dose equivalent) for the discovery and agricultural scenarios. Furthermore, the staff recommends that all external components of the HLW tanks (e.g., piping) meet Class C concentration limits without the application of concentration averaging, unless DOE-SR can demonstrate that closed external components provide protection to an inadvertent intruder (similar to that provided for the HLW residual contained in the closed tanks). This is important because the current PA shows that the external components contribute the most significant dose prior to 1000 years.

10 CFR 61.43, Protection of workers

DOE-SR will meet the worker protection standard in 10 CFR 61.43 through the use of DOE regulations, 10 CFR Part 835, which are comparable to those administered by NRC through 10 CFR Part 20.

10 CFR 61.44, Stability of the disposal site

For the fourth performance objective, 10 CFR 61.44, "Stability of the disposal site after closure," the DOE-SR information indicates the site stability of the tank farm and HLW tanks themselves will be provided from the grout used to immobilize the residual waste. Over 30 feet of grout will be added to each tank, and DOE-SR states that no active maintenance for the tanks will be needed once the grouting process has been completed.

Based on its review of DOE PA results and supplementary information provided during the course of this review, the draft staff response concludes that DOE-SR has reasonably analyzed the considerations under Criterion Three in concluding that its tank closure methodology is consistent with Criterion Three.

Institutional Control:

DOE has proposed institutional control of the site in perpetuity. The DOE approach includes the following: (1) SR boundaries shall remain unchanged, and the land shall remain under the ownership of the Federal government, consistent with the site's designation as a National Environmental Research Park; (2) residential uses of all SR land shall be prohibited; and (3) an Integral Site Model that incorporates three planning zones (industrial, industrial support, and restricted public uses) will be used. The land around the F and H Areas (i.e., between Upper Three Runs Creek and Four Mile Branch) will be considered in the industrial use category. NRC, as provided in 10 CFR 61.59, does not allow reliance on active institutional controls for more than 100 years. It appears, from the PAs performed by DOE, that DOE-SR's closing of

tanks in accordance with the stated tank closure methodology could meet the performance objectives of Part 61, without dependence on institutional controls.

Natural Resources Defense Council Petition:

On July 28, 1998, the Natural Resources Defense Council (NRDC) submitted a petition requesting that NRC exercise immediate licensing authority over all HLW in the 51 tanks at DOE-SR. The NRDC petition argues that "DOE has invented... the term 'incidental waste' as a means of circumventing NRC licensing authority and safety oversight," and also states that "...[e]ven if NRDC were to accept NRC's informal working definition of the term 'incidental waste,' the waste remaining in the SRS Tanks under the Program could not be construed as 'incidental' as the term is currently interpreted by DOE." NRC has acknowledged receipt of the petition (letter from C.J. Paperiello/NRC, to T.B. Cochran/NRDC, dated August 27, 1998). Note that DOE has provided comments on the NRDC petition, which argue that "NRC has no licensing authority over the SRS tanks." This paragraph is intended only to provide information to the Commission, and does not request a Commission decision regarding the petition. Unless the Commission directs otherwise, the Nuclear Material Safety and Safeguards Office Director will issue a decision on the petition, consistent with this Commission paper and the associated Office of General Counsel memorandum, and the Commission will have the opportunity to review that Director's Decision after it is issued. A separate Commission paper regarding the NRDC petition response will not be provided unless requested by the Commission after issuance of the Director's Decision.

CONCLUSIONS AND RECOMMENDATIONS:

Based on staff's review of the information provided by DOE-SR, the draft staff response indicates that DOE-SR appears to have reasonably analyzed the relevant considerations in concluding that its tank closure methodology for F-Area and H-Area HLW Tank Farms at SR can meet Criteria One and Three. The DOE-SR information does not show that all tank waste will be Class C or less in accordance with Criterion Two. In lieu of achieving Class C concentrations, DOE-SR's methodology relies on alternate waste classification considerations similar to those provided for in 10 CFR 61.58 of the Commission's regulations. DOE-SR recognizes that the classification of the residual waste as incidental is contingent on DOE-SR's reaching current goals for bulk waste removal, as well as water and chemical washing, such that the performance objectives stated in Part 61, Subpart C, can be met.

The staff recommends that the Commission approve the attached draft staff response to DOE-SR. This response indicates that the NRC staff, viewing its role as providing technical assistance to DOE-SR, reviewed the DOE-SR methodology and supporting documents and concluded the DOE-SR methodology reasonably analyzes the relevant considerations in concluding that Criterion One and Criterion Three of the incidental waste criteria are met, and that although not all of the residual tank waste can meet Class C concentration limits in accordance with Criterion Two, DOE-SR has provided alternate waste classification considerations similar to those provided for in 10 CFR 61.58. As reflected in the staff's draft letter response, the NRC staff, from a safety perspective, does not disagree with DOE-SR's proposed methodology for meeting the three criteria. This finding is contingent on DOE-SR satisfactorily addressing the staff recommendations presented in the draft letter.

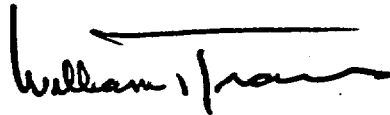
The Commissioners

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The staff notes that, while this draft response relates only to DOE-SR, DOE will also likely need to make future classification decisions about residual waste at Savannah River and other sites including West Valley, Idaho National Engineering and Environmental Laboratory, and Hanford.

COORDINATION:

The Office of the General Counsel has reviewed this Commission Paper for legal implications and is providing its views to the Commission via a separate memorandum.



William D. Travers
Executive Director
for Operations

Attachments:

1. Draft letter response from C.J. Paperiello/NRC, to R.J. Schepens/DOE, "Savannah River Site High-Level Tank Closure: Classification of Residual Waste as Incidental."
2. Letter request from A.L. Watkins/DOE-SR, to C.J. Paperiello/NRC, dated December 20, 1996.
3. Letter from R. Bemero/NRC, to J. Lytle/DOE, dated March 2, 1993.

Commissioners' completed vote sheets/comments should be provided directly to the Office of the Secretary by COB Tuesday, January 4, 2000.

Commission Staff Office comments, if any, should be submitted to the Commissioners NLT December 27, 1999, with an information copy to the Office of the Secretary. If the paper is of such a nature that it requires additional review and comment, the Commissioners and the Secretariat should be apprised of when comments may be expected.

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ATTACHMENT 1



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

Mr. Roy J. Schepens
Assistant Manager for High-Level Waste
U.S. Department of Energy
Savannah River Operations Office
P.O. Box A
Aiken, South Carolina 29802

**SUBJECT: SAVANNAH RIVER SITE HIGH LEVEL WASTE TANK CLOSURE:
CLASSIFICATION OF RESIDUAL WASTE AS INCIDENTAL**

Dear Mr. Schepens :

The U.S. Nuclear Regulatory Commission (NRC) has completed the review of the tank closure methodology for the high-level waste (HLW) tanks at the Savannah River Site (SRS). NRC views its role as providing technical assistance to the Department of Energy (DOE), and is not acting in a regulatory role. The focus of the review was whether or not the residual waste left in the HLW tanks, after cleaning, could be labeled as incidental waste as defined by criteria approved by the Commission in the Staff Requirements Memorandum (SRM) dated February 16, 1993, in response to SECY-92-391, "Denial of PRM 60-4 - Petition for Rulemaking from the States of Washington and Oregon Regarding Classification of Radioactive Waste at Hanford," and described in the March 2, 1993, letter from R. Bernero, NRC, to J. Lytle, DOE. NRC staff and contractor staff (Center for Nuclear Waste Regulatory Analyses) performed the review. The review focused on DOE's "Regulatory Basis for Incidental Waste Classification at the Savannah River Site High-Level Waste Tank Farms", "High-Level Waste Tank Closure Program Plan", "Environmental Radiological Analysis, Fate and Transport Modeling of Residual Contaminants and Human Health Impacts from the F-Area High-Level Waste Tank Farm", "Industrial Wastewater Closure Module for the High-Level Waste Tank 17 System", "Industrial Wastewater Closure Module for the High-Level Waste Tank 20 System". It also included the responses (letter from K. Stablein, NRC to R. Schepens, DOE, June 30, 1998) to the request for additional information, as well as information resulting from the April 1, 1999, public meeting between NRC and DOE staff. The results of the NRC staff review are attached.

Subject to certain modifications discussed below, the DOE tank closure methodology proposes to use the incidental waste criteria approved by the Commission in the February 16, 1993 SRM and stated in the March 2, 1993, letter from R. Bernero, NRC to J. Lytle, DOE, that were established for the treatment and disposal of removed HLW. Criterion One from the March 1993 letter specifies that "...wastes have been processed (or will be further processed) to remove key radionuclides to the maximum extent that is technically and economically practical." Only water washing and oxalic acid washing were identified as being technically feasible with regards to removal of key radionuclides following bulk waste removal. Water washing and bulk waste removal have been shown to be capable of removing 98% of the initial tank activity. Depending on the initial sludge inventories, oxalic acid washing, or comparable cleaning, will be required on selected tanks, although it is not considered to be economically practical for all 51 tanks.

The sampling methods used to characterize the HLW tanks at SRS have been evaluated. Several different sampling techniques were used. In general the sampling process for Tanks 17 and 20 was adequate. NRC staff has concluded that available removal technologies have been extensively examined to determine those that are both technically and economically practical, and that the residual waste left in the tanks is limited to waste that cannot be removed by application of those technologies currently considered technically and economically practical for HLW tank cleaning. As the HLW tank closure process evolves over the next several decades the technical and economic feasibility of other waste removal options should continue to be evaluated.

The staff recommend that a set waste sampling protocol should be developed and followed. The number of samples obtained will be a function of the tank contents as well as the homogeneity of the sludge. All sample results should be compared to process estimates to ensure consistency and accuracy. Any significant inconsistencies resulting from tank sampling and process history should result in further sampling.

The staff conclude that DOE's methodology for removal of key radionuclides to the maximum extent economically and technically practical is acceptable with respect to meeting Criterion One.

Conformance with Criterion Two, "...wastes will be incorporated in a solid physical form at a concentration that does not exceed the applicable concentration limits for class C low-level waste as set out in 10 CFR Part 61," was determined from information DOE provided on initial tank inventories and expected removal efficiencies. Fourteen of the 51 HLW tanks are anticipated to meet Class C limits by utilizing concentration averaging with only bulk waste removal and water washing. The other 37 tanks would require chemical cleaning via oxalic acid washing to meet Class C limits, even with the application of concentration averaging. DOE therefore plans to rely on alternative considerations for the classification of waste, rather than planning to use oxalic acid cleaning to meet Class C concentration limits. In particular, DOE relies on its plans to solidify the waste in layers of grout, some 30 feet below the surface of the ground, and relies on the disposal site, which it considers to be stable. In addition, it appears that there is reasonable assurance that the performance objectives of 10 CFR Part 61, Subpart C can be met without meeting the Class C concentration limits for all tanks. These considerations are similar to that in 10 CFR 61.58 of the Commission's regulations, and are viewed by DOE as providing comparable protection to an inadvertent intruder. Staff believes that concentration averaging in accordance with the Branch Technical Position on Concentration Averaging, is generally acceptable in this context to meet Class C concentration limits, and recognizes that the alternative provisions for waste classification proposed by DOE are generally similar to those in 10 CFR 61.58. The NRC proposes that the alternative provision for waste reclassification meet the following concentration limits. No radionuclide concentration shall exceed ten times the value specified in Table 1 of 10 CFR 61.55, at 500 years following the proposed Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) closure for each tank grouping, and no radionuclide concentration shall exceed the value specified in Table 2 Column 3 in 10 CFR 61.55. The procedure established in 10 CFR 61.55(a)(7) shall be followed such that the sum of the fractions for all Table 1 radionuclides shall not exceed ten, and the sum of the fractions for all Table 2 radionuclides shall not exceed one. Additionally, the administration of an alternative waste classification

does not supercede the need to meet all aspects of Criterion One and Three.

In terms of meeting the solid physical form portion of Criteria Two, the staff believe that the waste has been sufficiently immobilized to help prevent inadvertent intrusion. By utilizing three different types of grout the waste is further protected. The initial reducing grout pour helps to reduce the mobility of the radionuclides. The middle layer of grout provides a solid foundation to guard against subsidence, and finally the top layer of strong grout provides protection against physical penetration of the waste. Therefore, the physical form requirements of Criteria Two are considered to be met.

Satisfying Criterion Three, "...wastes are to be managed, pursuant to the Atomic Energy Act, so that safety requirements comparable to the performance objectives set out in 10 CFR Part 61 are satisfied," involves the evaluation of the tank farm performance assessment (PA).

DOE has indicated that it intends to meet a 4 mrem/yr drinking water dose limit. From standard dose modeling methodology, the drinking water dose is expected to be the largest dose contributor pathway. It appears from the performance assessment that the 4 mrem/yr drinking water dose limit can be met, and by extrapolation, the 25 mrem/yr total effective dose equivalent (TEDE) requirement of 10 CFR 61.41 can be met. In meeting the performance objective of §61.41, reliance on institutional controls beyond 100 years will not be needed although DOE has proposed institutional controls in perpetuity. Future PA's should focus on meeting the performance objectives of 10 CFR Part 61 Subpart C and should not rely on any active institutional controls beyond 100 years. The NRC staff have concluded that there is reasonable assurance that safety requirements comparable to §61.41 can be satisfied.

To show protection of an inadvertent intruder, the standard agriculture scenario consists of a farmer who lives at the tank farm, and drills a well near the tank farm and then uses the well water to irrigate his crops and feed his livestock as well as himself. DOE-SR has provided only calculated drinking water doses for this intruder scenario. DOE's intruder PA showed that the maximum drinking water dose the farmer would receive via the ground-water pathway was 130 mrem/year at a well distance of 1 meter from the tank farm, at approximately 700 years. According to DOE-SR, the drinking water dose pathway is expected to be the highest dose contributor, and therefore provides reasonable assurance that the 500 mrem/year limit, used as a basis for waste classification, to show protection of individuals from inadvertent intrusion, can be met. The DOE-SR analysis assumes all activity is contained within the reducing grout layer located at the bottom of each tank, and that this contaminant zone is not disturbed. This then implies that there is no activity in any vertical component of the tank structure, and therefore, a typical construction scenario (with a 10 foot deep basement) would not disturb any contaminated portion of the tank structure.

Staff recommends that future performance assessments for SR tank closures, including individual tank closure modules, and the H-Tank Farm Fate and Transport Modeling, include the full agriculture scenario (all pathways) as well as the discovery scenario, as described in the Draft Environmental Impact Statement for 10 CFR Part 61. Staff also notes that closure of ancillary piping and equipment must consider an inadvertent intruder. That is, performance assessment must consider disturbed surface piping and equipment, which in addition to tank sources, must not exceed the 500 mrem per year (all pathways, total effective dose equivalent) for the discovery and agricultural scenarios. Furthermore, all external components (e.g.,

pipings) have not been demonstrated to provide the same protection to an inadvertent intruder as that as the residual in the HLW tank bottoms and therefore must meet all radionuclide concentrations as stated in 10 CFR 61.55. Without the proper intruder scenarios (e.g., intruder-agriculture) the NRC can not recognize in-situ disposal of external components as meeting the standards of Criterion Three.

The worker is protected by DOE regulations which are analogous to 10 CFR Part 20. The worker protection performance objective of §61.43 is therefore considered to be met. By filling the tanks with three layers of grout the site stability performance objectives of §61.44 can also be satisfied.

Staff recommend that future tank closure modeling should include a more thorough PA for all predicted or known source terms (i.e., all HLW tanks) in the F-Area Tank Farm and including the following: early degradation of grout, degradation of ancillary equipment and piping, combined aquifer scenarios, conservative distribution coefficient analysis, conservative radionuclide dispersion analysis, submerged tanks, conservative analysis for the horizontal versus vertical flux radionuclide transport processes for the saturated zone, and a complete all-pathways dose assessment. See the attached Technical Evaluation Report for further details and additional recommendations. In addition, future tank closure modeling (including individual tank closure modules, as well as fate and transport modeling for H-Tank Farm) should not refer to, or be reliant on in any way, previous modules. This will avoid confusion and errors associated with outdated data and assumptions.

By meeting each of the performance objectives stated in 10 CFR Part 61, Subpart C, the staff have concluded that the tank closure methodology is consistent with meeting the requirements of Criterion Three.

Based on the information provided the staff have concluded that the methodology for tank closure at SRS appears to reasonably analyze the relevant considerations for Criterion One and Criterion Three of the three incidental waste criteria. The DOE-SR methodology would not meet Criterion Two, however DOE's methodology relies on alternative classification considerations similar to those contained in the Commission's regulations at 10 CFR 61.58. The NRC staff, from a safety perspective, does not disagree with DOE-SR's proposed methodology for meeting the three criteria, assuming that DOE-SR satisfactorily addresses the staff recommendations discussed above. This finding is also contingent upon DOE reaching current goals for bulk waste removal as well as water and chemical washing such that the performance objectives stated in Subpart C 10 CFR 61 are met as well as the proposed alternative waste classification radionuclide concentrations.

R. Schepens

- 5 -

If you have any question about the details of this letter, please contact Jennifer Davis of my staff at (301) 415-5874.

Sincerely,

William F. Kane, Director
Office of Nuclear Material Safety
and Safeguards

Attachment: As stated

**U.S. NUCLEAR REGULATORY COMMISSION
REVIEW OF THE DEPARTMENT OF ENERGY AT SAVANNAH RIVER
HIGH-LEVEL WASTE TANK CLOSURE METHODOLOGY**

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**U.S. NUCLEAR REGULATORY COMMISSION
REVIEW OF THE DEPARTMENT OF ENERGY AT SAVANNAH RIVER
HIGH-LEVEL WASTE TANK CLOSURE METHODOLOGY**

I. INTRODUCTION

Background - High-Level Waste Tanks at the Savannah River Site

The Savannah River Site (SRS), a 310-square-mile area adjacent to the Savannah River, is owned by the U.S. Department of Energy (DOE) and operated by the Westinghouse Savannah River Company (WSRC). See Figure 1. The mission of SRS includes production of nuclear materials for national defense, environmental restoration, and the receipt and disposition of research reactor fuels. While separating plutonium from irradiated fuel, large volumes of liquid high-level waste (HLW) were generated. The HLW, which amounts to approximately 34 million gallons, is stored in 51 underground tanks located in F- and H-Area tank farms (See Figures 2 and 3). DOE is currently retrieving and processing the waste into low-level waste (LLW) forms through the saltstone process and into HLW glass through vitrification. Following bulk removal, the HLW tanks and ancillary equipment will be closed in accordance with South Carolina Department of Health and Environmental Control (SCDHEC) regulations. Twenty-four tanks are scheduled to be closed by 2022 (as of January 1999 [1]). These twenty-four were chosen because they do not meet Federal Facility Agreement (SCDHEC and Environmental Protection Agency [2]) secondary containment requirements. Two of the twenty-four tanks, numbers 17 and 20, have already been closed, and Tank 16 has been cleaned but not closed.

DOE plans to remove as much waste as possible from the tanks, and then fill each tank with layers of grout. A key part of their disposal plans is classification of the residual tank waste as "incidental". If DOE-SR classifies the residual waste as incidental, then DOE-SR believes it would be appropriate to conclude that neither the tank itself, nor the residual waste it contains is incidental.

Incidental Waste Classification

The incidental waste classification criteria were approved by the Commission in the Staff Requirements Memorandum (SRM) dated February 16, 1993, in response to SECY-92-391, "Denial of PRM 60-4 - Petition for Rulemaking from the States of Washington and Oregon Regarding Classification of Radioactive Waste at Hanford," and are described in the March 2, 1993, letter from R. Bernero, NRC, to J. Lytle, DOE [3].

- (1) The waste has been processed (or will be further processed) to remove key radionuclides to the maximum extent that is technically and economically practical.
- (2) The waste will be incorporated in a solid form at a concentration that does not exceed the applicable concentration limits for Class C LLW as established in 10 CFR 61.55.
- (3) The waste is to be managed, pursuant to the Atomic Energy Act, so that safety requirements comparable to the performance objectives in 10 CFR Part 61, Subpart C, are satisfied.

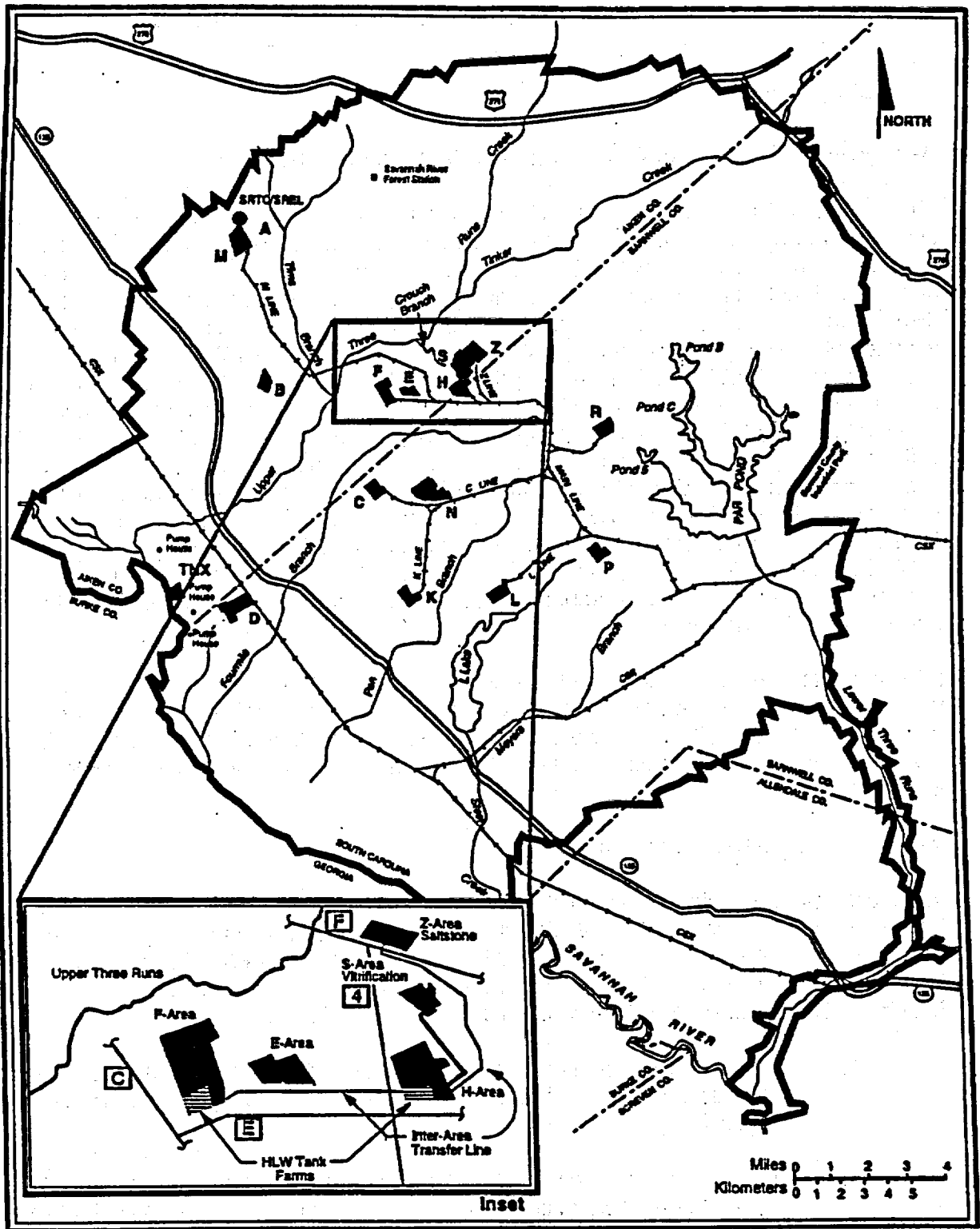


Figure 1: SRS map with F- and H-Areas highlighted [2].

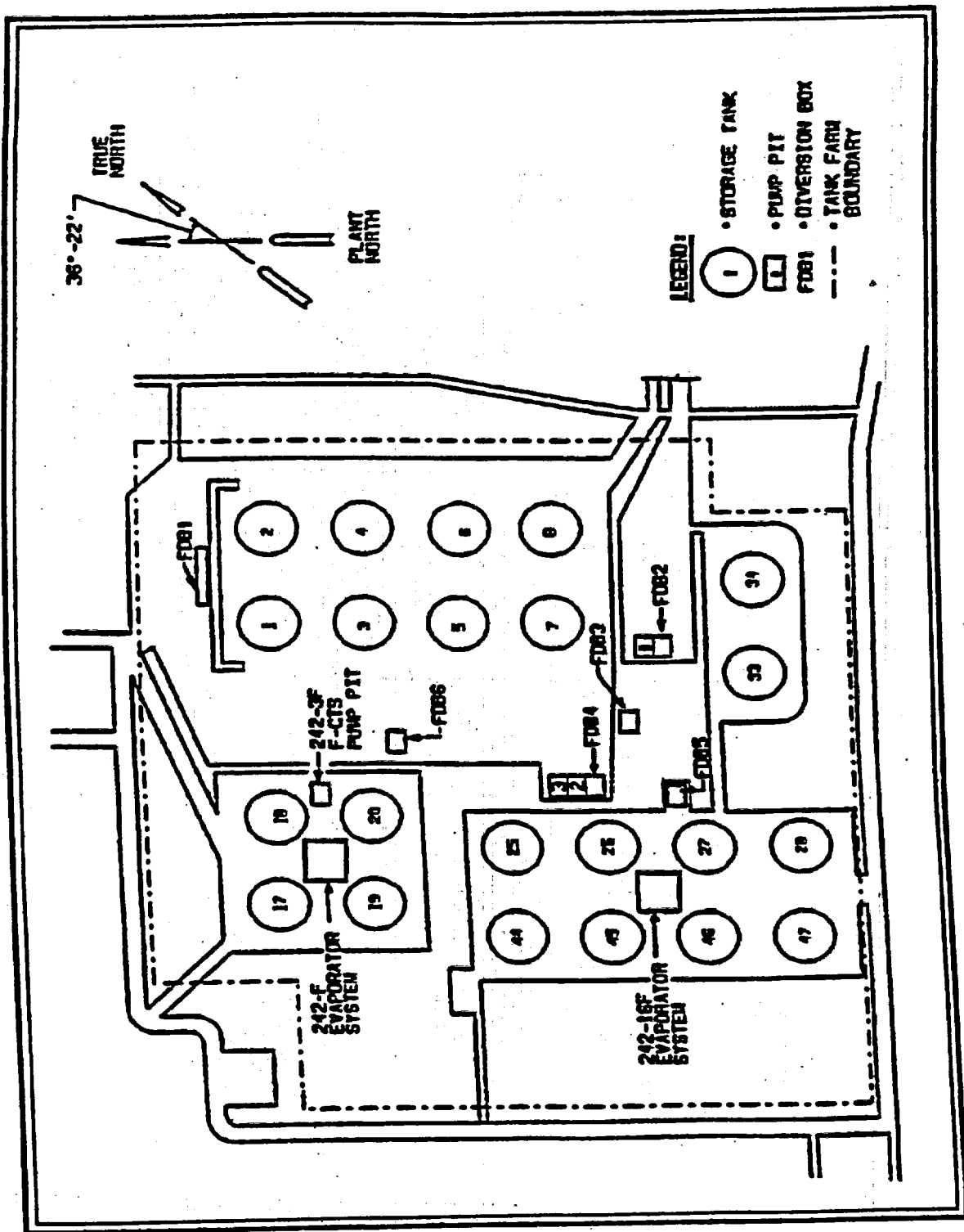


Figure 2: General layout of F-Area Tank Farm [2].

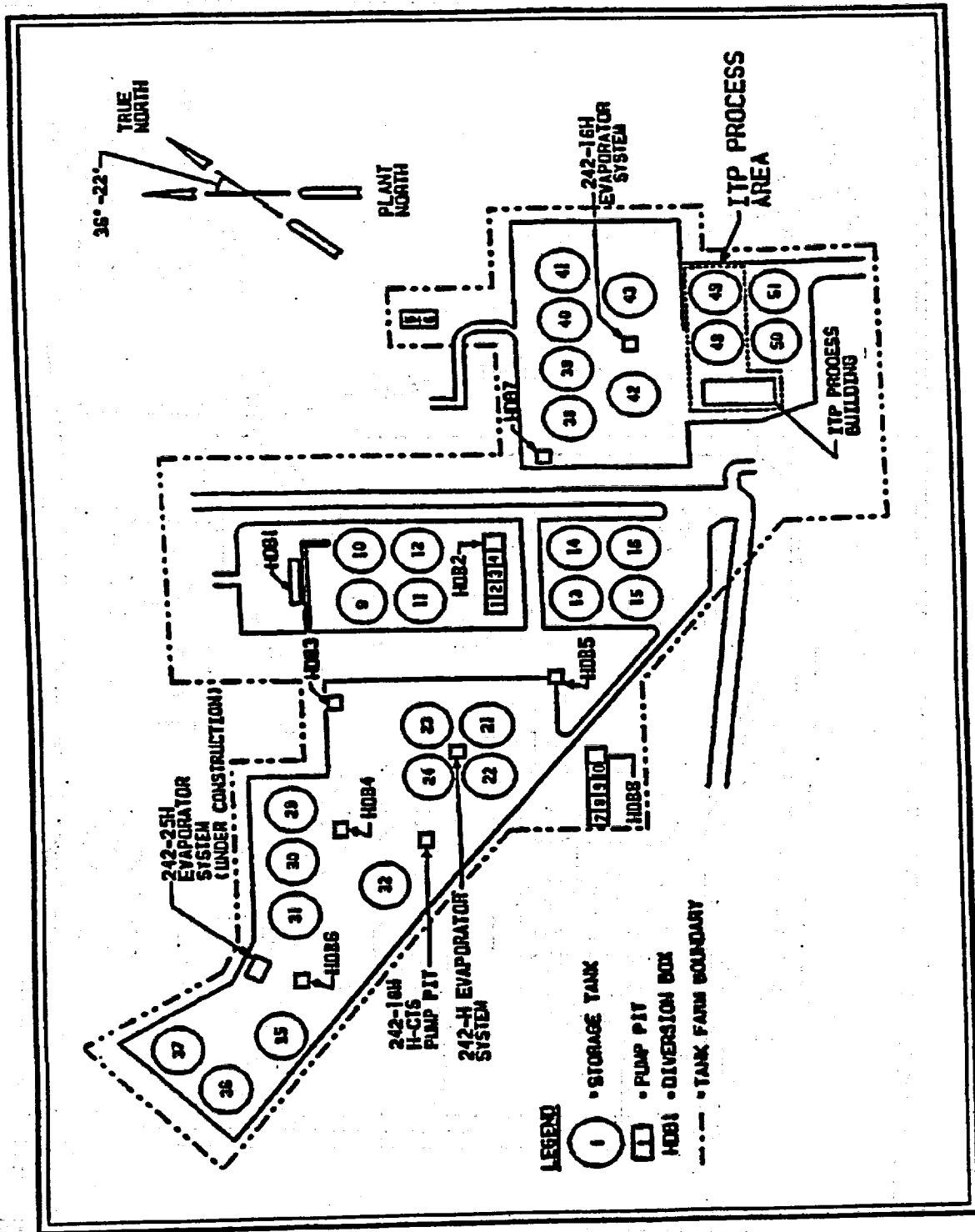


Figure 3: General layout of H- Area Tank Farm [2].

The incidental waste classification criteria were originally developed for waste removal (and separation) from HLW tanks at the Hanford site. Some modification may be necessary for application to residual tank wastes. DOE sites at Hanford, West Valley, and Idaho National Engineering and Environmental Laboratory, may eventually need to consider tank closure, and will likely rely on DOE-Savannah River (DOE-SR) experience.

Review Approach

DOE and NRC established a Memorandum of Understanding [4] that provides a basic framework for NRC review. The review is based on DOE's "Regulatory Basis for Incidental Waste Classification at the Savannah River Site High-Level Waste Tank Farms," (Regulatory Basis) [5]. After initial review of the Regulatory Basis and supporting documents like the Tank 17 Closure Module [6] and the F-tank farm performance assessment [7], we sent a Request for Additional Information (RAI) [8]. DOE-SR responded in September 1998 [9], but not all of the responses were sufficiently clear. NRC and DOE held a public meeting on April 1, 1999, to resolve some of the outstanding issues, and DOE submitted supplementary responses on April 22, 1999 [10].

II. CRITERION ONE

...the waste has been processed (or will be further processed) to remove key radionuclides to the maximum extent that is technically and economically practical...[3]

Tank Inventory and Sampling

The F-Area tank farm has 22 waste tanks in a 22-acre area, while the H-Area tank farm has 29 tanks in a 45-acre area [2]. The tank farms also have evaporators, transfer piping, diversion boxes, and pump pits. The tanks were used to store liquid HLW from various SRS production and laboratory facilities, and contain supernatant, saltcake, and sludge. The supernatant consists of dissolved salts and is typically rich in sodium hydroxide and sodium nitrate, whereas saltcake is formed by evaporation of supernatant and contains predominantly sodium nitrate, carbonate, and sulfate. The sludge consists of insoluble metal hydroxides (manganese, iron, and aluminum) and various radionuclides (e.g., ^{99}Tc , ^{90}Sr , ^{239}Pu).

In general, SRS samples for radionuclides that are expected to be present in high concentrations, or that might have a significant impact on the performance evaluation. Estimated tank inventories are based on waste transfer records that specify the process (uranium or plutonium recovery from reactor fuel and target assemblies) that produced the waste. The masses of major chemical and major actinide components transferred to the tanks are documented [6]. Minor chemical constituents are calculated on the basis of a fixed ratio to the major constituent (ferric hydroxide). Fission and activation product inventories are calculated on the basis of reactor yield distributions and solubilities, and minor actinides are estimated from yield distributions. The total calculated inventories are divided by the total sludge volume to obtain concentrations.

Photographs and videos are used to estimate the volume of residual waste in each tank, and map its location. The operational history and visual evidence will be used to determine a representative sampling approach (i.e., the number of samples and their locations). Sample results are compared with estimated tank inventories.

For Tank 17, two samples were collected using a floater pump. This sampling was performed prior to transferring 280,000 gallons of water to Tank 6. The pump floated on top of the waste with a vacuum tube extending to the bottom of the waste. By means of an air hose the pump was able to move about the tank while the sample tube acquired samples from the bottom of the tank. Each sample was filtered to obtain a representative sample of the sludge [6]. Three different forms of tank sampling were used for Tank 20: an absorbent swipe, a "mud snapper", and a "scrape sampler". The absorbent swipe was lowered through the southeast riser to the tank bottom where the sample was obtained. The "mud snapper" was also lowered through a tank riser to collect a grab sample. Finally, a hinged fiberglass rod was used to maneuver a scraper across the bottom of the tank [16].

Economic Practicality of Waste Removal Options

DOE analyzed eight options for tank closure [5], ranging from water washing with no fill or cover (essentially the no-action alternative) to chemical and mechanical cleaning, followed by tank removal. The economic burden (not including bulk waste removal) ranged from \$1.4 million per tank (no-action alternative) to greater than \$100 million per tank (tank removal).

Evaluation of the options is dependent on radionuclide exposure to workers during closure and to the public during postclosure for the various options. Four of the eight closure configuration options use spray water cleaning as the only mode of removal of radionuclides, in combination with various options for filling the tanks and covering the tank areas. The combination of spray water wash and grout fill was selected as the base case option based on cost effectiveness and anticipated dose reduction. Tank closure may include a Resource Conservation and Recovery Act (RCRA) style cap, which will be contingent upon the closure requirements used (i.e., Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)).

Technical Practicality of Waste Removal Options

The base case removal strategy is bulk waste removal, followed by spray water washing. HLW is removed from the waste tanks and vitrified for disposal at the proposed HLW repository at Yucca Mountain. Other mechanical waste removal methods have also been evaluated by DOE-SR. See Table 1. Methods for intensive mechanical scrubbing, like robotic arms, pitbull pumps or remote controlled sluicing crawlers, have only been demonstrated in laboratory environments, and are not considered sufficiently technically developed at this time.

Typical chemical methods used to treat HLW waste require that the waste be removed from the tank and transferred to a processing facility. Therefore, most chemical separations are not appropriate for in-situ applications, like residual waste left in a tank. Unlike most chemical separations, oxalic acid can be administered in-situ, and therefore is considered technically practical for waste removal. Oxalic acid cleaning has been demonstrated at SRS for Tank 16.

OPTION*	COST** (\$/tank)	WORKER EXPOSURE (person-rem/ tank)	RADIOLOGICAL IMPACT† (mrem/yr)	TECHNICALLY PRACTICAL	ECONOMICALLY PRACTICAL
Spray Water Wash, No Fill	1,356,000	2-3	4.7 at 805 years	Yes, but ineffective	Yes
Spray Water Wash + Sand Fill + RCRA- style cap	3,800,000	10.2-11.2	4.1 at 1,645 years	Yes	Selected base case is more effective at comparable cost
[Base case] Spray Water Wash + Grout Fill (No cover)	3,800,000	10.2-11.2	3.1 at 2,555 years	Yes	Yes, most cost- effective alternative
Spray Water Wash + Grout Fill + RCRA- style cap	3,800,000	10.2-11.2	3.1 at 3,045 years	Yes	Yes (cost does not include RCRA- style cap)
Spray Water Wash + Oxalic Acid Wash + Grout Fill	4,600,000	10.2-12.2	< Selected base case	Yes, oxalic acid wash has been demonstrated for sludge, and will be used in some cases to meet other criteria (Complications down- stream)	No
Spray Water Wash + Saltstone Fill	6,300,000	10.5-11.5	> Selected base case	Yes, but higher source term since saltstone is already contaminated	No
Spray Water Wash + Oxalic Acid Wash + Chemical- Mechanical Cleaning + Grout Fill	>50,000,000	> Selected alternative	< Selected base case	No, technologies not demonstrated large- scale	No
Spray Water Wash + Oxalic Acid Wash + Chemical- Mechanical Cleaning + Tank Removal	>100,000,000	>93	< Selected base case	No, technologies not demonstrated large scale, and high worker doses	No
<p>* Bulk waste removal assumed for all options. ** Costs are for comparison only and are not budget quality. † Total dose at seep line.</p>					

Table 1: Options considered by DOE for removal of radionuclides [5]. (Note that dollar amounts are from 1997 and are not consistent with those reported elsewhere in this report.)

Unfortunately, it has consequences on subsequent processing of waste. Oxalic acid cleaning results in an additional waste stream requiring treatment, and impacts the chemistry of the feed stock for the Defense Waste Processing Facility (DWPF) (vitrification plant), resulting in additional expense and waste glass volume. Oxalic acid cleaning may also pose a criticality threat by reducing the pH and thereby increasing the amount of fissionable material in the solution. Therefore, although oxalic acid is considered to be technically practical, it is not considered to be economically practical for use in all tanks.

Removal of Key Radionuclides

For tank closure, it should be noted that key radionuclides cannot be removed preferentially, since the residual wastes, by their very nature, cannot be removed from the tanks for further processing. No generic cut-off has been established for waste removed from each tank. Each tank will be cleaned to the maximum extent possible using water washing and pumping following bulk waste removal. Waste volume in emptied tanks has been estimated from visual inspections. This was accomplished by comparing the height of the waste to known height markers on the bottom of the tank such as tank welds or steel lifting plates of known thickness. At some locations the actual tank bottom could be seen. Performance of bulk waste removal and spray washing is expected to result in removal of 98% to 99% of the total radioactivity, and over 99% of the volume of the waste.

According to DOE's general methodology, and assumed in their performance modeling, approximately 1000 gallons of sludge are projected to remain in each tank. It is estimated that 14 tanks will be cleaned using standard waste removal to 1000 gallons. Thirty-seven are expected to be cleaned to approximately 100 gallons, (using oxalic acid). Even though oxalic acid cleaning is not considered to be economically practical, it is expected to be used for some tanks in order to meet the performance objectives specified in Criterion Three.

NRC Review and Conclusions

There is limited reference material available to independently verify DOE evaluations of economic and technical practicality. We have reviewed the general DOE methodology for removal of key radionuclides to the extent technically and economically practical. We have also examined further information on actual waste removal practices and efficiencies for Tanks 16, 17 and 20. From Table 1, the economic burdens for each closure methodology can be compared. The methodology chosen by DOE, water-wash and grout fill, provides adequate radiological protection at the most reasonable cost. As stated above, 37 tanks are expected to need additional oxalic washing. Due to the initial individual tank inventories not all tanks will need chemical cleaning. Because of the high removal efficiency of the chosen methodology other technologies would not be economically practical. More exotic cleaning technologies would cost approximately 46 million dollars more per tank and remove less than one percent of the original tank activity.

The following assumptions were made in assessing conformance with Criterion One.

- Cost/benefit assessments associated with different options are reasonable.

- DOE will follow the tank closure procedure outlined in the Industrial Wastewater Closure Plan [11]. Specific actions for cleaning will be developed for each tank (e.g., oxalic acid wash may be employed in selected tanks). The individual performance assessment for each tank will dictate what, if any, further cleaning is required.

The following recommendations are noted with respect to meeting Criterion One.

- A set tank sampling protocol should be developed. The method should involve enough samples to adequately represent the tank contents, and should be performed after bulk waste removal and tank cleaning. Without a cost estimate for sampling it is difficult to determine the minimum number of samples. Any large inconsistencies indicate the need for further sampling, or the use of a more conservative source term.
- If the source term changes significantly as a result of the cessation of the In-Tank Precipitation process, or as a result of any replacement process, the methodology for meeting Criterion One must be reevaluated.

The following conclusions are made with respect to Criterion One.

- The DOE methodology for sludge volume estimation appears technically adequate.
- DOE's methodology for removal of key radionuclides to the extent technically and economically practical is acceptable.

III. CRITERION TWO

...wastes will be incorporated in a solid physical form at a concentration that does not exceed the applicable concentration limits for Class C low-level waste as set out in 10 CFR Part 61...[3]

Solid Physical Form

The DOE Closure Plan [2], which has already been implemented for Tanks 17 and 20, includes the addition of a reducing grout to the residual waste in the tank, followed by a layer of low-strength cement, and a layer of high-strength grout. See Figure 4.

DOE will pump reducing grout directly on to residual waste in the tank from seven tank risers, six around the circumference of the tank, and one in the center (Figure 5). The grout mixes partially with the residual waste, and surrounds it generally in a wagon wheel form (Figure 6). After the liquid grout is poured, dry grout is distributed on top to absorb any remaining liquid, and to fully cover the residual waste. The reducing grout alters the leachate chemistry, and reduces the mobility of certain radionuclides, by creating a reducing environment, with a high pH [5].

Controlled low-strength material (CLSM) is a self-leveling backfill material composed of sand and cement formers. It is pumped into the tank following the reducing grout application. CLSM fills most of the volume in each tank. It has several useful properties for this application. Its compressive strength will provide adequate support for the overbearing weight, it has a low heat of hydration, and it is relatively inexpensive.

The final layer is "strong grout". Strong grout is a low viscosity grout with compressive strengths in the normal concrete range (~2000 psi). This formulation is used near the top of each tank because its consistency is suited for filling voids created around risers and tank equipment. This strong grout will also discourage accidental penetration of the waste from the top (as from an inadvertent intruder).

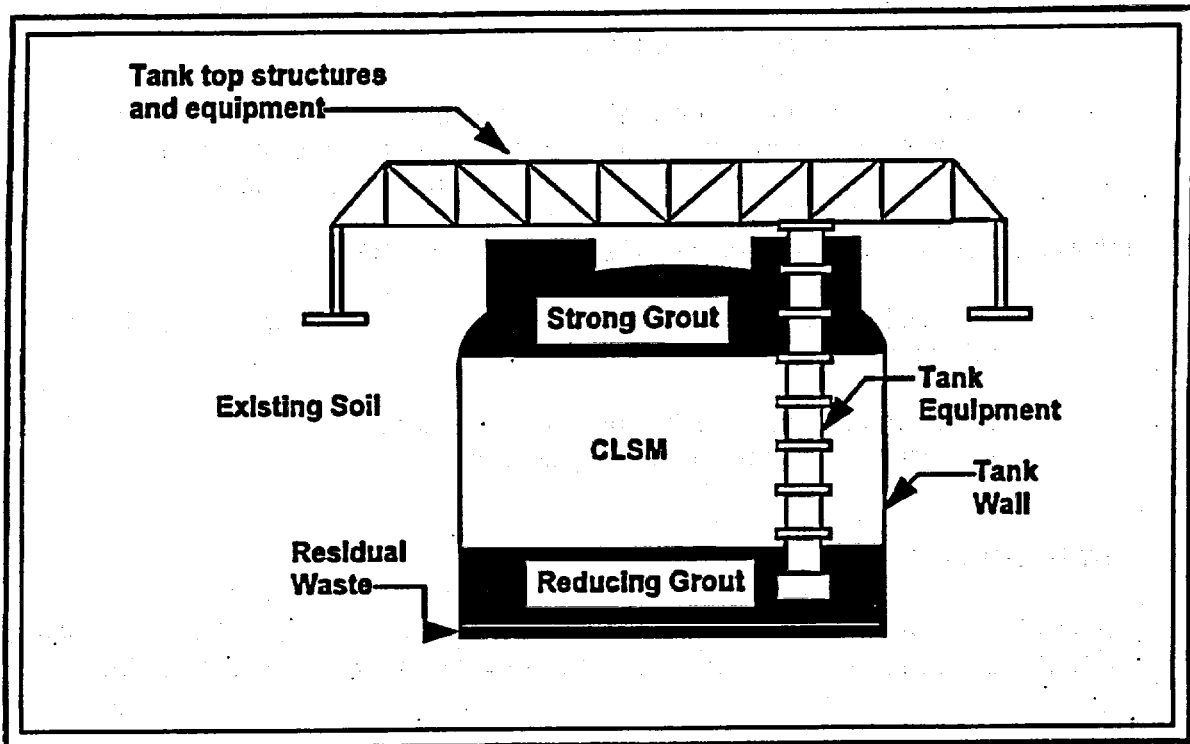


Figure 4: Tank closure showing layers of fill material [5].

The Regulatory Basis [5] addresses the stability of the grout-filled tanks based on three factors (derived from 10 CFR 61.56): (i) resistance to subsidence, (ii) resistance to dispersion, and (iii) reduction of the likelihood of inadvertent intrusion. Assuming that DOE fills the tanks according to the procedures outlined in the Industrial Wastewater Closure Plan [11], the waste will be immobilized in cementitious materials at least 10 m below the ground surface, with the topmost layer consisting of a strong grout.

Class C Concentration Limits

For approximately 14 of the 51 tanks, the Branch Technical Position (BTP) on Concentration Averaging [12] will be applied to meet the concentration limits specified in 10 CFR Part 61. These 14 tanks require between 0 and 31 inches of grout to meet the Class C limits. In general, they contain low-heat, second-cycle wastes, and the remaining 37 contain first-cycle extraction wastes. The actual number of tanks that can meet the concentration limits with application of the BTP will depend on source, volume, and concentration of residual waste.

The BTP on Concentration Averaging is based on 10 CFR Part 61.55(a)(8), that, "the concentration of a radionuclide [in waste] may be averaged over the volume of the waste, or weight of the waste if the units [on the values tabulated in the concentration tables] are expressed as nanocuries per gram." One of the principal considerations is "whether the distribution of radionuclides within the waste can be considered to be reasonably homogeneous.... A homogeneous waste type is one in which the radionuclide concentrations are likely to approach uniformity in the context of the intruder scenarios used to establish the values included in Tables 1 and 2 of 10 CFR 61.55" [12].

DOE used Section 3.2 of the BTP to perform the concentration averaging calculations. Section 3.2, "solidified and absorbed liquids," states that "[c]lassification of evaporator concentrates, filter backwashes, liquids, or ion-exchange resins solidified in a manner to achieve homogeneity or meet the stability criteria of 10 CFR 61.56 should be based on solidified nuclide activity divided by the volume or weight of the solidified mass."

The volume of reducing grout, along with the residual waste, is used as the volume of the "waste form" for concentration averaging purposes. The entire tank volume (filled with CLSM and strong grout) is not used. The volume of reducing grout added to each tank will depend on the concentration of the remaining radionuclides.

Tests have been performed at Construction Technology Laboratories, Inc. (CTL) to determine the degree of mixing between the reducing grout and simulated tank waste [13]. DOE has determined the thickness or amount of reducing grout needed to comply with the Class C concentration limits. A safety factor will also be included; an additional 50% (by volume) of grout will be added beyond that needed to meet the Class C concentration limits.

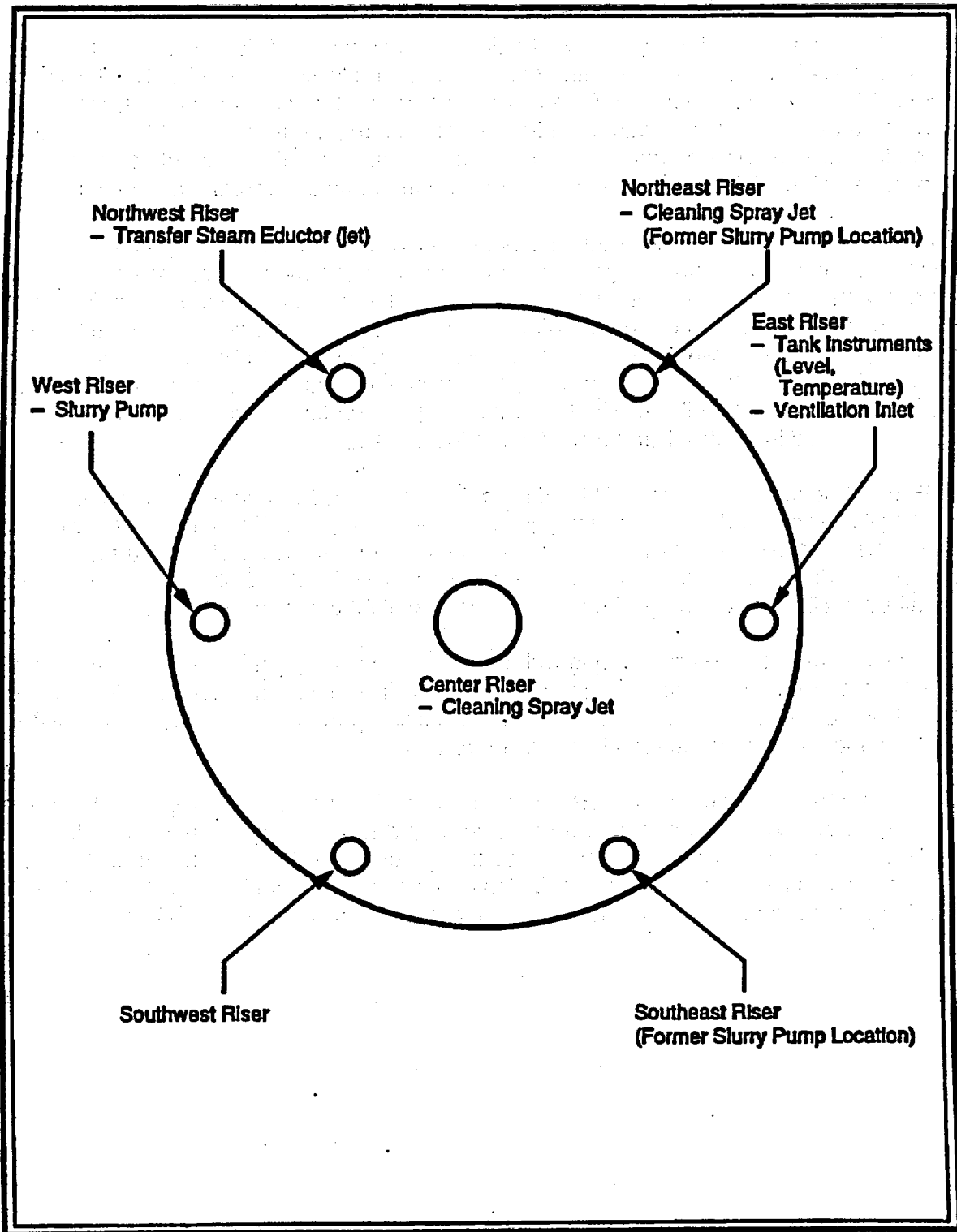


Figure 5: Tank 20 riser locations [14].

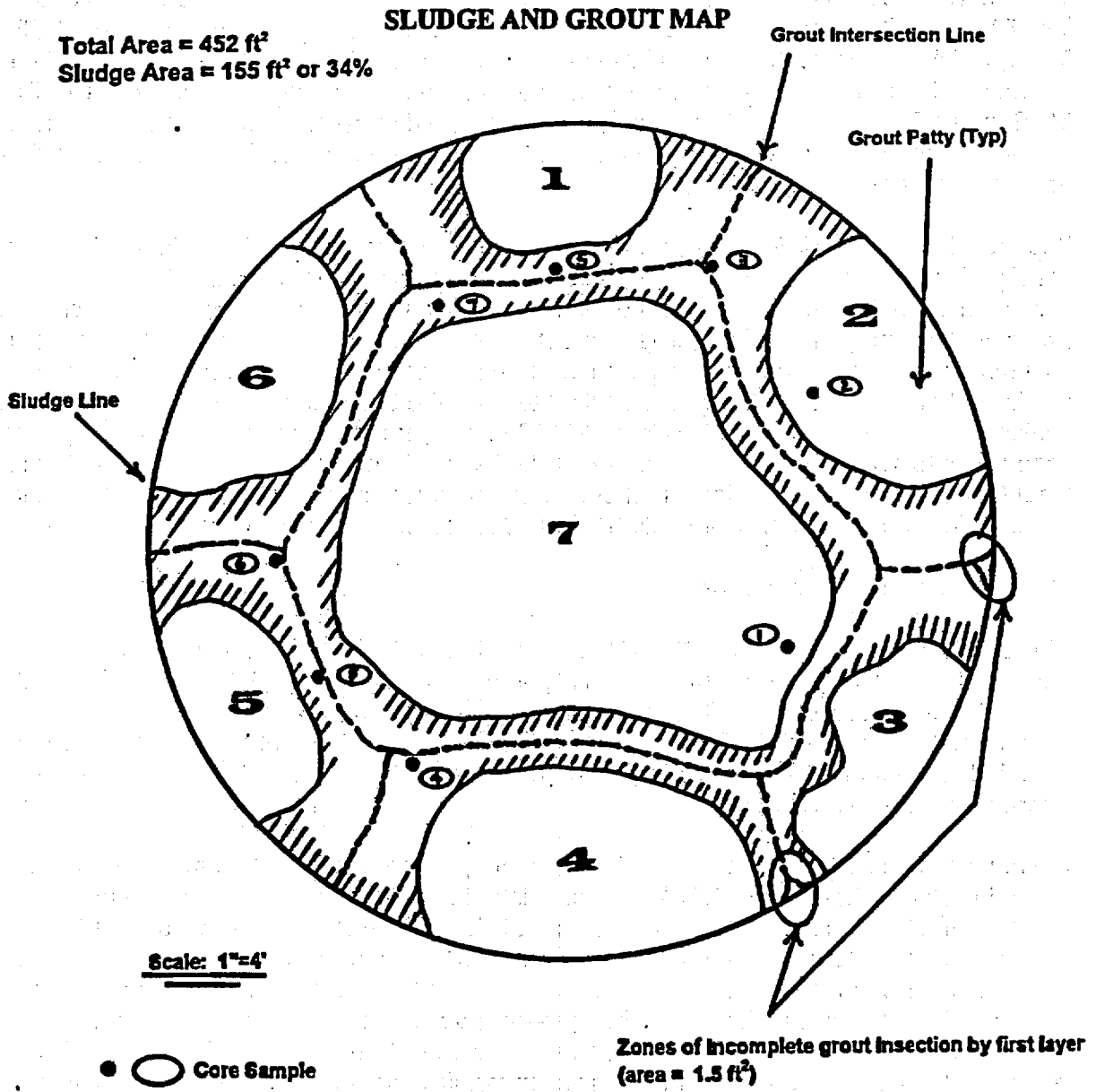


Figure 6: Sludge and grout in "wagon-wheel" formation [1].

Alternatives to 10 CFR Part 61 Waste Classification

In the remaining 37 tanks, additional cleaning before grouting would be required to satisfy the Class C requirements, even with the application of concentration averaging. For these tanks, DOE determined that additional cleaning would lead to substantial increase in the cost of tank closure. (Oxalic acid cleaning would add \$1,050,000 per tank, or an additional \$38,850,000 for 37 tanks.) Consequently, DOE has requested that NRC apply the provisions in 10 CFR 61.58, which recognize the acceptability of alternative considerations for the classification of waste, provided there is reasonable assurance that the performance objectives in 10 CFR Part 61, Subpart C, are met. Tanks will therefore be cleaned to meet the performance objectives, but will not necessarily be cleaned to the degree necessary to meet Class C concentration limits through application of the BTP.

Recent calculations for F-Tank Farm [15] indicate that using oxalic acid to clean all tanks will not significantly reduce maximum annual dose to the public or to an inadvertent intruder. The maximum annual drinking water doses for the current calculated baseline case (which includes oxalic acid cleaning in 10 of 22 tanks to meet performance objectives) are 130 mrem/year for an intruder at 1-meter from the tank, and 1.9 mrem/year at the seepline for a member of the public. When oxalic acid cleaning is applied to all of the tanks, the 1-meter maximum annual drinking water dose to an intruder drops to 110 mrem/year, and the seepline drinking water dose drops to 1.7 mrem/year. There are ten tanks in F-Tank Farm, which are expected to meet Class C limits with application of concentration averaging; using oxalic acid to clean these tanks would add approximately \$10,500,000 for limited, or no, benefit.

NRC Review and Conclusions

We reviewed the DOE Closure Plan [2], the Regulatory Basis [5], the actual grouting procedures used in Tanks 17 [6] and 20 [16], and the CTL report [13], to evaluate the solid physical form portion of this criterion. We also reviewed additional information provided in the form of photographs of the CTL reducing grout test pours, cylindrical samples taken from solidified test pours, and videotapes of the grout pours. The filled tanks are expected to provide a stable waste form.

We have also considered the appropriateness of applying concentration averaging for the 14 second-cycle/low-heat waste (LHW) tanks. It is not readily apparent where the cut-off between the "14" tanks and the "37" tanks is, i.e., it is not clear which tanks will have concentration averaging applied to meet the Class C concentration limits, and which will need "enhanced waste removal actions" (oxalic acid cleaning). The staff has determined that concentration averaging in accordance with the BTP is generally acceptable in this context to meet Class C limits, however, NRC recommends that a definitive cut-off be established to select eligible tanks and to distinguish them from tanks which require enhanced waste removal actions. For example, eligible tanks might be LHW only, and require less than a specified amount of grout to meet Class C limits.

The three incidental waste criteria were originally developed for wastes *removed* from tanks at Hanford. It is evident from efforts to apply the criteria to residual HLW tank wastes, not only at the Savannah River Site, but also from preliminary discussions with West Valley and from

knowledge of the Hanford tank contents, that meeting Criterion Two, as stated, will be difficult or impossible. Wastes *removed* from tanks can be processed to reduce concentration, and can then meet Class C concentration limits.

10 CFR 61.58 recognizes the acceptability of alternative considerations for the classification of waste, "if after evaluation, of the specific characteristics of the waste, disposal site, and method of disposal, [the Commission] finds reasonable assurance of compliance with the performance objectives of [10 CFR Part 61] Subpart C." The waste will be solidified in layers of grout, 10m below the surface of the ground; the disposal site is considered to be stable, and staff has concluded that the tank closure methodology is consistent with meeting the performance objectives of Part 61. (See Section IV). In addition, the public dose limit is well below the limit, inadvertent intruder doses are expected to be below the limit, and additional effort (i.e. oxalic acid cleaning) will be very costly and result in little, if any, reduction in risk. However, staff considers that residual tank waste concentrations should be limited to avoid unreasonably high concentrations, and to further protect the public health and safety. The following limits are related to the development of the Class C concentration limits, which is discussed in the Draft Environmental Impact Statement (DEIS) for the 10 CFR 61 rulemaking [17]. Therefore, staff recommends the following alternative waste classification be administered at SR for HLW tank residuals similar to that provided for in 10 CFR 61.58. The reclassification shall redefine the maximum allowable radionuclide concentrations as follows: no radionuclide concentration shall exceed ten times the value specified in Table 1 of 10 CFR 61.55, at 500 years following the proposed CERCLA closure for each tank grouping, and no radionuclide concentration shall exceed the value specified in Table 2 Column 3 in 10 CFR 61.55. The procedure established in 10 CFR 61.55(a)(7) shall be followed such that the sum of the fractions for all Table 1 radionuclides shall not exceed ten, and the sum of the fractions for all Table 2 radionuclides shall not exceed one. The administration of an alternative waste classification does not supercede the need to meet all aspects of Criterion One and Criterion Three.

The following assumptions were used in assessing conformance with Criterion Two.

- The grouts and other cementitious materials used to fill the tanks will be appropriately chosen on a tank-specific basis to ensure chemical and physical stability and minimize void space.
- The radionuclide inventory and the chemical composition of the residual waste will be adequately characterized for each tank.

The following recommendations are made with respect to Criterion Two.

- A clear distinction should be made between tanks where concentration averaging can be applied to meet Class C limits, and those where enhanced waste removal activities to meet the performance objectives of 10 CFR Part 61 will be applied.
- Individual tank characterization efforts are appropriately conservative in adopting the greater of sampling or estimation concentrations. Discrepancies in radionuclide inventories for ⁹⁹Tc and ⁷⁹Se in tank characterization reports and

closure performance assessment models, while not significantly affecting model results, may suggest a need for better data tracking.

- An alternative waste classification should be administered at SR for HLW tank residuals. The reclassification shall redefine the maximum allowable radionuclide concentrations as follows: no radionuclide concentration shall exceed ten times the value specified in Table 1 of 10 CFR 61.55, at 500 years following the proposed CERCLA closure for each tank grouping, and no radionuclide concentration shall exceed the value specified in Table 2 Column 3 in 10 CFR 61.55. The procedure established in 10 CFR 61.55(a)(7) shall be followed such that the sum of the fractions for all Table 1 radionuclides shall not exceed ten, and the sum of the fractions for all Table 2 radionuclides shall not exceed one.

The following conclusions are made with respect to Criterion Two.

- The filled tanks will provide an acceptably stable waste form in conformance with the structural stability requirements of 10 CFR 61.56(b)(1).
- Application of the BTP on Concentration Averaging is an acceptable means of meeting the waste classification criteria of Part 61, but is not applicable for all tanks.
- DOE's request that NRC apply the provisions in 10 CFR 61.58, for alternative considerations for classification of waste, will be evaluated based on the performance objectives of 10 CFR 61.40 (Criterion Three). If Criterion Three is met, the requirements of Section 61.58 are satisfied; however, use of alternative considerations under Section 61.58 to meet Criterion Two of the Incidental waste criteria must be approved by the Commission.

IV. CRITERION THREE

...the waste is to be managed, pursuant to the Atomic Energy Act, so that safety requirements comparable to the performance objectives set out in 10 CFR Part 61 are satisfied....[3]

§ 61.41 Protection of general population from releases of radioactivity

"Concentrations of radioactive material which may be released to the general environment in ground water, surface water, air, soil, plants, or animals must not result in an annual dose exceeding an equivalent of 25 mrem to the whole body, 75 mrem to the thyroid, and 25 mrem to any other organ of any member of the public. Reasonable effort should be made to maintain releases of radioactivity in effluents to the general environment as low as reasonably achievable."

The 25 mrem/yr limit applies throughout the operating and post-closure periods of a disposal facility. The other radiological control limits of 10 CFR Part 20, "Standards for Protection Against Radiation," apply during facility operation, except for the 25 mrem limit from the pathways defined above.

§ 61.42 Protection of individuals from inadvertent intrusion

“Design, operation, and closure of the land disposal facility must ensure protection of any individual inadvertently intruding into the disposal site and occupying the site or contacting the waste at any time after institutional controls over the disposal site are removed.”

Although a particular dose limit is not specified in this performance objective, compliance with the technical requirements of 10 CFR Part 61 and, in particular, with the classification system of 10 CFR 61.55, is considered to provide adequate protection to intruders at a near surface land disposal facility. In the DEIS for 10 CFR Part 61 [16], NRC used a 500 mrem/yr dose limit to an inadvertent intruder to establish the concentrations limits and other aspects of the waste classification system. In addition, 10 CFR Part 61 does not specify a time for institutional controls in the performance objectives, but does require in 10 CFR 61.59(b) that “...controls may not be relied upon for more than 100 years.”

§ 61.43 Protection of individuals during operations

“Operations at the land disposal facility must be conducted in compliance with the standards for radiation protection set out in part 20 of this chapter, except for releases of radioactivity in effluents from the land disposal facility, which shall be governed by §61.41 of this part. Every reasonable effort shall be made to maintain radiation exposures as low as reasonably achievable.”

This performance objective applies to both the public and to LLW disposal facility workers.

§61.44 Stability of the disposal site after closure

“The disposal facility must be sited, designed, used, operated, and closed to achieve long-term stability of the disposal site and to eliminate to the extent practicable the need for ongoing active maintenance of the disposal site following closure so that only surveillance, monitoring, or minor custodial care are required.”

The stability performance objective is consistent with a major premise of 10 CFR 61 that the facility must be sited, designed, used, operated, and closed with the intention of providing permanent disposal. A disposal facility should not require long-term maintenance and care. Stability is particularly important considering the requirements in 10 CFR 61.59(b) that “...institutional controls must not be relied upon for more than 100 years following transfer of control of the disposal site to the owner.”

Performance Assessment to Demonstrate Performance Objectives

Fate and Transport Modeling

The Multimedia Environment Pollutant Assessment System (MEPAS), Version 3.1, is the source term, transport, and dose conversion code used for the SRS tank closure performance assessment (PA). This program uses analytical methods to model the transport of contaminants from a source unit to any point at which the user wishes to calculate the concentration. DOE performed a separate MEPAS calculation for each grouping of tanks in

the F-Area Tank Farm. (See Figure 2). For each calculation, DOE entered the source term data (in both source volume and total inventory) for the grouping, distributed over a square area equal to that of the tank bottoms in the grouping. For instance, for the Type I tanks, the source term for the MEPAS calculation consisted of the total inventory of the affected tanks and the concentration of contaminants in the grouping (i.e., the total inventory of the affected tanks divided by sludge volume in these tanks) distributed over a square area equal to the area of the eight Type I tanks. To account for overlapping of the contaminant plumes from the three separate groupings of tanks within the tank farm, DOE also performed the calculations with the three groupings at the same initial physical location. In addition, DOE summed the centerline concentrations from each plume at the point of exposure to ensure that the highest concentration was assessed.

Assumptions were made to allow meaningful calculations to be performed by the code, that would provide an upper bound to the potential impact that could be realized at the point of exposure. Table 2 provides a comparison of major modeling assumptions with actual conditions in the F-Area Tank Farm. In addition, DOE has performed tank-specific modeling for the closure of Tanks 17 and 20. Future tank closures will also be individually modeled.

Initially, limited uncertainty and sensitivity analyses were performed for the MEPAS model assumptions and parameter choices. The sensitivity analysis [7] identified the following principal parameters that affect modeling results: radionuclide inventory, hydraulic conductivity, distribution coefficients (K_d), vadose zone thickness, dispersion coefficient (for plume), and distance downgradient to receptor location. In response to NRC requests [8], [18], further sensitivity analyses were performed on infiltration rate, engineered barrier lifetime, time dependence of hydraulic conductivity of concrete basemat, location of water table in relation to tank bottoms, merged aquifers, horizontal conductivity, basemat integrity, water budget percentages, and dispersivity [9, 10]. Model uncertainty in relation to the groundwater transport segment (GTS) construct, and a fluctuating water table have also been addressed [9, 10] in response to NRC requests [8, 18]. Sensitivity and uncertainty analysis results are discussed in the applicable technical sections of this paper.

MEPAS modeling for the closure options for HLW tanks was independently tested by Sandia National Laboratories using RESRAD with a transport code attached. When differences inherent in the two models were accounted for, the calculated results were similar [19].

ACTUAL CONDITIONS	MODELING ASSUMPTION
22 Individual Tanks <ul style="list-style-type: none"> • 8 Type I tanks • 10 Type III tanks • 4 Type IV tanks 	3 Area Sources <ul style="list-style-type: none"> • One source with area of 45,396 ft² (Type I tanks) • One source with area of 56,745 ft² (Type III tanks) • One source with area of 22,698 ft² (Type IV tanks)
Each tank has a unique inventory and concentration of contaminants	Each area source can be represented as follows: <ul style="list-style-type: none"> • The inventory for each area source is equal to the total inventory of all tanks within the grouping • The concentration for each area source is equal to the total inventory in the area source divided by the total solids in the area source
Each tank has a unique plume with regard to space that may overlap other plumes in the vicinity; plume centerlines do not necessarily overlap	The 3 area sources are located at essentially the same initial physical location and travel the same path to the seepage line so that the centerline of the plumes is forced to overlap
Each plume is time-dependent and plumes may overlap in time	The plumes from each area source are time-dependent and are added for each point in time
Future tank failures (i.e., failure of the grout) will occur at varying times	All tanks (the area sources) fail simultaneously (at t=1000)
Radiation dose from all radiological constituents is additive	Radiation dose from all radiological constituents is additive

Table 2: Comparison of F-Tank Farm modeling assumptions to actual conditions [5].

Risk Assessment

There are five factors to risk assessment: source, release, transport, uptake, and health effects. The source, release, transport and exposure aspects of the DOE Performance Assessment (Fate and Transport Modeling) will be discussed below, along with our evaluation. Uptake and health effects are not included in this evaluation, as they have been accounted for in the development of exposure limits for 10 CFR Part 61 performance objectives.

Source Term

Earlier in this paper we discussed tank sampling and estimated inventories. In the closed tanks, the bulk of the radionuclide inventory is sandwiched between two layers of reducing grout. To determine the inventory of contaminants after cleaning of each tank is accomplished, DOE assumes that the concentration of constituents in the solids remains unchanged. DOE considers this assumption to be realistic based on the fact that the presence of constituents in the solids indicates that the constituents are relatively insoluble and would be expected to remain insoluble throughout the tank cleaning process, which includes bulk removal of solids followed by spray water washing. Thus, the cleaning actions are expected to

remove the more soluble constituents and reduce the volume of solids in the tanks; however, the cleaning will not substantially change the concentration of insoluble radionuclides in the sludge.

As each individual tank is prepared for closure, DOE will prepare a closure module that will be based on actual sampling results for that tank. Before any closure activities occurred DOE calculated anticipated doses that would result from each tank. These doses were based on assumptions/expectations that DOE believed it could accomplish, i.e., inventory and sludge removal efficiency. These preclosure calculations were therefore referred to as a *a priori* calculations ("made before or without examination" [20]). If substantial deviations from the *a priori* modeling calculations are discovered such that actual sample measurements indicate a greater projected impact at the point of exposure, DOE will perform additional cleaning at that time to reduce the source term inventory. If additional cleaning is technically or economically infeasible, DOE may take credit for previously completed tank closures where actual sampling results indicated a lower impact at the point of exposure than predicted by the *a priori* modeling calculations.

In addition to modeling the tank contents, MEPAS runs were performed to determine the impacts of residual pollutants contained in ancillary equipment and piping. DOE models ancillary piping and equipment inventory as being equal to 20% of the total tank radionuclide inventory.

NRC Evaluation - Source Term

DOE can obtain a representative source term by analysis of historical records of processes resulting in waste generation. Confirmation of this source term will be accomplished through actual tank sampling, provided that the samples are taken from several different areas of well mixed sludge. NRC staff believe that if this source term identification protocol is followed the tank inventory will be well characterized.

The *a priori* calculation may be a useful tool in anticipating the predicted dose from each tank or groups of tanks. However, the *a priori* calculation should not be used as justification to limit the amount of tank cleanup.

Release

In their Fate and Transport Modeling (FTM) [7], DOE assumes that the grout and basemat will fail at 1000 years. The period of time claimed for the performance of engineered barriers should be supported by suitable information and justification [21]. The 1000 year lifetime assumed in the DOE methodology is based on an analysis performed at SRS for E-Area Vaults [22], which were projected to last 1400 years. The extended lifetime is partly due to environmental factors at SRS; freeze-thaw cycles and high chloride and sulfate ion concentrations, which are damaging to concretes, are not present. Sensitivity studies of engineered barrier lifetime revealed little sensitivity to these environmental factors.

In terms of release, the soil and grout layers above the source layer are primarily important in terms of restricting the flux of water through the waste. The hydraulic conductivity of the grout is much less than typical soil so that water infiltration into the source layer is substantially

limited. However, grout cannot be assumed to be intact for an indefinite period of time. In the FTM, DOE assumes that when the grout develops catastrophic cracks in all tanks at 1000 years post-closure, the hydraulic conductivity increases by six orders of magnitude (from 9.6×10^{-9} cm/s to 6.6×10^{-3} cm/s). This change in conductivity is modeled as a step function rather than a gradual increase over time. Breakthrough time is sensitive to this parameter, but dose is not.

In addition, DOE anticipates that the reducing grout will alter the chemistry of the water that flows through the contaminated zone. The reducing grout will increase the pH and decrease the oxidation potential of the infiltrating water. A high pH and reducing environment will significantly reduce the solubility of the radionuclides contained in the contaminated zone. The reducing grout is projected to affect the water chemistry for a minimum of 500 years, and could extend into the future. Even after the grout develops cracks, there is no reason to believe that the chemistry will vary.

NRC Evaluation - Release

Although cracking and degradation of the reducing grout covered by a high-strength grout used for tank closure may be comparable to degradation of E-Area vault cement, it is the integrity of the basemats beneath the tanks that may be weak. Sensitivity analyses were performed assuming basemat failure at time = 0, 50, 100, 200, 500, 1000 and 2000 years. Dose appears to be insensitive to this parameter, but time of peak dose does change as basemat failure time varies. Basemat failure does not contribute to dose, therefore it is not considered to be an issue. In addition, the rationale for grout/cement lifetimes of 1000 years appears to be plausible, particularly with regard to chemical effects.

One tank group (17-18-19-20) in F-Area Tank Farm is located just above the water table. At times, these tanks may become partially submerged due to seasonal fluctuations of the water table. Some tanks in the H-Area are also in or near the water table. Partially submerged tanks may affect the manner that MEPAS models the release and transport of radionuclides. For tanks where the contaminated zone is beneath the water table, the release may be dominated by the horizontal flux of water rather than the vertical flux of water one would usually assume for tanks in the vadose zone. DOE attempted to show that the most conservative manner to model submerged tanks is to use the base case vertical flux model. Due to the small projected cross-sectional area perpendicular to horizontal flux the release rate is greatly limited. This is characteristic of the MEPAS code, and may be non-conservative, as changes in volume do not change leach rate estimates for the unsaturated zone leach rate model.

Future PA studies should model all submerged tanks or tanks within the fluctuating water table as submerged tanks, using a physically based geochemical and fluid transport leachate model, since the MEPAS code does not conservatively model submerged tanks. The release rate model for MEPAS uses only cross-sectional area and the radionuclide concentration to determine rate of release. Future modeling needs to consider the effects of increasing the volume of waste, and should include a shorter expected life time for the grout, due to submersion.

Transport

The DOE used a construct for apportioning performance objectives, called the "groundwater transport segment." The GTS consists of a physically defined area of the aquifers directly underlying the tank closure configuration. By definition, each GTS contains all HLW tanks and the other contaminant sources that lie within its boundaries. The nominal width of the GTS is determined by the size of the tank closure configuration footprint perpendicular to the groundwater flow direction at the tank farm area.

The F- and H- Area Tank Farms are modeled with one GTS each. Due to the three-dimensional nature of groundwater flow and leakage between the stacked aquifer layers beneath the general separations area (GSA), each GTS contains three aquifer layers. (See Figures 7 and 8.) Once contaminants reach the Water Table aquifer, they may follow one of three possible routes: (1) they will be transported through the water table and outcrop at the seepline and Fourmile Branch; (2) they will leak vertically from the Water Table aquifer through the underlying, confining Tan Clay layer into the Barnwell-McBean aquifer which also outcrops at the seepline and Fourmile Branch; (3) they will continue downward from the Barnwell-McBean aquifer through the confining Green Clay layer, into the Congaree, and appear in the Upper Three Runs. A downward flow that partitions the contaminant in the ratio of the water budget for the three aquifers is assumed at the contaminant source (e.g., for Tank 17, percentages of 31 for the water table, 65 for Barnwell-McBean, and 4 for Congaree aquifers).

For each of the eight layers modeled (contaminated zone, concrete, vadose zone, Water Table aquifer, Tan Clay layer, Barnwell-McBean aquifer, Green Clay layer, and Congaree aquifer), distribution coefficients, K_d s, were selected for each radionuclide and chemical compound. As contaminants are transported from the contaminated zone to the seepline, they are dispersed longitudinally (along the streamline of fluid flow), vertically, and transversely, by the transporting medium. MEPAS incorporates longitudinal dispersivity of pollutants moving downward through the unsaturated zone layers (i.e., concrete basemat and vadose zone). In the saturated zone, concentration calculations include three-dimensional dispersion along the length of travel.

DOE methodology includes two types of calculations for each GTS pertaining to the high-level waste tanks:

- an *a priori* calculation of the projected impact of the entire GTS using assumptions on the degree of the tank cleaning achievable
- a tank-specific calculation for each module of the closure plan using sampling results available following cleaning

The calculated *a priori* results are used to project whether the GTS will meet the overall performance objectives. This process helps to address the cumulative effect of all the tanks in the tank farm whose plumes may intersect. As individual tanks are prepared for closure, the tank contents are sampled, and the sampled source inventory of the tank will be compared to the estimated source term used as part of the *a priori* calculation. The sampling results will also be used to perform the tank-specific calculation on impacts at the point of exposure to

ensure that the performance objective "budget" is not exceeded based on calculations using actual tank inventories.

NRC Evaluation - Transport

The MEPAS code has been used to model the groundwater system at SRS, although the presence of three aquifers and zones of high conductivity make the system difficult to model. The MEPAS code assumes an infinite lateral boundary for the aquifers. Therefore, DOE has submitted sensitivity analyses that quantify the effect of these parameters/conditions. To reflect the impact of vertical flow and transport through the aquifers on dose, DOE combined the top two aquifers and eliminated the bottom Congaree aquifer (the Congaree only receives approximately 4% of the water/radionuclides from the water table at this point in the ground water system). This resulted in a potential increase in dose to the public at the seepline of one μrem . By reducing the transverse dispersivity by a factor of ten, hence limiting the lateral boundary, the highest aquifer dose increased by approximately 3 times, to 0.21 mrem/yr, which is well below the dose limit to the public.

Another scenario DOE performed was to verify the sensitivity of dose to the K_d coefficients. The manner in which water chemistry in the basemat and contaminant zone affect the K_d 's was also considered in a separate sensitivity analysis. The sensitivity analysis allowed for increased concentrations and mobility, which resulted in an increased dose of approximately 4 over the base case. These trials showed that there is little sensitivity to K_d 's within the range of conditions investigated.

Even though the MEPAS code may not be able to fully model this complicated flow field it can be shown that the entire system may be appropriately assessed through conservative assumptions. These conservative assumptions help to simplify the transport model as well as add confidence in the output.

Exposure

Exposure is a function of the scenario used, worker, public or intruder.

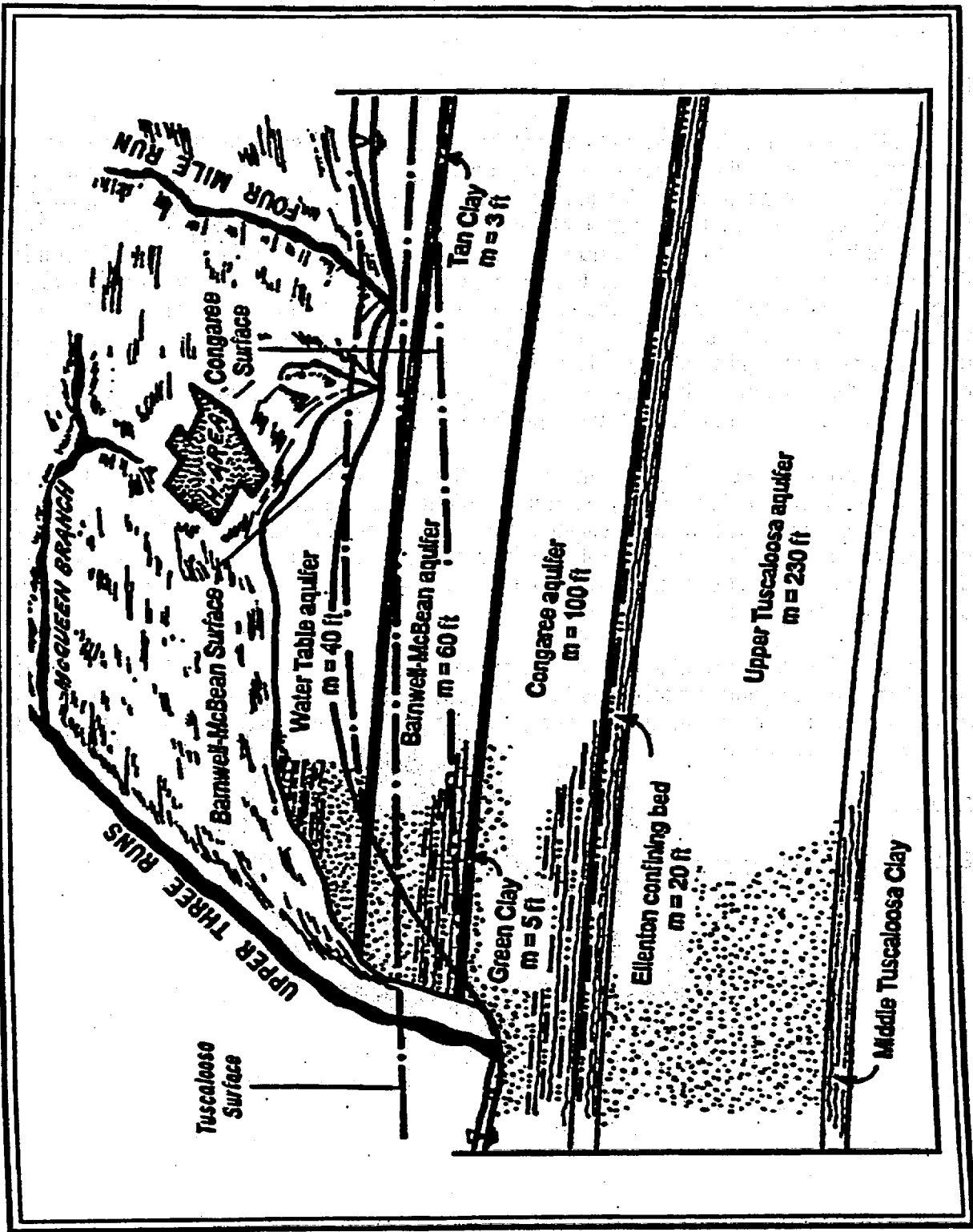


Figure 7: Aquifer layers underlying the F-Area Tank Farm [6].

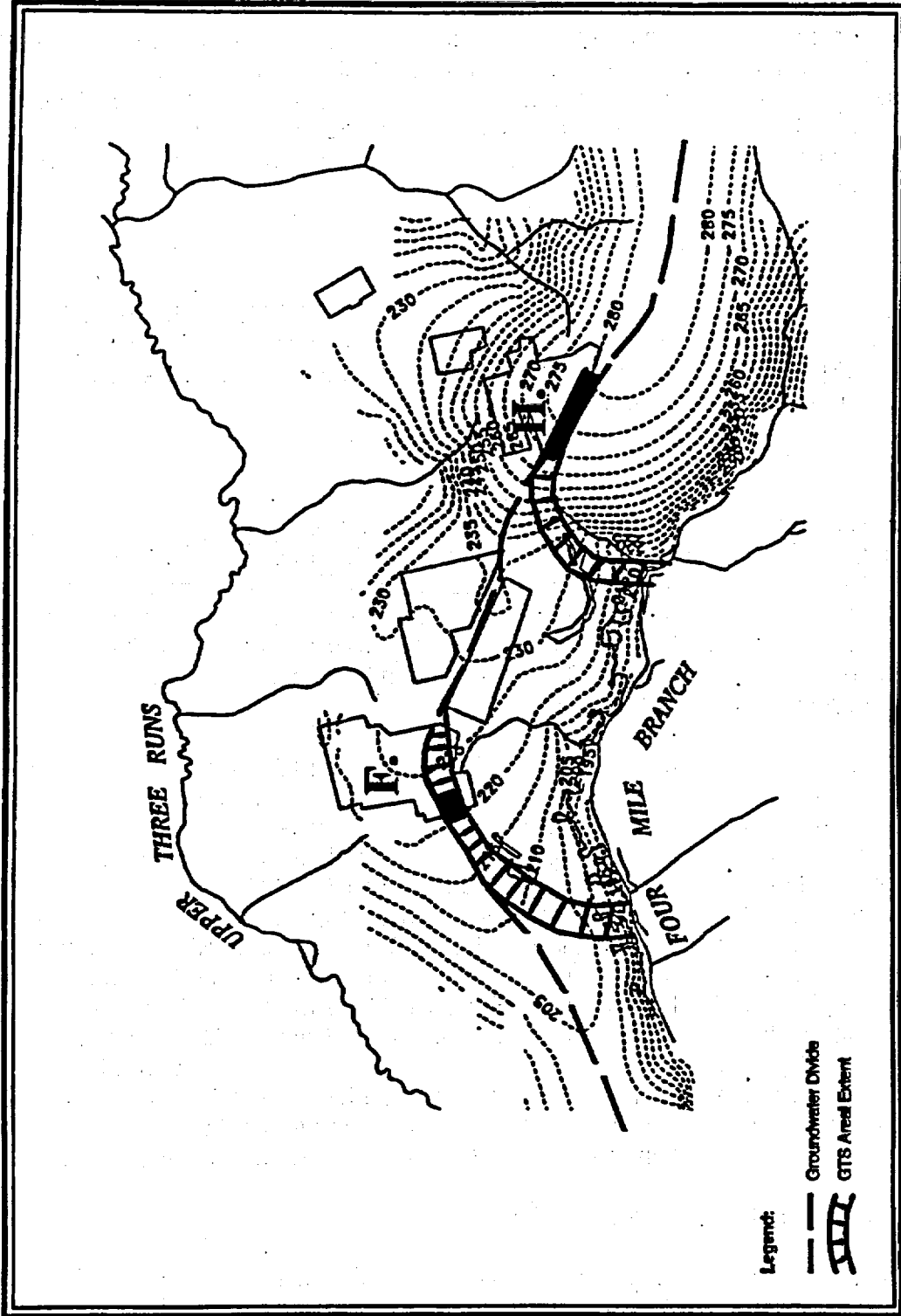


Figure 8: Sample calibrated potentiometric surface for the Water Table Aquifer [6].

Protection of Worker

The worker is defined as an adult who has authorized access to, and works at, the tank farm and surrounding areas but is considered to be a member of the public for compliance purposes. This analysis assumes that the worker remains on the shores of Fourmile Branch or Upper Three Runs during working hours, and is exposed to radionuclide releases through: direct irradiation from shoreline deposits, incidental ingestion of soil from shoreline deposits, and dermal contact with dust from shoreline deposits.

NRC Evaluation - Protection of Worker

The worker is protected by DOE regulations (10 CFR Part 835) which are analogous to 10 CFR Part 20, and which require disposal facility safety analysis reports, which are issued as required [23]. Therefore the worker protection performance objective is considered to be met and will not be addressed here.

Protection of Public

The public is represented by a nearby adult resident, and a nearby child resident. They live in a dwelling 100 meters downstream of the groundwater outcropping in Fourmile Branch, on the side opposite the F-Area Tank Farm. The seepline at Fourmile Branch, where groundwater outcrops to the surface approximately 1 mile from the tanks, is the chosen point of exposure. DOE has committed to following a 4 mrem/yr total effective dose equivalent (TEDE) drinking water dose rate, although the NRC staff evaluation is in accordance with the 25 mrem/yr TEDE (all pathways) limit of 10 CFR Part 61.

The resident is assumed to use Fourmile Branch for recreational purposes; to grow and consume produce irrigated with water from Fourmile Branch; to obtain milk from cows raised on the residential property; and to consume meat from cattle that were fed contaminated vegetation from the area. The major parameters used in assigning characteristics to the receptors used in the calculations were taken from ICRP 23, "Report of the Task Group on Reference Man" [24], NRC Regulatory Guide 1.109 [25], and "Soil Concentration Guidelines for the Savannah River Site Using the DOE/RESRAD Methodology" [26]. Drinking water doses provide the limiting cases, specifically, the seepline concentrations for the Barnwell-McBean aquifer [5]. For Tank 17 of the F-Area Tank Farm, the maximum total dose modeled for the adult resident from contaminant transport in the Barnwell-McBean aquifer is 2.7×10^{-2} mrem/yr at 805 years. As each tank is closed, the potential dose to public from the Barnwell-McBean aquifer at the seepline is calculated, and added to the values for all previous tank closures. The total for the F-Area Tank Farm is intended to meet the 4 mrem/yr drinking water standard, which is well within the 10 CFR Part 61 limit of 25 mrem to the whole body.

NRC Evaluation - Protection of Public

DOE has used an all pathway dose assessment to show conformance with the performance objectives established for the public. Drinking water doses provide the limiting cases. The total for the F-Area Tank Farm is intended to meet 4 mrem/yr for drinking water, which is expected to be well within the 10 CFR Part 61 limit of 25 mrem/yr to the whole body.

DOE has selected the nearest public dose receptor to be approximately one mile from the F-Area Tank Farm. This selection of receptor location allows for a one mile buffer zone between the HLW waste tanks and the public. Due to the large number and types of facilities located at SRS this buffer zone distance appears to be conservative. Within the general area of the F-Area and H-Area Tank Farms there are also five production reactors, two chemical reprocessing canyons, the DWPF, a liquid low-level waste effluent treatment facility, and a solid low-level waste burial ground. At locations between the F-Area Tank Farm and the seepline where it can not satisfy the 4-mrem/yr drinking water standard, DOE plans to institute active and passive institutional controls [5]. If combined doses from all pathways are less than the 25 mrem/yr requirement of 10 CFR Part 61.41, adoption of additional protective measures is optional.

As indicated by the performance assessment, combined doses to the public from all pathways are projected to be below the 25 mrem/yr limit, therefore, staff considers that there is reasonable assurance that safety requirements comparable to §61.41 can be satisfied, as well as the provisions of ALARA (as low as reasonably achievable).

Protection of Intruder

DOE has used two different intruder scenarios to show that their methodology meets the incidental waste criteria. The first scenario was intended to justify the use of the alternative waste classification requirements of 61.58. This scenario depicts an intruder who drills through the tank and is then exposed to the drill cuttings. The separate intruder scenario analysis was provided to demonstrate compliance with the provisions of 10 CFR 61.58. However, Section 61.58 references all of the performance objectives in Section 61.40. Therefore, it is inappropriate to focus the rationale for alternative provisions on intruder protection, and this intruder scenario will not be discussed further.

The second intruder scenario, designed to show compliance with §61.42, defines the intruder as "a teenager who gains unauthorized access to the F-Area Tank Farm and is potentially exposed to contaminants" [7]. This scenario is analyzed as if institutional controls have ceased. Because the intruder will not have residential habits, he will not have exposure pathways similar to those of a resident (the intruder does not build a house, grow produce, etc); rather, the intruder could be exposed to the same pathways as the seepline worker but for a shorter duration (4 hours per day). All calculated doses to this intruder are less than 0.001 mrem/yr.

NRC Evaluation - Protection of Intruder

The traditional agriculture scenario consists of a farmer who lives at the tank farm, and drills a well near the tank farm and then uses the well water to irrigate his crops and feed his livestock as well as himself. The original intruder scenarios provided, did not include the agriculture scenario. In response to the NRC request [18] for sensitivity of dose to a resident farmer, DOE-SR has provided calculated drinking water doses (only). DOE's intruder PA showed that the maximum drinking water dose the farmer would receive via the ground-water pathway was 130 mrem/year at a well distance of 1 meter from the tank farm, at approximately 700 years. For these analyses, all the tanks in F-tank farm were modeled on a centerline, and doses from drinking water wells for the resident farmer were modeled downgradient on the centerline of

groundwater transport at 1m, 25m, 50m, and 100m. According to DOE-SR, the drinking water dose pathway is expected to be the highest dose contributor, and therefore provides reasonable assurance that the 500 mrem/year limit, used as a basis for waste classification, to show protection of individuals from inadvertent intrusion, can be met. The DOE-SR analysis assumes all activity is contained within the reducing grout layer located at the bottom of each tank, and that this contaminant zone is not disturbed. This then implies that there is no activity in any vertical component of the tank structure, and therefore, a typical construction scenario (with a 10 foot deep basement) would not disturb any contaminated portion of the tank structure. The scenarios used do not include other dose contributors such as ingestion of contaminated food, inhalation, or direct irradiation; however, drinking water dose is expected to be the highest contributor. Since DOE anticipates drinking water to be the largest contributor to the total dose, staff considers that there is reasonable assurance that safety requirements comparable to §61.42 can be satisfied.

Staff recommends that future performance assessments for SR tank closures, including individual tank closure modules, and the H-Tank Farm Fate and Transport Modeling, include the full agriculture scenario (all pathways) as well as the discovery scenario, as described in the Draft Environmental Impact Statement for 10 CFR Part 61 [16].

The highest drinking water dose of 130 mrem/yr is attributed to ancillary equipment and piping, rather than the actual tanks. For the PA calculations, DOE assumed an additional 20 percent of the radioactive contaminants remaining in each tank after bulk waste removal and spray washing would be distributed in the ancillary equipment and piping associated with the tank system. PA runs were performed to determine the impacts of residual waste contained in the ancillary equipment and piping (which were assumed to be filled with grout where possible) [7]. However, the modeling does not appear to have considered degraded piping and ancillary equipment in the context of an inadvertent intruder. Prior to in-situ closure of above-ground and near-surface ancillary equipment and piping, an intruder scenario should be modeled considering degraded and disturbed ancillary equipment and piping, which in addition to tank sources, must not exceed the 500 mrem per year (all pathways, total effective dose equivalent) for the discovery and agricultural scenarios. That is, the scenario should include the traditional agricultural intruder assumptions, which in this case could mean digging a basement, contacting the waste, and inhaling and/or ingesting it. Furthermore, the staff recommends that all external components of the HLW tanks (e.g., piping) meet Class C concentration limits without the application of concentration averaging, unless DOE-SR can demonstrate that closed external components provide protection to an inadvertent intruder (similar to that provided for the HLW residual contained in the closed tanks). This is important because the current PA shows that the external components contribute the most significant dose prior to 1000 years.

Institutional Controls

DOE's policy is to maintain institutional control of the site in perpetuity. The "Savannah River Site Future Use Plan," issued in March of 1998, states as policy the following points: (1) SRS boundaries shall remain unchanged, and the land shall remain under the ownership of the federal government, consistent with site's designation as a National Environmental Research Park; (2) residential uses of all SRS land shall be prohibited; and (3) an Integral Site Model which incorporates three planning zones (industrial, industrial support, and restricted public

uses) will be utilized. The land around the F- and H- Areas (i.e., between Upper Three Runs Creek and Four Mile Branch) will be considered in the industrial use category. DOE considers that these provisions for institutional controls are comparable to or exceed those for Part 61.

NRC Evaluation - Institutional Controls

The institutional requirements of 10 CFR Part 61 state that active institutional controls may not be relied upon for more than 100 years. However, it appears from the performance assessments performed by DOE in the FTM [7], and from subsequent modeling performed in response to questions from NRC, that there is reasonable assurance that tanks closed in accordance with the stated tank closure methodology can meet the performance objectives of 10 CFR Part 61, without dependence on institutional controls.

Site Stability

DOE plans to fill each tank with 30 or more feet of grout and cement. In addition to the steel and concrete structure of the tanks, this is predicted to create a solid, stable configuration for more than 1000 years. Final remediation of the tank farm areas under CERCLA may include capping the area, which would further isolate the waste by sealing the areas above each tank grouping. Such a configuration would help provide long-term assurance of stability and strength of the closure area.

NRC Evaluation - Site Stability

DOE's plans to fill the tanks with multiple layers of grout and concrete appear sufficient to indicate that safety requirements comparable to §61.44 can be met. Note that estimation of engineered barrier lifetime (i.e., duration of grout/cement fill) has been addressed above.

NRC Review and Conclusions

The following assumptions were used in assessing conformance with Criterion Three.

- Institutional controls in perpetuity were not assumed, rather, the institutional controls used for 10 CFR Part 61, specifically, 100 years (maximum) active institutional controls, were assumed.
- Drinking water dose to an intruder is the dominant exposure pathway.
- Drinking water dose to the public is the dominant exposure pathway.
- The doses are expressed as total effective dose equivalents.
- 1000 year lifetime for the grout/cement tank fill.
- 1000 year lifetime for the chemistry effects of reducing grout.

The following recommendations are made with respect to Criterion Three.

- Institutional controls in perpetuity should not be assumed when the H-Area tank farm is modeled.
- For H-Area tank farm modeling, the period of cement integrity and the reducing conditions imposed from the grout should be shorter for those tanks partially submerged.
- An all pathways dose assessment should be performed.
- If the source term changes significantly as a result of the cessation of the In-Tank Precipitation process, or as a result of the replacement process, the performance assessments must be reevaluated.
- Prior to in-situ closure of ancillary equipment and piping, an intruder scenario should be modeled considering degradation of any ancillary equipment and piping.
- Staff recommends that future performance assessments for SR tank closures, including individual tank closure modules, and the H-Tank Farm Fate and Transport Modeling, include the full agricultural intruder scenario (all pathways) as well as the discovery (intruder) scenario, as described in the Draft Environmental Impact Statement for 10 CFR Part 61.
- All external components of the HLW tanks (e.g., piping) should meet Class C concentration limits without the application of concentration averaging, unless DOE-SR can demonstrate that closed external components provide protection to an inadvertent intruder (similar to that provided for the HLW residual contained in the closed tanks).

The following conclusions are made with respect to Criterion Three.

- As indicated by the DOE performance assessment, combined doses to the public from all pathways are projected to be below the 25 mrem/yr limit, therefore, staff considers that there is reasonable assurance that safety requirements comparable to §61.41 can be satisfied.
- Staff considers that there is reasonable assurance that safety requirements comparable to §61.42 (protection of individuals from inadvertent intrusion) are satisfied for tank closure only. Further analysis must be performed to show that closure of ancillary piping and equipment can protect the inadvertent intruder.
- The worker is protected by DOE regulations which are analogous to 10 CFR Part 20. Therefore the worker protection performance objective (§61.43) is considered to be met.
- DOE's plans to fill the tanks with multiple layers of grout and concrete appear sufficient to indicate that safety requirements comparable to §61.44 can be met.

V. CONCLUSIONS AND RECOMMENDATIONS

NRC staff has concluded that the DOE methodology for incidental waste classification of residual HLW tank waste can meet incidental waste Criteria One and Three specified in the Bernero to Lytle letter of March 2, 1993, for tank closure. No conclusion can be made at this point regarding ancillary equipment. Although the waste form concentration limits associated with Criterion Two cannot be met for all tanks, the performance objectives of 10 CFR Part 61, Subpart C can be met with enhanced cleaning, similar to the provisions in 10 CFR 61.58, "Alternative Requirements for Waste Classification and Characteristics". Institutional controls in perpetuity have not been approved, but do not appear to be necessary in the performance assessment to assure protection of the public health and safety.

NRC Recommendations for Future DOE Tank Closure Activities at DOE-SR

The following recommendations apply to future activities at the Savannah River site, including the H-Area fate and transport modeling, and the individual tank closure modules.

- Rigorous sensitivity and uncertainty analyses should be performed in conjunction with future modeling, including, but not limited to:
 - Early degradation of grout/cement fill for submerged tanks or tanks within the fluctuating water table zone
 - Combined aquifer scenario (for both public and intruder)
 - Horizontal vs vertical flux (particularly in the saturated zone)
 - Conservative distribution coefficient analysis
 - Dispersive solute flux for submerged scenarios
 - A revised leachate model for submerged tanks which incorporates geochemical and fluid transport effects
- 500 year resident farmer intruder scenario should be included, including dose from all pathways (and assuming maximum of 100 year active institutional controls).
- An all pathways dose assessment for public receptors.
- A set tank sampling protocol should be developed. The method should involve enough samples to adequately represent the tank contents, and should be performed after bulk waste removal and tank cleaning. Any large inconsistencies indicate the need for further sampling, or the use of a more conservative source term.
- The radionuclide inventory and the chemical composition of the residual waste will be adequately characterized for future tank closures .
- As the tank closure process will continue for at least the next 20 years, technical feasibility of waste removal options and tank grouting/cementing techniques should continue to be evaluated.

- An alternative waste classification should be administered at SR for HLW tank residuals. The reclassification shall redefine the maximum allowable radionuclide concentrations as follows: no radionuclide concentration shall exceed ten times the value specified in Table 1 of 10 CFR 61.55, at 500 years following the proposed CERCLA closure for each tank grouping, and no radionuclide concentration shall exceed the value specified in Table 2 Column 3 in 10 CFR 61.55. The procedure established in 10 CFR 61.55(a)(7) shall be followed such that the sum of the fractions for all Table 1 radionuclides shall not exceed ten, and the sum of the fractions for all Table 2 radionuclides shall not exceed one.
- DOE should perform sensitivity analyses on key parameters that could be impacted by natural phenomenon changes.
- Prior to in-situ closure of ancillary equipment and piping, an intruder scenario should be modeled considering degradation of any ancillary equipment and piping.
- Staff recommends that future performance assessments for SR tank closures, including individual tank closure modules, and the H-Tank Farm Fate and Transport Modeling, include the full agricultural intruder scenario (all pathways) as well as the discovery (intruder) scenario, as described in the Draft Environmental Impact Statement for 10 CFR Part 61.
- All external components of the HLW tanks (e.g., piping) should meet Class C concentration limits without the application of concentration averaging, unless DOE-SR can demonstrate that closed external components provide protection to an inadvertent intruder (similar to that provided for the HLW residual contained in the closed tanks).

NRC Recommendations for Future DOE Tank Closure Work at Other Sites

The following recommendations are provided for other DOE sites that may intend to apply the incidental waste classification criteria, approved by the Commission in the February 16, 1993 SRM, and described in the Bernero to Lytle letter [3], to residual HLW tank waste.

- Use previous DOE site experiences where appropriate.
- We recommend providing a minimum of two documents to begin the review. The first should be a general regulatory basis or methodology document which describes how each of the incidental waste classification criteria will be met, including discussion of each aspect of each criteria. For example, each of the four performance objectives of 10 CFR Part 61 should be discussed individually. The second document provided should be the performance assessment document which details the modeling, assumptions, and parameters used to show that the performance objectives of 10 CFR Part 61 can be met.

- **The requirements and assumptions associated with 10 CFR Part 61 should be used in your analysis. These include, but are not limited to: maximum 500 year engineered barriers, 500 mrem maximum intruder dose at 500 years, 100 years (maximum) active institutional controls and 200 years (maximum) passive institutional controls. Exemptions can be requested for specific areas, but any suggested alternative must be thoroughly justified.**
- **Other considerations:**
 - **Sampling/inventory estimation is important**
 - **Intruder protection and site stability are important**
 - **The PA code should be validated**
 - **Sensitivity and uncertainty analyses should be performed to show what the important parameters and assumptions are, and where the results may be uncertain. Technical basis for the parameters and assumptions in the PA code should be provided at a level commensurate with their associated importance to performance.**

REFERENCES

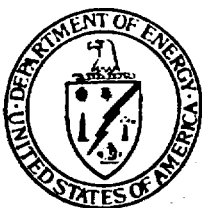
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2. "High-Level Waste Tank Closure Program Plan," Rev. 0, DOE-SR, December 16, 1996.
3. Letter from R. Bernero/NRC to J. Lytle/DOE, March 2, 1993.
4. "Memorandum of Understanding Between the U.S. Department of Energy and the U.S. Nuclear Regulatory Commission on the Closure of High-Level Waste Storage Tanks at the Savannah River Site," July 9, 1997.
5. "Regulatory Basis for Incidental Waste Classification at the Savannah River Site High-Level Waste Tank Farms," Rev. 1, DOE-SR, April 30, 1997.
6. "Industrial Wastewater Closure Module for the High-Level Waste Tank 17 System," Rev. 2, DOE-SR, August 26, 1997.
7. "Environmental Radiological Analysis: Fate and Transport Modeling of Residual Contaminants and Human Health Impacts from the F-Area High-Level Waste Tank Farm," Halliburton NUS Corporation, August 1997.
8. Letter from N.K. Stablein/NRC to R.J. Schepens/DOE-SR, "Request for Additional Information Regarding Savannah River Site High-Level Waste Tank Closure: Classification of Residual Waste as Incidental," June 30, 1998.
9. Letter from R. J. Schepens/DOE to N. Stablein/NRC, "Responses to U.S. Nuclear Regulatory Commission (NRC) Request of June 30, 1998 for Additional Information Regarding Savannah River Site (SRS) High-Level Waste Tank Closure; Classification of Residual Waste As 'Incidental'," September 30, 1998.
10. Letter from R. J. Schepens/DOE to C. W. Reamer/NRC, "Formal Responses to Topics Discussed at U.S. Nuclear Regulatory Commission (NRC) and Savannah River Operations Office (SR) Meeting of April 1, 1999, as Outlined in Reamer (NRC) to Schepens (DOE) Letter of March 15, 1999," April 22, 1999.
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12. Branch Technical Position on Concentration Averaging and Encapsulation, U.S. NRC, Office of Nuclear Material Safety and Safeguards, January 17, 1995.
13. "Final Report for Westinghouse Savannah River Company and United States Department of Energy, Aiken, SC: Development of Reducing Grout for Closure of Savannah River Site Tank #20," Construction Technology Laboratories, Inc., October, 1996.

14. "Sludge Displacement Verification for Reducing Grout Report," WSRC-TR-97-0101, April 9, 1997.
15. Faxed communication from L. Ling/SRS to J. Davis/NRC, of July 30, 1999, "Results of OA Cleaning of All Tanks in F-Tank Farm."
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17. "Draft Environmental Impact Statement on 10 CFR Part 61 'Licensing Requirements for Land Disposal of Radioactive Waste,'" U.S. NRC, Office of Nuclear Material Safety and Safeguards, September 1981.
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19. J.R. Cook, "Evaluation of Computer Modeling for High-Level Waste Tank Closure," SRT-WED-96-0203, Memorandum to B.T. Butcher, dated May 28, 1996.
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23. "Tank 20 Closure - D&R Activities: Technical Review Package," U-TRC-F-00139, July 30, 1996.
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LIST OF ABBREVIATIONS AND ACRONYMS

BTP	Branch Technical Position
CERCLA	Comprehensive Environmental Response, Compensation and Liability Act
CLSM	Controlled Low-strength Material
CTL	Construction Technology Laboratories, Inc.
DEIS	Draft Environmental Impact Statement
DOE	U.S. Department of Energy
DOE-SR	U.S. Department of Energy Savannah River
DWPF	Defense Waste Processing Facility
FTM	"Fate and Transport Modeling of Residual Contaminants and Human Health Impacts from the F-area High-Level Waste Tank Farm"
GSA	General Separations Area
GTS	Groundwater Transport Segment
HLW	High-level Waste
LHW	Low-heat Waste
LLW	Low-level Waste
MEPAS	Multimedia Environment Pollutant Assessment System
NRC	Nuclear Regulatory Commission
PA	Performance Assessment
RCRA	Resource Conservation and Recovery Act
RAI	Request for Additional Information
SCDHEC	South Carolina Department of Health and Environmental Control
SRS	Savannah River Site
TEDE	Total Effective Dose Equivalent
WSRC	Westinghouse Savannah River Company
WV	Department of Energy West Valley Demonstration Project

ATTACHMENT 2



Department of Energy
Savannah River Operations Office
P.O. Box A
Aiken, South Carolina 29802

DEC 20 1996

Dr. Carl J. Paperiello
Director
Office of Nuclear Materials and Safeguards
United States Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Dear Dr. Paperiello:

SUBJECT: Savannah River Site (SRS) High Level Waste (HLW) Tank Closure; Classification of Residual Waste as Incidental

I appreciated the opportunity to meet with you and your staff this past September 17, 1996, to discuss the U.S. Department of Energy (DOE) Savannah River Operations Office (SR) plans for closure of the 51 HLW storage tanks on SRS and the classification of the residual waste as "incidental".

SR has determined that all 51 tanks can be closed under existing Nuclear Regulatory Commission (NRC) criteria for "incidental" waste as specified in the Bernero (NRC) to Lytle (DOE) letter of March 1993; some will require use of concentration averaging and others will require additional cleaning and the likely use of concentration averaging. DOE will assure that the waste: (1) has been processed (or will be further processed) to remove key radionuclides to the maximum extent that is technically and economically practical; (2) will be incorporated in a solid physical form at a concentration that does not exceed the applicable concentration limits for Class C low-level waste as set out in 10 CFR Part 61; and (3) will be managed pursuant to the Atomic Energy Act, so that safety requirements comparable to the performance objectives set out in 10 CFR Part 61 are satisfied to assure safety to the public. In order to meet all the above criteria we plan to proceed forward with two separate approaches as follows:

- The first approach would close 14 tanks that meet the criteria stated in the Bernero to Lytle letter. However, for most if not all of the 14 tanks, guidelines found in the NRC Branch Technical Position (BTP) of January 17, 1995, "Issuance of Final BTP on Concentration Averaging and Encapsulation, Revision in Part to Waste Classification Technical Position" have been used to support meeting the Class C limits. Assuming the NRC takes "no objection" to this methodology, these tanks will not require additional cleaning. These 14 tanks will be addressed as Category I tanks.
- The second approach would address the 37, Category II, tanks that will require additional cleaning, which could include an oxalic acid wash, and the likely use of concentration averaging to meet the above criteria. The cost for the additional cleaning is approximately \$800,000 per tank.

Concurrently with Category I tank closure activities, SR is requesting the NRC to review the SR general methodology and application of the Bernero to Lytle letter, particularly Criteria 2 to high level waste tank closure. With regards to Criteria 2, SR specifically requests under 10 CFR 61.58, consideration of an alternative to the Class C limits of 10 CFR 61.55 for tank closure as the intruder scenarios for Class C determination may not be appropriate; the residual waste will be

immobilized and the tank will be filled with a stable medium; and the performance objectives of 10 CFR Part 61 will be met. These points are discussed further in the below paragraphs. SR recognizes that consideration of 10 CFR 61.58 for Criteria 2 may also require NRC evaluation of SR application of Criteria 1 and 3. SR recognizes that this will require further discussion and evaluation by the NRC which SR will fund.

SR understands that Criteria 2 is based on protection of individuals from inadvertent intrusion. However, with regards to SRS high level waste tank closure, access to and ultimate contact with the waste from inadvertent intrusion is highly unlikely. The small amount of residual waste on the bottom of the tanks will be located under approximately 40 feet of cement. Additionally, as documented in the *SRS Future Use Project Report of January 1996*, DOE intends to maintain control of the site in-perpetuity. Therefore, the possibility of inadvertent intrusion into the closed high level waste tanks and the areas surrounding the tanks will be remote. Consequently, the intruder exposure scenarios used to establish Class C limits of 10 CFR 61.55 may not be appropriate for tank closure. Re-evaluation and reconsideration of the appropriateness of the Class C limits for tank closure would result in substantial cost savings as additional cleaning of 37 tanks may not be required. This approach will not affect meeting the performance objectives of 10 CFR Part 61 and human health and the environment will still be protected.

10 CFR 61.58, states that the Commission, on request, may authorize other provisions for the classification and characteristics of waste on a specific basis if, after evaluation of the specific characteristics of the waste, disposal site and method of disposal, it finds reasonable assurance of compliance with the performance objectives in Subpart C of 10 CFR Part 61. Section 3.9 of the above referenced BTP further states that alternatives to the determination of radionuclide concentrations for waste classification purposes, other than those defined in the BTP, may be considered acceptable. Additionally, the referenced BTP states that the physical form of certain discrete wastes may be such that intruder exposure scenarios, other than those used to establish the values in Tables 1 and 2 of 10 CFR 61.55, may be appropriate. The referenced BTP specifically mentions the disposal of a large intact activated component filled with a structurally stable medium (e.g., cement). Subsequent to removal of waste from a tank, reducing grout will be placed in the tank to bind up and immobilize any residual waste. The grout is formulated to bind up the residual waste. The height of the reducing grout is dependent on the amount and characteristics of the residual waste. A low-strength cement, Controlled Low-Strength Material (CLSM), forms the next layer (approximately 7500 cubic yards) on top of the reducing grout. The final layer consists of a high-strength cement at the top of the tank (approximately 1500 cubic yards of cement, 5 feet high). The attached figure provides a typical tank closure configuration.

The first four tanks that will be closed at SRS in order are Tanks 20, 17, 19 and 18. The following provides the amount of reducing grout required in the first four tanks to meet Class C limits using concentration averaging based on the guidelines of the aforementioned NRC BTP: Tank 20 - 2.2 inches; Tank 17 - 12.5 inches; Tank 19 - 2.2 inches; and Tank 18 - 13.2 inches. Qualitative tests conducted by Construction Technology Laboratories (CTL), Inc. indicate that mixing occurs between the residual waste and the reducing grout. Based on the preliminary qualitative CTL test results, for SRS to proceed forward with closure activities for those tanks would involve only minimal risks. A copy of the CTL report, "Development of Reducing Grout for Closure of Savannah River Site Tank 20" of October 1996, has been provided to the NRC staff. At SR request, CTL is conducting additional quantitative tests to verify the performance of the reducing grout. Results from these quantitative CTL tests will also be provided to the NRC. This information can be used to support evaluation of SR tank closure methodology. With quantitative CTL test results, SR will proceed with closure activities for Tanks 20 and 17 concurrently with the NRC review of our methodology and the application of the Bernero to Lytle letter. SR plans to commence closure activities for Tank 20 in early February 1997.

Dr. Carl J. Paperiello

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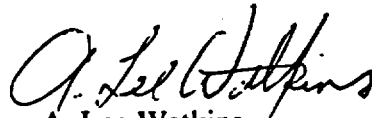
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We recognize that an Interagency Agreement (IA) is necessary to support the NRC involvement in our tank closure activities. I will ensure that SR actions required to finalize the IA on an expedited basis are performed.

As we discussed in a telephone conference call with your staff on December 16, 1996, NRC plans to visit SRS to evaluate our tank closure activities in January 1997. I fully support this effort and will provide any assistance your staff may require for this visit.

I am prepared to further brief you and your staff on our plans for tank closure at your convenience. Please contact me or Larry Ling of my staff at (803) 208-8248 if you have any questions or would like to schedule a briefing.

Sincerely,



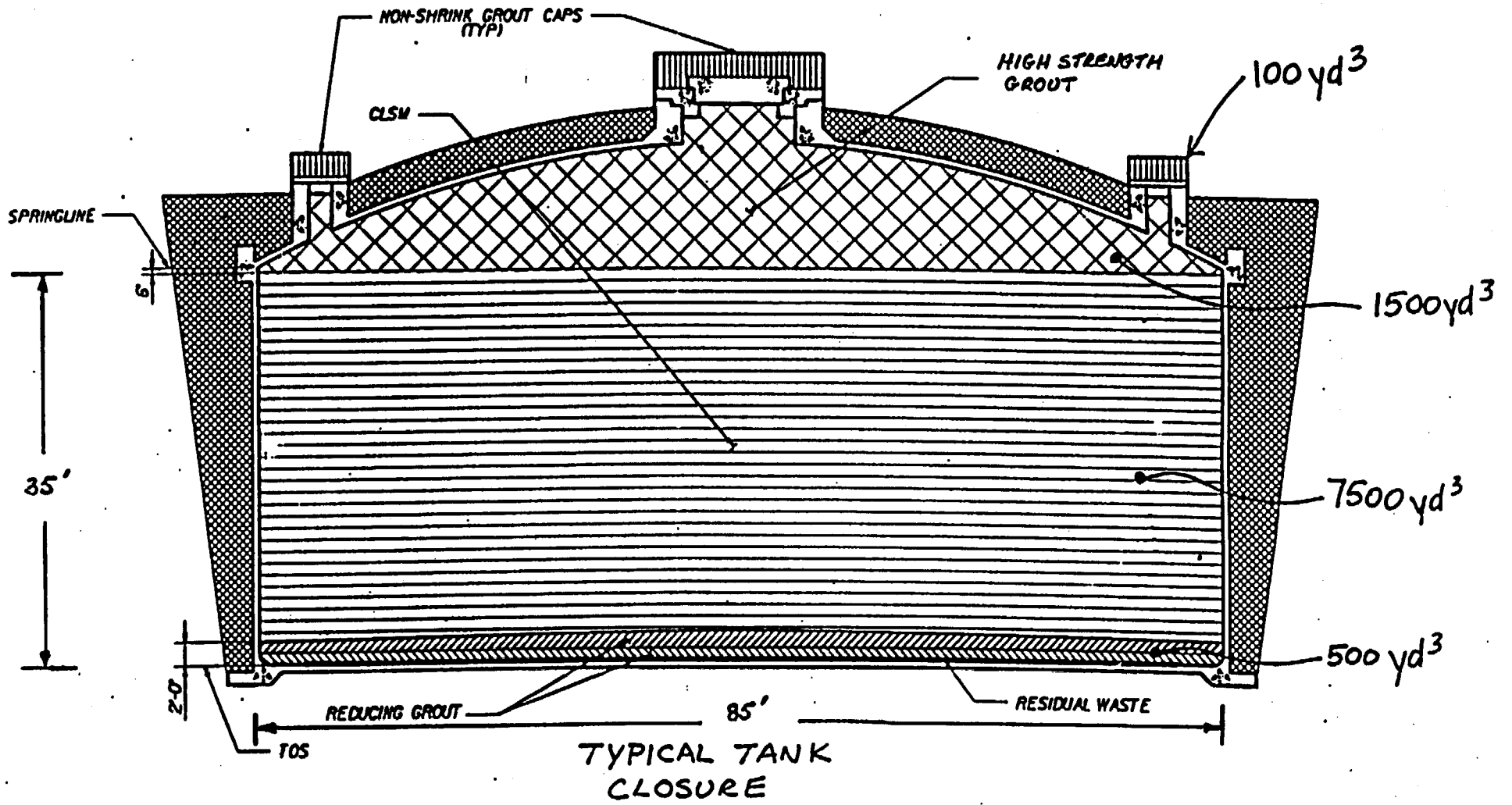
A. Lee Watkins
Assistant Manager for
High Level Waste

PB-97-0011

Enclosure
Tank Closure Diagram

cc:

S. Cowan, EM-30, HQ
R. Erickson, EM-32, HQ



ATTACHMENT 3



OMMISSION

.355

MAR 15 1993

Ms. Jill Lytle
Deputy Assistant Secretary for Waste Operations
Office of Waste Management
Environmental Restoration
and Waste Management
U.S. Department of Energy
Washington, D.C. 20585

Dear Ms. Lytle:

Members of the Nuclear Regulatory Commission staff appreciated the opportunity to meet with the Department of Energy (DOE) staff, DOE contractors, and other parties on July 16, 1992, to review new waste characterization data and current DOE plans for management of radioactive tank waste at Hanford. The purpose of this letter is to provide DOE with the staff's assessment of that information as it relates to DOE's program to classify, process, and dispose of Hanford tank wastes. We are also taking this opportunity to respond to the related November 4, 1992, letter from Leo P. Duffy to Chairman Ivan Selin.

During the meeting, DOE presented revised tank waste inventory estimates, based on current characterization data. The information indicated that the double-shell tank activity that would be grouted in near-surface vaults is within earlier range estimates. The NRC staff is concerned, however, that Cs-137 quantities are now near the upper end of the range, rather than at the lower end, as previously believed, especially given that DOE indicated that uncertainties associated with the activity estimates remain because of the limited sampling and analysis that has been conducted to date. Consequently, we encourage DOE to examine available mechanisms for achieving greater radionuclide separation.

In presenting its current plans for waste management, DOE outlined its intention to complete, by March 1993, a broad reevaluation of various treatment options for both single and double-shell tanks. These options include a new facility to be used to separate radionuclides for repository disposal of high-level radioactive waste (HLW).

As you recall, NRC indicated to DOE, in 1989, its agreement that the criteria DOE used for classification of grout feed as low-level waste were appropriate, and, consequently, that the grout facility for disposal of double-shell tank

waste would not be subject to our licensing authority (R. Bernero, NRC letter to A. Rizzo, DOE, September 25, 1989). This agreement was predicated on our understanding that DOE would segregate the largest practical amount of the total site activity attributable to "first-cycle solvent extraction, or equivalent" for disposal as HLW, leaving behind only a small fraction of moderately radioactive material.

The Commission has recently completed its review of a rulemaking petition from the States of Washington and Oregon on the subject of the double-shell tank wastes and has indicated, in the enclosed petition denial, that it would regard the residual fraction as "incidental" waste, based on the Commission's understanding that DOE will assure that the waste: (1) has been processed (or will be further processed) to remove key radionuclides to the maximum extent that is technically and economically practical; (2) will be incorporated in a solid physical form at a concentration that does not exceed the applicable concentration limits for Class C low-level waste as set out in 10 CFR Part 61; and (3) will be managed, pursuant to the Atomic Energy Act, so that safety requirements comparable to the performance objectives set out in 10 CFR Part 61 are satisfied.

It is therefore essential, in the light of this position, that DOE's present reevaluation of tank waste remediation options, and subsequent periodic evaluations as may be conducted, include the application of these principles. We recognize that there may be significant economic, programmatic, and safety factors affecting the remediation program, but the consideration of such factors as they may relate to the possible jurisdiction of NRC should be made clear.

If during your periodic evaluations, it becomes apparent to you that any wastes may be subject to NRC licensing, it will be necessary for you to communicate that concern to NRC. It will then be necessary to determine what form of pre-licensing interactions, analogous to repository site characterization, would be needed to define the appropriate disposition of these wastes. We expect that DOE will document the results of the analyses supporting its conclusions and that this documentation will be adequate for an NRC review, should that be appropriate. We believe it would be prudent for any such documentation to be developed with good record-keeping and under an adequate quality assurance process.

I trust that this letter and the enclosed petition denial provide the information requested in Leo P. Duffy's November 4, 1992, letter to Chairman Ivan Selin, regarding NRC's intended response to the rulemaking petition by

Ms. Jill Lytle

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the States of Washington and Oregon. If you have any further questions, please feel free to contact me, at 301-504-3352, or B.J. Youngblood, Director of the Division of High-Level Waste Management, at 301-504-3404.

Sincerely,



Robert M. Bernero, Director
Office of Nuclear Material Safety
and Safeguards

Enclosure
Petition Denial

cc: J. Tseng, DOE-EM-36
J. Anttonen, DOE
L. Barrett, DOE-RW-1
P. Grimm, DOE-EM-1
D. Duncan, EPA
R. Stanley, Washington State
J. Franco, Oregon State
R. Jim, YIN

NUCLEAR REGULATORY COMMISSION

10 CFR Part 60

Docket No. PRM-60-4

States of Washington and Oregon: Denial of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Denial of petition for rulemaking.

SUMMARY: The Nuclear Regulatory Commission (NRC) is denying a petition for rulemaking (PRM-60-4), submitted by the States of Washington and Oregon, which deals with the process and criteria for classifying radioactive waste materials at defense facilities as high-level radioactive waste (HLW) or as non-HLW. (As noted in the petition, certain facilities for the storage of HLW are subject to NRC licensing authority.) The petition is being denied because the NRC concludes that the principles for waste classification are well established and can be applied on a case-by-case basis without revision to the regulations.

ADDRESSES: Copies of the petition for rulemaking, the public comments received, and the NRC's letter to the petitioner are available for public inspection or copying in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Naiem S. Tanious, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492-3878.

SUPPLEMENTARY INFORMATION:

I. The Petition

The States of Washington and Oregon, and the Yakima Indian Nation, initially submitted a petition for rulemaking on this subject on January 2, 1990. On February 7, 1990, the NRC staff conferred with the petitioners as contemplated by Paragraph (b) of 10 CFR 2.802. In response to suggestions by the NRC staff, the petition was clarified and resubmitted (by the States of Washington and Oregon) on July 27, 1990.

On December 17, 1990, the Nuclear Regulatory Commission published a notice of receipt of the petition for rulemaking (55 FR 51732). The petition requested that the Commission revise the definition of "high-level radioactive waste" (HLW) so as to establish a procedural framework and substantive standards by which the Commission will determine whether reprocessing waste, including in particular certain waste stored at the U.S. Department of Energy's (DOE) site at Hanford, Washington, is HLW and, therefore, subject to the Commission's licensing authority.

The petitioners request that the Commission amend 10 CFR 60.2 to clarify the definition of HLW and the definition of "HLW facility." The petitioners specifically request that the Commission:

1. Establish a process to evaluate the treatment of defense reprocessing wastes in tanks so that such wastes will not be considered HLW if, prior to disposal, each tank is treated to remove the largest technically achievable amount of radioactivity; and

2. Require that the heat produced by residual radionuclides, together with the heat of reaction during grout processing (if employed as a treatment technology), will be within limits established to ensure that grout meets temperature requirements for long-term stability for low-level waste forms.

The petitioners state that the petition for rulemaking is based, in part, on Section 202 of the Energy Reorganization Act of 1974 (ERA), which provides for the Commission to exercise licensing and related regulatory authority over "facilities authorized for the express purpose of subsequent long-term storage of high-level radioactive wastes generated by [DOE] which are not used for, or are part of, research and development activities."

According to the petitioners, the legislative history of the ERA reveals that Congress intended the Commission to license defense reprocessing tank wastes at the point of long-term storage or disposal. The petitioners note that "low-fraction wastes" resulting from pretreatment of tank wastes are scheduled to be grouted and disposed of in land-based grout vaults on the Hanford site in accordance with regulations developed under the Resource Conservation and Recovery Act (RCRA). The petitioners believe that if these wastes are HLW, they clearly fall under the Commission's licensing jurisdiction under Section 202(4) of the Energy Reorganization Act of 1974 (42 USC 5842(4)).

The petitioners acknowledge that the present definition of HLW in the Commission's regulations is based upon the source of the waste, and that

"incidental waste" generated in the course of reprocessing is not HLW. (The latter point is evident from the proposal to amend 10 CFR 60.2 to provide that a residual fraction would be "considered an incidental waste and, therefore, not HLW.") The petitioners claim, however, that wastes stored in tanks at Hanford cannot practicably be classified as incidental waste (as opposed to HLW) because the tanks contain a mixture of wastes from a number of sources, including reprocessing of reactor fuel. Moreover, the petitioners state that radionuclide inventories are estimates subject to substantial uncertainty, owing to lack of accurate records. Further, the petitioners assert that neither DOE, the Commission, nor the petitioners have adequate information regarding the source and composition of the tank waste. Hence, the petitioners believe that the Commission needs to establish both a procedure and a standard for making an evaluation as to whether wastes are HLW on a tank-by-tank basis.

The petitioners assert that the proposed amendment is essential to provide protection of the future health and safety of the citizens of the Pacific Northwest.

II. Classification of DOE Reprocessing Wastes

At Hanford and other sites, questions have arisen regarding the classification of reprocessing wastes for which DOE must provide disposal. In the long-standing view of the Commission, these questions must be resolved by examining the source of the wastes in question. The reason for this is that when Congress assigned to NRC the licensing authority over certain DOE facilities for "high-level radioactive wastes," the Congress was referring to

those materials encompassed within the meaning of the term "high-level radioactive waste" in Appendix F of 10 CFR Part 50. (For a full statement of this position, see the discussion presented in the Commission's advance notice of proposed rulemaking, "Definition of High-Level Radioactive Waste" (52 FR 5993, February 27, 1987).) Accordingly, any facility to be used for the disposal of "those aqueous wastes resulting from the operation of the first cycle solvent extraction system, or equivalent ..." as HLW is defined in Appendix F to Part 50, must be licensed by the NRC. Most of the waste storage tanks at Savannah River (South Carolina), West Valley (New York), and Hanford contain wastes that meet this definition, and the facilities to be used for disposal of these wastes are, therefore, potentially subject to NRC licensing jurisdiction.

However, when the Appendix F definition was promulgated, the Atomic Energy Commission specifically noted that the term HLW did not include "incidental" waste resulting from reprocessing plant operations, such as ion exchange beds, sludges, and contaminated laboratory items, such as clothing, tools, and equipment. Neither were radioactive hulls and other irradiated and contaminated fuel structural hardware encompassed by the Appendix F definition. Under the same reasoning, as the Commission has previously indicated, incidental wastes generated in further treatment of HLW (e.g., salt residues or miscellaneous trash from waste glass processing) would be outside the Appendix F definition.

In the cases of Savannah River and West Valley wastes, DOE plans to retrieve the wastes from their storage tanks and to separate essentially all of the radioactive materials for eventual disposal in a deep-geologic HLW

repository.¹ Accordingly, the projected recovery of HLW from the wastes in tank storage at those sites will be sufficiently complete that the decontaminated salts and other residual wastes are classified as "incidental" (i.e., non-HLW). The NRC will have no regulatory authority, under Section 202 of the Energy Reorganization Act, over DOE's facilities to be used for processing and disposal of the incidental waste.

At Hanford, DOE plans to process the wastes presently stored in double-shell tanks in a manner similar to that planned for the wastes at Savannah River and West Valley. Such processing would separate most of the radioactive constituents of the wastes for eventual deep-geologic repository disposal and, the residual salts would be disposed of onsite in a shallow, near-surface concrete-like grout facility. (Plans for processing of single-shell tank wastes have been deferred.) However, classification of the Hanford double-shell tank wastes has proven more difficult than classification of Savannah River and West Valley wastes. At Hanford, many of the primary reprocessing wastes were generated using older separation technologies, which resulted in substantial dilution of those wastes with nonradioactive materials. In addition, many of the tanks at Hanford contain mixtures of wastes from both reprocessing sources and other sources. Finally, recordkeeping at Hanford was not always thorough enough to allow precise determinations of the origins of the wastes now present in specific tanks at

¹See 52 FR 5992, February 27, 1987 (definition of "high-level waste"), n. 1, where the Commission characterizes as "incidental waste," the decontaminated salt with residual activities on the order of 1,500 nCi/g Cs-137, 30 nCi/g Sr-90, 2nCi/g Pu, as described in the Department of Energy's FEIS on long-term management of defense HLW at the Savannah River Plant, DOE/EIS-0023, 1979. Although an EIS has not yet been published for the West Valley Demonstration Project, preliminary estimates indicate the likelihood of an equivalent degree of separation.

Hanford. For these reasons, some of the Hanford tank wastes cannot be readily classified as either HLW or incidental wastes using only the definitions and concepts discussed above.

Taking into account these uncertainties and their implications with respect to NRC jurisdiction, the NRC and DOE staff held several meetings to explore the situation in detail. A principal objective of these meetings was to ascertain, to the extent practicable, whether some or all of the wastes should be regarded as HLW and whether, on the other hand, some or all of the wastes should be classified as non-HLW. Several things became clear as a result of these meetings.

First, management records were adequate for DOE to determine that two double-shell waste tanks do not contain wastes from reprocessing of reactor fuels. Therefore, these wastes clearly do not contain HLW within the Appendix F definition. The NRC agreed with DOE that any disposal facility intended exclusively for these wastes would not be subject to NRC licensing authority.

Second, DOE has carried out a "material balance" analysis of waste management activities at Hanford. This analysis estimated the total amount of "first cycle reprocessing wastes" generated at Hanford and, to the extent practical, the current location of those wastes. The DOE proposed onsite grout disposal of the residual waste from the double-shell tank waste processing would be only a small fraction of the reprocessing wastes originally generated at the site.

Finally, DOE studied possible technologies for additional waste processing, and agreed to remove the largest practical amount of radioactive material from double-shell tank wastes prior to disposal in onsite grout

facilities. This commitment by DOE, coupled with the material-balance study indicating that most of the originally-generated radioactive material would be recovered, led the NRC staff to conclude that the residual waste material should be classified as incidental waste, since they are wastes incidental to the process of recovering HLW. With this classification, DOE could proceed with onsite disposal of such incidental wastes in a grout facility without licensing by the NRC. It should be noted that if the DOE processing operations go as planned, the residual activity of these incidental wastes would be below the concentration limits for Class C wastes under the waste classification criteria of 10 CFR Part 61.

Following its review, the NRC staff, by letter dated September 25, 1989, from R. M. Bernero, Director, Office of Nuclear Material Safety and Safeguards, NRC, to A. J. Rizzo, Assistant Manager for Operations, Richland Operations Office, DOE, endorsed DOE's plans to sample and analyze the grout feeds before disposal in an effort to control the final composition of the grout feed. However, the staff indicated that if DOE were to find, in the course of conducting the sampling program, that the inventories of key radionuclides entering the grout facility are significantly higher than previously estimated, DOE should notify the NRC and other affected parties in a timely manner.

It should be noted that the appropriate classification of some Hanford wastes remains to be determined -- specifically, any single-shell tank wastes, and any empty but still contaminated waste tanks DOE might dispose of in-place. For both types of wastes, a case-by-case determination of the appropriate waste classification might be necessary.

III. Discussion

The petition for rulemaking presents two basic issues. The question is not whether "high-level waste" should be interpreted by reference to the source-based concepts derived from Appendix F to 10 CFR Part 50. The petitioners agree that this is proper. Nor is there any fundamental challenge to the concept that "incidental wastes" are excluded from the definition of "high-level waste." The issues are much narrower ones. The first issue is a substantive one -- the criteria to be applied in differentiating incidental waste from high-level waste. The second issue is a procedural one -- the process that should be employed by the Commission in arriving at a judgment whether or not it has jurisdiction over particular facilities. These will be addressed in turn.

A. The Standard for Classification

We first address the standard that should be employed in distinguishing high-level waste from incidental waste. In doing so, we strive to apply the policies that underlie the adoption of Appendix F to 10 CFR Part 50 (and, hence, Section 202 of the Energy Reorganization Act).

The petitioners suggest that the proper standard, to be applied on a tank-by-tank basis, is to consider all processing streams to be high-level waste unless they have been treated, prior to disposal, "to remove the largest technically achievable amount of radioactivity." Adoption of such a criterion would certainly serve the goal, which had been contemplated by the Commission, of removing the hazardous process streams to a geologic repository for

permanent storage. It is not the only standard, however, that would suffice for this purpose, particularly when it is viewed in a broader regulatory context.

The clearest expression of the overall regulatory objectives is the Atomic Energy Commission's (AEC's) explanatory statement when it promulgated Appendix F -- namely, "that the public interest requires that a high degree of decontamination capability be included in such facilities and that any residual radioactive contamination after decommissioning be sufficiently low as not to represent a hazard to the public health and safety." 35 FR 17530, November 14, 1970. As we read the AEC's intent, the reference to "a high degree of decontamination capability" leaves a substantial degree of discretion. It certainly does not rule out consideration of economic factors as well as technical ones. It was the AEC's contemporaneous practice to consider financial impacts as, for example, in controlling releases of radioactive materials from licensed facilities to the lowest levels "technically and economically practical." AEC Manual Chapter 0511. When the AEC spoke of a "high degree" of decontamination capability, we believe that it was guided by similar considerations. Moreover, from a policy standpoint, this makes good sense, for so long as there is adequate protection of public health and safety, it would not be prudent to expend potentially vast sums without a commensurate expectation of benefit to health and the environment.

Achieving a "high degree of decontamination capability" implies, then, that the facility should separate for disposal as much of the radioactivity as possible, using processes that are technically and economically practical. In addition, however, as the AEC's statement indicates, the residual radioactive

contamination should be sufficiently low as not to endanger public health and safety.

These principles -- high decontamination capability and protection of health and safety -- are the essential benchmarks that have influenced the development of NRC's position vis-a-vis DOE on the question of the proper classification of the tank wastes and grout at Hanford.

When the question regarding classification of wastes was first raised, the NRC staff identified to DOE some approaches that might be used in distinguishing HLW from incidental waste. One approach was expressed as follows:²

As an alternative approach, we suggest that DOE attempt an overall material balance for HLW at the Hanford site, using the source-based meaning of HLW. It is hoped that this approach might provide a more efficient means of identifying those wastes subject to licensing by NRC under terms of the 1974 Energy Reorganization Act. Under this approach, if DOE could demonstrate that the largest practical amount of the total site activity attributable to "first-cycle solvent extraction" wastes has been segregated for disposal as HLW, then NRC would view the residual as a non-HLW. We would anticipate that at least 90 percent of the activity would have been separated in this way. Thus, if it can be shown that DOE has processed the waste with the intent to dispose of the HLW in a repository or other appropriate licensed facility, leaving

²Letter from Michael J. Bell, Chief, Regulatory Branch, Division of Low-Level Waste Management and Decommissioning, Office of Nuclear Material Safety and Safeguards, NRC, to Ronald E. Gerton, Director, Waste Management Division, Richland Operations Office, DOE, November 29, 1988. The letter included some "suggested criteria" involving a "good faith" effort to achieve isolation of HLW from nonradioactive salts, such an effort to be judged, as a practical matter, by considering (among other things) alternative separation processes.

behind only a small fraction of only moderately radioactive material, then the goals stated in 10 CFR Part 50 Appendix F and incorporated in the Energy Reorganization Act would have been satisfied; and the disposal of the residual would accordingly not be subject to NRC licensing.

In response, DOE considered the practicality of various waste processing alternatives and presented the results of its study by letter dated March 6, 1989.³ The results were also presented at a meeting among interested parties, including the petitioners, held on August 4, 1989. (Minutes of the meeting are available for public inspection in the NRC Public Document Room) DOE's "baseline" disposal plans would have recovered all but about 12-13 million curies of cesium-137, together with lesser activities of trontium-90, transuranics, and other radionuclides.⁴ DOE's study indicated the practicality of removing an additional 6 million curies of cesium-137 for repository disposal. DOE proposed to remove this additional 6 million curies of cesium-137. DOE also identified additional treatment alternatives, with their associated costs, which it viewed as not being economically practical. DOE's material balance showed that, after the residue from the double-shell tank wastes is grouted, 2 to 3 percent of the key radionuclides which originally entered all Hanford tanks would be disposed of as LLW in near-surface vaults. The concentrations of radionuclides in the grout would be

³Letter from A. J. Rizzo, Assistant Manager for Operations, Richland Operations Office, DOE, to Robert M. Bernero, Director, Office of Nuclear Materials Safety and Safeguards, NRC, March 6, 1989.

⁴DOE noted in the March 6, 1989 letter from Rizzo to Bernero that, based on limited available analytical data, the total cesium-137 could be as much as 20 million curies versus the 12-13 million estimate.

comparable to Class C for cesium and transuranic wastes, and to Class A or B for the remainder.⁵ DOE also noted certain engineering and institutional factors that might compensate, especially as to potential intrusion hazards, for the possibility that the total amount of waste that would be grouted would be greater than the amount of Class C waste that might be contained in a typical commercial burial ground.

Based on its review of DOE's March 6, 1989 submission, the NRC staff concluded that DOE's proposed processing would remove the largest practical amount of total site activity, attributable to HLW, for disposal in a deep geologic repository. This finding was based on (1) past and planned treatment of the tank wastes; (2) radionuclide concentration and material balance; and (3) cost-effectiveness of additional radionuclide removal. These conclusions reflected DOE's undertakings both to achieve a high degree of separation and to provide protection of public health and safety. As a result, the staff concluded that the expected residual waste would not be high-level waste and would thus not be subject to NRC licensing authority. The staff thereupon advised DOE that NRC agreed that the criteria used by DOE for classification of the grout feed are appropriate and that the grout facility for the disposal

⁵NRC understood this statement to connote that cesium-137 and transuranic radionuclides in the residual waste would be less than the concentration limits for Class C low-level waste, as defined in NRC's requirements in 10 CFR Part 61, and that the concentration of other radionuclides would be less than the concentration limits for Class A or B low-level waste.

of the double-shell tank waste would not be subject to NRC licensing authority.⁶

At a meeting in Richland, Washington on July 16, 1992, DOE staff presented more detailed double-shell tank waste processing options and, based on recent analyses, summarized available information on the characteristics of waste within the tanks. DOE's current estimate of the total amount of radioactivity proposed for disposal in grout in near-surface vaults is within earlier range estimates but is now believed to be nearer the upper end of the range. DOE also clarified its intention to apply criteria comparable to the Performance Objectives set out in 10 CFR Part 61. Among other things, these performance objectives include numerical radiation exposure limits for protection of the general population from releases of radioactivity and requires a design to achieve long-term stability of the disposal site.

DOE intends to complete a reassessment of the tank waste processing options by March 1993. This reassessment, the NRC staff understands, will include a reexamination of the practicality of achieving higher degrees of separation, particularly with respect to those tanks that contain substantial quantities of key radionuclides.

Assuming implementation of DOE's plans as described above, the Commission concludes that any radioactive material from the double shell tanks that is deposited in the grout facility would not be high-level radioactive

⁶Letter from Robert M. Bernero, Director, Office of Nuclear Material Safety and Safeguards, NRC, to A. J. Rizzo, Assistant Manager for Operations, Richland Operations Office, DOE, September 25, 1989. The letter also called upon DOE to advise NRC periodically of the analytical results of samples of key radionuclides entering the grout facility, so that the classification of the waste might be reconsidered if the inventories were significantly higher than DOE had estimated.

waste subject to NRC's licensing jurisdiction. The responsibility for safely managing those wastes rests with the Department of Energy. The basis for the Commission's conclusion is that the reprocessing wastes disposed of in the grout facility would be "incidental" wastes because of DOE's assurances that they: (1) have been processed (or will be further processed) to remove key radionuclides to the maximum extent that is technically and economically practical; (2) will be incorporated in a solid physical form at a concentration that does not exceed the applicable concentration limits for Class C low-level waste as set out in 10 CFR Part 61; and (3) are to be managed, pursuant to the Atomic Energy Act, so that safety requirements comparable to the performance objectives set out in 10 CFR Part 61 are satisfied.

The petitioners also requested that the Commission exercise oversight to assure that the grout meets temperature requirements for low-level waste forms. They acknowledge that DOE's vault design is protective of human health and the environment if heat produced by residual radioactivity, together with heat generated from reactions during the grout process, is kept within defined limits. They present no technical data to suggest that achievement of these temperature controls presents any unusual engineering challenge. In any event, inasmuch as the Commission does not consider the grout produced in accordance with DOE's plans to be high-level waste, it does not have the authority to carry out this oversight function.

B. Procedural Issues

1. Whether Rulemaking Is Necessary and Desirable

The petitioners urge that the Commission initiate rulemaking procedures that would result in the establishment of substantive criteria for determining whether particular radioactive wastes either are or are not high-level waste. Generally, a decision whether to proceed by rulemaking (as requested) or to make determinations in individual, ad hoc litigation lies within the informed discretion of the cognizant administrative agency. Rulemaking is most appropriate where an agency seeks to establish a general principle, having prospective effect, to be applied in a wide variety of factual contexts. Where the issue before an agency involves the application of law to a very specific existing fact situation, especially where that situation is not representative of other matters that may need to be decided by the agency, then it is clearly more efficient and more to the point to decide by a process of adjudication (i.e., on a case-by-case basis).

Applying these principles to the petition at hand, the Commission has little difficulty in concluding that rulemaking is neither necessary nor desirable. Reprocessing wastes are located at only four principal locations in the United States. The Commission has previously determined that the residual contamination anticipated from proposed operations at Savannah River should be characterized as incidental waste and not high-level waste (see 52 FR 5993, Feb. 27, 1987, cited above, at footnote 1.) Wastes generated at the Idaho Chemical Processing Plant are markedly different from those at Hanford and Savannah. Therefore, if questions about classification of the

Idaho wastes should arise, precedents established at Savannah River and Hanford might be difficult to apply. Any wastes at the Western New York Nuclear Service Center will require treatment in accordance with the applicable provisions of the West Valley Demonstration Project Act.

The limited practical effect of the decision -- i.e., restricted to the Hanford tanks -- is reason enough to proceed by way of adjudication instead of rulemaking. The Commission is persuaded further by the need to avoid making premature decisions with respect to the wastes stored at Hanford in single-shell tanks that are not the subject of pending treatment plans. If the Commission were to establish rules to apply to the wastes remaining in those tanks, our inquiry would have to be greatly broadened; and it might become necessary to consider a wide range of situations that might or might not ever come to pass in the future.

2. Whether the Commission Is Adequately Informed

Petitioners suggest that their proposed procedures, which include detailed tank-by-tank assessments, are necessary to ensure confidence in the treatment process employed by DOE and to build confidence that the treatment standard is being met.

The issue to be decided by the Commission is a much narrower one: it is merely to determine whether the activities being undertaken by the Department of Energy fall within the NRC's statutory jurisdiction. As in the case of other persons whose activities may fall within our regulatory sphere, the Commission may from time to time demand information so as to be able to determine whether or not to initiate an enforcement action. The NRC staff has

acted in this manner in its inquiries to DOE. It has obtained and evaluated information that is relevant and material to a determination whether or not the proposed activities of the DOE are subject to NRC licensing jurisdiction. All the information obtained and evaluated has been made available contemporaneously to the public.

Moreover, as a practical matter, NRC recognized the uncertainties associated with the projected radionuclide inventories in the tank wastes and endorsed DOE plans for sampling and analyzing the grout feeds before disposal. The objective of these efforts is to control the final composition of the grout wastes. If DOE finds that it can no longer assure that these wastes will be managed in accordance with the criteria previously discussed, DOE should notify NRC.

If a standard of "largest technically achievable amount will be isolated" were to be applied, then the facts submitted by DOE might not be sufficient to conclude that NRC lacked jurisdiction. However, the proper standard includes considerations of economical practicality as well. As indicated in an earlier part of this decision, the Commission has obtained information that is sufficient for this purpose.

3. Future Adjudications

The petitioners contemplate that if a rule were to be adopted in accordance with their proposal, particular determinations of how specific wastes would be characterized would be "left to individual adjudicative proceedings." The NRC infers that the "proceedings" contemplated by petitioners are licensing activities of the kinds specified in Section 189 of

the Atomic Energy Act, as amended, 42 USC 2239. Adjudications in this type of proceeding are in some cases to be conducted in accordance with the hearing provisions of Subpart L of 10 CFR Part 2.

These procedures are often appropriate with respect to activities that are subject to NRC regulatory and licensing authority. However, the NRC is reluctant to employ them in the context that is proposed -- to determine whether NRC has jurisdiction in the first place. To do so would entail the conduct of an adjudicatory proceeding in order to see whether another adjudicatory licensing proceeding must be held. More importantly, the Commission considers that the existing record contains all the factual information needed for a decision and that no unresolved material factual issues remain that would require further proceedings.

4. Other Considerations

While both NRC and DOE have focused their attention upon the meaning of the statutory term "high-level waste" and its application to the materials in storage at Hanford, other considerations might come into play in determining whether or not DOE activities are subject to licensing. In particular, it should be recalled that NRC exercises licensing authority under Section 202(4) only as to "facilities authorized for the express purpose of subsequent long-term storage of [DOE-generated] high-level waste." The content of individual waste tanks is by no means dispositive of the question whether the facilities for storage of the treated waste are subject to licensing. A number of other factors may be relevant and material as well: (1) what are the limits, geographically and functionally, of "facilities"; (2) have those facilities

been "authorized" (and by whom is such authorization required); and (3) have those facilities been authorized "for the express purpose of subsequent long-term storage of high-level waste" where those who may authorize the facility make no express mention of high-level waste? It is not necessary for the Commission to address these questions at length in order to dispose of the pending petition.

IV. Public Comments on the Petition

The NRC received letters from 12 commenters. Two letters were from other Federal agencies, two were from public interest groups, one was from a nuclear industry corporation, and seven were from private individuals. Most comments were opposed to the petition.

A. Process and Standards Proposed in Petition

Several comments expressed concern that granting the petition would have an adverse effect on the timely disposal of radioactive waste at Hanford. This was a concern because many of the Hanford waste tanks were seen as nearing or exceeding their design life. The provisions of the rulemaking proposed in the petition were viewed as limiting DOE's flexibility in selecting the most effective processes for waste treatment and disposal. The petitioner's request that "best available technology" be used in removing HLW material from the tank wastes was seen as ignoring costs of disposal, exposures to workers, and environmental impacts.

Some comments disputed the petitioner's claim that the rulemaking proposed in the petition would offer a better process for classification and disposal of the Hanford tank wastes. These commenters did not see any advantage in the proposed process over the process for classification and disposal currently in use. One comment suggested that the Commission's rulemaking requiring disposal of Greater-than-Class C waste in a geologic repository or Commission-approved alternative (53 FR 17710, May 19, 1989) might force DOE to allocate resources to handle the hazards, rather than to waste further time fruitlessly searching for ways to remove more and more activity from one part of the waste. The action proposed by the petitioners was viewed as not increasing the safety of disposal of the waste.

The Commission believes that adherence to the standard of technical and economic practicality generally reflects agreement with these comments.

B. Creation of a Risk-Based Classification System

Several comments, while noting that the rulemaking proposed by the petition would not do so, favored creation of a risk-based system of radioactive waste classification.

The Commission has previously addressed the costs and benefits of creating a new system of radioactive waste classification. Its rationale for not doing so is outlined in the statement of considerations to the proposed Part 61 rulemaking on disposal of Greater-than Class C waste (53 FR 17709, May 18, 1988). Further consideration of these issues is beyond the scope of this proposed rulemaking action.

C. NRC Licensing Authority

Some comments focused on the licensing authority of NRC over the Hanford tank wastes. DOE stated that the rulemaking suggested in the petition would involve NRC in regulation of DOE's predisposal waste treatment and processing activities, which would be inconsistent with NRC authority to license specific DOE facilities under the Energy Reorganization Act of 1974. Another commenter stated that the proposed rulemaking was inconsistent with the statutory responsibilities of DOE and NRC. These arguments have already been discussed, and require no further response. It may be emphasized, however, that even if the Commission were found to have jurisdiction over the disposal facilities, it would not regulate either the tanks themselves or the facilities being used to process the wastes in these tanks; and there is reason for concern that implementation of the petitioner's proposal might draw the Commission improperly into regulation of those facilities.

A commenter concluded that DOE was currently in violation of 10 CFR Part 30 requirements for a license because various near-surface waste disposal facilities at Hanford are being used for "long-term storage" of high-level radioactive waste. The issue is not pertinent to the subject matter of the petition. However, in any case, the comment does not take into consideration the judicial interpretation of the term in Natural Resources Defense Council, Inc. v. U.S. Nuclear Regulatory Commission, 606 F.2d 1261 (D.C. Cir., 1979). The D.C. Circuit Court of Appeals ruled in this case in support of NRC's position that the tanks have not been authorized for use as

long-term storage or disposal and are, therefore, not subject to NRC licensing.

D. Public Input

A number of comments stressed the importance of adequate public input into decision making regarding disposal of the Hanford tank wastes. Some called for public hearings on this subject to be held in the Pacific Northwest. One commenter noted that the EIS which was done for Hanford provided the opportunity for public comment. Another commenter believed that the Commission's rulemaking procedures did not offer the public a better opportunity for input than does the current licensing procedure.

As indicated in the Discussion above, the NRC's review of the situation with respect to the double-walled tanks has been carried out publicly from the start. Meetings with DOE have been open, and at least one of the petitioners (the State of Washington) has been provided advance notice and an opportunity to attend. Documents have been placed in the Public Document Room and have been made available for public inspection. It appears to the Commission that the essence of the issue concerns the appropriate standard for evaluating whether certain wastes should be regarded as high-level waste or not. Sufficient factual information is available to carry out these evaluations. Also, the petition for rulemaking has afforded an opportunity for views to be expressed with respect to the appropriateness of the standard.

A decision that NRC lacks licensing jurisdiction does not mean that opportunities for public input will be denied. As DOE undertakes its waste

management activities, it will afford opportunities for public participation to the extent required by its own enabling statutes, regulations, and orders.

E. Other Comments

One commenter took exception to the petitioner's claim that the radioactive inventory of the Hanford tank wastes was inadequately known. The commenter believed that the contents of the tanks can be bounded well enough to judge the relative safety of various disposal options.

The Commission considers the available information to be sufficiently bounded to enable it to conclude that DOE's proposed operations (with respect to the material stored in the double-shell tanks) can result in the removal from the Hanford double-shell tanks of as much of the radioactive waste as may be technically and economically practical, and that the applicable regulatory objectives have been satisfied. Once these judgments are made, it is not the NRC's role to judge the relative safety of various disposal options, and we decline to do so.

One comment stated that while the petition was aimed solely at the Hanford tank wastes, its provisions could potentially affect all radioactive wastes from reprocessing, including those at Savannah River, West Valley, and the Idaho National Engineering Laboratory. As the waste management programs at these other sites are in different stages of implementation, the impacts of the provisions would vary from site to site. As indicated above, the Commission is sensitive to this consideration yet believes that the specific case at hand only needs to be addressed at this time.

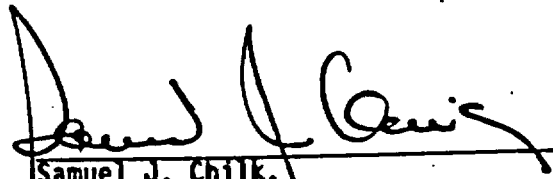
Some comments urged the Commission not to change the present definition of HLW. The Commission is not changing the present definition.

V. Conclusion

For the reasons presented in this document, the petition for rulemaking is denied.

Dated at Rockville, Maryland this 26th day of February, 1993.

For the Nuclear Regulatory Commission.


Samuel J. Chilk,
Secretary of the Commission.