

August 28, 2007

MEMORANDUM TO: Michael T. Lesar, Chief
Rules and Directives Branch
Division of Administrative Services
Office of Administration

FROM: Larry W. Camper, Director **/RA/**
Division of Waste Management
and Environmental Protection
Office of Federal and State Materials and
Environmental Management Programs

SUBJECT: NOTICE OF AVAILABILITY OF NUREG - 1854, NRC STAFF
GUIDANCE FOR ACTIVITIES RELATED TO U.S. DEPARTMENT OF
ENERGY WASTE DETERMINATIONS, DRAFT FINAL REPORT FOR
INTERIM USE

Enclosed, please find an original signed copy of a *Federal Register* notice releasing NUREG - 1854, NRC Staff Guidance for Activities Related to U.S. Department of Energy Waste Determinations, Draft Final Report for Interim Use. Four copies of the notice and a diskette containing an electronic version of the notice are also attached. Please transmit the *Federal Register* notice to the Office of Federal Register for publication.

ADM/DAS/RDB has been given owner's rights to the Notice in the Agencywide Document Access Management System (ADAMS) (ML071930351). Publicly available Nuclear Regulatory Commission documents referenced in the Notice have been finalized in ADAMS and profiled for public release. ADAMS accession numbers for all such documents are provided in the text under Further Information.

Enclosures:

1. One signed original and four copies
2. Diskette

Docket Nos: PROJ0734, PROJ0735, PROJ0736, POOM-32

CONTACT: Michael L. Fuller, FSME/DWMEP
(301) 415-0520

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NUCLEAR REGULATORY COMMISSION
[Docket No. PROJ0734, PROJ0735, PROJ0736, POOM-32]
Notice of Availability of NUREG -1854, NRC Staff Guidance for Activities Related to U.S.
Department of Energy Waste Determinations, Draft Final Report for Interim Use

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Availability of Draft Final Report for Interim Use

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing draft final NRC staff guidance for activities related to U.S. Department of Energy (DOE) waste determinations (NUREG -1854), for interim use. NUREG-1854 provides guidance to the NRC staff in evaluating non-high-level waste determinations developed by DOE for the Savannah River Site, Idaho National Laboratory, Hanford, and West Valley for certain wastes that are a result of the reprocessing of spent nuclear fuel. NUREG-1854 provides elements the NRC staff should review to fulfill its responsibilities under the Ronald Reagan Defense Authorization Act for Fiscal Year 2005 (NDAA), which is to consult with DOE on its waste determinations and to monitor DOE disposal actions to assess compliance with the performance objectives in 10 CFR Part 61, Subpart C. NUREG-1854 does not set forth regulatory requirements for NRC or for DOE, and compliance with NUREG-1854 is not required.

ADDRESSES: NUREG-1854 is available for inspection and copying for a fee at the Commission's Public Document Room, U.S. NRC's Headquarters Building, 11555 Rockville Pike (first floor), Rockville, Maryland, and electronically from the ADAMS Public Library component on the NRC Web Site, <http://www.nrc.gov> (the Electronic Reading Room) [ML072360184]. For those without access to the Internet, paper copies of any electronic documents may be obtained for a fee by contacting the NRC's Public Document Room at 301-415-4737 or toll free at 1-800-397-4209.

FOR FURTHER INFORMATION CONTACT: Michael Fuller, U.S. Nuclear Regulatory Commission, Mail Stop T8-F5, Washington, DC 20555, Phone Number: (301) 415-0520,

Enclosure

e-mail: *mlf2@nrc.gov*.

SUPPLEMENTARY INFORMATION:

In October 2004, the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (NDAA) was enacted. Section 3116 of the NDAA gave the NRC new responsibilities with respect to DOE waste management activities for certain “incidental” waste resulting from the reprocessing of spent nuclear fuel within the States of South Carolina and Idaho. These responsibilities include consultation with DOE on DOE’s determination whether the waste is not high-level waste (HLW), as well as monitoring DOE’s disposal actions for these wastes. The concept behind incidental waste is that some material, resulting from the reprocessing of spent nuclear fuel, does not need to be disposed of as HLW in a geologic repository because the residual radioactive contamination, if properly controlled, is sufficiently low that it does not represent a hazard to public health and safety. Consequently, incidental waste is not considered to be HLW, but instead is low-level waste. DOE uses technical analyses that are documented in a waste determination to evaluate whether waste is incidental or HLW. A waste determination provides DOE’s analysis as to whether the waste will meet the applicable incidental waste criteria.

Prior to passage of the NDAA, DOE would periodically request NRC to provide technical advice for specific waste determinations. The staff reviewed DOE’s waste determinations to assess whether they had sound technical assumptions, analysis, and conclusions with regard to meeting the applicable incidental waste criteria. Because the enactment of the NDAA is expected to increase the number of waste determinations submitted to the NRC for review, the NRC has decided to develop NUREG - 1854, NRC Staff Guidance for Activities Related to U.S. Department of Energy Waste Determinations, Draft Final Report for Interim Use. The NUREG provides guidance to NRC staff on how to conduct a technical review of a waste determination, as well as how to conduct monitoring activities under the NDAA, and will help ensure consistency across different reviews and different reviewers. Because the technical aspects of

the NRC's waste determination reviews are expected to be similar for all four sites, regardless of whether the site is covered by the NDAA, the NRC has decided that this NUREG will address reviews for the Savannah River Site, Idaho National Laboratory, Hanford, and West Valley.

Dated at Rockville, MD this 28th day of August, 2007.

For the Nuclear Regulatory Commission.

/RA/

Larry W. Camper, Director.
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and Environmental Protection
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