

Items for Discussion

Question (1)

Comment: Provide additional documentation that more clearly demonstrates that the U.S. Department of Energy (DOE) is willing to accept all regulated material by taking both ownership and possession (such as a title or another legal instrument) of said material at the time of Certificate termination.

Basis: The United States Enrichment Corporation (USEC) has provided a Reverse Work Authorization and a Statement of Work (SOW-11-360-003), which states that DOE “shall accept ownership and possession” of material presently regulated under Title 10 of the *Code of Federal Regulations* (10 CFR) Part 76 Certificate. DOE’s April 29, 2011, letter to the U.S. Nuclear Regulatory Commission (NRC) and April 28, 2011, letter to USEC provide a commitment from DOE to accept regulatory authority and oversight, along with possession of certain special nuclear materials and waste. However, the NRC is not currently in possession of any legal instrument which transfers ownership of “all” remaining regulated material from USEC to DOE at the time that the 10 CFR Part 76 Certificate is terminated. A clear and concise, signed legal instrument codifying DOE’s commitment to accept ownership and possession of this material would allow the NRC staff and members of the public to easily verify that all regulated material will remain under appropriate regulatory authority during and subsequent to the transition of oversight and decertification of the Gaseous Diffusion Plant (GDP) facility at the Portsmouth Gaseous Diffusion Plant site.

Path Forward: Provide a DOE document signed by the appropriate approving authority which explicitly states that DOE will assume possession and ownership of all regulated material at the PORTS site, e.g., “DOE shall accept ownership and possession of the items listed in Attachment X.”

Question (2)

Comment: Provide additional detail regarding PORTS waste streams addressed in the CY 2010 Decommissioning Funding Plan (DFP) to satisfy criteria in 10 CFR 76.35(m).

Basis: Section 76.35(m) requires that USEC provide a description of the program “for processing, management, and disposal of mixed and radioactive wastes and depleted uranium generated by operations.”

The last GDP DFP received by the NRC from USEC, prior to the July 25, 2011, submittal was dated December 29, 2010. In this document, USEC identified various waste streams in need of disposal. These wastes were described in general terms, identifying the total volume for each type of waste (i.e., low-level radioactive waste [LLRW], mixed waste, depleted uranium). According to USEC's July 25, 2011, submission, DOE has accepted possession and ownership of “all” regulated materials and radioactive waste at the PORTS facility. However, the Statement of Work for the Reverse Work Authorization between DOE and USEC, in the June 28, 2011, submittal identifies the specific source, special nuclear, and/or byproduct material covered by the Reverse Work Authorization. These “items” are individually inventoried and identified by an “RFD Number.” The items are presented in table format that spans over 20 pages.

Path Forward: Provide additional detail to confirm that “all” wastes identified in the previous DFP are covered by the Reverse Work Authorization dated June 27, 2011. Provide confirmation in writing that the following wastes from the December 29, 2010, DFP for PORTS are covered in their entirety by the Reverse Work Authorization or other agreement:

<u>Section of the December 29, 2010 DFP</u>	<u>Amount/Type of Waste</u>
3.1.1	18,000 ft ³ LLRW
3.1.2	300 ft ³ mixed waste
3.1.3	100 ft ³ mixed waste
3.1.4	13,300 ft ³ LLRW
3.2	399,000 kgU depleted uranium