

Condition 35. Depleted Uranium:

- A. Background: The U.S. Nuclear Regulatory Commission (NRC) has acknowledged some inadequacies in its past analyses and possibly its current regulatory structure with respect to disposal of substantial quantities of depleted uranium (DU). As a result, it has started a rulemaking process to determine the conditions under which DU and other unique wastes may be safely disposed of in near surface facilities. NRC has stated that new regulatory standards and guidance will be the likely result from that rulemaking process, and that new performance assessments will likely also be required. Rulemaking by the Division of Radiation Control (DRC) would also likely be follow. EnergySolutions has indicated to the Division that it would prefer not to wait until the completion of the NRC's and DRC's rulemaking processes or until completion of the resulting performance analysis that will likely be required before it begins to dispose of depleted uranium at the Clive Facility. The additional license conditions in this condition 35 are therefore required.
- B. Burial Depth: The Licensee shall place all wastes with DU concentrations greater than 5 percent (by weight) a minimum of 10 feet below the top of the cover.
- C. Performance assessment: A performance assessment, in general conformance with the approach used by the Nuclear Regulatory Commission (NRC) in SECY-08-0147, shall be submitted for Executive Secretary review and approval no later than December 31, 2010. The performance assessment shall be revised as needed to reflect ongoing guidance and rulemaking from NRC. For purposes of this performance assessment, the compliance period will be 10,000 years. Additional simulations will be performed for a 1,000,000-year time frame for qualitative analysis.
- D. Revised disposal embankment design: If the performance assessment specified in paragraph 35C indicates that changes to disposal operations and cover design are necessary to ensure compliance with the requirements of 10 CFR Part 61 or Utah Administrative Code R313, EnergySolutions will provide a revised design that meets those requirements, for all wastes that have been and are reasonably anticipated to be disposed of at the facility within 180 days of Executive Secretary approval of the performance assessment.
- E. Remediation: If following the completion of NRC's and DRC's regulatory processes described in paragraph 35A, the disposal of DU as performed after the date of this license condition would not have met the requirements of those new regulatory and performance standards, the facility will undertake remediation to ensure that those new regulatory and performance standards are met, or if that is not possible, shall removed the DU and transport it off-site to a licensed facility.

- F. Surety: The Licensee shall fund the surety for the remediation, in Condition 35 E. Within 30-days of the effective date of this license condition, the licensee shall submit for Executive Secretary review and approval, the surety cost estimates for remediation of existing Savannah River DU waste disposal and planned, similar large quantity DU waste disposal.