

**TENNESSEE DEPARTMENT OF ENVIRONMENT
AND CONSERVATION
DEPARTMENT OF ENERGY OVERSIGHT DIVISION**

**761 Emory Valley Road
Oak Ridge TN, 37830
April 27, 2010**

**NOTICE OF AVAILABILITY
Proposed Revision to the
ANNUAL UPDATE TO SITE TREATMENT PLAN
FEDERAL FACILITIES COMPLIANCE ACT
OAK RIDGE RESERVATION**

The purpose of this Notice of Availability is to notify the public of a proposed revision to the Site Treatment Plan (STP) that governs certain aspects of mixed waste (waste containing both hazardous and radioactive constituents) on the Oak Ridge Reservation (ORR). A summarized description of the STP and rationale for the need for a public review of the revision to the plan are discussed below.

SITE TREATMENT PLAN BACKGROUND

The United States Department of Energy (DOE) prepared “a plan for developing treatment capacities and technologies for each facility at which DOE generates or stores mixed waste, pursuant to Section 3021(b) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6939C, as amended by Section 105(a) of the Federal Facility Compliance Act (FFCAct), P.L. 102-386. Section 3021(b)(2)(A) of RCRA required DOE to submit the plan for the Oak Ridge Reservation to Tennessee for review”.

Following DOE’s submittal of this required plan, the Tennessee Department of Environment and Conservation (TDEC) approved a modified version of the plan and issued a Commissioner’s Order to DOE on September 26, 1995 requiring compliance with the approved Site Treatment Plan (STP). “The STP establishes an enforceable framework in which DOE will treat or develop methods to treat mixed wastes currently in storage and waste that will either be generated or received on the ORR during the term of the STP.

The STP allows for storage of current and projected mixed wastes at the ORR, which in the absence of an STP would be in violation of RCRA Section 3004(j), pending the development of treatment technologies or capacity and ultimate treatment or other disposal of such wastes according to land disposal requirements (LDR) during the term of this STP. The STP provides overall schedules for achieving compliance with LDR requirements. These schedules include activities that are required to bring existing waste treatment facilities or technologies into operation, and those required for the development of new facilities and treatment capacities.

The STP also fulfills a requirement of the June 1992 Federal Facility Compliance Agreement (FFCA) into which DOE entered with EPA Region IV. One of the key provisions of the FFCA was that DOE would prepare a treatment methods plan for all mixed wastes on the Oak Ridge Reservation for which treatment capability did not exist. In lieu of the treatment methods plan, this STP is provided to EPA.

In the STP, provisions were included to update the plan annually. If significant changes were made to the annual update of the STP, such as the addition of waste streams or changes in the enforceable milestone dates, then it would be necessary to submit the STP for public review and comment.

EXTENSION REQUEST REQUIRING PUBLIC NOTICE

In the STP Section 2.5.1, *Definitions*, “ a revision to the STP is defined as (a) the addition of a treatment facility on the ORR or off-site, but within Tennessee, or technology development not previously included in this STP or (b) **an extension to a milestone converting a target date under Section 2.2) for a period of greater than one year.**” As defined in Section 2.5.2.1 ‘Identification of revisions,’ DOE will indicate to TDEC the need to revise this STP and provide information supporting the basis for the revision as a deliverable pursuant to Section 2.8, ‘Procedures for Review and Approval’. Under these procedures, within thirty (30) working days of receipt, TDEC may conditionally approve the revision, return it to DOE with comments so that changes can be made for resubmittal, or disapprove it. Conditional approval of a revision is a determination by TDEC that the revision is acceptable, subject to the results of public comment and consultation with affected states and EPA”.

In April 2000, TDEC directed DOE to, among other things, amend the STP for the Oak Ridge Reservation in order to require the removal, treatment, and disposal of transuranic waste located in trenches within Melton Valley’s Solid Waste Storage Area 5 North (SWSA 5N). Historically, Trench 13 was part of this area. There was a dispute over the status of this entire area consisting of 23 trenches due to the DOE position that the transuranic waste in SWSA 5N was not subject to the scope and jurisdiction of the STP or its underlying regulatory basis, the LDR storage prohibition.

The formal dispute was resolved by an agreement between DOE and TDEC. This agreement, entitled Dispute Resolution Agreement with the State of Tennessee under the Federal Facility Compliance Act Site Treatment Plan for the Oak Ridge Reservation signed in September 2000, was made part of the STP as Appendix B. Pursuant to section 2.10 of the STP, DOE is obligated to implement said agreement. The agreement required retrieval of the waste in the trenches and management for off-site disposal and compliance with RCRA LDR requirements as necessary.

The completion of work at Trench 13 has been delayed by an incident which occurred in August 2005 involving a pyrophoric reaction during excavation of the trench. This led to a temporary period of “storage in place” agreed to by TDEC for evaluation of options for completion of retrieval of the wastes by September 30, 2009. Consequently, an additional TDEC deadline was added later as a milestone under STP Section 4, “Transuranic Mixed Waste Streams” to require DOE to submit a plan for disposition of TRU waste remaining in Trench 13 at SWSA 5N.

Due to the unique challenges associated with management and disposition of the wastes contained in Trench 13, TDEC, in a letter dated August 20, 2009, responded to DOE’s request for deferral for five-years for completion of the existing milestone and accepted an addition of two new milestones proposed by DOE. TDEC requested that these stipulations be incorporated in the Annual STP Update.

The current Annual Update of the STP (Revision 14.1), by the virtue of the extension of a milestone for a period of greater than one year, became a Revision to the STP and was conditionally approved by TDEC on March 25, 2010, resulting in this Notice. For clarity, the two sections of the STP pertaining to the revision request and the resulting need for public notice are contained below:

“Section 2.5.2.2 *Review and approval of revisions*; within thirty (30) working days of granting conditional approval, TDEC will publish a notice of availability and make the revision to the STP available to the public for review and comment and to affected states and EPA for consideration and consultation. Revisions will be approved, approved with modification, or disapproved by TDEC within 6 months after TDEC’s receipt of the

proposed revision. TDEC will notify DOE of its decision. If DOE does not agree with TDEC's decision it may invoke the procedures of Section 2.10, 'Disputes'.

Section 2.5.3 *Notifications*; To the extent practicable, comments from the public, affected states and EPA on conditionally approved revisions will be obtained in conjunction with the Annual Update to the STP, as governed by Section 2.3, 'Annual Site Treatment Plan Updates and Semi-Annual Progress Reports.' However, if a conditionally approved revision is proposed to become effective before it could be addressed in the regularly scheduled Annual Update, TDEC will publish a notice of availability and consult with the affected states and EPA, as appropriate, within thirty (30) working days of such conditional approval."

This document serves as a notice of availability which makes the above-described revisions to the STP available to the public for review and comment, and to the affected states and the EPA for consideration and consultation. This revision will be approved, approved with modifications, or disapproved by TDEC on or before August 4, 2010 (6 months after February 4, 2010, which is when TDEC received the proposed revision).

Further information on this matter may be obtained by contacting

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