

John A. Chachas, Commissioner  
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David E. Provost, Commissioner  
Kevin S. Kirkeby, Commissioner  
Cheryl A. Noriega, Commissioner  
Donna M. Bath, Ex-Officio Clerk of the Board

Courthouse Annex  
953 Campton St.  
Ely, Nevada 89301  
(775) 289-8841  
(775) 289-8842

# White Pine County Board of County Commissioners

May 8, 2002

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Chief, Rules Review and Directives Branch  
U.S. Nuclear Regulatory Commission  
Mail Stop T6-D59  
Washington, D.C. 20555-0001

RECEIVED  
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NRC  
REGULATORY  
COMMISSIONS

RE: Comments to NUREG-1804, Revision 2, Draft Yucca Mountain Review Plan

To Whom It May Concern:

White Pine County, Nevada has completed a review of NUREG-1804, Revision 2, Draft Yucca Mountain Review Plan and offers the following comments thereto.

**General Comment:** NRC is encouraged to define the scope of activities to be covered within the DOE's Yucca Mountain license application. It is recommended that the repository be considered a system including both on and off-site facilities. For example, if DOE elects to develop and utilize one or more rail spurs to enable shipment of nuclear waste to Yucca Mountain, such facilities should be included within the scope of the application submitted by DOE and the license potentially granted by NRC. The Review Plan should be revised to reflect the systems approach to licensing required for the Yucca Mountain Project.

**Page iii, Abstract:** This section should be updated to reflect submission by Nevada of a Notice of Disapproval and the results of any congressional response thereto. In addition, DOE's requirement under the NWPA, as amended, to submit a license application not later than 90 days after the date on which the President's site nomination takes effect should be described here.

**Page xv, Executive Summary:** The text here should indicate whether NRC intends to adopt the Yucca Mountain Review Plan as a regulation through a rulemaking. In lieu of adoption as a rule, this section should describe how conformance with the review plan will be monitored and consequences for failure on the part of DOE and/or NRC to not follow the plan.

Template = ADM-013

F-RIDS = ADM-03  
Call = J. CIOCCO (SAC3)  
A. BERANEK (AFB)

**Page 1-1, Introduction, 3<sup>rd</sup> paragraph:** The text here should be expanded to discuss if, and how as a part of the acceptance review, DOE's environmental impact statement for Yucca Mountain will be reviewed to determine whether it is "final". 40 CFR 1506.9 requires DOE to file the final EIS with EPA's Office of Federal Activities after which EPA must publish a notice in the Federal Register that lists the final EIS received by the Agency during the preceding week. Because EPA has yet to publish said notice, it must be assumed that EPA does not consider that DOE has provided to the Agency a final EIS. This situation was confirmed by staff of EPA's Office of Federal Activities who indicated as recently as March 2002 that the reason EPA had not published a Notice of Availability of the final Yucca Mountain EIS was because the Agency was of the opinion it had not yet received one from DOE.<sup>1</sup>

**Page 1-2, Introduction, 3<sup>rd</sup> paragraph:** The text here states, "use of this Yucca Mountain Review Plan will begin in the preclicensing consultative phase of the program." This section should indicate when NRC expects to begin the preclicensing consultative phase.

**Page 1-3, Introduction, 2<sup>nd</sup> bullet:** If NRC staff are expected to do only "quick bounding calculations and performance assessments, and confirmatory analyses using process-level models" what then is the role of the Center For Nuclear Waste Regulatory Analysis? The Plan should describe the function of CNWRA and how decisions regarding what information is to be requested from the Center will be made and by whom.

**Page 1-8, Introduction, 1<sup>st</sup> line:** The Plan needs to indicate that unless the public is able to participate in conference calls between NRC and DOE regarding requests for additional information, no such calls will occur. Preferably, such requests for and discussion of additional information needs by NRC should occur in public meetings.

**Page 1-9, Introduction, 1<sup>st</sup> full paragraph:** The Plan needs to provide clarification of the possible sources of proposed license conditions. The text here notes, "these conditions are what staff believes are needed to ensure that the applicable requirements are met ..." This would imply that NRC staff may propose license conditions to DOE for consideration. However, the text goes on to say, "any license condition must be based on a commitment made by the U.S. Department of Energy in its application." These two statements appear inconsistent with the first, seeming to enable staff to suggest conditions in response to a review of the DOE application and the second appearing to limit staff consideration of conditions to those presented by DOE within the application. Please clarify this situation in the revised Plan.

**Page 1-21, Introduction, 4<sup>th</sup> paragraph:** Here, NRC should commit to revise the Plan to reflect submitted comments within a certain time following the close of the comment period. Revision 3 of the Plan should make clear how comments provided to Revision 2 were considered in preparing the revised version.

**Page 1-21, Introduction, 4<sup>th</sup> paragraph:** It is not clear how the public will be notified in the event that NRC determines that a specific approach to review described in the Plan requires modification upon initiation of said review. The Plan should make clear that proposed revisions to specific acceptance criteria and/or review methods will be the subject of public review and comment prior to adoption by NRC management.

**Page 2-1, Acceptance Review, 3<sup>rd</sup> paragraph:** Will the acceptance review and projected schedule include National Environmental Policy Act compliance activities (ie. supplemental environmental evaluation)? The revised Plan should address this issue.

**Page 2-1, Acceptance Review, 4<sup>th</sup> paragraph:** Does staff, as used in the text here, include persons associated with the Center for Nuclear Regulatory Analysis?

**Page 2-2, Acceptance Review, 1<sup>st</sup> paragraph:** The Plan should clarify whether NRC can accept one or more portions of the DOE application as complete or requiring additional information and proceed with the license process while awaiting receipt of other sections of the application rejected due to inadequate information. If NRC can proceed with licensing in advance of DOE submitting all required information, how does such failure to provide information impact the requirement that NRC issue a licensing decision within three years following acceptance by the NRC of the application? In other words, can the license be accepted piecemeal by NRC and when does the three-year clock begin? The Plan should provide clarifying information regarding this issue.

**Page 2-7, Acceptance Review, 4<sup>th</sup> bullet:** Recommend revising the sentence here to read, “A description of the quality assurance program *applied to site characterization and Total System Performance Assessment* and the structures, systems, and components important to safety ...”

**Page 3-1, Review Plan, 4<sup>th</sup> paragraph:** It is not clear what is meant by the term “systems” found in line three. A definition of systems expected by NRC to be covered by the license application should be provided here (or at least a cross reference to other relevant NRC guidance). This section should include a review to determine whether DOE has included all elements of the Yucca Mountain system which NRC believes should be the subject of the licensing proceedings. A determination must be made as to whether off-site transportation facilities (ie. rail to truck intermodal facilities) will be covered by the Yucca Mountain license application.

**Page 3-2, Review Plan, 2<sup>nd</sup> bullet:** What is meant by “connecting transportation infrastructure”? The Plan should make clear that such term includes all “new” transportation infrastructure developed by DOE as necessary to operate the Yucca Mountain repository (ie. new rail spurs to the site).

**Page 3-3, Review Plan, 2<sup>nd</sup> bullet:** If the description of the geologic repository operations area is to include “information that is consistent with the U.S. Department of Energy Final Environmental Impact Statement for Yucca Mountain”, and said EIS describes transportation infrastructure (ie. new rail spurs and intermodal facilities), then does this bullet convey NRC’s expectation that a description of transportation infrastructure covered in the EIS will be included in DOE’s license application?

**Page 3-6, Review Plan, 5<sup>th</sup> paragraph:** The Plan requires a definition of “off-site construction”. What elements of construction would be considered off-site? Specifically, would a new rail spur and/or intermodal facilities be considered off-site construction?

**Page 3-8, Review Plan, 3<sup>rd</sup> paragraph:** The revised Plan should indicate NRC’s schedule for completion of the comprehensive reevaluation of U.S. Nuclear Regulatory Commission physical requirements.

**Page 3-25, Review Plan, 1<sup>st</sup> bullet:** It is not clear how NRC intends to inventory spent nuclear fuel and high-level radioactive waste in storage when such waste will be contained within sealed waste canisters. The revised Plan should clarify how such an inventory process would be accomplished and if such process would involve retrieving and opening storage canisters. If canisters will not be opened and SNF or HLW physically inventoried, the Plan should be revised here to indicate that storage canisters will be inventoried, not the radioactive waste itself.

**Page 4.1-3, Review Plan, 4<sup>th</sup> paragraph:** The first line of this paragraph should be revised as follows, “Verify that regional demographic information is based on current census data *or more recent data if available*, and presents the population distribution...”

**Page 4.1-3, Review Plan, 4<sup>th</sup> paragraph:** A definition of the term “operational period” is needed here. Is this term emplacement only or does it include post-emplacement performance monitoring as well?

**Page 4.1-36, Review Plan, 2<sup>nd</sup> paragraph:** What does the term “reasonable assurance” mean as used here? The revised Plan should state what factors will be considered in reaching a conclusion of “reasonable assurance”.

**Page 4.1-97, Review Plan, Acceptance Criteria 3:** It does not appear that DOE addressed alternate storage of radioactive wastes in the Yucca Mountain EIS. By including alternative storage in the Review Plan does NRC infer its expectation that the Yucca Mountain license would cover alternative storage? This is an example of the Plan being specific about assumed elements of the repository system to be licensed yet not describing such elements earlier in the Plan. The Plan should be revised to include NRC expectation of the specific elements of the repository system to be the subject of the license application to be reviewed pursuant to the Plan.

**Page 4.5-94, Review Plan, 2<sup>nd</sup> paragraph:** How will adequacy of information provided for off-site response organizations be determined? Specific factors to be used in the evaluation should be presented in the Plan. The text here infers identification of a single point of contact. Multiple points of contact should be identified, particularly where response organizations are staffed with volunteers.

**Page 4.5-94, Review Plan, 3<sup>rd</sup> paragraph:** The Plan needs to define on what basis NRC staff will verify that DOE “provides a commitment to the means to promptly notify off-site response organizations and request off-site assistance”.

**Page 4.5-94, Review Plan, 6<sup>th</sup> paragraph:** The Plan needs to specify which criteria will be used by NRC staff to determine if emergency response training “are adequate to support effective actions”. In addition to training for workers, the Emergency Plan should address DOE commitments to training and equipping off-site emergency responders.

**Page 4.5-95, Review Plan, 4<sup>th</sup> paragraph:** In addition to confirming that off-site response organizations were allowed sufficient time (60 days may be insufficient time) to comment on DOE’s initial emergency plan for the Yucca Mountain site, NRC staff should confirm that DOE responded to said comments in preparing the response plan subsequently submitted to NRC. White Pine encourages submission by DOE to NRC of all comments received on the initial emergency plan.

**Page 4.5-98, Review Plan, Contents of Emergency Plan:** Other aspects of the emergency plan should include:

1. Discussion of mitigation should consider avoiding, minimizing, rectifying, reducing and compensating for consequences of accidents (40 CFR 1508.20).
2. Training and equipping of off-site emergency response personnel.
3. Equipping of on-site emergency response staff.

**Page 4.5-102, Review Plan, 7<sup>th</sup> paragraph:** It is not apparent that DOE would need to have “obtained such water rights as may be necessary to accomplish the purpose of the geologic repository operations area” in order to operate the repository. Water rights has specific meaning in Nevada. The Plan needs to clarify if DOE is required to have “water rights” (which are granted by the State of Nevada) or simply demonstrate an adequate supply of water (ie. leased/purchased from existing water right holder or otherwise made available at the site).

**Page 4.5-108, Review Plan, 3<sup>rd</sup> paragraph:** The list of areas for which NRC believes DOE should propose license conditions appears to be unnecessarily limited and is not consistent with conditions contained in licenses for other nuclear facilities. For example, provision of adequate off-site emergency response and emergency medical capabilities is an obvious omission. The revised Plan should provide a much more comprehensive listing of areas for consideration as possible license conditions. For example, all measures to mitigate repository system impacts identified within the DOE’s Yucca Mountain EIS and impact reports prepared by the State of Nevada and affected units of local

government should be considered as possible license conditions suggested by NRC for inclusion in the license application.

I trust these comments to be of value to NRC in revising the Yucca Mountain Review Plan. Please provide White Pine County with the revised version of the Plan along with an indication of how the aforementioned comments were considered in making such revisions.

Sincerely,

A handwritten signature in black ink, appearing to read "Dave Provost". The signature is stylized and written in a cursive-like font.

Dave Provost  
Chairman

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<sup>1</sup> Personal communication with Susan Absher, U.S. Environmental Protection Agency, Office of Federal Activities, Washington, D.C., March 8, 2002.