



OFFICE OF THE GOVERNOR
AGENCY FOR NUCLEAR PROJECTS

1802 N. Carson Street, Suite 252

Carson City, Nevada 89701

Telephone: (775) 687-3744 • Fax: (775) 687-5277

E-mail: nwpo@nuc.state.nv.us

September 27, 2002

RECEIVED

2002 SEP 30 PM 1:48

Rules and Directives
Branch
USNRC

7/2/02

67FR44478

(5)

Rules and Directives Branch
Office of Administration
US Nuclear Regulatory Commission
Washington DC 20555-0001

RE: **DRAFT REGULATORY GUIDE DG-3022 (Proposed Revision 1 of Regulatory Guide 3.69) - TOPICAL GUIDELINES FOR THE LICENSING SUPPORT NETWORK**

Dear Sir or Madam:

The Nevada Agency for Nuclear Projects is the State Agency assigned by Nevada Statute to oversee the national high-level nuclear waste program. We have reviewed the subject Draft Regulatory Guide as part of our oversight responsibility. Please find enclosed the State of Nevada Agency for Nuclear Projects comments on Draft Regulatory Guide DG-3022, Topical Guidelines for the Licensing Support Network.

We appreciate the opportunity to comment on this Draft Regulatory Guide. If you have questions about these comments, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert R. Loux".

Robert R. Loux
Executive Director

Enclosure

cc: Joe Egan, Egan & Associates
Charles Fitzpatrick, Egan & Associates

Memphoto - ADM-013

E-REDS-ADM-03
Call = J. Cioeco (JAC3)
H. Beranek (HFB)

General Comments on Draft Regulatory Guide DG-3022

Nevada has several actions pending whose outcome may further define the appropriate topical subjects to be included by the participants in the licensing proceeding in their respective Licensing Support Network databases. These actions include pending litigation relating to the content of NRC's licensing regulation 10 C.F.R. 63, a Petition for Rulemaking with respect to the appropriate content of 10 C.F.R. 63, comments of Nevada regarding draft NUREG 1804 (NRC's Yucca Mountain Review Plan), reply comments to the comments of the Department of Energy ("DOE") on NUREG 1804, and litigation challenging the content and scope of DOE's Final Environmental Impact Statement ("FEIS"). Nevada will not unnecessarily expand these comments to draft Regulatory Guide DG-3022 by reiterating here the matters addressed in each of those pending actions. Suffice it to say, that in addition to the specific comments stated below, it is Nevada's position that the topical guidelines set out in draft DG-3022 should be expanded to incorporate those shortcomings specifically addressed by Nevada in each of those respective pending actions, since each relates directly to the scope of the licensing proceeding. Accordingly, the following specific comments, addressing draft DG-3022 in its present form, are made without waiving Nevada's position in any of the pending actions, and with the understanding that draft DG-3022 should eventually be expanded to incorporate those subjects asserted in the pending actions which are ultimately deemed meritorious and result in the modification, respectively, of 10 C.F.R. 63, NUREG 1804, or DOE's Final Environmental Impact Statement.

Specific Comments to Draft Regulatory Guide DG-3022

Subject to its foregoing General Comments, Nevada provides the following Specific Comments with respect to current draft Regulatory Guide DG-3022:

Page 3, PURPOSE OF THE REGULATORY GUIDE, paragraph 2: This paragraph refers to the Presiding Officer using the regulatory guide in evaluating petitions for access to the LSN. This paragraph should be deleted. It is not relevant to the current LSN Rule, and incorrectly implies that access to the LSN during the pre-licensing period is not generally available.

Pages 4,5,6, TOPICAL GUIDELINES: We note that these topical guidelines track the table of contents of the Commission's Draft Yucca Mountain Review Plan (YMRP). This is an

acceptable and efficient approach, pursuant to our general comments above. When the YMRP becomes final, this Regulatory Guide should be reviewed and, if necessary revised to remain consistent with the YMRP.

Pages 6 and 7, INFORMATION FOR A GEOLOGIC REPOSITORY ENVIRONMENTAL IMPACT STATEMENT: We note that this section tracks the table of Contents of the Department of Energy Yucca Mountain Environmental Impact Statement, and is consistent with the Commission's Draft NUREG-1748, *Environmental Review Guidance for Licensing Actions Associated With NMSS Programs*, FR66, 202, October 16, 2001. This is an acceptable and efficient approach, notwithstanding the Nevada challenge to certain aspects of the legality of DOE's Yucca Mountain EIS. We do, however, suggest that the third tier of headings from the Yucca Mountain EIS table of contents be added to this section, which now includes only the first and second tiers. This will improve the informative nature of the Regulatory Guide and its utility to all users of the LSN. When NUREG-1748 becomes final, this section should be reviewed and, if necessary, revised to remain consistent with the NUREG.

Page 8, APPENDIX A, Types of Documents To Be Included In The Licensing Support Network, item 8.8: This item should not be limited to EIS materials developed by the Department of Energy. There are other agency EISs (just as the EAs of item 8.1) that could be relevant documents for inclusion in the LSN.