



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

November 12, 1996

Mr. Ronald A. Milner, Director  
of Program Management and Integration  
Office of Civilian Radioactive Waste Management  
U.S. Department of Energy  
1000 Independence Avenue, SW  
Washington, DC 20585

SUBJECT: U.S. NUCLEAR REGULATORY COMMISSION HIGH LEVEL WASTE PROGRAM FOR  
FISCAL YEAR 1997

Dear Mr. Milner:

The purpose of this letter is to notify the U.S. Department of Energy (DOE) of fiscal year 1997 (FY-97) changes to the U.S. Nuclear Regulatory Commission High-Level Waste (HLW) Program in the Division of Waste Management. Due to the FY-96 budget, NRC's HLW prelicensing program changed from a broad focus on most postclosure licensing issues to a more narrow focus on licensing issues most significant to repository performance at Yucca Mountain. FY-96 priorities of NRC activities, defined by NRC's ten Key Technical Issues (KTIs), reflected consideration of DOE's Program Approach and Waste Isolation Strategy, as well as NRC's independent analyses of the safety aspects of technical concerns. The FY-97 budget reduces NRC's capability to review the ten KTIs as planned, and further prioritization has been required.

One result of the FY-97 budget is the limiting of NRC's formal review of documents submitted by DOE concerning the potential HLW repository at Yucca Mountain. In order to increase the efficacy of NRC's potential HLW program, the NRC will, in general, provide written comments to DOE only for submittals related to NRC's KTIs that address one or more of the following five criteria:

- (1) submittals directly related to total system performance assessment,
- (2) submittals directly related to the defense-in-depth concept,
- (3) submittals directly related to DOE's waste containment and isolation strategy (the hypotheses or major assumptions),
- (4) submittals where the timing of issue resolution is important relative to DOE's major milestones, and
- (5) submittals that address the first significant figure of risk in criteria 1-4 (i.e., NRC will avoid activities that do not affect the first significant figure of risk). However, silence on the part of the NRC should not be interpreted by DOE as either NRC concurrence in, or acceptance of, the information submitted.

NRC written comments will be provided only on the most significant items from a regulatory and safety perspective. Therefore, NRC staff may not have any written comments to provide DOE on routine DOE submittals - such as surveillance reports, nonconformance reports, verifications of corrective actions, study plans, periodic status reports, and site characterization progress reports, unless they meet the criteria listed above. NRC staff

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should continue to receive these documents, and may informally interact with DOE (perhaps through an NRC On-Site Representative) in areas which do not meet the criteria.

However, NRC reserves its right to review and provide written comments on any aspect of the DOE HLW program related to eventual licensing of the repository. For example, NRC will continue to review and comment on significant DOE submittals, such as a revision to DOE's *Quality Assurance Requirements and Description* document, that could have a significant impact on the HLW program. In addition, NRC desires to address needs identified by DOE and will, within budgetary restraints, honor DOE requests for comment on specific submittals.

NRC is in the process of reviewing the remaining open items from the Site Characterization Analysis (SCA) in relation to the criteria noted above. SCA open items that meet the criteria will be identified and will remain open. SCA open items that do not meet the criteria, but which could be resolved with minimal resources will be resolved. The remaining SCA open items will be classified as "not to be resolved during site characterization." They will be addressed in licensing, as appropriate, without prelicensing consultation, unless consultation is specifically requested by NRC or DOE due to unique circumstances. We plan to make publicly available the results of our review by the end of December 1996. However, this is a low priority effort and the schedule may slip.

A second result of the FY-97 budget is that the Center for Nuclear Waste Regulatory Analyses (CNWRA) has stopped work on three KTIs: (1) Container Life and Source Term, (2) Radionuclide Transport, and (3) Repository Design and Thermal-Mechanical Effects. NRC staff will continue to work on these KTIs. This CNWRA work was deleted because the NRC cannot reduce the effort a little on each KTI and expect to resolve the open issues. As a consequence of this "stop work order" at the CNWRA, the NRC plans to (1) take a conservative, "bounding" approach to predicting container life and the radionuclide source term; (2) eliminate its independent analysis of retardation of radionuclides during transport from the repository to the accessible environment; and (3) utilize its relatively greater knowledge of design and construction where the mitigation of engineering concerns is feasible.

Even though the issues being addressed by NRC during FY-97 are of a more narrow scope, all regulatory issues must eventually be addressed at the appropriate stage of the regulatory process (i.e., at construction authorization, licensing to receive waste, or licensing amendment for site closure). While there is some risk in not discussing all regulatory issues during prelicensing, current budgets limit NRC to addressing only the most significant issues.

R. Milner

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If you have any questions or comments on this, please contact John Austin of my staff on (301) 415-7252.

Sincerely,

*Michael F. Weber for*

John T. Greeves, Director  
Division of Waste Management  
Office of Nuclear Material Safety  
and Safeguards

cc:

R. Loux, State of Nevada	J. Meder, Nevada Legislative Counsel Bureau
C. Johnson, State of Nevada	B. Price, Nevada Legislative Committee
W. Barnes, YMPO	C. Einberg, DOE/Wash, DC
M. Murphy, Nye County, NV	M. Baughman, Lincoln County, NV
D. Bechtel, Clark County, NV	D. Weigel, GAO
B. Mettam, Inyo County, CA	P. Niedzielski-Eichner, Nye County, NV
V. Poe, Mineral County, NV	W. Cameron, White Pine County, NV
R. Williams, Lander County, NV	L. Fiorenzi, Eureka County, NV
J. Hoffman, Esmeralda County, NV	J. Regan, Churchill County, NV
L. Bradshaw, Nye County, NV	W. Barnard, NWTRB
R. Holden, NCAI	T. Burton, NIEC
S. Brocoum, YMPO	R. Arnold, Pahrump, NV
N. Stellavato, Nye County, NV	J. Lyznicky, AMA

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[Original signed by:]

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