

**Minutes from the May 3, 1993
Technical exchange on Topical Reports**

On May 3, 1993, staff from the Nuclear Regulatory Commission, representatives from the Department of Energy (DOE), the State of Nevada, and affected units of local government participated in a technical exchange (TE) on NRC's Topical Report Review Plan and on DOE's plans for use of Topical Reports. The purpose of the TE was to present the NRC's Topical Report Review Plan to the participants and for the DOE to present its plan for the use of topical reports and the anticipated submission schedule for topical reports and issue resolution products. The agenda for the TE is Attachment 1, and the list of attendees is Attachment 2.

The TE opened with a presentation by the NRC of the Topical Report Review Plan. A copy of the presentation is included in Attachment 3. In its presentation, the NRC described: (1) the expected contents of a Topical Report; (2) the process for DOE to submit and the basis for the NRC staff to determine when the NRC would accept a report for review; (3) the scope of the topical report review, the criteria for NRC acceptance of the topical report, the results of the NRC review; and (4) the format for the final NRC safety evaluation. The State of Nevada provided a two page document containing proposed additions and deletions to the Topical Report Review Plan, which is contained in Attachment 5. The specific concerns raised by the State were discussed in more detail later in the meeting.


Following the NRC presentation, DOE discussed its plan for the use of topical reports during pre-licensing consultation. DOE stated that it will use topical reports to present its positions and/or conclusions for NRC review and as a medium to resolve regulatory and technical issues with the NRC staff. The State of Nevada again expressed its concern with the concept that a topical report will contain conclusions or that technical or regulatory issues may be resolved. DOE stated that the topical report is a legitimate means to state conclusions after establishing a basis for the conclusions and that it understands that issue resolution is at the staff level only and that such resolution is not binding in any licensing action. The remainder of the DOE presentation followed the Topical Report Review Plan with little comment from the participants. A copy of the DOE presentation is provided as attachment 4.

In the discussion that followed, the NRC again emphasized that there were three possible ways a topical report could be used. One was to discuss methodologies, tests, techniques and analytical models, and the second was to describe how these could or would be applied to the Yucca Mountain site. The third involved a determination of compliance with 10 CFR Part 60 or conclusions that compliance has been achieved. In accepting a topical report, the NRC would follow either of the first two uses, and would only indicate that the staff had no more questions concerning the topic at that time but that the topic or issue could be revisited at anytime. However, a determination of compliance was not within the scope of the review for a topical report. The State of Nevada further stated that it believed that conclusions should be excluded from the report. The State of Nevada stated that by allowing conclusions to be included in a topical report and then accepting the report, the result would be De Facto acceptance of the conclusions. NRC stated that this would be taken into consideration in a revision of the Topical Report Review Plan.

The State of Nevada then presented its document containing proposed additions and deletions to the Topical Report Review Plan. It defended the language in its document as being precise and complete in a legal sense, and requested that if any changes were made to make the paragraphs easier to read, that the meaning be retained. The State of Nevada expressed its concern with the language in the Topical Report Review Plan in two main areas. First, it believed that the "report contain no conclusion which the Commission may ultimately be required to reach in its quasi-judicial capacity." The second main concern was that the subject of the report not have "application to a particular technical issue at a specified site." It felt that only data that has been made available to all parties be contained in a topical report or in a reference to a topical report. The NRC stated that the State's proposals will be studied and considered in preparing any revisions to the Topical Report Review Plan.

After the discussions on the State of Nevada comments, the affected units of local government present provided their views. Nye County stated that while it believed that the present NRC staff could be relied on to properly use the topical report concept, it agreed with the language proposed by the State so that there would be no problem with interpretations by future staff. Mineral county stated that proprietary information should not be kept from legitimate reviewers, and suggested that a document be signed by reviewers to whom proprietary information is made available stating that such information will be kept confidential. The NRC staff agreed to review that portion of the review plan to see if Mineral County's concern could be addressed.

The meeting concluded with DOE providing information on two topical reports under preparation. The first, "Seismic Hazard Methodology", will have an annotated outline available in June, 1993 and the report available in October, 1994. The second, "Substantially Complete Containment" will have an annotated outline in March, 1994 and the report available in July, 1994. NRC stated that it will consider any input to the Topical Report Review Plan revision that is received in writing in the next two weeks.

 6/16/93

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 7/2/93

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**DOE-NRC Management Meeting on Topical Reports
May 3, 1993
Las Vegas, Nevada
DOE/YMPO Large Conference Room**

8:30 AM
Opening Comments **DOE/NRC/State**

8:35 AM
NRC Review Plan for Topical Reports **NRC**

- o **NRC Review Process**
- o **Basis for Review**
- o **Review Product**
- o **Review Schedules**

9:30 AM
DOE's Use of Topical Reports **DOE**

- o **Use of Topical Reports (Reference: Ltr, Roberts to Holonich, dtd 11/9/92), and Regulatory Basis and Interpretation of Potentially Adverse Condition (Reference: Ltr, Shelor to Holonich, dtd 2/19/93)**
- o **Anticipated Submission Schedules of Topical Reports and Issue Resolution Products**

10:30 AM
Discussion and Closing Comments **DOE/NRC/State**

11:30 AM
Adjourn

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May 3, 1993

DOE-NRC Management Meeting on
Topical Reports
Las Vegas, NV

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Anne Garcia	NRC	301-504 2430
Joe Holmich	NRC	301 504-3391
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HISTORY

NRC TOPICAL REPORT PROGRAM

- **Industrial organizations may submit reports on specific important-to-safety subjects to be reviewed independently of construction permit or operating license review.**
- **Results in the minimization of time and effort that industry and the NRC spend on subjects repeated in numerous licensing actions.**

BENEFIT TO HLW REPOSITORY PROGRAM

- **Focus on design methodologies, tests, techniques or analytical models under evaluation during pre-licensing consultation phase as well as the application to a particular technical issue at a specific site.**
- **Topical reports may be referenced in the license application for the HLW repository.**
- **May be referenced in DOE's Annotated Outline (AO), and will serve as the basis for preparation of portions of the AO.**

THE TOPICAL REPORT REVIEW PLAN

- **The process for submittal of topical reports.**
- **General format that the NRC staff would expect the reports to take.**
- **The process the NRC staff will use to evaluate topical reports.**
- **Report is intended for use by DOE in preparation of topical reports and by the NRC staff as guidance in its reviews.**

PURPOSE OF THE TOPICAL REPORT REVIEW

To qualify as a topical report, it must acceptably address the following:

- **The report deals with a specific important-to-safety or important-to-waste-isolation subject that requires a safety assessment by the NRC staff, such as a design methodology, test, technique or analytical model, as well as the application to a particular technical issue at a specific site which can be evaluated independent of a License Application (LA).**
- **The subject of the report is under evaluation during the prelicensing phase of the program and could be referenced in DOE's LA for the HLW repository.**
- **The report contains complete and detailed information on the specific subject presented.**

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PURPOSE OF THE TOPICAL REPORT REVIEW (continued..)

- **NRC's acceptance of the report will result in increased efficiency of the review process for the HLW repository application.**
- **The function of the staff is to determine if the report is acceptable for referencing in the LA.**

PROCESS FOR SUBMITTAL OF TOPICAL REPORTS

- **DOE shall contact the NRC well in advance of the planned submittal of the proposed topical report with the scope and description of content.**
- **If the topic is appropriate to be a topical report, it should be addressed to the Project Director, Repository Licensing and Quality Assurance Project Directorate (HLPD) from the DOE Associate Director for Systems and Compliance.**
- **The NRC Staff may identify a topic for a topical report. If so, and if DOE agrees, the topical report will be produced and formally submitted for review.**

REPORT IDENTIFICATION

- **Each topical report should have a unique alphanumerical identification symbol.**
- **Reports containing proprietary information shall include a "-P" after the identification symbol.**
- **Non-proprietary versions of reports with proprietary information shall include "-NP" after the identification symbol.**
- **NRC accepted versions will have an "-A" after the identification symbol.**

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REPORT IDENTIFICATION (continued..)

- **Amendments shall be identified using a sequential amendment number following that reports symbol, (amendment XX where XX is a sequential number beginning with 1 for the first amendment.**
- **Revisions to the report will have the same symbol as the base report with the addition of the suffix "Revision 1, etc."**

CONTENTS OF THE REPORT

- **ABSTRACT:** The report shall include an abstract, not to exceed one page in length, which summarizes the contents of the report and conclusions reached.
- **INTRODUCTION:** The introduction shall state the purpose of the report and define the scope.
- **BODY OF THE REPORT:** The body of the report will be organized according to the discretion of DOE to suit its needs.
- **REFERENCES:** Same as in the level of detail agreement for study plans.

STAFF REVIEW

The following qualification criteria will be used by the NRC staff to determine if the report qualifies as a topical report and is complete:

- 1. The report deals with a subject requiring a safety assessment which can be reviewed independently of any specific LA, such as a design methodology, test, technique, or analytical model, as well as the application to a particular technical issue at a specific site.**
- 2. The report is expected to be referenced in the DOE LA for the HLW repository**
- 3. The report contains complete and detailed information on the specific subject presented.**
- 4. NRC acceptance of the topical report will increase the efficiency of the staff's evaluation of DOE's LA.**

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STAFF REVIEW (continued..)

NRC staff requests for additional information will be forwarded to the DOE by the Project Director, HLPD.

The NRC staff will request that DOE response to requests for additional information will be provided within 60 days of the request.

Responses to requests for additional information should be submitted as amendments to the original report.

STAFF EVALUATION

The NRC staff's response will be in the form of a Safety Evaluation (SE). The SE will include the following major headings, as a minimum:

- Introduction**
- Summary**
- Staff Evaluation**
- Basis and**
- Conclusion**

The SEs will be transmitted to DOE from the Project Director, HLPD, with copies provided to the Affected State, Local Units of Government and Indian Tribes, and made available to the public through the Public Document Room.

DOE's Use of Topical Reports

May 3, 1993

Presented by: Linda Desell

Predecisional Preliminary Draft

DOE's Use of Topical Reports

- o A method for presenting DOE positions or conclusions for NRC review.**
- o Resolution of regulatory & technical issues with NRC staff.**

Purpose of Topical Reports:

- o To document a methodology or approach that DOE plans to use in demonstrating compliance in the future.**

Use of Topical Reports in Issues Resolution

- o DOE prepares an annotated outline (A.O.) of topical report and compiles data for the technical basis for the position or conclusion.**

(DOE may submit the A.O. to NRC for information purposes prior to the submittal of the actual topical report)

- o Possible DOE/NRC interactions for early feedback prior to finalizing the topical report.**
- o Preparation of topical report and submittal to NRC for review.**

Use of Topical Reports in Issues Resolution (cont.)

- o Following NRC review, NRC may provide comments or accept the report.**

(If Comments are provided, then the topical report will be revised and resubmitted.)

- o NRC may accept the report after it is satisfied with DOE's position.**
- o DOE will incorporate the accepted topical report in the A. O. of the potential license application.**

NRC's Past Acceptance of Topical Reports

o Safety Evaluation Reports (SER)

Used by NRC staff in the past for documenting NRC's review and acceptance of topical reports in the reactor industry.

o NUREG

Topical Report can be incorporated in a NRC Staff Technical Position and issued as a NUREG.

o Regulatory Guide

Topical report could be incorporated in a Regulatory Guide.

o **Rulemaking**

If DOE's position or conclusions merit a change in NRC's regulations, rulemaking could be initiated.

Significance of NRC's Acceptance of Topical Reports

Serves Two Purposes:

- 1. Provides DOE with the regulatory perspective and guidance needed to better focus programmatic decisions regarding site characterization.**
- 2. Provides a mechanism by which information can be incorporated by reference in a potential license application.**

Nevada's Proposed Amendments
To
NRC Division of High-Level Waste Management
Topical Report Review Position Paper

1. Add paragraph 2.0, new subparagraph 2
 2. The report contains no conclusion which the Commission may ultimately be required to reach in its quasi-judicial capacity.renumber remaining subparagraphs
2. Add the following new paragraph after the second paragraph.

The review will not seek to verify, validate or sanction any design methodology, test, technique or analytical model, nor its application to a particular technical issue at a specific site, nor in any way to create any implication of the determination of any fact or resolution of any issue which must ultimately be determined by the Nuclear Regulatory Commission, any licensing board or panel, or any other judicial or quasi-judicial agent of the Commission.
3. Delete the words "and the conclusion reached" from paragraph 4.1 Abstract.
4. Delete the words "or conclusions" from paragraph 4.2 Introduction.
5. Add paragraph 4.6, as follows:

4.6 Data

The topical report and references contained therein shall rely only on data which has previously been provided to the NRC, state or affected local government pursuant to 42 U.S.C. 10137.
6. Delete the following words from paragraph 5.1, subparagraph 1:

as well as the application to a particular technical issue at a specified site
7. Add paragraph 5.1, subparagraph 5, as follows:
 5. The report contains no conclusion which the Commission may ultimately be required to reach in its quasi-judicial capacity.

8. Add a third paragraph in paragraph 5.3, as follows:

The SE shall contain the following language:

This staff evaluation addresses an issue which the Department of Energy has determined is important to safety or important to waste isolation in the context of an overall analysis by the NRC of licensing of a high-level nuclear waste repository. Reference to this staff evaluation in any license application to, or proceeding before, the Nuclear Regulatory Commission shall be a reference to the information, references and data contained herein only and shall not constitute any inference of the determination of any fact or resolution of any issue which must ultimately be determined by the Nuclear Regulatory Commission, any licensing board or panel, or any other judicial or quasi-judicial agent of the Commission.

9. Add paragraph 5.4

5.4 Reliance on Topical Report in Licensing

The topical report shall contain the following language:

This topical report addresses an issue which the Department of Energy has determined is important to safety or important to waste isolation in the context of an overall analysis by the NRC of licensing of a high-level nuclear waste repository. Reference to this topical report in any license application to, or proceeding before, the Nuclear Regulatory Commission shall be a reference to the information, references and data contained herein only and shall not constitute any inference of the determination of any fact or resolution of any issue which must ultimately be determined by the Nuclear Regulatory Commission, any licensing board or panel, or any other judicial or quasi-judicial agent of the Commission.