



# Department of Energy

Washington, DC 20585

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Docket No.

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JUL 15 1987

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Mr. Robert E. Browning, Director  
Division of High-Level Waste Management  
Office of Nuclear Material Safety and Safeguards  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Dear Mr. Browning:

As you are aware we have undertaken a systematic effort within the OGR program to identify areas which we believe are ripe for productive interactions between NRC and DOE. One aspect of this effort has been to identify areas where rulemaking should be considered. One criterion which we have applied to deciding whether interaction with NRC is appropriate is the maturity of DOE's programmatic position concerning the particular subject. Another concerns the programmatic risk if ambiguities continue. A third, of course, concerns the appropriateness of the subject matter for treatment in a rule, as opposed to a Licensing Topical Report, Regulatory Guide or some other vehicle for interaction.

Based on these considerations, we have identified two subjects for near-term rulemaking:

- a. DOE is preparing a Petition for Rulemaking (PRM) requesting that NRC amend 10 CFR Part 60 to establish a 5 rem accident dose limit for the design basis accident. Consistent with 10 CFR Part 2 procedures, we will wish to meet with NRC staff in order to present the changes desired and supporting background information, as a prelude to submitting the PRM. Ed Regnier of my staff will serve as DOE point of contact for this meeting.
- b. Present 10 CFR Part 51 is silent concerning NRC's environmental regulations for geologic disposal of HLW; in particular, what NEPA documentation is required for the construction authorization; and NRC's role in scoping and preparing the site selection EIS, as well as the extent to which the EIS will be used to support NRC's decision to grant a construction authorization for a geologic repository. In view of the Nuclear Waste Policy Act requirement that NRC adopt DOE's site selection EIS to the extent practicable, DOE believes it is timely for NRC to consider amendment of 10 CFR Part 51. Gerald Parker of my staff will serve as DOE point of contact concerning this matter.



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Several other technical topics are currently under review by DOE as candidates for rulemaking. Although we have not completed our examination of the programmatic issues associated with those topics, our review to date leads us to believe the following will become candidates for future rulemaking:

1. Methodology for establishing groundwater travel time;
2. Analytical methods for evaluating waste package performance;
3. Selection and characterization of disruption scenarios.

We have also embarked on an effort to develop regulatory and licensing positions concerning how DOE intends to implement certain provisions of the regulations. Some of these positions may form the basis for Petitions-for-Rulemaking, as discussed above. Others may form the basis for Licensing Topical Reports, which DOE would submit to NRC staff for review and acceptance. Accepted Licensing Topical Reports would assist in managing and expediting the NRC staff's review of the license application at the time of the construction application. In recognition of these advantages we are most interested in NRC's putting in place a procedure which could be followed in the submission and review of Licensing Topical Reports. Therefore, we request that a formal NMSS LTR Review Procedure be developed. We believe that the reactor LTR process provides a rich experience upon which to draw.

Ed Regnier of my staff will serve as point of contact concerning the LTR Review Procedure. As a companion to this effort, we are developing a DOE procedure for the preparation of Licensing Topical Reports. That procedure will provide for both internal and external reviews, which will include reviews by affected States and Indian Tribes, as well as by industry groups whose experience is relevant to the substance of the LTR under development.

One of the positions we are developing is a site-specific tectonic strategy to gather site characterization data for the Yucca Mountain site. We intend to present this strategy to the NRC in the form of a DOE position paper in the near future. We believe this will facilitate the NRC staff review of the SCP.

Ed Regnier of my staff will serve as a point of contact.

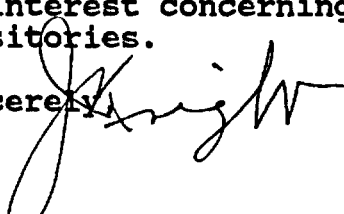
In addition to the above there are several other areas where we believe further refinements in regulatory guidance would enhance the program. We believe it would be timely to conduct a management

review of the process for developing Generic and Site-Specific Technical Positions. The experience gained over the last two decades in the development and promulgation of NRC Regulatory Guides should not be overlooked. DOE would support a process which assures that broad agency consensus underlies any staff guidance issued.

With respect to existing regulatory guidance we believe it would be useful to undertake review to determine which of the NRC Regulatory Guides, in whole or in part, might be endorsed for the repository licensing process. DOE has undertaken a preliminary review which we would be happy to share with you.

We look forward to continuing productive discussions with you and your staff on matters of mutual interest concerning the regulation of HLW disposal in geologic repositories.

Sincerely,

  
James P. Knight, Director  
Siting, Licensing and Quality  
Assurance Division, Office of Civilian  
Radioactive Waste Management

cc: B. Rusche, RW-1  
S. Kale, RW-20