

NOV 10 1988

MEMORANDUM FOR: Those on Attached List

FROM: Philip M. Altomare
Program Element Manager
Waste Systems Engineering and Integration

SUBJECT: REVIEW AND COMMENT ON DRAFT OUTLINE FOR MILESTONE R8

Enclosed you will find the draft outline for the accelerated Program Architecture deliverable due on December 21, 1988. If you have any comments or suggestions regarding this outline, please submit them to Brian Thomas (4-H-21, x20433) by c.o.b. Wednesday, November 17, 1988. Thank you.

Original Signed By

Philip M. Altomare
Program Element Manager
Waste Systems Engineering
and Integration

Enclosure: As stated

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CNWRA880058/R8 DRAFT OUTLINE

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November 8, 1988

U.S. NUCLEAR REGULATORY COMMISSION
ATTN: Mr. Philip M. Altomare
Division of High-Level Waste Management
WF1
Mail Stop 4-H-3
Washington, D. C. 20555

Subject: Draft Outline for WSE&I Milestone R8

Dear Mr. Altomare:

This letter transmits the subject item in accordance with the provisions of Part C of Section 5.2 of "Final Specification/Acceptance Criteria for WSE&I Major Milestones R7, I7, R8, and R9" that was transmitted to NRC August 12, 1988. Please note that an earlier version of this outline (that did not have Center staff comments incorporated) was erroneously transmitted in a letter of the same subject dated October 27, 1988. We regret any inconvenience this may have caused.

Following the current schedule, we anticipate beginning preparation of the initial sections of the text in late November. Comments received prior to that time will be most useful to the Center staff.

Please obtain the necessary technical and legal staff reviews concerning the format and content of this important report. Contact me if you have any questions regarding this matter.

Sincerely yours,


Allen R. Whiting
Director - SE&I

WCP/bsc
Attachments

cc: J. Bunting W. Patrick
 J. Latz R. Weiner
 R. Adler A. Whiting



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DRAFT II
PROPOSED OUTLINE FOR R8
RECOMMENDATIONS FOR REGULATORY ACTIONS RESULTING FROM
ANALYSIS OF 10 CFR 60

1.0 Introduction

There are a number of regulatory actions available to NRC to resolve uncertainties in regulations, once such uncertainties have been identified. These actions cover a range of degrees of formality, with rulemaking being both the most formal and the most binding. However, precisely because of this formality, rulemaking may not be the best method for resolution of an uncertainty in an existing rule.

Regulatory uncertainties may be identified using the program architecture process and program architecture support system now being developed. These are described in Chapter 2, below. Briefly, the program architecture identifies all regulatory requirements and "elements of proof" on which NRC will base its NWPA licensing decisions, as well as uncertainties involved, information needs, areas where NRC guidance to DOE is necessary, and other evaluations required by the licensing program. (A regulatory requirement is one or more regulatory texts which together require a demonstration of some aspect of the licensing process.) Uncertainties occur when the regulatory requirement or the elements of proof are not clear or when essential factors have been omitted from a regulatory requirement. Where an uncertainty exists with respect to a given regulatory requirement, no demonstration can be required of DOE until the uncertainty is resolved.

Information developed in the program architecture data base (PADB) will be used for the sections and subsections of Chapter 4.

Ultimately, regulatory actions, including rulemaking, may be recommended in areas which are not presently part of 10 CFR 60 or some other existing NRC rule. However, for the present document, it may be assumed that only existing regulations are being considered.

2.0 Regulatory actions available

This chapter lists the actions available to NRC and should include a brief description of each action: what staff and resources are involved, an approximate idea of the time needed to come to closure, the level of staff, external, and public involvement, and the degree to which NRC and DOE are bound by the final outcome. The inclusions in each section are listed in outline form under the heading of the first section.

2.1 Staff interpretation, definition or opinion

- 2.1.1 NRC staff involved
- 2.1.2 DOE resources utilized
- 2.1.3 Other resources needed
- 2.1.4 Milestones prior to closure

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- 2.1.5 Approximate time needed for closure
- 2.1.6 Nature and force of the decision reached
- 2.1.7 Mechanisms needed to change or override the decision

2.2 Workshop and technical meeting with concurrence
(Same as above.)

2.3 OGC legal opinion
(Same as above.)

2.4 NRC research leading to further action
(Same as above)

2.5 NRC technical position
(Same as above.)

2.6 Issuance of a Regulatory Guide
(Same as above.)

2.7 Rulemaking
(Same as above.)

3.0 The program architecture

This chapter describes the program architecture, how the concept was arrived at and how the PA elucidates regulatory and institutional uncertainties. It should include the process diagram as well as a subsection for each of the major steps in the architecture. The text for these subsections is outlined in the PADB forms and is provided in an appendix to the chapter.

3.1 Building a regulatory requirement

3.2 Elements of proof

3.3 Identifying uncertainties

3.4 Uncertainty questions

3.5 Postulated elements of proof

3.6 Uncertainty resolution

4.0 Regulatory and institutional uncertainties and steps toward resolution

This is the crucial (and largest) chapter in the report. It will contain an analysis of each uncertainty identified. Uncertainties will be grouped by regulatory requirement.

4.1 Regulatory Requirement 1.

4.1.1 Text of the regulatory requirement

This section contains the pertinent regulatory requirement, including the regulatory text and citation in 10 CFR 60. The section will also

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include a description of the regulatory and institutional uncertainties.

4.1.2 Regulatory and institutional uncertainties

This section will contain the regulatory and institutional uncertainties developed from this regulatory requirement, as well as the method selected for reducing the uncertainty and alternative methods for uncertainty reduction which were considered. A subsection will be devoted to each uncertainty.

4.1.2.1 First uncertainty

This subsection will include:

1. A statement of the uncertainty, using the statement and uncertainty questions from fields 30 and 35 of the PADB, and identification as regulatory or institutional.
2. Any additional rationale for this identification which is available from notes in the PADB.
3. The postulated elements of proof from field 39 of the PADB.
4. Alternative methods of uncertainty resolution or reduction which are applicable to this particular uncertainty and the uncertainty reduction method selected, with the rationale for its selection. This information would also be in field 39 of the PADB. This subsection should include a short discussion elucidating each rejected alternative, and why it was rejected.
5. Similar recent regulatory actions, if there are any. This will require a bit of historical digging, although it will certainly not be a complete compendium. In the case of NRC technical positions, regulatory guides and rulemakings, identification of similar cases would be particularly relevant.
6. Identification of agencies and groups affected by the regulatory action, and most likely to respond to it. This is of particular relevance in rulemaking. In addition to DOE and EPA, affected groups could include DOT, the State of Nevada, Native American tribes, public interest groups and utilities.

4.2 Regulatory Requirement 2.

Parallel to Section 4.1.

5.0 Summary of proposed regulatory actions.

This chapter would provide a summary of regulatory actions, grouped in accordance with the subsections of Chapter 2, above:

Staff interpretation, definition or opinion

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Workshop and technical meeting with concurrence
OGC legal opinion
NRC research leading to further action
NRC technical position
Issuance of a Regulatory Guide
Rulemaking

In each section, for each proposed regulatory action, there would be a subsection discussing the recommended technique to implement the proposed regulatory action. To the extent possible, the items needing regulatory action will be prioritized, but the use of formal or sophisticated prioritization methods is not anticipated. Application of such methods will await completion of development of the program architecture.

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