

To: Jode MARTIN 6/6/80

Please take another  
crack at this along

the lines of an

discussion today

Bill Duder

~~Make very  
This came in, late, this  
afternoon. It looks OK to me  
but I wasn't in on discussion  
Jerry~~



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

JUN 5 1980

MEMORANDUM FOR: Robert B. Minogue, Director  
Office of Standards Development

FROM: Howard K. Shapar  
Executive Legal Director

SUBJECT: STATUS REPORT ON STAFF'S EFFORTS TO REDEFINE  
HIGH-LEVEL WASTES (SECY STAFF REQUIREMENTS  
MEMORANDUM AFFIRMATIVE SESSION 80-18)

While we have no legal objection to your memorandum for the Commissioners on the captioned subject, we think it is important to point out that the term "high-level radioactive waste" in proposed 10 CFR Part 60 is taken directly from Section 202 of the Energy Reorganization Act. When that legislation was enacted, the Appendix F definition was already in place. Moreover, the term "high-level radioactive waste" had been defined, using the Appendix F language, in the Marine Protection, Research and Sanctuaries Act of 1972, P.L. 92-532, at 33 U.S.C. 1402. (The MPRSA definition includes "irradiated fuel from power reactors" as well as reprocessing wastes.) In view of these considerations, we would find it difficult to support a redefinition of the term "high-level radioactive waste" based upon activity levels.

We recognize that the technical problems associated with waste management will be affected by radioactivity levels and further that some or all of the procedures and technical criteria contemplated in 10 CFR Part 60 might be inappropriate for certain wastes. If this should prove to be the case, a possible response would be to classify "high-level waste" into two or more categories and to provide that Part 60 would only apply to the category representing the greatest potential hazard. Similarly, our regulations could require that some highly radioactive materials be disposed of in a repository licensed under Part 60 even though those materials were not "high-level" within the meaning of the Energy Reorganization Act. While the term "high-level radioactive waste" would not be redefined, the regulatory requirements would be related to activity levels and public hazard. We think this approach would answer Commissioner Bradford's concern as we understand it.

*Howard K. Shapar*  
for Howard K. Shapar  
Executive Legal Director