



**Department of Energy**  
Office of Civilian Radioactive Waste Management  
Office of Repository Development  
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QA: N/A  
Project No. WM-00011

NOV 05 2004

OVERNIGHT MAIL

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RESPONSE TO U.S. NUCLEAR REGULATORY COMMISSION'S (NRC)  
INTERPRETATION OF GUIDANCE FOR OFFICIAL USE ONLY (OUO) INFORMATION

Reference: Ltr, Reamer to Ziegler, dtd 9/29/04 (Determination Regarding Contractor Access to  
Official Use Only Information Submitted to NRC in the Proposed License  
Application for a High-Level Waste Repository at Yucca Mountain)

The referenced letter provided NRC's interpretation of guidance contained in our *Manual For Identifying and Protecting Official Use Only Information*, DOE M471.3-1, regarding the responsibility for determining whether someone has a valid need for access to OUO information that the U.S. Department of Energy (DOE) may submit to NRC in support of a repository license application, and specifically, as it applies to access by NRC contractor organizations, such as the Center for Nuclear Waste Regulatory Analyses located in San Antonio, Texas.

The guidance in DOE M471.3-1 states that "the responsibility for determining whether someone has a valid need for such access rests with the person who has authorized possession, knowledge, or control of the information or document and not the prospective recipient." NRC's interpretation of this guidance, as stated in the referenced letter, is that "once the license application is submitted to NRC, NRC would be in '...authorized possession...' of the Official Use Only Information" and "Accordingly, NRC would have the responsibility for determining who at the Center would be best suited to provide technical assistance to us for the review of the DOE license application and related documents."

The DOE agrees with the NRC's interpretation of DOE M 471.3-1, Chapter II, that once the License Application is submitted to the NRC, the NRC would be in "authorized possession, knowledge, or control" of any OUO information also submitted. As such, the NRC would be responsible for ensuring that OUO information be shared only with those NRC or NRC contractor personnel who require access to this information to perform their tasks, and ensuring

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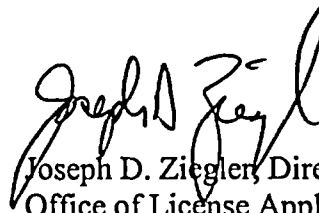
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that physical protection requirements are met for safeguarding OOU information. However, if NRC receives a request for access to DOE OOU information in its possession from a party who is not involved in NRC's formal license approval process, such requests should be referred to DOE.

If you have any questions concerning this letter, please contact Joe C. Price at (702) 794-1441 or e-mail [joe\\_price@ymp.gov](mailto:joe_price@ymp.gov).



Joseph D. Ziegler, Director  
Office of License Application and Strategy

OLA&S:JCP-0153

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