



UNITED STATES
NUCLEAR REGULATORY COMMISSION
ADVISORY COMMITTEE ON NUCLEAR WASTE
WASHINGTON, DC 20555 - 0001

ACNWS-0150

December 10, 2004

The Honorable Nils J. Diaz
Chairman
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

SUBJECT: SUMMARY REPORT—155TH MEETING OF THE ADVISORY COMMITTEE
ON NUCLEAR WASTE, NOVEMBER 16-18, 2004, AND OTHER RELATED
COMMITTEE ACTIVITIES

Dear Chairman Diaz:

During its 155th meeting on November 16–18, 2004, the Advisory Committee on Nuclear Waste (ACNW) discussed the following matters.

HIGHLIGHTS OF KEY ISSUES CONSIDERED BY THE COMMITTEE

1. Format and Content of the U. S. Department of Energy Yucca Mountain License Application

Joseph Ziegler, representing the U.S. Department of Energy's (DOE's) Yucca Mountain Project Office, presented the Department's approach to its preparation of a construction authorization application to build a geologic repository at Yucca Mountain, consistent with NRC's site-specific geologic repository regulations at 10 CFR Part 63. These regulations require that DOE's license application consist of three parts—general information, a safety analysis report, and a final environmental impact statement (FEIS). Section 63.21 of NRC's Yucca Mountain regulation, in particular, describes the general content of the DOE license application for the purposes of construction authorization. DOE's presentation focused on how the Department has interpreted the requirements of Section 63.21 and the guidance of the Yucca Mountain Review Plan (NUREG-1804) in preparing the license application. The NRC staff will review any license application submission (specifically the general information and the safety analysis report¹), consistent with the provisions of Nuclear Waste Policy Act, as amended, and prepare a safety evaluation report documenting NRC findings with regard to the Department's compliance demonstrations.

¹ Consistent with the Nuclear Waste Policy Act of 1982 (NWPA), as amended, NRC will not review DOE's FEIS as part of its construction authorization decision-making. Rather, the NRC is to determine whether it can "adopt" the FEIS, consistent with the Commission's regulations at 10 CFR 51.109. The NRC adoption decision is to be made at the time the DOE license application is docketed, prior to undertaking any safety review.

Although the DOE license application is currently scheduled for submittal in December 2004, Mr. Ziegler acknowledged that the Department's current timetable is subject to uncertainty because a recent Federal court decision vacated the parts of the U.S. Environmental Protection Agency (EPA) radiation standards in 40 CFR Part 197 that apply to the post-closure period of geologic repository performance and because an Atomic Safety and Licensing Panel recently reversed NRC's Licensing Support Network (LSN) certification. The projected fiscal year (FY) 2005 DOE budget shortfall is also a factor in the probable delay.²

Once submitted, the DOE license application and its references will be publicly available through the Internet-based LSN and the NRC Public Reading Room.

Conclusions/Action Items

This presentation was informational since the DOE license application is considered to be pre-decisional and, therefore, not yet publicly available. Once the license application is available, the Committee will become familiar with the contents of the application in case the Commission has questions.

2. Semiannual Briefing of the Office of Nuclear Material Safety and Safeguards Division Directors

The Committee received an update from C. William Reamer, Director, Division of High-Level Waste Repository Safety, and Daniel Gillen, Acting Director, Division of Waste Management and Environmental Protection, Office of Nuclear Material Safety and Safeguards, on recent activities of interest within their respective divisions.

Mr. Reamer's presentation focused on the current schedule uncertainties related to the Yucca Mountain license application as a result of a Federal court's remand of EPA's Yucca Mountain standard (40 CFR Part 197), the decertification of DOE's input into the LSN, and the funding uncertainties of operating under a continuing resolution.

Mr. Gillen discussed many of the topics under consideration by his division. He intends to present them to the Committee at the appropriate time. Among the potential topics are greater-than-Class C wastes, mixed wastes, the control and disposition of solid materials, DOE's proposed resolution for waste classified as waste incidental to reprocessing, the current joint effort with DOE on risk-based end states, and alternate LLW disposal strategies.

²At a subsequent NRC-DOE management meeting held on November 17, 2004, the Department announced that its license application would not be submitted in December 2004 for the reasons described above. DOE noted that a revised program schedule was being developed consistent with the Department's 2005 budget. DOE expects to make that schedule available, including the next projected date for the license application submittal, during the first quarter of calendar year 2005.

Conclusions/Action Items

This was an information-only briefing. No action is necessary except to note the value of continuing these interactions.

3. International Transportation Meetings

The ACNW received an information briefing on recent international transportation activities such as the International Symposium on the Packaging and Transportation of Radioactive Materials and several full-scale regulatory drop tests.

Conclusions/Action Items

The Committee will continue to stay abreast of issues associated with spent fuel transportation and spent fuel shipping cask testing.

4. ACNW 2005 Action Plan

The Committee completed its review of the Action Plan, and proposed FY 2005 working group meetings.

Conclusions/Action Items

The Committee approved the FY 2005 Action Plan and proposed working group meetings.

5. Working Group Planning Session

Dr. Ryan led a discussion on potential working group meetings (WGMs) 2005. Members and staff discussed six potential topics for WGMs: health physics issues, LLW, clearance, decommissioning, risk-informed regulations, and the anticipated West Valley performance assessment.

The Committee decided that risk-informed regulations would not be a WG since the Commission's policy on the use of risk information has already been incorporated into the regulations. The other topics were approved for further study, along with a potential working group on the technical issues associated with waste incidental to reprocessing.

Conclusions/Action Items

The Committee plans to prioritize and schedule these WGMs after the next meeting. The staff and cognizant Members will then prepare an outline for each of the potential WGMs.

6. Proposed Agenda for the 156th ACNW Meeting

The Committee agreed to consider the following topics at its 156th meeting on December 13–14, 2004:

- C Preparation for Meeting with the NRC Commissioners
- C Time of Compliance for a Proposed High-Level Waste Repository
- C ACNW 2005 Operating Plan
- C Agreement State Program
- C Working Group Meeting Planning Session
- C Preparation of ACNW Reports

Sincerely,

/RA/

Michael T. Ryan
Chairman