

February 16, 2005

MEMORANDUM TO: Charles L. Miller, Director
Division of Industrial and
Medical Nuclear Safety, NMSS

FROM: C. William Reamer, Director /L. Kokajko RA for C.W. Reamer/
Division of High-Level Waste Repository Safety, NMSS

SUBJECT: USER NEED MEMORANDUM - REVISING TECHNICAL CRITERIA
FOR PART 63, DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTE IN
A GEOLOGIC REPOSITORY AT YUCCA MOUNTAIN, NEVADA

I am requesting that the Rulemaking and Guidance Branch (RGB) undertake a rulemaking to revise Part 63, Subpart E, Technical Criteria, to be consistent with the Environmental Protection Agency's (EPA) environmental standards for Yucca Mountain. We will provide all technical bases and will rely on RGB to coordinate and prepare necessary documents for the rulemaking.

On July 9, 2004, the U.S. Court of Appeals concluded that the 10,000-year compliance period selected by EPA violates Section 801 of the Energy Policy Act and is not "based upon and consistent with" the recommendations of the National Academy of Sciences. The court vacated 40 CFR Part 197 to the extent that it incorporates a 10,000-year compliance period and vacated the U.S. Nuclear Regulatory Commission (NRC) rule to the extent it incorporates EPA's 10,000-year compliance period.

The EPA is considering revising the compliance period to address the court's decision and has informally indicated the desire to publish a proposed rule in spring of 2005. The NRC is obligated to revise its regulations to be consistent with EPA's environmental standards for Yucca Mountain. Therefore, it is important for NRC to publish the proposed rule in a time frame consistent with EPA.

We will keep your staff informed of any relevant activities and EPA's progress so that you may expeditiously proceed with the rulemaking as soon as a decision is made by EPA on the changes. We expect this effort to require approximately 3 months of full-time equivalent staff effort to complete the rulemaking.

If you have any questions regarding this matter, please contact Timothy McCartin of my staff.

CONTACT: Timothy McCartin, NMSS/HLWRS
(301) 415-7285

cc: L. Chang

February 16, 2005

MEMORANDUM TO: Charles L. Miller, Director
Division of Industrial and
Medical Nuclear Safety, NMSS

FROM: C. William Reamer, Director /L. Kokajko RA for C.W. Reamer/
Division of High-Level Waste Repository Safety, NMSS

SUBJECT: USER NEED MEMORANDUM - REVISING TECHNICAL CRITERIA
FOR PART 63, DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTE IN
A GEOLOGIC REPOSITORY AT YUCCA MOUNTAIN, NEVADA

I am requesting that the Rulemaking and Guidance Branch (RGB) undertake a rulemaking to revise Part 63, Subpart E, Technical Criteria, to be consistent with the Environmental Protection Agency's (EPA) environmental standards for Yucca Mountain. We will provide all technical bases and will rely on RGB to coordinate and prepare necessary documents for the rulemaking.

On July 9, 2004, the U.S. Court of Appeals concluded that the 10,000-year compliance period selected by EPA violates Section 801 of the Energy Policy Act and is not "based upon and consistent with" the recommendations of the National Academy of Sciences. The court vacated 40 CFR Part 197 to the extent that it incorporates a 10,000-year compliance period and vacated the U.S. Nuclear Regulatory Commission (NRC) rule to the extent it incorporates EPA's 10,000-year compliance period.

The EPA is considering revising the compliance period to address the court's decision and has informally indicated the desire to publish a proposed rule in spring of 2005. The NRC is obligated to revise its regulations to be consistent with EPA's environmental standards for Yucca Mountain. Therefore, it is important for NRC to publish the proposed rule in a time frame consistent with EPA.

We will keep your staff informed of any relevant activities and EPA's progress so that you may expeditiously proceed with the rulemaking as soon as a decision is made by EPA on the changes. We expect this effort to require approximately 3 months of full-time equivalent staff effort to complete the rulemaking.

If you have any questions regarding this matter, please contact Timothy McCartin of my staff.

CONTACT: Timothy McCartin, NMSS/HLWRS
(301) 415-7285

cc: L. Chang

DISTRIBUTION:
HLWRS r/f

ML050390223

*See Previous Concurrence

OFC:	HLWRS		HLWRS				
NAME:	TMcCartin*		CWReamer				
DATE:	02/09/05		2/16/05				