

From: Steve Jones
To: Dembek, Stephen > NRR
Date: 1/30/04 12:27PM
Subject: Re: Fwd: Status of NUREG - 1738

Steve,

I believe the interpretation of how an NRC staff report can be used and its legal status are appropriately addressed by OGC. Nevertheless, I have the following responses to Mr. Ray Shadis' questions:

1. NUREG-1738 is a valid staff report. However, the Commission has not endorsed the report as part of the considerations underlying any rule or regulation, and members of the Commission (McGaffigan and Diaz) have stated publicly (speeches available through NRC web site) that NUREG-1738 suffers from excessive conservatism. The staff used many conservative assumptions in preparing the report to simplify analyses. Therefore, the results of the report should be used only in such a way that the report's underlying assumptions are satisfied and the conservatisms provide an additional margin of safety. Other applications of the report results may produce invalid conclusions.
2. As described in the forward of NUREG-1738, the report was prepared for staff use in rulemaking and exemption proceedings. Other users of the report results should carefully consider the underlying assumptions used in the preparation of the report in developing conclusions.
3. Congress has mandated (via an appropriations earmark) that the NRC contract with the National Academy of Sciences for an independent review of the overall safety of interim spent fuel storage in pools and dry casks. NRC staff results, including NUREG-1738, will likely be considered in that review.
4. Requests for public comment were consistent with the intended purpose of NUREG-1738 in supporting potential rulemaking and exemption activities.

I hope you find this input useful.

Steve

>>> Stephen Dembek 01/28/04 03:46PM >>>
Gentlemen,

My group has been tasked with answering the attached letter regarding the official status of NUREG-1738.

Do you know where I can get answers to his questions?

Thanks,
Steve

CC: Palla, Robert; Solorio, David; Tinkler, Charles

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