



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
ADVISORY COMMITTEE ON NUCLEAR WASTE AND MATERIALS  
WASHINGTON, D.C. 20555-0001

August 13, 2007

The Honorable Dale E. Klein  
Chairman  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

SUBJECT: CONCERNING THE RESPONSE FROM THE EDO REGARDING THE  
COMMITTEE'S LETTER ON PREVENTION OF LEGACY SITES

Dear Chairman Klein:

The Committee is responding to the Executive Director for Operations' (EDO) letter dated June 14, 2007, which responds to the Advisory Committee on Nuclear Waste and Materials' (the Committee) letter dated October 17, 2006, concerning the development of rulemaking and guidance for the prevention of legacy sites. The EDO's letter states that five of the six recommendations made by the Committee in its October 2006 letter are being implemented by the staff in the current rulemaking and guidance efforts. The Committee commends the staff for its continuing improvements in decommissioning rulemaking and guidance based on the Committee's recommendations.

The EDO letter also states that the sixth recommendation, reducing the financial assurance requirements for licensees who effectively implement the guidance and requirements for preventing legacy sites, is inconsistent with NRC requirements, and that it is critical that all licensees maintain the minimum financial assurance necessary to remediate their sites.

The Committee agrees with the staff that all licensees must maintain the minimum financial assurance as required in the regulations. Unfortunately, the Committee did not frame its recommendation clearly based on the staff's presentation of the material at the 172<sup>nd</sup> meeting of the Committee.

The Committee's recommendation should have referenced the *guidance* for prevention of legacy sites for those licensees required to prepare decommissioning cost estimates and to establish financial assurance amounts based on those estimates. Often these financial assurance requirements are set well above the minimum values based on the required assessments. The Committee believes that the consolidated decommissioning guidance found in NUREG-1757, Volume 3, "Consolidated NMSS Decommissioning Guidance – Financial Assurance, Recordkeeping, and Timeliness – Final Report," should discuss how decommissioning financial requirements could be maintained at or near their threshold amounts based on successful implementation of legacy site avoidance strategies. The Committee believes that licensees with large amounts of radioactive material and complex operations could perform actions during operations, such as initiating a spill cleanup immediately, installing leak detection systems in critical areas, or reengineering systems to eliminate hard to monitor features or components. Such guidance would allow licensees to consider reducing the amount of financial assurance required for license termination versus improvements during the active life of facility.

The Committee expects to be briefed by the staff again on the rulemaking and guidance for prevention of legacy sites at the 183<sup>rd</sup> meeting of the Committee in October, and we will discuss this issue with them again at that time.

Sincerely,

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Michael T. Ryan  
Chairman

Reference: NUREG-1757, Volume 3, "Consolidated NMSS Decommissioning Guidance - Financial Assurance, Recordkeeping, and Timeliness - Final Report"

The Committee expects to be briefed by the staff again on the rulemaking and guidance for prevention of legacy sites at the 183<sup>rd</sup> meeting of the Committee in October, and we will discuss this issue with them again at that time.

Sincerely,

Michael T. Ryan  
Chairman

Reference: NUREG-1757, Volume 3, "Consolidated NMSS Decommissioning Guidance - Financial Assurance, Recordkeeping, and Timeliness - Final Report"

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