

October 18, 2007

Martin G. Malsch, Esquire
Egan, Fitzpatrick, Malsch & Cynkar, PLLC
8300 Boon Boulevard, Suite 340
Vienna, Virginia 22182

Dear Mr. Malsch:

I am responding to the petition for rulemaking, dated December 22, 2006, that you submitted to the U.S. Nuclear Regulatory Commission (NRC) on behalf of the State of Nevada. Your petition was docketed as PRM-63-2 and requested that NRC amend 10 CFR Part 63 to specify the limits of permissible spent fuel storage at the proposed geologic repository at Yucca Mountain, Nevada (YM), together with related changes to 10 CFR Part 71.

NRC has considered the petition and your supporting rationale. For the reasons provided in the enclosed Federal Register notice, your petition is denied. In summary, the petition is denied because NRC's rules already bar storage of spent nuclear fuel which is not integral to waste handling, necessary treatment, and disposal operations at the repository. The Commission believes that, without an application currently before the agency, the issues raised by the petition are best addressed during the agency's review of the application when a final design will be available and an opportunity to request a hearing will be offered.

The Federal Register notice denying the petition is being transmitted to the Office of the Federal Register for publication.

Sincerely,

/RA/

Annette L. Vietti-Cook

Enclosure:
Federal Register Notice
Denying Petition