

December 12, 2008

Edward F. Sproat, III, Director
Office of Civilian Radioactive
Waste Management
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585

Dear Mr. Sproat:

I am responding to your December 2, 2008, letter regarding the final draft of the U. S. Department of Energy (DOE) Office of Civilian Radioactive Waste Management Project Decision Schedule (PDS). As you indicated in your letter, this PDS identifies the specific actions that affected Federal agencies, including the U. S. Nuclear Regulatory Commission (NRC), must take in order to begin operation of the repository on the schedule contained in this PDS. The NRC has no objection to DOE's publication of the PDS, subject to the comments below.

On page four of the draft PDS, the chart labeled Yucca Mountain Repository Project Schedule indicates that the NRC will issue regulations conforming to the U.S. Environmental Protection Agency revised 40 Code of Federal Regulations 197 standards in calendar year (CY) 2008. Given the uncertainties involved in the regulatory processes for issuance of major rules, this rule is likely to be issued early in CY 2009. The date in the chart should be changed to CY 2009. This same change should be reflected in the chart on page thirteen, where the arrow indicating this milestone should be shifted appropriately, and in the chart on page 15, where CY 2008 should be changed to CY 2009.

Aside from this adjustment, there are some places where more clarity with respect to the NRC role and activities can be achieved with minor editing, as follows:

Page one, second paragraph, third to the last line: "...until the U.S. Nuclear Regulatory Commission (NRC) issues a construction authorization for the repository." should read "...until the U.S. Nuclear Regulatory Commission (NRC) issues a decision on construction authorization for the repository."

Page one, third paragraph, second to the last line: "...a receive and possess license amendment." should read "...a receive and possess license."

Page two, second paragraph, second to the last line: "...after receipt of a license for construction authorization from NRC..." should read "...after receipt of construction authorization from NRC...". In the next to the last line, the word "amendment" should be deleted.

Page three, second paragraph, first sentence: change "...the NRC completed its docketing review on September 8, 2008." to "...the NRC docketed the license application on September 8, 2008." In the next to the last sentence, "...an application for a license amendment to receive and possess..." should read "...an update to the license application to receive and possess...". In the last sentence, the word "amendment" should be deleted.

Page four, the 06/2011 item on the chart, last line: "...license application to receive and possess" should read "...license application update to receive and possess."

Page five, the first 03/2016 item on the chart: "...license amendment to receive and possess" should read "...license application update to receive and possess". The second 03/2016 item on the chart: "...application for license amendment..." should read "...license application update for a license...". The 09/2017 item on the chart: "...license amendment" should read "...license to receive and possess". The 9/2018 item on the chart: the word "amendment" should be deleted. The 3/2019 item on the chart: the word "amendment" should be deleted.

Page ten, last paragraph: In the second sentence, change "...the NRC staff completed its docketing review on September 8, 2008." to "...the NRC staff docketed the license application on September 8, 2008." In the third sentence, change "...the NRC staff will initiate a technical review and will prepare a safety evaluation report." to "...the NRC staff will complete a technical review and will prepare a safety evaluation report." In the fourth sentence, change "...within a three (3) year period..." to "...within the three (3) year period...".

Page thirteen, Program Summary Schedule chart: the word "amendment" should be deleted from milestones in 2016, 2017, and 2019. The 3/2016 milestone: "DOE submits application for license amendment..." should read "DOE submits license application update for license...".

Page fifteen, first paragraph, third sentence: change "amendment" to "update". Fourth sentence: "...NRC issues authorization to receive and possess..." should read "NRC issues a license to receive and possess...".

Page fifteen, second paragraph, first line: change "...NWPA 137..." to "...NWPA Section 180..." to reflect that Section 180 more specifically addresses the requirement for DOE to obtain and use NRC-certified packages.

Page fifteen, U.S. Nuclear Regulatory Commission Schedule chart, 09/2017 milestone: "...license amendment" should read "...license to receive and possess". 03/2019 milestone: the word "amendment" should be deleted.

If you have any questions about the contents of this letter, please contact King Stablein (301-492-3199; e-mail nks@nrc.gov) of my staff.

Sincerely,

/RA/

Michael F. Weber, Director
Office of Nuclear Material Safety
and Safeguards

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