



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

October 30, 1995

Mr. William T. Gregory, III, Chairman
Nuclear Engineering Division
ASME International
Suite 906
1828 L Street, NW
Washington, DC 20036-5104

Dear Mr. ^{Bill} Gregory:

This letter is in response to your letter of September 25, 1995, regarding the termination of the U.S. Nuclear Regulatory Commission's low-level radioactive waste (LLW) topical report (TR) review program. Thank you for your kind remarks regarding the value of NRC's LLW TR program. I agree that the program in general and the guidance developed by NRC staff in particular have been useful to industry by bringing about standardization and reducing duplicative reviews. The program may have also benefitted waste management programs outside of NRC responsibility (e.g., U.S. Department of Energy and foreign programs).

While the LLW TR review program provides a convenient vehicle with apparent economic benefits to NRC licensees and others, it is not as closely tied to health and safety as many of the other Commission licensing, inspection, or enforcement functions. Recent budgetary decisions have forced NRC to carefully reevaluate all of its functions and programs, and redirect our focus to those which have a more direct impact on NRC's fundamental mission, namely, protection of worker and public health and safety and the environment.

To provide additional clarification of NRC's position and reasons for the decision, I will now address some of the specific points of your letter.

All Agreement States, potential Agreement States, and vendors were notified by letter of NRC's decision to terminate the LLW TR review program in May 1995, concurrent with the Federal Register notification mentioned in your letter. NRC continues to believe that the elimination of LLW TR reviews at the Federal level will not result in burdensome, or lengthy and duplicative, reviews at the Agreement State level. Rather, Agreement States have the potential to take advantage of previous review results by other Agreement States (or NRC), and could develop procedures to perform concurrent or coordinated reviews of specific vendor or licensee proposals. Also, procedures exist which allow Agreement States to request NRC technical assistance, if necessary.

The LLW disposal sites currently operating or under active development are in Agreement States, or States planning to become Agreement States. Through their individual Agreements with NRC and their compatible regulations to 10 CFR Part 61, those States maintain the responsibility and authority to regulate, and determine acceptability of, disposal of wastes at their sites. Your letter indicates a concern related to assuring equal protection for all citizens from the hazard of LLW. Although a "centralized review" of LLW TRs will not be performed by NRC, Agreement State regulatory programs will continue to assure adequate protection of worker and public health and safety and the environment.

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Because Agreement States promulgate independent regulations, some differences in waste acceptance criteria can exist. Generally such criteria would result in systems which exceed NRC's minimum stability requirements, as specified in 10 CFR Part 61. The guidance presented in the Branch Technical Position (BTP) on Waste Form, Rev. 1, remains available for use by Agreement States and vendors for evaluating a solidification process or high-integrity container (HIC) against the stability provisions of 10 CFR Part 61. However, the utility of an NRC review of a LLW TR against the requirements in 10 CFR Part 61 (i.e., using the BTP), is questionable for those Agreement States with more restrictive site-specific requirements.

National Laboratories have provided NRC with technical assistance during several past LLW TR reviews. However, these reviews cannot be performed without resource impacts to NRC. Resources are necessary, not only to administer the contracts, but also to provide interpretations and ensure consistency for new technical and policy issues, which are not uncommon to LLW TR reviews. The technical assistance capability of National Laboratories was considered in the original decision to terminate the LLW TR review program. Conceivably, States could seek to develop a capability to contract with laboratories or other entities, to provide technical assistance on waste form issues.

Generally, costs and review time for a LLW TR are dependent upon a combination of how innovative the process is, its proposed range of applicability, and the quality of the initial submittal. Therefore, fixed review costs or times would be difficult to determine or implement. Further, if a fixed review cost did not reflect the actual staff or contractor effort on the review, the costs would be inequitably ascribed to the vendor or other licensees.

Consistent with the budgetary pressures mentioned above, NRC is currently doing a strategic assessment of all its activities and plans to rebaseline its programs to optimize the use of all its resources. Our options regarding LLW regulation will be considered during this assessment. However, I consider it highly unlikely that we will reverse our decision to terminate LLW TR reviews. Sincerely,

Michael J. Bell, Chief
 Engineering and Geosciences Branch
 Division of Waste Management
 Office of Nuclear Material Safety
 and Safeguards

cc: Agreement States,
 Massachusetts, Pennsylvania,
 Ohio, Oklahoma
 P. Merges, CRCPD E-5

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William T. Gregory, III

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If you have additional questions, or would like to discuss this issue further, feel free to call me on (301) 415-7286.

Sincerely,

Michael J. Bell, Chief
Engineering and Geosciences Branch
Division of Waste Management
Office of Nuclear Material Safety
and Safeguards

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