



REQUEST REPLY BY: 1/12/05

COMSECY-04-0077

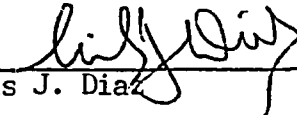
UNITED STATES
NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON NUCLEAR WASTE

WASHINGTON, D.C. 20555-0001

04 DEC 28 PM 3: 22

Approved with comments.
See attached comments.


Nils J. Diaz 01/18 /05

December 22, 2004

The Honorable Nils J. Diaz
Chairman
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

SUBJECT: FISCAL YEAR 2005 AND 2006 ACTION PLAN FOR THE ADVISORY
COMMITTEE ON NUCLEAR WASTE

Dear Chairman Diaz:

The Advisory Committee on Nuclear Waste (ACNW) has updated its Action Plan (hereafter the Plan) to reflect new and continuing priorities for fiscal years (FY) 2005 and 2006 (see enclosure). The primary purpose of the Plan is to guide the Committee in carrying out its mission. The Committee will continue to update the Plan at least every 2 years. The Plan describes our mission, vision, desired outcomes, commitments, goals, objectives, and priority topics. The Plan supports the Nuclear Regulatory Commission's (NRC's) new Strategic Plan for FY 2004-FY 2009 (NUREG-1614, Vol. 3), dated August 2004. The Plan is also consistent with the ACNW's charter and the Memorandum of Understanding between the ACNW and NRC's Executive Director for Operations, dated March 23, 2001.

In addition to identifying and prioritizing topics in the Plan, the ACNW had performed a self-assessment (SECY-03-0091) to identify process improvements that will enhance the Committee's operation. The ACNW will continue to monitor the effectiveness and efficiency of its processes, perform self-assessments, and make improvements as warranted. Progress and outcomes of process improvements are being tracked in a separate internal planning document.

The Committee has identified six first-tier priority topics and six second-tier priority topics for FY 2005 and FY 2006

First-Tier Topics:

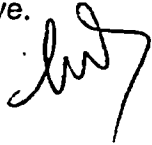
1. Proposed Yucca Mountain Repository
2. 10 CFR Part 63 Rulemaking Activity
3. Risk-Informing Regulatory Activities

**Chairman Diaz' comments on COMSECY-04-0077 - Fiscal Year 2005 and 2006 Action Plan
for the Advisory Committee on Nuclear Waste**

I approve the 2005-2006 Action Plan for the Advisory Committee on Nuclear Waste with some modification. I appreciate the Committee's efforts to apply screening criteria when prioritizing its topics. In the future, the Committee should improve clarity in how the screening criteria are applied and consistency with the agency's strategic plan. Specifically, "openness" should be used as a screening criterion rather than "stakeholder confidence." As stated in the April 19, 2004 SRM for COMSECY-04-0012, the ACNW should not review any topics that are under adjudication; therefore, they should be removed from the Action Plan (e.g., Private Fuel Storage and Louisiana Enrichment Services). Additionally, the ACNW should remain cognizant of other topics that may soon be in adjudication.

I also recommend the following specific changes:

1. Waste Incidental to Reprocessing (WIR) should be a tier-one topic due to recent Congressional action expanding NRC's role in this program.
2. Part 63 rulemaking activities should be removed as a stand-alone topic. It is already being addressed in the proposed Yucca Mountain repository topic.
3. The Low Level Waste working group should be replaced with the WIR working group, currently listed as tentative.





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COMSECY-04-0077

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

*Approved with
comments (attached)*

*Edie Jeffrey Jr
1/19/05*

December 22, 2004

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Washington, DC 20555-0001

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First-Tier Topics:

1. Proposed Yucca Mountain Repository
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Commissioner McGaffigan's Comments on COMSECY-04-0077

I approve the 2005-2006 Action Plan for the Advisory Committee on Nuclear Waste as modified by the Chairman and Commissioner Merrifield. I also want to thank the Committee for the good advice that it has provided to the Commission over the years. An example is the June 9, 2004 letter regarding risk-informing NMSS which was very useful to the Commission.

I also agree with Commissioner Merrifield with regard to the Yucca Mountain review. Considering that the Yucca Mountain license application has been delayed, the ACNW should continue its current activities in this area. However, once the license application is submitted, the Committee's activities related to the proposed high-level waste repository should focus on information gathering and familiarization with documents which will allow the Committee to assist the Commission in its activities upon specific request by the Commission.

In addition, I am approving these topics under the assumption that they will be accomplished with currently budgeted resources.





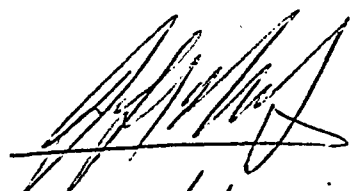
REQUEST REF ID: 1112105

COMSECY-04-0077

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

*Approval subject to
the attached comments.*

December 22, 2004



1/13/05

The Honorable Nils J. Diaz
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1. Proposed Yucca Mountain Repository
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Comments from Commissioner Merrifield on COMSECY-04-0077:

I approve as modified in the following paragraphs the fiscal year 2005 and 2006 action plan for the Advisory Committee on Nuclear Waste (ACNW) as contained in COMSECY-04-0077. But first, I want to acknowledge the valuable advice the ACNW members provide, both individually and collectively, to the Commission to enable us to fulfill the overall mission of the Agency.

In general, I support the proposed first and second tier topics with the following comments:

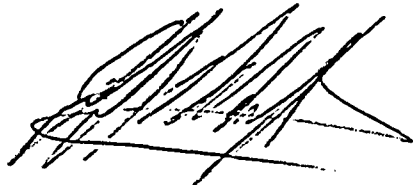
First, given the current status of the Yucca Mountain license application, the ACNW should continue its current activities in this area. But once the license application is received, any Committee activities related to the proposed high level waste repository should focus on information gathering and familiarization with the staff work plan and other documents to best position the Committee to assist the Commission in its license activities upon specific Commission request.

The Committee lists low-level radioactive waste as a second tier function with a stated intent to hold discussions with the staff on risk informing the existing low level waste regulations. Given the current lack of NRC activity in licensing new disposal facilities, this effort should be given a low priority. The Committee should not divert staff resources from other higher priority issues to address this issue unless a specific need arises in this time frame requiring Agency action.

The proposed Private Fuel Storage Facility is a second tier topic limited to information gathering by the Committee. As long as this facility is in litigation, the Committee is expected to maintain its focus on information gathering.

Waste Incidental to Reprocessing is also listed as a second tier topic. It should be moved to a first tier topic. The Commission now has legislative direction to increase its activities in this area and this appears to be an important project with the Department of Energy, particularly over the next few years. Therefore, 2005 - 2006 could be a critical time frame for establishing fundamental direction for how this program should proceed.

Transportation of Radioactive Materials is listed as a second tier topic. It should either be considered a first tier topic or be given a high priority among the second tier projects. For example, the Committee should address this topic before addressing the potential for risk informing the low level waste regulations. Transportation of radioactive material is a high visibility topic which can raise concerns across the country.



1/13/05