

April V. Gil
 U.S. Department of Energy
 Office of Civilian Radioactive
 Waste Management
 Yucca Mountain Site Characterization
 Office
 PO Box 98608
 Las Vegas, Nevada 89193-8608

April 17, 1997

SUBJECT: GENERAL GUIDELINES FOR THE RECOMMENDATION OF SITES FOR
 NUCLEAR WASTE REPOSITORIES — NOTICE OF PROPOSED RULEMAKING
 (DOCKET NO. RW-RM-96-100)

Dear Ms. Gil:

On December 16, 1996, the U.S. Department of Energy (DOE) published, in the *Federal Register*, for public comment, proposed amendments to its "General Siting Guidelines for the Recommendation of Sites for Nuclear Waste Repositories" found at 10 CFR Part 960 (see 61 FR 66158). The U.S. Nuclear Regulatory Commission concurred on the 1984 original version of these guidelines, in accordance with the requirements of the Nuclear Waste Policy Act of 1982 (Public Law 97-425). In its *Federal Register* notice, DOE indicated that it would be submitting the proposed amendments to the Commission for concurrence (61 FR 66160).

Inasmuch as DOE has given the staff an opportunity to review the proposed amendments before DOE submits the proposed amendments to the Commission, the staff has some general comments for DOE's consideration (see enclosure). Because DOE plans to submit to the Commission for concurrence its currently proposed amendments, the enclosed comments should not be considered the final NRC position on this matter.

If you have any questions about these comments, please contact Michael P. Lee of my staff. He can be reached at 301-415-6677.

Sincerely,

(ORIGINAL SIGNED BY)

Carl J. Paperiello, Director
 Office of Nuclear Material Safety
 and Safeguards

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 NHTB
 97-10*

Enclosure: NRC Staff Comments on
 10 CFR Part 960 Amendments

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Before DOE submits the proposed amendments to the Commission, it has given the staff an opportunity to review them. The staff has some general comments for DOE's consideration (see enclosure). Because DOE will be requesting Commission concurrence on its currently proposed amendments, the enclosed comments should not be considered the final NRC position on this matter.

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Inasmuch as DOE has given the staff an opportunity to review the proposed amendments before they submit the proposed amendments to the Commission, the staff has some general comments for DOE's consideration (see enclosure). Because DOE will be requesting Commission concurrence on its currently proposed amendments, the enclosed comments should not be considered the final NRC position on this matter.

If you have any questions about these comments, please contact Michael P. Lee of my staff. He can be reached at 301-415-6677.

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Carl J. Paperiello, Director
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April 5, 1997
 U.S. Department of Energy
 Office of Civilian Radioactive
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 Yucca Mountain Site Characterization
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 Las Vegas, Nevada 89193-8608

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 (DOCKET NO. RW-RM-96-100)**

Dear Ms. Gil:

NRC concurred ON
~~CONCURRED ON~~

X

On December 16, 1996, the U.S. Department of Energy (DOE) published in the *Federal Register*, for public comment, proposed amendments to its "General Siting Guidelines for the Recommendation of Sites for Nuclear Waste Repositories" found at 40 CFR Part 191 (see 61 FR 66158). The 1984 version of these guidelines, received the original concurrence of the NRC, in accordance with the requirements of the Nuclear Waste Policy Act of 1982 (Public Law 97-425). As a condition of its 1984 concurrence, DOE committed to obtain Commission concurrence on future revisions to the siting guidelines that relate to NRC jurisdiction. In its *Federal Register* notice, DOE indicated that it would be submitting the proposed amendments to the Commission, and would again obtain its concurrence (61 FR 66160).

NRC's

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before DOE

in advance of submitting the proposed amendments to the Commission, the staff has reviewed them, and has some general comments, at the staff level for the DOE's Department's consideration (enclosed). Because the Commission will have a concurrence role on the amendments currently proposed by DOE, the enclosed comments should not be considered as the final NRC position on this matter.

(see enclosure)

If you have any questions with regard to these comments, please contact Michael P. Lee of my staff. He can be reached at 301/415-6077.

Sincerely,

Carl J. Paperiello, Director
 Office of Nuclear Material Safety
 and Safeguards

Enclosure: NRC Staff Comments
 on 10 CFR Part 960 Amendments

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OPC	DWM		DWM		CGC		NRCSS		
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**U.S. NUCLEAR REGULATORY COMMISSION
STAFF COMMENTS ON THE
U.S. DEPARTMENT OF ENERGY'S
PROPOSED AMENDMENTS TO ITS "GENERAL SITING
GUIDELINES FOR THE RECOMMENDATION OF
SITES FOR NUCLEAR WASTE REPOSITORIES" —
10 CFR PART 960**

1. The U.S. Department of Energy's (DOE's) draft postclosure system guideline found at Section 960.6-1 states that the "...repository shall perform in accordance with the U.S. Environmental Protection Agency (EPA) standards established specifically for the Yucca Mountain site and the NRC regulations implementing those standards...." (61 *FR* 66164, 66169) At the staff level, we believe that it is not accurate to describe the U.S. Nuclear Regulatory Commission's regulations solely as "...implementing these standards...." NRC's regulations have a broader role than just to implement the EPA standards. They contain the technical requirements and criteria for licensing a geologic repository, as provided for by Section 121(b) of the Nuclear Waste Policy Act of 1982, as amended. However, NRC's regulations must be consistent with the EPA standards for Yucca Mountain.

Action

The staff recommends that the relevant portion of the DOE draft guideline should read "... in accordance with both the EPA standards established specifically for the Yucca Mountain site and NRC's regulations applicable to the Yucca Mountain site"

2. Both the draft postclosure and preclosure system guidelines found at Subpart E (Section 960.6) state that the geologic repository shall be evaluated against the site-specific EPA standards and the NRC regulations (61 *FR* 66169). However, in the supplementary information, it is stated that "...DOE would not reach a determination on the suitability of the Yucca Mountain site under these Guidelines in the absence of the final promulgation of [the EPA] standards...." (61 *FR* 66164) From these statements, it is not clear whether DOE would also defer a site suitability determination on the Yucca Mountain site under its revised Guidelines in the absence of final NRC regulations that have undergone revision so as to be consistent with the EPA standards under the Energy Policy Act of 1992.

Action

The staff recommends that the supplementary information in question be revised to eliminate the lack of clarity.

Enclosure

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Dear Ms. Gil:

On December 16, 1996, the U.S. Department of Energy (DOE) published, in the *Federal Register*, for public comment, proposed amendments to its "General Siting Guidelines for the Recommendation of Sites for Nuclear Waste Repositories" found at 10 CFR Part 960 (see 61 *FR* 66158). The U.S. Nuclear Regulatory Commission concurred on the 1984 original version of these guidelines, in accordance with the requirements of the Nuclear Waste Policy Act of 1982 (Public Law 97-425). In its *Federal Register* notice, DOE indicated that it would be submitting the proposed amendments to the Commission for concurrence (61 *FR* 66160).

Inasmuch as DOE has given the staff an opportunity to review the proposed amendments before DOE submits the proposed amendments to the Commission, the staff has some general comments for DOE's consideration (see enclosure). Because DOE plans to submit to the Commission for concurrence its currently proposed amendments, the enclosed comments should not be considered the final NRC position on this matter.

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**U.S. NUCLEAR REGULATORY COMMISSION
STAFF COMMENTS ON THE
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