SUMMARY OF
U.S. NUCLEAR REGULATORY COMMISSION/U.S. DEPARTMENT OF ENERGY
TECHNICAL EXCHANGE AND MANAGEMENT MEETING ON
LICENSING PROCESS TOPICS
September 13, 2007
Las Vegas, Nevada

INTRODUCTION

On September 13, 2007, the U.S. Nuclear Regulatory Commission (NRC) and the U.S. Department of Energy (DOE) held a public Technical Exchange at the NRC Hearing Facility in Las Vegas, Nevada, to discuss topics related to future licensing processes during the NRC review of the Yucca Mountain, Nevada, license application.

To support staff and stakeholder interactions, the meeting included video connections to NRC Headquarters in Rockville, Maryland, and the Center for Nuclear Waste Regulatory Analyses in San Antonio, Texas. Teleconference connections were also made available for interested stakeholders. Participants included representatives of the NRC, DOE and its contractors, and the Center for Nuclear Waste Regulatory Analyses. The State of Nevada, Affected Units of Local Government, Nuclear Energy Institute, and members of the public also attended.

PURPOSE OF THE MEETING

In a letter dated July 10, 2007, DOE identified licensing process issues that were of interest for discussion with the NRC at a future interaction. The NRC agreed that discussion of these topics was appropriate to advance both agencies' understanding of the processes which will be used to facilitate the NRC's review of the license application. This technical exchange was intended to provide the NRC and DOE the opportunity to discuss and clarify important elements of the license application review process.

TOPICS OF DISCUSSION

Opening Remarks

The NRC noted the submission of the license application will fundamentally change interactions between NRC and DOE. The NRC will become the regulator and DOE the applicant. The existing prelicensing memorandum of understanding, *Agreement Between DOE/OCRWM and NRC/NMSS Regarding Prelicensing Interactions*, will no longer be valid and interactions between the agencies will come under existing NRC regulations and policies concerning license applicants. The NRC stressed the importance of having a licensing process that is predictable, flexible, and open. The NRC also stressed the importance of ensuring that the licensing process is open to the stakeholders and public.

DOE agreed that the licensing process needs to be predictable, flexible, as well as open. DOE's opening remarks concluded with a brief review of NRC/DOE interactions which have occurred to date during 2007.

Enclosure 1

Repository Licensing Interactions (NRC)

The NRC discussed a variety of topics during its presentation: (1) licensing review interactions and protocol; (2) the proposed Office of Nuclear Material Safety and Safeguards (NMSS) organizational structure for review of the license application; (3) interim staff guidance; and (4) license specifications. The NRC noted it anticipates numerous meetings and interactions on technical issues and requests for additional information (RAIs), during the review of the license application. The NRC stressed that these interactions will be open to the stakeholders and public. The NRC announced that it plans to maintain a schedule of licensing review activities that will look 2 to 3 months ahead.

The NRC emphasized that ADAMS (Agencywide Documents Access and Management System) is the official NRC record, and any information the NRC will rely on for its safety evaluation report will require docketing and placement on ADAMS. The Licensing Support Network (LSN) only supports the hearing process, not the license application review. The NRC indicated it wanted to know DOE's intended plans to handle supporting documents (e.g., references).

The NRC outlined its RAI process: (1) an email will notify DOE of impending RAIs; (2) a phone call or meeting between NRC and DOE will occur to clarify RAIs; and (3) an official NRC letter will follow. The NRC reminded everyone that the RAI process and all technical discussions between NRC and DOE will be open to the stakeholders and public.

DOE indicated that in order to facilitate the RAI process, it was organizing an RAI response team, based out of its Licensing Support Office in Rockville, which will serve as the point of contact for RAIs.

License Application Content (DOE)

DOE stated the license application will stand on its own for docketing; however, DOE would be responsive if additional information was required.

DOE reiterated the license application will contain a description of required plans and programs; however, the actual plans and programs will be submitted at a later date. Specifically, DOE stated: (1) the Physical Protection Plan and the Material Control and Accounting Program will be submitted no later than 180 days after construction authorization; (2) the Emergency Plan will be submitted no later than six months prior to the application to receive and possess; and (3) the Operational Radiation Protection Program will be submitted prior to the application to receive and possess.

The Quality Assurance Requirements and Description (QARD) document will be submitted prior to submittal of the license application, and Section 5.1 will reference the QARD, Rev. 20 submittal. DOE stated the license application would contain two types of references: general references and material incorporated by reference. DOE used an example from the preclosure safety analysis section to illustrate what information will be contained in the license application and what information will be contained in the references.

The NRC asked what references would be docketed with the license application, and emphasized it would like easy access to references. DOE explained that all the license application references will be available to the NRC for review; however, as a rule, they will not all initially be docketed. However, any references the NRC determines are necessary for its

safety evaluation report (SER) will be submitted to the docket. In the area of references, the NRC reiterated DOE should err on the side of inclusion and not exclusion.

The NRC commented that the QARD, Rev. 20 and previously submitted topical reports will need to be docketed, if incorporated by reference, in the license application.

Organizational Structure (NRC)

The NRC presented its projected organization to facilitate the review of the license application. The NRC identified the five project managers who will serve as points of contact during the review process and indicated which NUREG-1804 sections will be assigned to each project manager.

Future Interim Staff Guidance (NRC)

The NRC stated no new interim staff guidance is expected to be issued. If rulemaking in any area is determined to be significant, it would then consider the need to provide for further guidance.

Key Technical Issues (DOE)

DOE outlined its approach to Key Technical Issues (KTIs) in the license application: (1) the license application will not use the KTI nomenclature; (2) DOE will map the open additional information needs to the license application or supporting documents, as appropriate; (3) DOE will map KTIs to the license application and transmit to the NRC in correspondence at license application submittal. The NRC asked that all 293 KTI agreements be mapped to their locations in the license application. DOE took this request under advisement.

License Specifications (DOE)

DOE presented its approach to license specifications: (1) license conditions and license specifications would be issued and controlled by the NRC; (2) a Technical Requirements Manual containing more detailed requirements and information would be developed and controlled by DOE; and (3) in the license application, DOE will include probable subjects of license specifications. DOE added that the Technical Requirements Manual would be subject to the requirements of 10 CFR 63.44. DOE further noted it would, at the appropriate time, propose license specifications for review by the NRC.

Timing of 10 CFR 63.44 Applicability (DOE)

DOE stated it planned to implement 10 CFR 63.44 at construction authorization. The NRC agreed with this approach. DOE further stated it will establish a process for license application change control during the license application review period prior to construction authorization, and briefly outlined its anticipated change control process.

Electronic Information Exchange (DOE)

DOE stated it would deliver the requisite number of license application copies (paper and optical storage media) to the NRC by the appropriate delivery method. The NRC suggested prior to license application submittal, the NRC and DOE should discuss the future staging of the license application for stakeholder access.

PUBLIC COMMENTS

A representative of Clark County (E. von Tiesenhausen) asked when the NRC planned to begin its inspection program of the Yucca Mountain repository. The NRC responded that the inspection program was under development and that the onset of inspections was currently under discussion. A representative of Egan, Fitzpatrick & Malsch, PLLC (Charles Fitzpatrick) asked DOE about the availability of KTI crosswalk information in the LSN. DOE responded that the license application will point to the analysis model reports (AMRs) and stated that the AMRs will be available to the public on the LSN. A representative from the Nuclear Energy Institute (Rod McCullum) asked NRC for the rationale of NRC's recently stated six-month acceptance review period duration, when NUREG-1804, *Yucca Mountain Review Plan*, states the acceptance review period will be 90 days, and whether this rationale would be made available to the public. The NRC answered that the NRC needs to perform a thorough review of the license application prior to making its docketing decision. A representative of the Nevada Nuclear Waste Task Force (Judy Treichel) asked several questions concerning RAIs and their availability to the public. DOE stated the license application will contain results and the supporting information will be in the LSN; the NRC can request that supporting documents be placed on the docket. The NRC added that RAIs would be made available to the public.

CLOSING COMMENTS

The NRC stated it was pleased to get insights into the approach and structure of the license application. The NRC stressed it was very interested in developing an efficient license application review process. The NRC emphasized the following items:

- Mapping of all 293 KTI agreements to the license application,
- Implementation of 10 CFR 63.44 at construction authorization is appropriate,
- Provide easy access to supporting reports/documents, especially those that are associated with critical or risk significant aspects of the repository, and
- Future interaction on inspections.

DOE acknowledged: (1) the NRC request for mapping of all 293 KTI agreements to the license application; (2) the NRC agreement on the appropriateness of implementing 10 CFR 63.44 at construction authorization; and (3) the NRC request that license application supporting documents (e.g., references) be made easily accessible during the review period. DOE asked for clarification in the area of technical information review during NRC's acceptance review. The NRC answered that the acceptance review was not a technical review, but because the NRC was a technical organization, it would need to understand the quality of the technical information to determine the docketability of the license application. The NRC added that the acceptance review will not judge the correctness of the data, but will judge the traceability of the data. DOE suggested that a further interaction specifically on license application content be held in early 2008.

ACTION ITEMS / COMMITMENTS

1. DOE will provide the NRC its points of contact for communication with the NRC project managers.

Aby Mohseni Date 10/25/07

Mr. Aby S. Mohseni, Deputy Director
Licensing and Inspection Directorate
Division of High-Level Waste Repository Safety
Office of Nuclear Material Safety and Safeguards
U.S. Nuclear Regulatory Commission

April V. Gil Date 10/11/07

Dr. April V. Gil, Acting Director
Regulatory Authority Office
Office of Civilian Radioactive Waste Management
U.S. Department of Energy