

**STATEMENT SUBMITTED
BY THE
UNITED STATES NUCLEAR REGULATORY COMMISSION
TO THE
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE
CONCERNING
THE EXAMINATION OF THE LICENSING PROCESS
FOR THE YUCCA MOUNTAIN REPOSITORY**

**PRESENTED BY
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Introduction

Madam Chairman and Members of the Committee, it is my pleasure to appear before you today to discuss the process whereby the U.S. Nuclear Regulatory Commission (NRC) will review and decide whether or not to authorize the U.S. Department of Energy (DOE) to build a repository. Because of the NRC's licensing and adjudicatory role in the national repository program, the NRC takes no position, at this time, on whether a permanent geologic repository can be constructed safely at Yucca Mountain, Nevada. That remains to be demonstrated by DOE. If DOE submits a license application, the NRC will decide whether or not to authorize construction of a repository upon NRC's comprehensive and independent safety review, and upon consideration of the results of a full and impartial public hearing.

Congress Established NRC's High-Level Waste Regulatory Role

The NRC has developed and maintained its High-Level Waste regulatory program, consistent with our responsibilities under the Nuclear Waste Policy Act of 1982, as amended, and the Energy Policy Act of 1992. This legislation specified an integrated approach and a long-range plan for storage, transport, and disposal of spent nuclear fuel and High-Level Waste. It prescribes the respective roles and responsibilities of the NRC, the DOE and the U.S. Environmental Protection Agency (EPA) in the nation's High-Level Waste program. The

Congress assigned NRC certain pre-licensing responsibilities and the regulatory authority to authorize construction of a geologic repository at Yucca Mountain after deciding whether a DOE license application complies with applicable standards and regulations.

NRC Is Prepared To Implement Final EPA Standards for Yucca Mountain

The Congress directed NRC to establish safety and licensing regulations consistent with standards for Yucca Mountain set by EPA. EPA standards and conforming NRC regulations for Yucca Mountain were published in 2001. As you know, both were challenged in court, and, in 2004, both were upheld on all but one issue, namely the EPA's specification, and NRC's adoption, of a 10,000-year compliance period. In 2005, EPA proposed additional standards that would apply for a million years, and NRC proposed to incorporate EPA's additional standards in our regulations. NRC stands ready to conform our regulations to final EPA standards as soon as they are published.

NRC Is Prepared To Evaluate DOE's License Application

NRC must decide whether or not to authorize DOE to build the proposed repository. If authorization is granted, NRC must assure that DOE complies with NRC's requirements. NRC will base its decision on DOE's anticipated application to build a repository at Yucca Mountain on a comprehensive, independent safety review and on the results of a full and impartial public hearing before an independent panel of judges. Before NRC may even start its safety review, however, we must first decide if we can accept DOE's application for review. NRC will need to determine whether the application contains the required information and whether there is enough supporting information to address the elements of DOE's safety case, DOE must also comply with NRC's document access requirements. If the application passes this initial review, which may take up to six months, NRC can begin its detailed technical review. If not, NRC will return the application to DOE.

The NRC staff is well qualified and is prepared to conduct a detailed, independent technical review of the application. NRC is supported in this effort by its conflict-of-interest free, federally-funded research and development center at Southwest Research Institute, the Center for Nuclear Waste Regulatory Analyses. If necessary, the NRC staff is prepared to require more information from DOE and the NRC staff has the resources to perform independent analyses, as needed. In its review, the NRC staff will examine the license application to determine if DOE has demonstrated that its proposed repository will protect people and the environment, in compliance with EPA's standards and NRC's requirements. Once the NRC staff has completed its comprehensive review, it will document its conclusions in a Safety Evaluation Report.

The NRC will provide the opportunity for formal, public, evidentiary hearings on DOE's application that will follow well-established rules and procedures. Documents from all parties and potential parties to the hearing will have already been submitted to the Licensing Support Network to shorten the time spent on the exchange of documents that may be used as evidence in the proceeding. NRC will decide whether to deny or authorize construction of the proposed repository by objectively reviewing information submitted, by making decisions on contested matters based on the record before it, and by maintaining an open, public adjudicatory process.

Summary

The NRC staff is in the midst of an important transition – from the pre-licensing, consultative role defined for NRC in statute, which was the NRC's emphasis for many years, to the role as regulator and licensing authority, as NRC prepares for DOE's license application. The DOE bears the responsibility for demonstrating that regulatory and licensing requirements are met to protect public health and safety and the environment. The Commission, independently, must assess and find that such a demonstration has been made before we can decide whether or not to authorize construction of the proposed geologic repository. NRC's

ability to reach this important decision within the three to four years allotted by the Congress, depends upon: the issuance, by EPA, of final environmental standards, to which NRC can conform its regulations; receipt of a high-quality license application from the DOE that demonstrates that NRC regulations and licensing requirements have been met; and continued sufficient resources for the NRC to maintain its independent technical review capability and carry out its public hearing process. I want to thank you for the opportunity to discuss NRC's regulatory role for the proposed repository, and look forward to answering any questions you may have.