[7590-01-P]

NUCLEAR REGULATORY COMMISSION

[Docket No. 63-001]

Department of Energy; Notice of Acceptance for Docketing of a License Application for Authority to Construct a Geologic Repository at a Geologic Repository Operations Area at Yucca Mountain, Nevada

By letter dated June 3, 2008, the Department of Energy (DOE, or the Applicant) submitted a license application (Application) seeking authorization to construct a geologic repository at a geologic repository operations area at Yucca Mountain in Nye County, Nevada. The Application was submitted to the Nuclear Regulatory Commission (NRC), pursuant to Section 114 of the Nuclear Waste Policy Act, as amended (NWPA), Title 10 of the *Code of Federal Regulations* (10 CFR) Part 63, and 10 CFR 2.101. NRC published a notice of receipt and availability of this application in the *Federal Register* (73 FR 34348, corrected in 73 FR 40883) on June 17, 2008.

The NRC staff has determined that DOE has submitted information in accord with 10 CFR Part 2, "Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders," and 10 CFR Part 63, "Disposal of High-Level Radioactive Wastes in a Geologic Repository at Yucca Mountain, Nevada," that can be accepted for docketing and review. The docket number established for this license application is 63-001.

The NRC staff will perform a detailed technical review of the license application to determine whether to authorize construction of a geologic repository. Docketing of the license

application does not preclude the NRC from requesting additional information from the applicant as the review proceeds, nor does it predict whether the Commission will grant or deny a construction authorization. The Commission will conduct a hearing in accord with 10 CFR Part 2, Subpart C, "Rules of General Applicability: Hearing Requests, Petitions to Intervene, Availability of Documents, Selection of Specific Hearing Procedures, Presiding Officer Powers, and General Hearing Management for NRC Adjudicatory Hearings," Subpart J, "Procedures Applicable to Proceedings for the Issuance of Licenses for the Receipt of High-Level Radioactive Waste at a Geologic Repository," and Subpart G, "Rules for Formal Adjudications." If the Commission finds that the license application meets the applicable standards of the Atomic Energy Act of 1954, as amended, the NWPA, and the Commission's regulations, then the Commission will issue a construction authorization, in the form and containing such conditions and limitations, if any, as the Commission finds appropriate and necessary.

The Commission finds that a hearing is required in the public interest, prior to issuance of a construction authorization. A notice of hearing announcing the opportunity to petition for leave to intervene in the hearing will be published in the *Federal Register* at a later date. The notice of hearing will state, pursuant to 10 CFR 2.104(b): 1) the nature of the hearing; 2) the authority under which the hearing is to be held; 3) the matters of fact and law to be considered; 4) the date by which requests for hearing or petitions to intervene must be filed; and 5) the presiding officer designated for the hearing or the procedure that the Commission will use to designate a presiding officer for the hearing.

Pursuant to its obligations under § 114(f)(4) of the NWPA, and 10 CFR 51.26(c), it is the intention of the Commission to adopt the environmental impact statement (EIS) prepared by the Secretary of Energy to the extent practicable.

In accord with 10 CFR 51.109(a), the NRC staff's position is that it is practicable to adopt, with further supplementation, the EIS and supplements prepared by DOE. The staff concludes that neither the 2002 Final Environmental Impact Statement (FEIS) nor the 2008 Final Supplemental Environmental Impact Statement (Repository Supplemental EIS) adequately address all of the impacts on groundwater, or from surface discharges of groundwater, from the proposed action. The staff concludes that additional supplementation is needed to ensure the 2002 FEIS and 2008 Repository Supplemental EIS are adequate. The basis for the staff's position is presented in the "U.S. Nuclear Regulatory Commission Staff's Adoption Determination Report for the U.S. Department of Energy's Environmental Impact Statements for the Proposed Geologic Repository at Yucca Mountain," which is available in the Agencywide Documents Access and Management System (ADAMS), accession number ML082420342. [The ADAMS accession number for the ADAMS package containing DOE's Final Environmental Impact Statement is ML032690321, and the accession number for the ADAMS package containing DOE's Final Supplemental Environmental Impact Statement is ML081750191. The ADAMS accession number for the ADAMS package containing DOE's Final Rail Corridor Supplemental EIS and Rail Alignment EIS is ML082460227.]

Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852, and will be accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site *http://www.nrc.gov/reading-rm/adams.html*. The application is also available at *http://www.nrc.gov/waste/hlw-disposal/yucca-lic-app.html*. Persons who do not have access to ADAMS or who encounter

problems in accessing documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1-800-397-4209, or 301-415-4737, or by e-mail to *pdr@nrc.gov*.

Dated at Rockville, MD, this 8th day of September, 2008.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Michael F. Weber, Director
Office of Nuclear Material Safety
and Safeguards