

**WRITTEN STATEMENT**  
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**MATERIALS, WASTE, RESEARCH, STATE, TRIBAL, AND COMPLIANCE PROGRAMS,**  
**UNITED STATES NUCLEAR REGULATORY COMMISSION**  
**TO THE**  
**HOUSE COMMITTEE ON APPROPRIATIONS**  
**SUBCOMMITTEE ON ENERGY AND WATER**  
**APRIL 11, 2013**

Good morning, Chairman Frelinghuysen, Ranking Member Kaptur, and distinguished members of the Subcommittee. I appreciate the opportunity to appear before you to discuss the regulatory program for high-level radioactive waste management at the U.S. Nuclear Regulatory Commission (NRC).

In my testimony today, I would like to highlight NRC's mission to protect public health and safety, promote the common defense and security, and protect the environment. In this regard, I will describe NRC's current work related to the orderly closure of our licensing review for the proposed repository at Yucca Mountain, waste confidence, and our efforts to ensure the safety and security of spent nuclear fuel storage and ultimate disposal in a geologic repository.

**ORDERLY CLOSURE OF THE YUCCA MOUNTAIN LICENSE APPLICATION REVIEW**

The agency completed orderly closure of our licensing review of the proposed repository at Yucca Mountain by the end of Fiscal Year 2011. We documented and published publicly the results of the NRC review in one volume of the Safety Evaluation Report and three volumes of a Technical Evaluation Report. Additionally, over 40 other documents containing existing technical

data were prepared to describe the status of the technical review at the time the staff suspended the review of the license application. In September 2011, the Atomic Safety and Licensing Board completed all necessary and appropriate case management activities associated with the hearing process on the license application for the repository at Yucca Mountain. Since the closure of our review activities by the end of Fiscal Year 2011, the NRC has continued to close out contracts related to the Yucca Mountain proceeding and has recouped some of the additional funds that have been added to the previous carryover amount. As a result, the NRC currently has about \$11.1 million in unobligated carryover money appropriated from the Nuclear Waste Fund and about \$2.5 million of obligated, unexpended money appropriated from the Waste Fund. No additional funds from the Nuclear Waste Fund were appropriated to the NRC to perform any additional work related to Yucca Mountain in Fiscal Years 2012 or 2013.

The agency's actions to close the review of the Yucca Mountain license application have been challenged in the D.C. Circuit. In response to this challenge, we noted that sufficient funds had not been appropriated for the Commission to complete our review and adjudication of the license application. In August 2012, the D.C. Circuit issued an order holding the case in abeyance pending decisions on appropriations for Fiscal Year 2013. With the recent passage of appropriations for the remainder of Fiscal Year 2013, the parties in the case have since advised the Court that no additional funds have been appropriated for either NRC or Department of Energy for work related to Yucca Mountain. We are awaiting a decision by the Court.

## **WASTE CONFIDENCE**

The Waste Confidence decision represents the Commission's generic finding regarding the environmental impacts of the continued storage of spent nuclear fuel after the end of the licensed operation of a nuclear power plant and prior to the ultimate disposal of that fuel in a permanent repository. Last year the U.S. Court of Appeals for the D.C. Circuit identified three

aspects in the Commission's most recent update of its Waste Confidence decision that required additional consideration under the National Environmental Policy Act (NEPA). In response to the Court's decision, the Commission directed the NRC staff to prepare by September 2014 a generic environmental impact statement that builds upon the existing environmental assessment that the NRC developed as part of the 2010 Waste Confidence Decision and focuses any additional analyses on the deficiencies identified in the D. C. Circuit's decision; the Commission also directed the staff to prepare a revised temporary storage rule. Additionally, the Commission directed that all affected license application reviews will continue, and the agency will not issue final licenses dependent upon the Waste Confidence Decision or the Temporary Storage Rule until these issues are addressed.

The agency is making progress in assessing these issues by developing drafts of the Waste Confidence environmental impact statement and Temporary Storage Rule. We recently completed the scoping process for the environmental impact statement on Waste Confidence and issued a scoping summary report in early March. We have extensively engaged the public in the process, holding more than six public meetings so far, distributing documents to hundreds of interested stakeholders, and assessing over 1,700 comments on the proposed scope of the impact statement. We expect that the draft environmental impact statement will be available for public comment later this year. We are committed to completing the environmental impact statement and Temporary Storage Rule in an effective, efficient, open, and timely manner.

## **ENSURING SAFETY AND SECURITY**

The agency ensures that spent nuclear fuel is stored, handled, and transported safely and securely through our comprehensive regulatory program, including licensing, oversight, rulemaking, research, incident response, and international cooperation. The NRC staff regularly inspects spent fuel pools at licensed nuclear power plants, as well as dry cask storage facilities. We are currently reviewing applications to renew dry cask storage facilities at two different

reactor sites and to store spent fuel in numerous storage cask designs. In Fiscal Year 2012, the agency revised its regulations to require advanced notification to Native American tribes regarding transportation of certain types of nuclear waste, and the Commission approved a revision of the regulations for the physical protection of spent fuel during transportation. We are soliciting stakeholder comments and refining our regulatory processes for spent fuel storage and transportation to enhance their effectiveness and efficiency. In addition, we are cooperating with the Department of Energy, industry, international regulatory counterparts, and other stakeholders to identify, assess, and resolve safety, security, safeguards, and environmental issues that may be associated with storage and transportation of spent fuel.

## **CONCLUSION**

Chairman Frelinghuysen Ranking Member Kaptur, and distinguished members of the Subcommittee, thank you for the opportunity to appear before you today. I would be pleased to respond to your questions.