

health or property caused by its activities. It is possible that compensation could be available for certain types of damage to health or property under Federal law, but it would be speculative to suggest that compensation would be available in any particular case.

No changes to the Yucca Mountain Review Plan were made in response to this comment.

Issue 3: How does DOE provide material control and accountability for nuclear materials at the Nevada Test Site?

Comment. One commenter asked about the material control and accounting by DOE at the Nevada Test Site.

Response. The Nevada Test Site is under DOE jurisdiction and is not regulated by NRC. The commenter should contact DOE for information regarding material control and accounting at the Nevada Test Site.

No changes were made to the Yucca Mountain Review Plan as a result of this comment.

Issue 4: Who is responsible for identifying structures, systems, and components important to safety?

Comment. One commenter expressed concern that the Yucca Mountain Review Plan directs that NRC staff should focus its review proportionally on high-risk-significant structures, systems, and components important to safety. The commenter argued that NRC, as the regulator, should not defer to DOE judgments as to which components are most important to safety, and should perform a separate analysis of what the Commission views as high-risk-significant structures, systems, and components important to safety.

Response. Regulations at 10 CFR 63.142(c)(1) require DOE to identify the structures, systems, and components to be covered by the quality assurance program. DOE must identify structures, systems, and components important to safety or to waste isolation and to assess their risk significance. NRC will evaluate whether DOE has adequately performed this identification and assessment.

Commensurate with implementation of risk-informed, performance-based regulation for a high-level waste repository, NRC staff would focus its review proportionately on those structures, systems, and components that are important.

NRC staff has developed an independent capability to conduct a preclosure safety analysis. Consistent with risk-informed, performance-based regulation, this independent capability will be focused on those structures,

systems, and components important to health and safety.

No changes were made to the Yucca Mountain Review Plan as a result of this comment.

11.6 Role of the Licensing Support System Advisory Review Panel (Now the Licensing Support Network Advisory Review Panel)

Issue: What is the role of the Licensing Support Network Advisory Review Panel in the review of licensing issues?

Comment. One commenter asked whether the Licensing Support System Advisory Review Panel (now the Licensing Support Network Advisory Review Panel) will continue to perform a review role on licensing issues.

Response. Under 10 CFR 2.1011(e), the Licensing Support Network Advisory Review Panel provides advice to NRC on issues related to, among other things, the type of computer system necessary to access the Licensing Support Network, and computer format standards for providing electronic access to the documentary material made available via the Licensing Support Network, and procedures and formats for electronic transmission of filings and orders in the adjudicatory proceeding on the DOE application. The Licensing Support Network Advisory Review Panel basically provides advice on issues related to the means by which information about the proposed high-level waste repository will be made electronically available and has no role in the review of DOE's application.

No changes have been made to the Yucca Mountain Review Plan in response to this comment.

11.7 The U.S. Department of Energy Environmental Impact Statement

Issue: How will the Yucca Mountain Review Plan provide for review of a Yucca Mountain environmental impact statement?

Comment. Several commenters questioned whether the Yucca Mountain Review Plan adequately addressed review of the Yucca Mountain environmental impact statement.

Some commenters questioned the adequacy of the environmental impact statement in evaluating property values along the transportation routes, flooding analysis, environmental justice, cumulative effects, impacts on affected Native American Tribes (economic, cultural, and social) and responses to public comments on the environmental impact statement.

Other commenters recommended modification of the environmental

impact statement to incorporate designs presented in the license application, the preparation of a Record of Decision, and any need to prepare a supplemental environmental impact statement.

Response. Comments regarding DOE's Final Environmental Impact Statement are not related to the Yucca Mountain Review Plan, which is a guidance document for NRC staff to use to conduct a review of whether the DOE license application, if submitted, satisfies NRC regulations in 10 CFR part 63.

Under Section 114 of the Nuclear Waste Policy Act, NRC (in connection with the issuance of a construction authorization and license for a repository) is required to adopt, to the extent practicable, any environmental impact statement prepared in connection with a repository. If the DOE submits an application, NRC staff would publish a notice of hearing in the **Federal Register** and state whether it is practicable to adopt DOE's environmental impact statement. The notice would provide a 30-day opportunity for parties and petitioners to file contentions regarding whether it is practicable to adopt the environmental impact statement. The presiding officer in the hearing would rule on any petition to intervene and, to the extent raised by an admitted contention, resolve disputes concerning NRC staff determination regarding adoption of the environmental impact statement. The decision of the presiding officer would be reviewable by the Commission.

The standards, set forth in 10 CFR 51.109(c), require that NRC find it practicable to adopt any environmental impact statement prepared by DOE unless: (1) The action proposed to be taken by the Commission differs from the action proposed in the DOE license application and this difference may significantly affect the quality of the human environment, or (2) Significant and substantial new information or new considerations render DOE's final environmental impact statement inadequate.

Unless either of the above criteria were met, NRC would find it practicable to adopt the environmental impact statement.

No changes were made to the Yucca Mountain Review Plan were made in response to these comments.

11.8 Transportation

Issue: Are transportation concerns, including protection of nuclear materials during transport, adequately addressed in the Yucca Mountain Review Plan?