



How will NRC decide whether to adopt DOE's Environmental Impact Statement for a proposed repository at Yucca Mountain?

NRC MUST REVIEW AND DECIDE WHETHER TO ADOPT A YUCCA MOUNTAIN EIS

To accompany its license application for a proposed geologic repository, the U.S. Department of Energy (DOE) must prepare an Environmental Impact Statement (EIS) that considers the environmental effects of building and operating a repository at Yucca Mountain. U.S. law directs NRC to adopt, to the extent practicable, the EIS prepared for a proposed repository.

WHAT CRITERIA WILL NRC USE TO DECIDE WHETHER IT IS "PRACTICABLE" TO ADOPT DOE'S EIS? The NRC staff will review the EIS (including any supplements) to determine if it meets NRC's regulatory requirements. NRC will adopt DOE's EIS unless: (1) actions described in the EIS and those proposed in DOE's license application differ in an environmentally significant way; or (2) significant and substantial new information or new considerations show the EIS is inadequate.

IF DOE FAILS TO ADDRESS COMMENTS ON THE EIS, WILL NRC CONSIDER THEM AS "NEW INFORMATION OR NEW CONSIDERATIONS"? Yes. During its adoption review, NRC staff will consider such comments as new information or considerations, and will decide whether they show the EIS is inadequate and cannot be adopted without further supplement.

WHY DID NRC DENY NEVADA'S REQUEST TO CHANGE ITS EIS ADOPTION CRITERIA IN LIGHT OF THE 2004 RULING OF THE U.S. COURT OF APPEALS? The Court did not invalidate NRC's EIS adoption regulations. In fact, the Court expressed its satisfaction that the wording of NRC's existing criteria allows for NRC consideration of Nevada's (or other) substantive claims against DOE's EIS as new considerations. As a result, NRC found no basis for revising its criteria.

IF NRC DECIDES THE EIS IS INCOMPLETE, AND NEEDS TO BE SUPPLEMENTED, WHY WOULD NRC "ADOPT" A PARTIAL OR INCOMPLETE EIS? U.S. law requires NRC adoption of DOE's EIS, to the extent practicable. NRC's regulations require a staff determination at the time NRC decides to accept a repository application for review. If parts of the EIS are adequate, there would be no need for NRC to duplicate DOE's efforts. To the extent that other parts are inadequate, incomplete, or missing, NRC will direct DOE to supplement the EIS or the NRC will choose to prepare the necessary supplement itself. The final decision about whether NRC can adopt DOE's EIS will be made by the Commission.

Additional information on the NRC review of the DOE EIS can be viewed on the NRC web site at:

<http://www.nrc.gov/waste/hlw-disposal/licensing/adoption-review.html>