

YUCCA MOUNTAIN

GAO outlines steps needed to resume licensing process

The GAO has identified four key steps that the NRC, the DOE, and others would need to take in order to license the proposed high-level waste repository in Nevada.

The Government Accountability Office has identified four key steps needed to resume the licensing process for the high-level radioactive waste repository at Yucca Mountain in Nevada. The findings are contained in the GAO's report, *Commercial Nuclear Waste: Resuming Licensing of the Yucca Mountain Repository Would Require Rebuilding Capacity at DOE and NRC, Among Other Key Steps*, which was published in April and released to the public on May 26.

As indicated in the rather lengthy title of the report, one of the key steps that the GAO singled out as likely to be needed to resume and complete the licensing process is the rebuilding of the organizational capacity at the Department of Energy and the Nuclear Regulatory Commission, as well as other nonfederal parties involved in the licensing proceeding. This would include, as needed, recruiting personnel to recreate project offices; obtaining legal, scientific, or other experts for the adjudication process; and rebuilding physical infrastructure, such as site offices and a facility for conducting hearings. The DOE and the NRC may also need to update key documents used for the licensing process.

Other steps include reconvening the parties and completing the remaining phases of the process, including witness depositions and evidentiary hearings, and carrying out the remaining steps of the licensing process, including the final decision by the NRC commissioners as to

whether to authorize the construction of the repository.

The GAO, however, said that the first key step in resuming and completing the licensing process would be for the NRC staff, the DOE, and other stakeholder parties to receive direction to do so. This would involve the NRC's being directed by either Congress or the administration to resume licensing activities, after which the NRC commissioners would decide on several aspects of the process, including a timeline for completing and adjudicating the license, the location of adjudicatory hearings, and whether to update relevant regulations. The NRC, the DOE, and other parties involved in the legal process would then need to estimate their costs and obtain appropriate funding.

The GAO noted that the NRC could, of its own accord, decide to resume the licensing process and request the necessary funding. The NRC, however, is likely to wait for direction from either Congress or the administration, the GAO said. Based on interviews with NRC officials, the GAO said that the commission might be waiting for outside direction "in part because its members may not see the value in resuming a lengthy, complicated process that cannot be completed without a commitment to sustained funding."

Testifying before the Senate Appropriations Committee's Subcommittee on Energy and Water Development on June 7, NRC Chairman Kristine Svinicki said

that the agency is seeking \$30 million and staff for “Yucca Mountain activities” in its fiscal year 2018 budget request. Likewise, the DOE is seeking \$120 million for Yucca Mountain licensing and interim storage activities in its FY 2018 budget request (see page 41).

If the licensing process were to be resumed, the DOE would need to reestablish the Office of Civilian Radioactive Waste Management in some form, the GAO said, citing an unnamed DOE official. The GAO, however, said that representatives from the DOE and its contractors had differing views on what the reestablished office might look like, with its size and makeup dependent on the amount of work needed to complete the license.

According to the GAO, a number of factors could affect the time needed to resume and complete the licensing process, including the DOE’s ability to bring back its expert witnesses to defend its license application. The GAO also noted that based on the NRC’s estimate, the adjudication process could take up to five years to resume and complete.

While the NRC has completed, by court order, some aspects of the licensing process, most notably its safety review and supplemental environmental impact statement, the agency has not begun the legal process of adjudicating the license. According to the GAO, as of late 2016 and early 2017, neither the DOE nor the NRC had formal plans to resume the adjudication process. About 300 contentions against the Yucca Mountain license are waiting to be heard.

The GAO made no recommendations in its report, and the NRC generally agreed with its findings. The DOE provided comments on the report but did not indicate whether it agreed with the findings. The full report (GAO-17-340) can be found on the GAO website, at <www.gao.gov>.