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## Implementing the Nuclear Waste Policy Act - Next Steps

### Witnesses:

Allison Macfarlane

Chairman, Nuclear Regulatory Commission

Peter Lyons

Assistant Secretary for Nuclear Energy, Department of Energy

### Committee Members Present:

On September 23, 2013, the Subcommittee on Environment and the Economy held a hearing to address the actions of the Nuclear Regulatory Commission (NRC) and the Department of Energy (DOE) regarding the construction of a geologic repository for nuclear waste at Yucca Mountain, Nevada. In 1982, Congress enacted the Nuclear Waste Policy Act, which "established a multi-stage statutory framework governing the identification, construction, and operation of a permanent geologic nuclear waste repository." Congress chose Yucca Mountain, Nevada, as the proposed location for a high-level nuclear waste repository but work on the project was suspended by the administration in September 2011 due to budgetary limitations. On August 13, 2013, a writ of mandamus was issued by the U.S. Court of Appeals for the District of Columbia Circuit directing the NRC to resume its review of the DOE's license application to construct a repository at Yucca Mountain. The writ was issued because members of the court felt NRC of not following the law when they suspended investigations of Yucca Mountain. The DOE's role is to develop and submit a license application to the NRC. The NRC has released reports on the safety of the Yucca Mountain site, but Macfarlane indicated on Tuesday that they are incomplete.

**Rep. Shimkus (R-IL), Subcommittee Chairman**  
**Rep. Dingel (D-MI), Full Committee Chairman**  
**Phil Gingrey (R-GA), Subcommittee Vice Chair**  
**Henry Waxman (D-CA), Subcommittee Ranking Member**  
**Edward Whitfield (R-KY)**  
**Joe Pitts (R-PA)**  
**Bob Latta (R-OH)**  
**Gene Green (D-TX)**  
**Paul Tonko (D-NY)**  
**Jerry McNerney (D-CA)**

**John Dingel (D-MI)**  
**Ralph Hall (R-TX)**  
**Bill Cassidy (R-LA)**  
**David McKinley (R-WV)**  
**Lois Capps (D-CA)**  
**Tim Murphy (R-PA)**  
**Gregg Harper (R-MS)**  
**Gus Bilirakis (R-FL)**  
**Bill Johnson (R-OH)**

The NRC is seeking comments from interested participants by Sept. 30, 2013 on how to most efficiently approach the Yucca Mountain licensing process. Macfarlane could not say whether the NRC will appeal the court ruling, which demands that it re-start the Yucca Mountain project, until comments have been reviewed.

The NRC has \$11.1 million from the Nuclear Waste Fund in unobligated carry over money. Based on the testimony from Macfarlane, the NRC has sufficient funding to complete the Safety Evaluation Report (SER). Macfarlane emphasized that the SER is just one step in ensuring safety, and that the NRC also needs to complete the environmental impacts survey. Rep. Tim Murphy (R-PA) calculated that the DOE and NRC combined have been allotted nearly \$150 million in total to investigate Yucca Mountain as a high-level storage site, and is concerned the money was mismanaged.

Rep. Lois Capps (D-CA) expressed concern over seismic activity at the repository as well as long-term storage. Capps was under the impression the casks for storage were safe for 100 years. Macfarlane responded that the NRC licensed a cask for 20 years and renewed it for another 20 years, but were still unsure beyond that time. Capps asked for a backup plan if the Yucca Repository is not sufficient. Macfarlane noted that was a policy question and then referred the question to the Chairman to address permanent storage.

The hearing also addressed the DOE actions to cooperate with NRC and with the Court's decision. Republican representatives interrogated Macfarlane about the court's ruling that the NRC had violated federal law by not pursuing a license review of the project. Rep. John Shimkus (R-IL), the subcommittee Chairman, said the NRC was continuing to "flout the law" by not having reached a decision yet. Macfarlane noted that the NRC began taking steps to comply with the court's direction following the issuance of the decision and were doing their best to expedite the process.

Opening statements, witness testimonies and an archived webcast of the hearing can be found on the Committee web site.