

## Nuclear Regulatory Commission

## § 63.32

### § 63.23 Elimination of repetition.

In its application or environmental impact statement, DOE may incorporate, by reference, information contained in previous applications, statements, or reports filed with the Commission, if the references are clear and specific and copies of the information incorporated are made available to the public locations near the site of the proposed geologic repository, as specified in § 63.22(d).

### § 63.24 Updating of application and environmental impact statement.

(a) The application must be as complete as possible in light of the information that is reasonably available at the time of docketing.

(b) DOE shall update its application in a timely manner so as to permit the Commission to review, before issuance of a license—

(1) Additional geologic, geophysical, geochemical, hydrologic, meteorologic, materials, design, and other data obtained during construction;

(2) Conformance of construction of structures, systems, and components with the design;

(3) Results of research programs carried out to confirm the adequacy of designs, conceptual models, parameter values, and estimates of performance of the geologic repository.

(4) Other information bearing on the Commission's issuance of a license that was not available at the time a construction authorization was issued.

(c) DOE shall supplement its environmental impact statement in a timely manner so as to take into account the environmental impacts of any substantial changes in its proposed actions or any significant new circumstances or information relevant to environmental concerns bearing on the proposed action or its impacts.

#### CONSTRUCTION AUTHORIZATION

### § 63.31 Construction authorization.

On review and consideration of an application and environmental impact statement submitted under this part, the Commission may authorize construction of a geologic repository operations area at the Yucca Mountain site if it determines:

(a) *Safety.* (1) That there is reasonable assurance that the types and amounts of radioactive materials described in the application can be received and possessed in a geologic repository operations area of the design proposed without unreasonable risk to the health and safety of the public; and

(2) That there is reasonable expectation that the materials can be disposed of without unreasonable risk to the health and safety of the public.

(3) In arriving at these determinations, the Commission shall consider whether—

(i) DOE has described the proposed geologic repository as specified at § 63.21;

(ii) The site and design comply with the performance objectives and requirements contained in subpart E of this part;

(iii) DOE's quality assurance program complies with the requirements of subpart G of this part;

(iv) DOE's personnel training program complies with the criteria contained in subpart H of this part;

(v) DOE's emergency plan complies with the criteria contained in subpart I of this part; and

(vi) DOE's proposed operating procedures to protect health and to minimize danger to life or property are adequate.

(b) *Common defense and security.* That there is reasonable assurance that the activities proposed in the application will not be inimical to the common defense and security.

(c) *Environmental.* That, after weighing the environmental, economic, technical, and other benefits against environmental costs, and considering available alternatives, the action called for is the issuance of the construction authorization, with any appropriate conditions to protect environmental values.

### § 63.32 Conditions of construction authorization.

(a) In a construction authorization for a geologic repository operations area at the Yucca Mountain site, the Commission shall include any conditions it considers necessary to protect the health and safety of the public, the