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NRC PROPOSES REGULATION ON AVAILABILITY OF INFORMATION FOR HIGH-LEVEL RADIOACTIVE WASTE REPOSITORY LICENSING PROCEEDING

The Nuclear Regulatory Commission is considering amending its procedural rules for the future licensing of a high-level radioactive waste repository. The changes would require all potential participants in the license application review process to make their documentary material available in electronic form to all other participants, beginning when the President submits to Congress a recommendation for the Department of Energy to develop a repository at a particular site.

The proposed amendments would replace the Licensing Support System (LSS) concept set out in NRC regulations adopted in April 1989. The LSS concept featured an electronic information management system with a centralized database. One of its main purposes was to reduce the time normally spent on the legal discovery of documents at the start of a licensing proceeding by making available simultaneously to all parties the information and data that might be produced in the discovery phase of the high-level waste licensing proceeding. The regulation gave NRC responsibility for administering and maintaining the database, and DOE responsibility for designing and implementing it.

However, DOE has not yet developed the envisioned LSS central database. But while that effort has stalled, the technology of automated document storage and retrieval has advanced rapidly, so that the use of computers to generate and maintain complex documents in litigation is widespread and commonplace. The Internet is universally available to tie geographically dispersed systems together. Therefore, the centralized LSS database envisioned in the current regulation now appears to be an unjustified expense.

Under the proposed amendments, the documentary material that would have to be made available electronically would consist of the material that a party, potential party, or interested government participant intends to rely on in support of its position in the licensing proceeding. It would also include any material that is relevant to, but does not support, that material or that party's position; and all relevant reports and studies, prepared by or on behalf of the party, potential party or interested government participant .

A pre-license application presiding officer would be named by the NRC to resolve any disputes over electronic access to documents.

Parties to the proceeding would be the Department of Energy, the NRC staff, and any person admitted as a party under NRC's rules, as well as--if certain procedures are followed--

the host state and any affected unit of local government or Indian tribe. In addition, any person could be considered a potential party to the proceeding who complied with the proposed new regulations, including the requirement to contribute documentary material, and agreed to comply with orders of the pre-license application presiding officer. That person also could have access to the electronic information of other parties during the pre-license application phase that would begin when the President submits a repository site recommendation. After the DOE application is submitted, NRC will maintain an electronic docket for the licensing proceeding.

Interested persons are invited to submit comments on the proposed rule within 75 days after publication of a Federal Register notice on this subject. Comments may also be submitted electronically, as discussed in the Federal Register notice, which is expected to be published shortly.

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