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NUCLEAR ENERGY INSTITUTE

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October 6, 2000

Secretary
U.S. Nuclear Regulatory Commission
Washington DC 20555-0001

Attention: Rulemakings and Adjudication's Staff

SUBJECT: Nuclear Energy Institute (NEI) comments on Proposed Amendments to 10 CFR
Part 2

The Nuclear Energy Institute (NEI),¹ on behalf of the nuclear energy industry, is pleased to submit these comments to the Nuclear Regulatory Commission (NRC) on the proposed 10 CFR Part 2 rulemaking, *Licensing Proceedings for the Receipt of High-Level Radioactive Waste at a Geologic Repository: Licensing Support Network, Design Standards for Participating Websites*, (65 Fed. Reg. 50,937 - August 22, 2000)

The industry commends the NRC for its leadership in carrying out its responsibilities under the Nuclear Waste Policy Act of 1982 by proposing design standards for the licensing support network for a geologic repository at Yucca Mountain. In establishing the Internet based Licensing Support Network (LSN) in 1999 as a replacement for the stand alone Licensing Support System (LSS) that preceded it, NRC took a significant step forward towards a more effective repository licensing process. NRC's proposal for establishing design standards for participating web-sites represents another important step forward.

This proposal will appropriately facilitate the implementation of the LSN. Accordingly, the proposed amendment constitutes an essential piece of a regulatory framework that is urgently needed in order for the Nation to safely and responsibly address the disposal of used nuclear fuel and high level radioactive waste.

NEI's overall conclusion is that the proposed amendment to 10 CFR Part 2 represents a valuable tool for use in the repository licensing process. We endorse NRC's selection of regulatory and LSN site design options as described in this rulemaking. There is, however, one aspect of this rulemaking with which we do not concur -- the proposed change to § 2.1009

¹ NEI is the organization responsible for establishing unified nuclear industry policy on matters affecting the nuclear energy industry. NEI's members include all utilities licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect/engineering firms, fuel fabrication facilities, nuclear material licensees, and other organizations and individuals involved in the nuclear energy industry.

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clarifying timing of participant compliance determinations.

NRC has proposed to link DOE and NRC certification of compliance to the submission of DOE's site recommendation to the President (requiring "initial certification" within 30 days of the site recommendation submission). DOE's site recommendation and license applications are separate and distinct actions.

Implementation of the LSN is intended to facilitate review of the latter but is not related to the former. NRC should, instead, set the requirement for NRC and DOE "initial certification" no later than 6 months in advance of the DOE license application. This would be consistent with the original compliance expectation established for the LSS in 1989.

The corresponding requirement for other participants to certify compliance should then be set at an appropriate period of time after DOE and NRC have certified their compliance. This would provide added flexibility to all participants and enhance the quality of the overall process. System readiness would be linked to readiness to begin the licensing process. DOE would then be able to take whatever path was appropriate to proceed from a site decision to a license application, without having to clear the bureaucratic hurdle of either certifying compliance or explaining a delay in certification before it was appropriate to do so.

Other participants would also not be encumbered to comply before compliance would be needed. This would make the network less likely to be cluttered with irrelevant information if DOE were to need to make adjustments to its repository design for licensing as a result of comments received during or conditions placed upon it by the site recommendation process. It would also assure that participants do not confuse the site recommendation with a licensing action.

NEI has also reviewed the technical content of the proposed LSN design. The enclosed comments discuss our views on the proposed Design Standards and associated Functional Requirements as communicated in Andrew Bates' August 16, 2000 memorandum to the LSN Advisory Review Panel (LSNARP).

We would encourage NRC, in finalizing this rulemaking, to continue to draw upon the expertise of the LSNARP Technical Working Group. NEI would welcome any opportunity to participate in future Technical Working Group activities.

We would be pleased to address any questions the NRC may have on our comments on this rulemaking.

Sincerely,

Steven P. Kraft

Enclosure

cc: The Honorable Richard Meserve, Chairman, NRC
The Honorable Greta J. Dicus, Commissioner, NRC
The Honorable Nils J. Diaz, Commissioner, NRC
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The Honorable Ivan Itkin, Director, OCRWM, DOE
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