



**Department of Energy**  
Washington, DC 20585

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OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

Annette Vietti-Cook, Secretary  
Attention: Rulemaking and Adjudications Staff  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

~~DOCKET NUMBER~~  
~~PROPOSED RULE~~ Chapter 1  
(67 FR 57084)

Subject: Department of Energy Comments on Proposed Rule on Electronic Maintenance and Submission of Information, Federal Register, V. 67, pp. 57083-57120

Dear Ms. Vietti-Cook:

On September 6, 2002, the Nuclear Regulatory Commission (NRC) published a proposed rule on electronic maintenance and submission of information and accompanying guidance on electronic submissions. The Department of Energy (DOE) supports the NRC's objective of removing any unnecessary prohibition of electronic submissions.

DOE has comments both on the proposed rule and the accompanying guidance, particularly as they affect regulations for disposal of high-level radioactive waste (10 CFR Parts 60 and 63) and, potentially, the electronic hearing docket or the licensing support network. DOE's comments on 10 CFR Parts 60 and 63 are intended to make the changes clear and consistent. The proposed rule has ambiguities and undesirable inconsistencies between these two regulations.

DOE's comments on the accompanying guidance are intended to allow applicants and licensees to adopt future advances in technology rather than depend on the guidance being updated to reflect rapid advances in technology. This objective can be met by revising some of the standards in the guidance.

The guidance discusses the possibility that 10 CFR Part 2, Subpart J, could be amended in the future to adopt the standards in the guidance for electronic submissions supporting the hearing process. Such amendments could affect either the licensing support network (LSN) or the electronic hearing docket, or both. Since the LSN is currently being implemented, DOE urges that any changes affecting it should be approached cautiously and coordinated with the LSN Advisory Review Panel. DOE believes that applying these standards to the electronic hearing docket should also receive careful and wide attention, as they could add undesirable restrictions, such as limits on resolution and file size inconsistent with current plans.

Enclosed are comments on the proposed rule and the accompanying guidance. If you have questions, please contact Claudia Newbury at 702 794-1361 or Steve Gomberg at 202 586-6497.

Sincerely,

Dr. Margaret S.Y. Chu, Director  
Office of Civilian Radioactive  
Waste Management

Template = SECY-067

SECY-02

**Enclosures:**

1. *Department of Energy Comments on Proposed Rule for Electronic Submissions*
2. *Department of Energy Comments on Draft Guidance (Appendix A)*

**cc w/encls:**

D. D. Chamberlain, NRC, Arlington, TX  
J. Schlueter, NRC, Rockville, MD  
J. Ciocco, NRC, Rockville, MD  
R. M. Latta, NRC, Las Vegas, NV  
R. R. Loux, State of Nevada, Carson City, NV  
J. R. Egan, Egan & Associates, McLean, VA  
Alan Kalt, Churchill County, Fallon, NV  
Irene Navis, Clark County, Las Vegas, NV  
George McCorkell, Esmeralda County, Goldfield, NV  
Leonard Fiorenzi, Eureka County, Eureka, NV  
Andrew Remus, Inyo County, Independence, CA  
Mickey Yarbrow, Lander County, Battle Mountain, NV  
Lola Stark, Lincoln County, Caliente, NV  
L. W. Bradshaw, Nye County, Pahrump, NV  
Josie Larson, White Pine County, Ely, NV  
Arlo Funk, Mineral County, Hawthorne, NV  
S. Kraft, NEI, Washington, DC

**ENCLOSURE 1*****U.S. DEPARTMENT OF ENERGY COMMENTS ON PROPOSED RULE FOR  
ELECTRONIC SUBMISSIONS***

1. DOE encourages NRC to publicly share the Lessons Learned from the pilot programs conducted regarding Electronic Information Exchange (EIE) submittals.
2. The changes to Part 60.22 and Part 63.22 are ambiguous and inconsistent in some places. Since they both address license applications for disposal of high-level waste, they should be consistent. Part 60.22(a) was changed to require a triplicate submittal only if the application is submitted in paper form or on CD-ROM and allows for a single electronic submittal. DOE recommends that Part 63.22(a), which was not changed, be revised in the same manner.
3. The requirement to file 30 copies with the application was changed in Part 60.22(b) by adding the qualifier "if submitted in paper form or on CD-ROM", implying that the 30 copies are not required if the submittal were electronic. DOE recommends that Part 63.22(b) be revised in the same manner.
4. Both Part 60.22(b) and Part 63.22(b) were changed to require DOE to maintain the capability to generate additional copies instead of requiring retention of 120 copies for further distribution. DOE agrees that this change is appropriate.

## ENCLOSURE 2

### ***U.S. DEPARTMENT OF ENERGY COMMENTS ON PROPOSED GUIDANCE FOR ELECTRONIC SUBMISSIONS***

1. Although this rule and guidance do not specifically apply to Subpart J of 10 CFR Part 2, the guidance, as well as the preamble to the rule, discusses the possibility that 10 CFR Part 2, Subpart J, could be amended in the future to adopt the standards in the guidance for electronic submissions supporting the hearing process. Such amendments could affect either the licensing support network (LSN) or the electronic hearing docket, or both. Since the LSN is currently being implemented, DOE urges that any changes affecting it should be approached cautiously and coordinated with the LSN Advisory Review Panel. DOE believes that applying these standards to the electronic hearing docket should also receive careful and wide attention, as they could add undesirable restrictions, such as limits on resolution and file size inconsistent with current plans. The existing Subpart J requirements for the LSN specify a minimum of 150 dpi resolution for color and gray-scaled pages, and DOE has engineered its program to adhere to that standard. DOE has been working with the LSN Administrator and has implemented the LSN guideline requirements. (It is noted that the existing electronic submittal procedure requires a resolution of 150 dpi for color and gray-scaled pages.) Increasing the color image resolution to a minimum of 200 dpi for the electronic hearing docket will cause significant impact for submission of the same DOE documents to the docket.
2. Section 2.1: An Adobe version was identified in the EIE guidelines (4.05 or earlier). At the EIE Conference in Maryland on October 3, 2002, it was stated that the submitter "must submit PDF files in version 4.05 or earlier." DOE suggests that as technology improves and is implemented, the software versions in the electronic submission guidelines are appropriately updated.
3. Section 2.3: The electronic submission guidance states that the size of any file that is to be provided through the EIE is to be less than or equal to 25MB. Further, it states that the size of any file provided on a CD-ROM is to be 20MB or less. DOE intends to submit documents to the electronic hearing docket that exceed these limits. DOE acknowledges that the file size is predicated on the current technical capability of the NRC's infrastructure. DOE suggests that the file size limitation in the electronic submission guidelines is too restrictive. It is believed that the proposed file size limits will cause significant disjuncture of technical documents and will overburden the technical reviewers by having to reconnect the document into organized sections. DOE suggests that NRC revisit the proposed file size for submittals.
4. Section 2.6: DOE interprets the NRC comments on "avoiding the use of color" are not meant to be taken in the context of when a document is being created, rather that NRC is providing submitters the latitude to submit a bitonal image for a color page where the color provides no added value to its understanding.
5. Section 2.7: Other than printing requirements, DOE suggests that providing other specific examples of "special attributes" would help clarify what cannot be submitted via EIE. For example, DOE assumes that the use of scientific and mathematical notation within a PDF file will be acceptable.

6. Section 2.9: DOE suggests that returning a submission that contains a virus seems imprudent since it opens the possibility of (re)-infecting the submitter's environment. DOE suggests changing the wording to "Undelivered Mail" as indicated in Section 5.3.
7. Section 2.12, Section 4.2, and Section 4.3: DOE suggests modifying the electronic submission requirement to submit a paper copy of a CD-ROM submission. The NRC should allow for exceptions, such as, if the submitter has reached an agreement with the NRC on CD-ROM regarding content and file organization specifics. This agreement could alleviate concerns about producing a paper copy for distribution.
8. Section 3.6: The electronic submission guidelines suggest that each document is to be transmitted as an enclosure to the EIE form when using EIE. The EIE form contains 16 fields of bibliographic information of which 14 are required. Please clarify whether an applicant will be required to submit a separate form for each of the documents to be submitted when using EIE.
9. Section 4.3.3: For living documents that are submitted electronically, all subsequent updates must be performed on a total-replacement basis. In addition, the updated versions are to show the changes. However, DOE does not plan to provide change-bar updates to living documents but would provide new revisions as each document is revised. Another concern is that if DOE is required to limit the size of the file provided to NRC and each chapter of a living document was provided as a separate submittal, clarification is needed on whether an update provided for a single chapter would require an update to the remaining chapters.