



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

October 17, 1995

Mr. Anthony Neville  
Labat-Anderson, Inc.  
8000 Westpark Drive  
Suite 400  
McLean, Virginia 22102

Re: Contract NRC-40-90-346 (Task 4)--Input from LSS Advisory Review Panel  
Members on the LSS Participant Commitment Program Documents Circulated  
at LSSARP meeting of July 6-7, 1995

Dear Mr. Neville:

The following is a final, consolidated list of all the comments received subsequent to participant commitment program documents being circulated at the July 1995 LSSARP meeting. A draft of this document was discussed with you at our meeting of September 21, 1995. I have annotated the list, to the left, with the originator of the comments, and beneath each comment, in bolded italics, I have included the LSS Administrator's preferences as to how we should respond. LAI should reflect these positions, where indicated as appropriate, in any subsequent products and deliverables.

1.0 General Comments on the Package Handed out at July 6-7 LSSARP Meeting

- 1.1 DOE: "Both the Commitments Document and the Certification Document talk about the grouping and ordering of the LSS data turnovers - i.e., batch them according to various criteria. This is a whole new wrinkle that makes turnover much more complicated. This would entail additional labor and cost for DOE."

***No changes required in products. The statements made about grouping and ordering data turnovers are necessary to maintain database integrity and auditability. Submission prioritization is not a new wrinkle; it has been on the table since 1990 and the LSSA will address this at the December 1995 LSSARP meeting.***

- 1.2 NRC OGC: "On a general note, we would emphasize that the Compliance Program, and our comments on those documents, is based on the assumption that we will continue to pursue the LSS concept that is reflected in 10 CFR 2, Subpart J. We realize that you must proceed on this assumption until a major change in direction is recommended by the Senior Management Team, either as a result of the SMT's recognition that the existing framework is outmoded or as a result of major reductions in DOE funding for the repository, and consequently the LSS. However, our comments on the Compliance Program are offered with this caveat in mind."

*Noted, but no changes are required in products.*

- 1.3 NRC IRMB: "The guidance documents do not, and we do not believe that they should, address which NRC offices will have programmatic responsibility for implementing the LSS program. However, we believe that it is important that the office(s) tasked with this responsibility be informed at the earliest possible time so that it/they can budget for this project.

*Noted, but no changes are required in products.*

"Check your LSSA Guidance on the Format and Content of LSS Participant Compliance Program Plans to ensure that it addresses the Material Submission Plan. The LSS Participant Commitments document indicated the Material Submission Plan is to be developed and maintained in accordance with aforementioned document, but we found no mention of the Plan in this document."

*No changes are required in products. Section II.B of the Format and Content document covers the Material Submission Plan (MSP) in detail.*

2.0 Compiled Comments on LSSA Guidance on the Format and Content of LSS Participant Compliance Program Plans

- 2.1 NRC OGC: Page 1, Background. COMMENT: "Should state that you can't be a party to the proceeding unless you are in compliance."

*LSSA agrees. Insert the sentence where it is stylistically appropriate.*

- 2.2 NRC OGC: Page 1, Background. First Paragraph, second sentence to read: "It is currently estimated that DOE will submit an application for construction of a geologic repository during Fiscal Year 2001."

*LSSA agrees. Insert the phrase as indicated.*

- 2.3 NRC OGC: Page 1, Background. First Paragraph, third sentence to read: "The LSS will allow require electronic transmission of filings by the parties during the proceeding, and on-line access to orders and decisions of the Commission and its adjudicatory boards related to the proceeding."

*LSSA agrees. Make the change as indicated.*

- 2.4 DOE: "Page 1, Purpose. It would be useful in this description of

purpose to note that the Compliance Program Plan is in the main responding to section 2.1009 of the rule and perhaps to summarize that section from the rule."

*LSSA agrees, but would add references indicating that this compliance plan is also responding to section 2.1011 (d)(7) and 2.1011 (d)(8). LSSA prefers to not summarize any of the section of the rule in this document, as it would be redundant.*

2.5 DOE: "Page 3, Section II. B. 2. How can one propose a 3 year schedule for material submission when the LSS does not exist? Are they assuming submission before the system exists?"

*LSSA is asking for long range plans and we are providing opportunities for estimates to be revised as time moves forward. We can ask for a 3 year material submission schedule the same way Congress asks for a 5 year budget forecast. We are not assuming submission before the system exists. This will be addressed at the December 1995 LSSARP meeting.*

2.6 DOE: "Page 4, Section II. B. 4. Even submission over remaining 6 month periods is not consistent with OCRWM view that a lot of the required records processing can be put off until later."

*No changes are required in products. If DOE puts all the records processing it can 'off until later', the LSSA will not have an opportunity to validate the data and ensure integrity and completeness of the database. This will be addressed at the December 1995 LSSARP meeting.*

2.7 DOE: "Pages 5 and 7, Figures 1 and 2. The purpose of this requested input is unclear. Thus, these requirements appear to consume effort without any view of there being a payoff."

*LSSA agrees that the rationale for the requested input is insufficient. We suggest that on page 3, under section II, FORMAT AND CONTENT OF PARTICIPANT COMPLIANCE PROGRAM PLAN, the document should state that this information is essential for planning purposes for NRC's operation of the system.*

2.8 DOE: "Pages 8-11. This would seem to be overkill. Designation of the Point of Contact is certainly reasonable, but it seems excessive that Points of Contact need be identified for all functions. The requirement for a formalized staffing plan also seems excessive. The Administrator is

concerned with a participant providing material to the LSS in a manner that is consistent with the rule. The details of staffing seem to go beyond this goal.

*No changes are required in products. Items on pages 8-11 are recommended, not required. The LSSA doesn't view it excessive that if there are other authorized contacts we know who they are and how to reach them. It is up to the participant to determine if there will be more than a single POC. This will be addressed at the December 1995 LSSARP meeting.*

2.9 DOE: "Page 11. [Staffing Plan] This seems to have gotten into the details of how the participants are satisfying requirements rather being a statement of requirements."

And...

2.10 DOE: "Page 11 (Staffing Plan). Expect strong objections, as before. NRC can only identify turnover requirements, but not how the records are produced."

*No changes are required in products. The LSSA "is responsible for the management . . . of the Licensing Support System, including the responsibility to . . . (8) ensure the availability . . . of the LSS . . ." The LSS Administrator views the staffing plan as an indispensable management tool for determining that stated plans are being supported operationally to the degree that the LSSA can rely on them for planning purposes. This will be addressed at the December 1995 LSSARP meeting.*

2.11 DOE: "Page 12, para. 3. Reference to compliance audits on relevancy determinations would imply that NRC still expects DOE to keep material designated as non-relevant. This was strongly objected to in the original draft."

*No changes are required in products. It is presumed that the non-relevant-but-federal-record material, whether automated or held in paper form, will be retained pursuant to NARA requirements. If the documents have been legally dispositioned, NRC is not going to levy a requirement for their retention. If they are federal record material and they are relevant, we do not think it an extraordinary requirement that the DOE records managers know the processing status and location of its records holdings. Nor is it unreasonable to request access to the non-submitted holdings in order for the LSSA to be able to certify that participants have met their obligations under 2.1003(b) and 2.1003° for submitting all potentially relevant documentary*

*materials as defined in 2.1001. This will be addressed at the December 1995 LSSARP meeting.*

2.12 DOE: "Page 12, Section 2. Non-documentary material such as samples or data bases seem to have been overlooked in this paragraph."

*LSSA agrees that this section needs to be expanded. Item counts for "things" will be beneficial since we will have a bibliographic header. If we know that they are "things" as opposed to paper, we will know not to plan for x volume of image storage or y volume of text files. LAI should craft an enhanced discussion for LSSA review and approval.*

2.13 DOE: "Page 14, section 4d. Reference to QA Facility implies design of LSS."

*LSSA agrees, it is an LSSA requirement. No changes are required in products.*

2.14 DOE: "Page 15, section D. NRC can specify the quality of the data, however it is inappropriate to specify the organization or mechanism used to generate it."

*No changes are required in products. Section D recommends that a system to ensure quality submissions be implemented by the participants. The LSSA is not directing how that be accomplished. The LSSA has the responsibility for ensuring the integrity of the database (2.1011(d)(7)). This will be addressed at the December 1995 LSSARP meeting.*

### 3.0 Compiled Comments on LSS Participant Compliance Program Plan Certification Document

3.1 NRC OGC: Page 1, Section A.1, First Sentence. COMMENT: "The Applicant understands the LSS Rule. . .' should be changed, it could be confused with License Applicant (i.e., DOE)."

*LSSA agrees. The document should make it much more clear that we are talking about applicants for access to the LSS. Perhaps the term "participant" or "potential party" would be less confusing. LAI should scrub throughout the document to remove ambiguity and recommend revised verbiage for LSSA review and approval.*

3.2 NRC OGC: Page 1, Section A.1, Third Sentence. COMMENT: "See A.3, will we evaluate all Participants Compliance?"

*LSSA agrees that it should be made more clear when we will*

*do X only for DOE, or Y for all non-DOE participants, or Z for all participants. LAI should scrub throughout the document to clarify when actions apply to certain parties and recommend revised verbiage for LSSA review and approval.*

3.3 NRC OGC: Page 2, Section A.3, Second Sentence is highlighted "DOE's compliance will be periodically evaluated and findings . . ."

*LSSA agrees. Same response and direction as for item 3.2, above.*

3.4 DOE: "Page 3, section C.1.8 submitting "hardcopy of any screened documentary material requested by the LSSA...." It's not clear, but this may be saying that DOE has to retain documents which are screened as not-relevant. This was in the original commitments document and was strongly objected to by DOE."

*LSSA agrees. We suggest changing the wording of the first sentence, to delete the word "screened". If it is documentary material, the definition in 2.1001 applies and says what we mean to say in this section.*

3.5 NRC OGC: Page 5, Section C.3.3. [LSSA will do additional duplicate checking . . . ] COMMENT: "See my comment on Commitment 3K in Appendix A"

[Appendix A is the LSS Participant Commitments. At their comment there, OGC asks: "Should we address the issue of not submitting material generated by another LSS participant and likely to be submitted by that participant?]

*LSSA believes that we should not address this, since the requirement for participants to submit their own documents is already in the rule. This will be addressed at the December 1995 LSSARP meeting.*

3.6 DOE: "Page 6, section C.4.8 "electronically assemble technical data packages." This would seem to be dictating the manner in which records packages will be assembled."

*No changes are required in products. No prescriptive or proscriptive direction is given as to how packages are assembled electronically, e.g., no guidance says to hyperlink package elements. The approved LSS header structure already establishes a bibliographic mechanism to logically link associated records. This will be addressed at the December 1995 LSSARP meeting.*

3.7 DOE: "Page 7, section C.5.4 DOE's deadline is moved to 12 months before the LA submission."

*LSSA agrees. Please make the change to conform the schedule to the requirements of the rule.*

3.8 NRC LSSA: *There are two items marked C.5.4. Please renumber this sequence.*

4.0 Compiled Comments on APPENDIX A: LSS Participant Commitments

4.1 NRC IRMB: Page (I), GROUP 2, fourth sentence. Comment: "What and where is this QA facility."

*LSSA agrees, and we suggest revised wording "...will be evaluated at the LSSA's anticipated Quality Assurance (QA) Facility . . ."*

4.2 NRC OGC: Page 1, 1.A Commitment -- Document Universe Identification. First Sentence to read: "Each LSS participant will report in writing to the LSSA, concerning its holdings of potential LSS material, the location and content of each document backlog repository and each generation/acquisition source (those that exist at the time the participant's Compliance Program Plan\* is submitted and any that may arise thereafter)."

*LSSA agrees with the suggested change.*

4.3 NRC IRMB: Page 1, 1.A Commitment -- Document Universe Identification. Comment: "Too cryptic, too vague. More of an outline than an actual guidance document."

*No changes are required in products. LSSA believes that the guidance is clear when read in conjunction with the Processing Standard, the Non-Compliance Reporting Threshold, and the Compliance Assessment Method. This will be addressed at the December 1995 LSSARP meeting.*

4.4 NRC OGC: Page 1., 1.A Processing Standard. Sentence begins "A DLO must report . . ." COMMENTS: (1) "Spell out and explain the DLO responsibilities, and reference commitment 3.A." (2) "What is meant by 'source'? This is a key term."

*LSSA agrees. LAI should revise the text since we have no glossary in this document.*

4.5 NRC OGC: Page 3, 1.B Commitment -- Material Submission Plans. Processing Standard Rationale, third sentence from end

reads: "It is prudent to plan for full loading . . . the point six months before the license application submission date (as required by the LSS Rule)." COMMENT: "Somewhat misleading. Actually the Rule requires that DOE has substantially complied with its obligations."

*LSSA agrees. Suggested rewording is: ". . . (as per the substantial compliance required by the LSS Rule.)"*

4.6 NRC IRMB: Page 3, 1.B Commitment -- Material Submission Plans. Non-Compliance Reporting Threshold, Rationale. Comment: "Puzzling"

*LSSA agrees that the grammar, punctuation and phraseology is very confusing. It almost reads as if to say: "If an LSS participant . . . will not endanger the timeliness of loading . . . [or] If an LSS participant . . . will not unnecessarily add to the cost of LSS operations . . . then the Commission will be informed." LAI should scrub this paragraph to correct, and recommend revised verbiage for LSSA review and approval.*

4.7 DOE: "Page 4, section 1.C This requirement was identified as unacceptable from a DOE standpoint, in original comments long ago. DOE cannot keep everything identified in screening as not-relevant. The volume would exceed all storage capacity."

*No changes are required in products. If DOE screens out all non-record material and all LSS exclusionary materials, and prevents their entry into their records system, the LSSA audits would only be looking at record material contained in its records system or held in file cabinets under authorized disposition schedules. There are classes of documents automated in the DOE records system or in those file cabinets that are federal record material but are identified by DOE as not licensing relevant. Those "federal-record-material- but- not-licensing-relevant" documents are the ones that are not to be submitted to the LSS. The DOE comment about not having to keep all the screened out material was incorporated and is reflected in the current verbiage. This will be addressed at the December 1995 LSSARP meeting.*

4.8 NRC OGC: Page 4, 1.C Commitment -- Document Universe Screening. First sentence reads: "After eliminating authorized exclusions . . ." COMMENT: "Should this also be included in "screening"?"



*No changes are required in products. LSSA does not believe that we need to include the authorized exclusions here, since they are already in the rule and would be redundant. This will be addressed at the December, 1995 LSSARP meeting.*

4.9 NRC OGC: Page 4, 1.C Processing Standard, Rationale. Last sentence should read "Screened material that is withheld from the LSS will be clearly non-relevant, ~~or duplicative, or~~ exclusionary material."

*LSSA agrees. LAI should make the change as indicated.*

4.10 DOE: "Page 6, section 1.D, This requirement was identified as unacceptable from a DOE standpoint, in original comments long ago. DOE cannot keep everything identified in screening as not-relevant. The volume would exceed all storage capacity. Same comment as above [4.7]."

*No changes are required in products. It is presumed that the non-relevant-but-federal-record material, whether automated or held in paper form, will be retained pursuant to NARA requirements. If the documents have been legally dispositioned, NRC is not going to levy a requirement for their retention. If they are federal record material and they are relevant, we do not think it an extraordinary requirement that the DOE records managers know the processing status and location of its records holdings. This will be addressed at the December 1995 LSSARP meeting.*

4.11 NRC IRMB: Commitment -- Accountability for Screened Materials.  
Comment on first sentence: "Meaning?"

*No changes are required in products. We believe that the guidance is clear when read in conjunction with the Processing standard, the Non-Compliance Reporting Threshold, and the Compliance Assessment Method. See also our response on 2.11, above.*

4.12 NRC OGC: Page 6, 1.D, Processing Standard. COMMENT: "?"

*The standard sounds absolute, rather than what can be reasonably expected given document volumes and human subjectivity. Perhaps it can be reworded to say that "... substantially no material ..." LAI should craft an enhanced discussion for LSSA review and approval.*

4.13 NRC IRMB: Page 6, 1.D, Processing Standard. COMMENT: "Who screens? Criteria for relevancy?"

*Who screens is an operational issue within the participant organization. The criteria for relevancy are the Topical Guidelines (to be finalized.) However, we agree that we should probably include these statements in the Processing Standard Rationale. LAI should craft an enhanced discussion for LSSA review and approval.*

4.14 NRC IRMB: Page 8, 1.E, Backlog Submission -- Processing Standard.  
COMMENT: "What about delays beyond participant control?"

*No changes are required in products. Addressed in Non-Compliance Reporting Threshold, Rationale.*

4.15 NRC IRMB: Page 8, 1.E, Backlog Submission -- Non-Compliance Reporting Threshold, Rationale. COMMENT: "Does this mean we have the potential date for DOE submitting application?"

*No changes are required in products. Current planned license application date is a DOE milestone: June 30, 2001.*

4.16 NRC IRMB: Page 8, 1.E, Backlog Submission -- Non-Compliance Reporting Threshold, Rationale. COMMENT: second sentence "... Material Submission Plans are only estimates, and deviations can be expected due to estimate errors ..." conflicts with processing standard [Processing Standard, Rationale] "If LSS Participants ... do not closely adhere to their Material Submission Plans ..."

*No changes are required in products. LSSA does not believe that the Processing Standard Rationale and the Non-Compliance Reporting Threshold Rationale conflict. When read in context, we do recognize the difference between our first attempts at an MSP and those developed closer to the time of the license application. This will be addressed at the December 1995 LSSARP meeting.*

4.17 DOE: "Page 10, section 1.F, NRC has increased the working days number - I believe it was 10 in the original document. However DOE's comments set it considerably higher than the 20 NRC suggests."

*No changes are required in products. See Rationale for commitment 1.F on page 11. Reasonably contemporaneous, at 20 working days is one month. Anything more than a month is stretching the concept. This will be addressed at the December 1995 LSSARP meeting.*

4.18 NRC OGC: Page 11, 1.F, Processing Standard, under "[NOTE: . . .]", second to last sentence in first paragraph reads

"Additionally, this standard also does not cover the timely submission of highest priority backlog materials." COMMENT: "Address the need for!"

*No changes are required in products. The LSSA does not agree. The need for prioritization of backlog materials (1) has never been cost-benefitted, (2) is entirely subjective to each participant, and (3) has been overtaken by DOE's intention to migrate all of their holdings into the LSS in bulk, if accepted, or, if not (4) has been overtaken by the short lead time availability of system access per the DOE implementation schedule. This will be addressed at the December 1995 LSSARP meeting.*

4.19 NRC OGC: Page 15, 1.I, Commitment -- Good Faith Discovery. COMMENT: "Is this the right title for this section on deliberate alteration and withholding?"

*LSSA agrees. Perhaps a better connotation is something like "True & Accurate Documentary Submissions" Also, the reference to the system providing discovery should have been 2.1002(a), not 2.1000. LAI should make the changes as indicated.*

4.20 DOE: "Page 16 section 2A, "guidance developed by the LSS Header working group." It is not clear such guidance exists."

*LSSA agrees. Unitization guidelines are under development, text should be changed to read "guidance developed (currently being developed) by the LSS Header working group."*

4.21 NRC IRMB Page 19, Commitment -- Image Preparation. COMMENT: "What if the best isn't good enough?"

*No changes are required in products. See Processing Standard, Standard. Last sentence on legibility indicates that we will take whatever we get when somebody labels it as "best available copy". This will be addressed at the December 1995 LSSARP meeting.*

4.22 DOE: "Page 20, section 2.D Text accuracy of 99.8% This contradicts the requirements document."

*No changes are required in products. It does not contradict Level 2 requirements; it only provides a metric for auditing. 99.8% is currently achievable via commercially available products, and is, in fact below the 99.92% benchmark for 1994 performance. LSSA is not inclined to*

*raise our standard from the 99.8% just for the sake of matching optimal performance. Here's the Level 2 Requirement:*

*"LSS2-004 Convert Image to Text. The LSS shall provide the capability to convert a bit-mapped image which is compliant with LSS data format requirements to computer readable text. The LSS shall achieve text conversion accuracies that are achievable with the best commercial products available at the time of the LSS system design. [LSS1-005] Comment: The text conversion accuracies may be achieved using combinations of technologies comparable to the best available commercially."*

*ISRI's 1994 tests on DOE sample documents, Group 1 quality, showed Caere OCR, Calera Wordscan, ExperVision RTK and XIS OCR Engine -- all commercially available products -- all generated in excess of 99.86% character accuracy. Group 2 quality had a similar group of products consistently between 99.6 and 99.7% accuracy. 99.5% was achieved for group 3 quality by one product. None of these products utilized voting machine technology, which would be consistent with "combinations of technologies" anticipated for actual implementation. This will be addressed at the December 1995 LSSARP meeting.*

4.23 NRC IRMB      Page 23, 3.B, Commitment -- Petitions for Access. COMMENT: "Define PAPO"

*LSSA agrees that it should be spelled out and the acronym placed in parenthesis. LAI should make the change as indicated.*

4.24 NRC OGC:      Page 25, 3.K, Commitment -- Duplicate Elimination. Last sentence reads: "The LSSA, through the LSS, will also identify duplicates that will occur within and among the various LSS participants' submissions." COMMENT: "Should we address the issue of not submitting material generated by another LSS participant and likely to be submitted by that party?"

*No changes are required in products. LSSA believes that we should not address this in any more detail, since the requirement for participants to submit their own documents is already in the rule. This will be addressed at the December 1995 LSSARP meeting.*

4.25 NRC OGC:      Page 26, 3.P, Commitment -- FOIA Responsibilities. COMMENT: "?"

Mr. Anthony Neville

-13-

*Noted, but no changes are required in products.*

If you require any additional clarification about how to incorporate this feedback into the documents as noted, please contact me at (301) 415-5507.

Sincerely,

A handwritten signature in cursive script, appearing to read "Daniel J. Graser".

Daniel J. Graser  
Project Officer  
Office of Information Resources Management

cc: Arnold E. Levin, IRM/LSSA  
Edna Knox-Davin, ADM/FAB