



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, DC 20555 - 0001

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TO: Members of the Licensing Support Network Advisory Review Panel

FROM: Daniel J. Graser \RA\  
Licensing Support Network Administrator

RE: Draft Revised LSN Guideline 14

The Nuclear Regulatory Commission (NRC) had two objectives in issuing a draft revision to LSNA Guideline 14, "Bibliographic Treatment of Changed Documents and Use of Cross References to Identify Document Relationships," that attempted to address how participants should make redacted versions of documents available via the LSN. The first objective was to ensure that redacted documents were made available in such a way that other parties would know they were looking at a redacted version of a document. The second objective was to ensure that the two versions of a document are clearly distinguishable should both the original, sensitive document and its redacted version be introduced into the proceeding with requests that they be marked as evidence. Underlying this second objective are two principles of records management: (1) that subsequent markings (marginalia) or deletions (redactions) to a document constitute a "new document"; and (2) each unique item has a unique accession number.

The original draft set forth a proposed approach directing participants to delete "header-only" bibliographic headers and add a new redacted version with a bibliographic header Comments field entry that identified the LSN Accession Number of the previously available "header-only" document. Similarly, to address adding a redacted version when the sensitive "header-only" document never existed on the LSN, the Comments field for the redacted version would clearly indicate that the item is a redacted version. In both circumstances, participants and parties would be able to identify that there is a non-redacted version of a document should there be an interest in contesting a privilege claim and ultimately having a non-redacted version pre-filed in the Protective Order File (POF) of the Electronic Hearing Docket (EHD).

In response to the draft circulated to LSNARP participants, three sets of comments were received on the draft revision to LSNA Guideline 14 indicating that another iteration was required. Accordingly, we have compiled a Revision Draft, Version 2 to address the comments detailed in the following discussion.

#### Nuclear Regulatory Commission Comments

NRC's first comment was:

*"(1) Page 14-1, second bullet should have a parenthetical note going something like this:  
"(unless it has been redacted per Section 14.2.6)."*

In response, a note was added at the end of that section (which discusses general responsibilities for changed documents), identifying that a redaction version is not a change to the original document; it is a different document.

NRC's second comment was:

*"(2) Page 14-7, editorial in the last bullet, it appears that the second sentence ("The participant should...") is redundant and should be deleted."*

The paragraph in question was directing the participant to notify the LSNA when a document is deleted. The wording has been clarified to explain that a file (such as Microsoft Excel or text) is requested from the participant for posting on the LSN web site.

### State of Nevada Comments

State of Nevada comments were as follows:

*"1. Under section 14.1, does this section include redacted documents? There is a concern that DOE might replace an already existing document on the LSN with the revision that contains redacted sections. Will this be allowed under this revision to this guideline? If so, although we hope not, there must be a mechanism to cover this.*

*2. In section 14.2.6, we believe that the reason for the redaction should be given, probably in the Comments field or wherever else might be appropriate. Also in this section, in the second paragraph, the response to our first question should be given in this paragraph for clarification.*

*The way we are reading this proposed revision is that redacted documents will only be able to replace header-only documents already in the system or that the redacted document is a totally new document. We can agree with this revision to the guideline IF our reading of the revision is correct and the necessary clarifications are made to prevent instances of concern in our question 1."*

Section 14.1 was not intended to address redacting existing "header plus text (and/or image) documents." Instead, section 14.2.6 allows a party to augment an already existing "header-only" with a "header plus redacted version of text (and/or image) consistent with the State's understanding as stated in their last paragraph. However, in subsequent comments received by the LSNA, as discussed below, the issue of replacing an already existing text document with a redacted version of text was, indeed, raised by DOE.

The question as to whether Section 14.1 includes redacted documents is clarified in Note B added at the end of that section, identifying that a redaction version is not a change to the original document, as discussed above. If a participant replaces an already existing document with a redacted version, the removal of the existing document is addressed in the last bullet of Section 14.6, which states that the participant must notify the LSNA prior to deleting a document, and describe why the document needs to be removed from its collection.

With regard to the recommendation that the reason for redaction be identified in the bibliographic treatment, the recommendation does serve to facilitate parties and counsel

expediting a PAPO Board's review of potential requests for access to non-redacted versions of sensitive documents. This recommendation is addressed in Revision Draft, Version 2, Section 14.5.

### DOE Comments

DOE submitted two comments, the first comment as follows:

*"If DOE replaces a document with a redacted document, it plans on using the same participant accession number".*

*"Change the last sentence in the second paragraph of Section 14.6 to:*

*'The participant should provide a file that lists the old LSN Accession Number for the non-redacted document, as well as the Participant Accession Number for the redacted document, which may be the same for the non-redacted and redacted document that will be loaded onto the central LSN web.'*"

The second comment was:

*"The DOE believes that the six scenarios for adding, replacing or changing redacted documents in a participant's collection should be addressed in this section. The scenarios include:*

- Header-Only Document Replaced with Redacted Version of Document*
- Changes to the Redaction in a Redacted Version of Document*
- Full Text Document Replaced by Redacted Version*
- Redacted Version of Document Replaced by Full Text Version*
- Redacted Version of Document Replaced by Header-Only Document*
- Initial Submittal of Redacted Document*

*"To accommodate each of these conditions, change the second paragraph of Section 14.2.6 to:*

*'If a document previously existing on the LSN is to be replaced by a redacted document, the original document should be deleted from the LSN (see Section 14.5). The LSN Accession Number of the deleted document should be added to the Comments field in the bibliographic header of the redacted document. If previous changes associated with redacted versions exist, then retain the LSN accession number traceability in the Comments field. Additionally, the LSNA must be notified that the document was replaced by a redacted document before the deletion is made in order for the change to be posted on the central LSN web site. The participant should provide a file that lists the old LSN Accession Number for the non-redacted document, as well as the Participant Accession Number for the redacted document, which may be the same for the non-redacted and redacted document that will be loaded onto the central LSN web. For the initial submittal of a redacted document, identify that the document is an initial submittal in the Comments field of the bibliographic header.'*"

Our analysis of specific points raised in the DOE comments are as follows. First, to ensure that each document maintains a unique identifier, as discussed above, any original sensitive

document and any redacted version must have different Participant Accession Numbers. One party may prevail in its challenge to a privilege claim and subsequently wish to prefile the restricted access version of a document as a POF submission to the EHD, whereas, for another party it may suffice to prefile the redacted version of the document. We must maintain a way to differentiate that they are different items and therefore the “same Participant Accession Number” cannot be used to describe both entities. This determination means that elements of both DOE comments are not incorporated in Revision Draft, Version 2.

A redacted version of a document must state that it is redacted in the Title and/or Comments field, because the Access Control Information field for a redacted document will not indicate any access restriction, and a party must be able to identify that they are looking at a redacted version of a document, as discussed above. Additionally, the Comments field of a redacted version must include the Participant Accession Number of the original sensitive document even if that document is not represented by a separate bibliographic “header-only” entry with a corresponding LSN Accession Number. Thus, the bibliographic header for any redacted document for which there is no corresponding sensitive document on the LSN will contain the LSN Accession Number for the redacted version, the Participant Accession Number for the redacted version, and a Comments field that includes the Participant Accession Number for the corresponding sensitive document.

If a sensitive document is currently represented on the LSN by a bibliographic “header-only” entry, the existing “header-only” bibliographic entry should not be deleted. A redacted version may be added to the LSN. The bibliographic header for the redacted version must include the Participant Accession Number and LSN Accession Number of the existing sensitive document. This means that when searching on the LSN via bibliographic header fields only, the search results would include both the bibliographic header for the original sensitive document (“header-only”) and a similar bibliographic header<sup>1</sup> for the redacted version. Searchers using document content searches would find only the redacted version because the “header-only” entry for the sensitive document has no text “content”; however, the bibliographic header of the redacted version will contain notice that it is redacted and the Participant Accession Number for the original sensitive document.

Finally, as a procedural matter, following this methodology, if a participant contests the privilege claim of a redacted version to the PAPO, and the participant “owner” of the document is subsequently ordered to produce the non-redacted sensitive document, we want to then assign a unique LSN number to that document in the event that it is filed as a POF item. At that time, the participant “owner” of the non-redacted, produced document must generate a “header-only” entry for the non-redacted sensitive document and add it to the LSN, if it isn't already.

With regard to DOE’s recommendation that additional scenarios be addressed, we note the following:

- *Header-Only Document Replaced with Redacted Version of Document*

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<sup>1</sup>They would be similar in all respects except for LSN Accession Number, Participant Accession Number, Access Control Information, Comments (which, for the redacted version, would contain reference to the reason for the redaction and the sensitive document’s Accession Number(s)), Title (if the participant chooses to include “(redacted)” in that bibliographic field, as discussed above) and, perhaps, number of pages, depending on how the recision is performed technically in order to generate the redacted version.

Guidance to request the deletion of a document (“header-only document”) is in the last bullet of Section 14.6. A document should not be deleted from the LSN unless there is a valid reason, such as the document contains Homeland Security sensitive information. The addition of a new document (“redacted version of document”) is addressed in Guideline 22. The handling of a redacted version is addressed in Section 14.5.

- *Changes to the Redaction in a Redacted Version of Document*

Guidance to change a document is in Section 14.2.3.

- *Full Text Document Replaced by Redacted Version*

Guidance to request the deletion of a document (“full text document”) is in the last bullet of Section 14.6. A document should not be deleted from the LSN unless there is a valid reason, such as the document contains Homeland Security sensitive information. The addition of a new document (“redacted version”) is addressed in Guideline 22. The handling of a redacted version is addressed in Section 14.5.

- *Redacted Version of Document Replaced by Full Text Version*

Guidance to request the deletion of a document (“redacted version”) is in the last bullet of Section 14.6. A document should not be deleted from the LSN unless there is a valid reason, such as the document contains Homeland Security sensitive information. The addition of a new document (“full text version”) is addressed in Guideline 22.

- *Redacted Version of Document Replaced by Header-Only Document*

Guidance to request the deletion of a document (“redacted version”) is in the last bullet of Section 14.6. A document should not be deleted from the LSN unless there is a valid reason, such as the document contains Homeland Security sensitive information. The addition of a new document (“header-only document”) is addressed in Guideline 22.

- *Initial Submittal of Redacted Document*

The addition of a new document is addressed in Guideline 22. The handling of a redacted version is addressed in Section 14.5.

Accordingly, a revised draft version of Guideline 14 is attached and we are asking the LSNARP membership for any comments or additional proposed revisions. We would appreciate your feedback by January 21, 2004, so that a final version of this revised guideline can be released by the end of the month.

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GL 14-Changed Docs 01-13-05 Draft

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