Exhibit 2

Exhibit 2

Department of Energy
Washington, DC 20585

October 6, 2000

A. L. Vietti-Cook
Secretary
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Attention: Rulemakings and Adjudications Staff

COMMENTS ON NOTICE OF PROPOSED RULEMAKING FOR LICENSING PROCEEDINGS FOR THE RECEIPT OF HIGH-LEVEL RADIOACTIVE WASTE AT A GEOLOGIC REPOSITORY: LICENSING SUPPORT NETWORK, DESIGN STANDARDS FOR PARTICIPATING WEBSITES (10 CFR PART 2)

Dear Ms. Vietti-Cook:

The U.S. Department of Energy (DOE) is pleased to submit comments on the U.S. Nuclear Regulatory Commission's (NRC) August 22, 2000, "Notice of Proposed Rulemaking for Amendments to 10 CFR 2, Subpart J, Procedures Applicable to Proceedings for the Issuance of Licenses for the Receipt of High-Level Radioactive Waste at a Geologic Repository."

The proposed revisions would establish basic design standards for participant websites in the Licensing Support Network (LSN), clarify the authority of the LSN Administrator to establish guidance for and review compliance with the design standards, and clarify the timing of participant compliance certifications.

The Department fully supports the underlying objective of the LSN system to ensure that interested parties will have an opportunity to review documentary material in preparation for NRC's License Application review. Indeed, we have been a strong proponent of NRC's efforts to streamline the document discovery process, and are committed to taking the steps necessary to ensure that the LSN system achieves its objectives. Additionally, the Department is highly supportive of the rule's use of new information management technologies to make information available to interested parties. The Department has used and will continue to use web-based technology to make its publications and supporting documents promptly available.

Our principal concern with the proposed rule relates to the approach that is being proposed for the timing of our certification of compliance. The proposed rule would require that all of the Department's documentary material be made available beginning in the pre-license application phase, which is defined to begin thirty days after a site recommendation by the Department. While we support early access to information, we believe that there is a more effective way to facilitate preparation of focused contentions and ensure an efficient licensing process than by tying the Department's certification of its documentary material to the Site Recommendation process. We recommend that the initial certification of compliance by the Department be linked to submission of the License Application. This could be accomplished by requiring the

certification to be submitted no later than six months in advance of submission of the License Application. Importantly, in recommending this approach, the Department is committed to ensuring that interested members of the public have a full six months in advance of submission of the License Application to review the Department's documentary material. To accomplish this, the Department would recommend that the following language be included as part of the rule: "In no event shall DOE's License Application be docketed prior to six months from the date of DOE's certification." Our more detailed comments on this issue are set forth in the enclosure.

Also included in the enclosure are more detailed comments on other issues and proposed clarifications related to the supplementary information in the notice of proposed rulemaking. If you have questions on these comments, please contact Monica Michewicz at (202) 586-9738 or April V. Gil at (702) 794-5578.

Sincerely,

Ivan Itkin, Director
Office of Civilian Radioactive
Waste Management

Enclosure: Comments on Proposed Revisions to the 10 CFR Part 2 Rule

cc:
R. A. Meserve, NRC
E. McGaffigan, NRC
N. J. Diaz, NRC
G. J. Dicus, NRC
J. S. Merrifield, NRC
K.D. Cyr, NRC
M. Madden, RW-1
L. Barrett, RW-2
R. Milner, RW-2
S. Hanauer, RW-2
J. Williams, RW-40
R. Minning, RW-50
A. Brownstein, RW-52
N. Slater, RW-52
C. Einberg, RW-52
M. Michewicz, RW-52
B. Wells, RW-60
K. Ford, RW-60

R. Dyer, YMSCO
D. Horton, YMSCO
L. Bauer, YMSCO
S. Brocoum, YMSCO
D. Williams, YMSCO
C. Jensen, YMSCO
A. Gil, YMSCO
C. Newbury, YMSCO
S. Rives, YMSCO
J. Taylor, GC-30
B. McRae, GC-52
A. Capoferri, GC-52
L. Robertson, MTS
B. McKinnon, MTS
J. York, MTS
J. Bailey, M&O/LV
J. Curtiss, Winston & Strawn

DEPARTMENT OF ENERGY (DOE) COMMENTS ON PROPOSED REVISIONS TO THE 10 CFR PART 2 LICENSING SUPPORT NETWORK (LSN), DESIGN STANDARDS FOR PARTICIPATING WEBSITES

The comments are ordered to reflect the importance of policy and technical concerns.

1. 2.1009 Procedures

Timing of Participant Compliance Determinations

The proposed rule seeks to clarify the timing of the initial participant certifications of compliance under section 2.1009. Specifically, the proposed revision to paragraph (b) of section 2.1009 would require that the initial participant certification of compliance be made at the time that each participant's documentary material is required to be made available under section 2.1003. The Department of Energy (DOE) documentary material must be made available "beginning in the pre-license application phase," which is defined in section 2.1001, in part, as the phase that "begins 30 days after the date the DOE submits the site recommendation to the President pursuant to section 114(a) of the Nuclear Waste Policy Act." In the event that the DOE is unable to make a timely initial certification, the proposed rule provides that the U.S. Nuclear Regulatory Commission (NRC) would report to the Secretary of Energy and the Congress that this would result in a curtailment of the time that the LSN would be available before the submission of the License Application. On this basis, the proposed rule provides that the NRC would report that it will not be able to meet the three-year License Application review period required under the Nuclear Waste Policy Act (NWPA).

The DOE fully supports the objective of ensuring that interested members of the public have comprehensive and early access to relevant documentary material, so as to facilitate early identification and resolution of licensing issues, as well as preparation for the NRC's formal licensing proceeding. Indeed, this basic objective has been at the heart of the NRC's deliberations since 1988 over how best to structure an efficient, effective document retrieval system to support its formal licensing proceeding for a geologic repository, so as to permit the NRC to meet its statutory obligation to complete its licensing proceeding in three years.

While the DOE supports the basic objective of ensuring early access to documentary material, it is concerned about the approach that the NRC appears to be proposing to take with regard to the timing of DOE's certification of compliance, as well as the provisions proposed in section 2.1009(c) for a failure to meet the certification deadline.

By way of background, it is important to recall that the fundamental purpose of the LSN, as well as the predecessor Licensing Support System (LSS), is to ensure that potential parties have timely access to documentary material sufficiently in advance of NRC's formal licensing proceeding "so as to permit the earlier submission of better focused contentions, resulting in a substantial saving of time during the proceeding" (*see* 54 FR 14926). With this objective in mind, the NRC initially proposed, and subsequently codified as part of the original LSS rule, a requirement that the DOE submit all of its documentary material 6 months in advance of the submission of a license application by the DOE. This requirement was adopted by the NRC in 1989 (*see* 54 FR 14925) and was in effect until the NRC issued the rule establishing the LSN.[1]

In the rulemaking, which led to the creation of the LSN in 1998, the NRC fundamentally changed the approach to ensuring that all of the documentary material was entered into the system. Whereas the prior LSS rule required the LSS Administrator to certify that the DOE had submitted all documentary material for entry into the system, the new LSN rule imposed the certification obligation on the DOE. The LSS rule had specified that the LSS Administrator was to certify the DOE's substantial and timely compliance with document submission requirements 6 months prior to submission of a License Application. However, as the current proposed rulemaking acknowledges, the LSN rule adopted in 1998 did not clearly specify when this certification by the DOE was to be made. The proposed rule would require the DOE's initial certification to be made at the time that its documentary material is required to be made available, which is a period that begins thirty days after the Site Recommendation goes to the President and ends when the license application is docketed under section 2.101(f)(3).

Consistent with the approach taken by the NRC in its LSS rule, and recognizing that the intent of the LSN is to support the NRC's License Application review process, rather than the DOE's Site Recommendation process, the DOE believes that the objective of ensuring early access by potential parties to documentary material can be best achieved by a simple, straight-forward requirement that the initial certification of compliance by the DOE occur no later than a specified period of time (*e.g.*, 6 months) in advance of submission of the License Application by the DOE. This approach would have three important advantages over the current proposal:

First, it would appropriately link the initial certification to submission of the License Application, as opposed to the Site Recommendation. This is consistent with the basic purpose of the LSN, which is to support the NRC's licensing process, rather than the DOE's Site Recommendation process.

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[1] The Statement of Considerations for the current proposed rule appears to suggest that the basic requirements regarding the timing of participant compliance determinations "have been in place for over ten years." *See* 65 FR 50941. Although the focus on early access to documents has been in place throughout this period, the current approach to certifying and determining compliance with the document availability requirements was adopted in 1998 as part of the LSN rulemaking. For the previous 9 years, the certification requirement resided with the NRC, and the DOE was to submit its documentary material 6 months prior to submitting its License Application.

Second, if certification is tied to the timing of the Site Recommendation in the manner set forth in the proposed rule, it is virtually impossible to say with certainty how much time would be available for interested members of the public to review the DOE's documentary material prior to submission of the License Application. By contrast, by requiring certification to be made 6 months prior to the DOE's submission of its License Application, as the DOE is proposing, interested members of the public will be assured a defined period of time to review the DOE's documentary material (i.e., 6 months), regardless of the inherently uncertain timing associated with the Site Recommendation process.

This concern arises because, unavoidably, there is significant schedule uncertainty in the site recommendation and designation process, particularly as it relates to the time that will be required for Presidential and Congressional decision making on the Site Recommendation. Consequently, it is impossible to say with certainty how much time would be available, under the earliest time for certification contemplated in the approach proposed by the NRC, for potential parties to begin reviewing the documentary materials in the LSN prior to the beginning of the License Application proceeding. To take one example, under the shortest scheduling scenario for the site recommendation and designation process, potential parties would have 4 months to review documents in the LSN in preparation of the License Application proceeding.[2] By contrast, the Presidential and Congressional decision-making process for the site could significantly extend the time frame between certification and submission of the License Application. Indeed, because the NWPA does not define the time frame for Presidential review and approval, it is impossible to know how long this process might take. In either event, whether the site recommendation and designation process goes quickly or takes an extended period of time, the DOE may wish to adjust or otherwise modify its License Application in response to the comments resulting from the Presidential and Congressional approval process, or to incorporate in the License Application the results of additional scientific work that will likely take place during this period.[3]

Third, this approach will provide necessary and appropriate flexibility for the DOE to process the documentary material that will be required to be entered into the LSN, and to do so in a time frame that will support the NRC's License Application review. Additionally, assuming that an initial certification tied to the License Application will occur at a point in time later than the earliest point provided for under the proposed rule, it is likely that the relevant documents to support the License Application will be more fully developed and that, as a result, potential parties will be provided with information that is most current to the License Application to be submitted 6 months hence. Consistent with the original objective of the LSS, this will facilitate the preparation of

[2] This scenario assumes that the Site Recommendation is approved by the President immediately upon receipt from the Secretary and transmitted directly to Congress, and that no Notice of Disapproval is filed with Congress.

[3] In this regard, Congress expressed its view, in conference report language (H. Rep. No. 106-907, p. 108), accompanying the FY2001 Energy and Water Development Appropriation bill, that it expects DOE to continue to analyze further design improvements and enhancements after Site Recommendation and prior to submitting the License Application to the NRC. This is a further indicator of why the LSN should be connected to the License Application rather than the Site Recommendation.

more focused contentions and a more efficient licensing process. It is also the approach that was previously proposed and adopted by the NRC as sufficient to allow it to conduct its review within the three-year period provided for by the NWPA.

For the foregoing reasons, the DOE recommends that the NRC modify the proposed rule by deleting proposed section 2.1009(c)(1) and (2) in its entirety, and making the following revisions to the rule to provide that the DOE's initial certification of compliance must occur no later than 6 months in advance of its submission of the License Application:

i) In the definition of "Pre-license application phase" in existing section 2.1001, strike the phrase "30 days after the date the DOE submits the site recommendation to the President pursuant to section 114(a) of the Nuclear Waste Policy Act of 1982, as amended (42 U.S.C. 10134(a))," and insert in lieu thereof the following:

> "on the date that DOE submits its certification pursuant to 2.1009(b)."

ii) In existing section 2.1003(a), strike the phrase "NRC and DOE shall make available, beginning in the pre-license application phase, and each other potential party, interested governmental participant or party shall make available no later than 30 days after the date the repository site selection decision becomes final after review by Congress," and insert in lieu thereof the following:

> "NRC, and DOE, and each other potential party, interested governmental participant or party, shall make available no later than the date of the required certification specified in 2.1009(b)."

iii) Delete the second sentence of proposed section 2.1009(b) and insert in lieu thereof the following:

> "The certification by DOE shall be submitted to the Pre-License Application Presiding Officer no later than six months prior to the submission of DOE's License Application to the Commission. Certifications by the NRC and each other potential party, interested governmental participant or party shall be submitted to the Pre-License Application Presiding Officer no later than sixty days after the date of DOE's certification. In no event shall DOE's License Application be docketed prior to six months from the date of DOE's certification."

2. 2.1011(c)(4) Management of electronic information

This paragraph describes the LSN Administrator's responsibility for identifying any problems regarding the "integrity of documentary material." DOE believes that the intent of this phrase is related to the documentary material being accurately represented in the LSN, not to the content or completeness of the documentary material.

DOE recommends substituting the phrase "integrity of documentary material" with ***"fidelity of the documentary material."***

Similarly, 65 FR 50941, Section IV, The Role of the LSN Administrator, the last sentence in the first paragraph (continuing from 65 FR 50940) states that "All disputes over the LSN Administrator's recommendations as to documentary material or data availability and integrity will be referred to the Pre-License Application Presiding Officer." However, sections 2.1011 (c)(3) and (c)(4) refer to recommendations on LSN availability and integrity of documentary material, not to documentary material or data availability.

DOE recommends that the NRC replace "documentary material or data availability and integrity" with ***"LSN availability and fidelity of documentary material."***

3. 2.1009 Procedures

Paragraph (b) requires that the responsible official designated must certify, to the best of his/her knowledge, the documentary material specified in section 2.1003 has been identified.

In September, 1996, the NRC issued Regulatory Guide 3.69, *Topical Guidelines for the Licensing Support System*, based on the format provided in Draft Regulatory Guide DG-3003, "*Format and Content for the License Application for the High-Level Waste Repository,*" which reflected the requirements in 10 CFR 60. The NRC is in the process of revising the licensing criteria at 10 CFR 60 for disposal of spent nuclear fuel and high-level radioactive wastes in a geologic repository at Yucca Mountain, Nevada. The criteria in proposed 10 CFR 63 and expected to be in the Yucca Mountain Review Plan, reflect a risk-informed, performance-based approach.

DOE notes that if the proposed 10 CFR 63 becomes final, a revision to Regulatory Guide 3.69 will be needed to address potential changes pertaining to the list of topics for which LSN participants should submit documentary material for entry into the LSN.

4. 2.1011(b)(2)(iv) Management of electronic information and 65 FR 50939, Section II, LSN Design Standards, Item (4)

These paragraphs presently read: "TIFF images will be stored at 300 dpi (dot per inch), gray scale images at 150 dpi with eight bits of tonal depth, and color images at 150 dpi

with 24 bits of color depth." However, the image resolution should be a minimum, not an inflexible specific number.

DOE recommends that the NRC modify the proposed rule as follows (changes underlined): ***"TIFF images will be stored at 300 dpi (dots per inch) or greater, gray scale images at 150 dpi or greater with eight bits of tonal depth, and color images at 150 dpi or greater with 24 bits of color depth."***

5. 2.1011(b)(2)(v) Management of electronic information

This paragraph presently reads: "The header record must contain fielded data identifying its associated object (text or image) file name and directory location." However, a document may have both text and image files, and more than one of each.

DOE recommends that the NRC adopt the following language (changes underlined): ***"The header record must contain fielded data identifying its associated objects (text and/or image) file names and directory locations."***

Similarly, 65 FR 50939, Section II, LSN Design Standards, Item (5) second paragraph currently reads: "The bibliographic header must contain fielded data identifying its associated text or image file name and directory location." That is not always true since a document may have both text and image files, and more than one of each.

DOE recommends Item (5) be changed to read (changes underlined): ***"The bibliographic header must contain fielded data identifying its associated text and/or image file names and directory locations."***

6. 2.1011(b)(2)(v) Management of electronic information

This paragraph presently reads: "The participants shall programmatically link the bibliographic header record with the text or image file it represents. The header record must contain fielded data identifying its associated object (text or image) file name and directory location. However, a document may have both text and image files, and more than one of each."

DOE recommends that the NRC adopt the following language (changes underlined): ***"The participants shall programmatically link the bibliographic header record with the text and/or image file it represents. The header record must contain fielded data identifying its associated object (text and/or image) file name and directory locations."***

Similarly, 65 FR 50939, Section II, LSN Design Standards, Item (5) first paragraph currently reads: "The parties or potential parties must programmatically link the bibliographic header record with the text or image file it represents to provide for file delivery and display from participant machines using the LSN system." However, a document may have both image and text files, and more than one of each.

DOE recommends that the NRC incorporate the following revised language (changes underlined): ***"The parties or potential parties must programmatically link the bibliographic header record with text and/or image files it represents to provide for file delivery and display from participant machines using the LSN system."***

Also, 65 FR 50941, Section VI, Section-By-Section Changes, the eighth paragraph currently reads: "The header record must contain fielded data identifying its associated object (text or image) file name and directory location." However, a document may have both, and more than one of each.

DOE recommends that the NRC adopt the following language (changes underlined): ***"The bibliographic header record must contain fielded data identifying its associated objects (text and/or image) file names and directory locations."***

7. 65 FR 50939, Section II, LSN Design Standards

Item (1) currently reads: "The participants shall make textual (or, where non-text, image) versions of their documents available...." DOE has images of all documents in the RIS, but not the full text for any page in the document that was marked "image-only" during records processing (even if it contains some text). However, some participants may only have native file (Word or Word Perfect), so they may not have "images" of textual documents. Requiring absolutely one or the other would be a problem if interpreted literally.

DOE recommends that the NRC provide flexibility by revising the language (in section II and elsewhere) as follows: ***"The participants shall make textual and/or image versions of their documents available...."***

Item 1(3) suggests that changes to documents previously entered will be permitted if "other parties or potential parties are notified of the change".

Because DOE will not have the ability to know all potential parties in order to notify them of changes, ***DOE recommends that this requirement be either deleted or clarifications made that changes made within a specified time period be posted in a notice section of the participant LSN website.***

Item (2) second paragraph currently reads: "A "comma delimited" file is a way to identify where a particular relational database file begins and ends." The reference "comma delimited" is to separate column values.

DOE recommends that the NRC revise the language as follows (changes underlined): ***"A "comma delimited" file is a way to identify where the column values for each row in a particular relational database file begin and end."***

Item (4) first paragraph currently reads: "Alternatively, images may be stored in a page-per-document format if software is incorporated in the web server that allows single-page

representation and delivery." This is inconsistent with the description in the previous sentence.

DOE recommends that the NRC incorporate the following revised language (in section II and elsewhere - changes underlined): ***"Alternatively, images may be stored in a image-per-document format if software is incorporated in the web server that allows image-per-page representation and delivery."***

Item (4) second paragraph currently reads: "...that parties or potential parties can use to make non-textual document materials viewable with current browser/viewer software." However, referenced image formats can be used for textual material as well.

DOE proposes that the NRC revise the language as follows: ***"...that parties or potential parties can use to make document materials viewable with current browser/viewer software."***

8. 65 FR 50941, Section VI, Section-by-Section Changes

The sixth paragraph currently reads: "Paragraph (b)(2)(iii) would require that textual material be formatted to comply with the US.ISO_8859-1 character set and be in one of the following acceptable formats: native word processing...."

DOE recommends inserting ***"plain text,"*** in front of "native word" when discussing the acceptable text format.

9. 65 FR 50943, Regulatory Analysis

Column two, the last sentence of the third paragraph, currently reads: "Participant servers' versions of the document serve as backup copies should the LSN site become inoperative." This could be interpreted to mean that the participant sites should be able to function independently to serve the documents to the public if the LSN site is unavailable.

DOE recommends that the NRC provide a clarification as provided in the revised language (changes underlined): ***"Participant servers' versions of the documents serve as backup copies by being available to the LSN Administrator to facilitate recovery of the central LSN site should the central LSN site become inoperative."***

10. 65 FR 50938, Section I, Background Information

Throughout the proposed rule, including the background information, there are references to the LSN connecting to the "participant's website."

Because DOE now has and will continue to have websites that are non-LSN related (OCRWM and YMSCO homepages), it is recommended that, where applicable, the NRC change "participant website" to "participant LSN website."

Throughout the proposed rule (e.g., 65 FR 50939, Section II (4), second paragraph), the "LSN site" is referred to.

DOE recommends referring to the homepage where the search and retrieval aspects of the LSN reside as the "central LSN site," rather than simply the "LSN site." This would provide further clarification and distinction between the NRC's LSN site from the participant LSN sites.

Exhibit 3

Exhibit 3

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

April 24, 2001

OFFICE OF THE
SECRETARY

COMMISSION VOTING RECORD

DECISION ITEM: SECY-01-0039

TITLE: FINAL RULE TO AMEND 10 CFR PART 2, SUBPART J, IN REGARD TO THE LICENSING SUPPORT NETWORK

The Commission (with all Commissioners agreeing) approved the subject paper as noted in an Affirmation Session and recorded in the Affirmation Session Staff Requirements Memorandum (SRM) of April 24, 2001.

This Record contains a summary of voting on this matter together with the individual vote sheets, views and comments of the Commission.

Annette L. Vietti-Cook
Secretary of the Commission

Attachments:
1. Voting Summary
2. Commissioner Vote Sheets

cc: Chairman Meserve
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
Commissioner Merrifield
OGC
EDO
PDR

COMMENTS OF COMMISSIONER DICUS ON SECY-01-0039

I commend the staff for doing an admirable job of making a highly technical, jargon rich, subject matter relatively understandable for the public. I approve the final rule, subject to one change. NEI, DOE, and the State of Nevada have all agreed that 6 months is an adequate time period for review of DOE documents prior to DOE submittal of a repository application. I believe we should accept the proposed timeframe on which all three of these commenters seem to agree. My approval, therefore, is contingent on changing the final rule to reflect that DOE certification related to document availability must occur 6 months prior to submittal of a repository application.

gjd
4-2-01

Exhibit 4

Exhibit 4

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

April 24, 2001

OFFICE OF THE
SECRETARY

COMMISSION VOTING RECORD

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Secretary of the Commission

Attachments:
1. Voting Summary
2. Commissioner Vote Sheets

cc: Chairman Meserve
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
Commissioner Merrifield
OGC
EDO
PDR

Commissioner McGaffigan's Comments on SECY-01-0039

I vote to approve publication of the Federal Register notice subject to the attached specific marked-up edits and subject to the final rule containing the requirement that DOE certify that it has made all its documents available at least 6 months before "submitting" (i.e. tendering) the application. I agree with the DOE, State of Nevada, and NEI comments that six months before DOE submits its license application appears to be an adequate amount of time for advance availability of DOE documents.

In order to clarify the Commission's statement in this notice regarding NRC's interpretation of the word "submission" in section 114(d) of the Nuclear Waste Policy Amendments Act, OGC should add a footnote in the location indicated in the attached mark-up of page 2 of the FRN explaining the Commission's interpretation and contrasting that usage with the other references in the FRN and the rule to the date DOE "submits" (i.e. "tenders) the license application in compliance with its NWPA requirement under § 114(b). The attached mark-up attempts to remove the word "submission," where possible, to avoid confusion, but OGC should review the usage of the words "submission" and "submits" in the Statement of Considerations and in the final rule language, to be sure the terms are used consistently and explained appropriately, or to determine whether another term may be more appropriate to avoid confusion.

Some of the attached edits have attempted to clarify, but OGC should review and confirm, that the "compliance" element in this rule, §2.1012, should state that the Director of NMSS may determine that the application is not acceptable for docketing review (preliminary acceptance review) until 6 months have passed since the DOE certification of availability of DOE documents. (The draft provision referred to acceptability for docketing. However, the decision about docketing the application will not be made at the time the DOE application is received, but instead, that decision would be made after the staff's acceptance review has been completed: after an additional estimated 60-90 days.) The addition of this concept may require additional explanation in the Statements of Consideration.

EMcG

Exhibit 5

Exhibit 5

U.S. NUCLEAR REGULATORY COMMISSION

Revision 1
June 2004

REGULATORY GUIDE

OFFICE OF NUCLEAR REGULATORY RESEARCH

REGULATORY GUIDE 3.69

(Draft was issued as DG-3022)

TOPICAL GUIDLINES FOR THE LICENSING SUPPORT NETWORK

A. INTRODUCTION

Subpart J, "Procedures Applicable to Proceedings for the Issuance of Licenses for the Receipt of High-Level Radioactive Waste at a Geologic Repository" (10 CFR 2.1000 to 2.1027), of 10 CFR Part 2, "Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders," sets forth procedures for an adjudicatory proceeding on the application for a license to receive and possess high-level radioactive waste at a geologic repository under 10 CFR Part 60, "Disposal of High-Level Radioactive Wastes in Geologic Repositories," or Part 63, "Disposal of High-Level Radioactive Wastes in a Geologic Repository at Yucca Mountain, Nevada." Pursuant to these regulations, the Licensing Support Network (LSN), an electronic information management system, is being designed and implemented to provide for the entry of and access to relevant documentary material.

The requirements in 10 CFR 63.21 for a license application and the structure and content of the Yucca Mountain Review Plan (NUREG–1804), were considered in developing this regulatory guide. The principal purpose of the Yucca Mountain Review Plan is to ensure the quality, uniformity, and consistency of NRC staff reviews of the license application and any amendments. This regulatory guide defines the scope of documentary material that should be identified in or made available via the LSN. Topical guidelines were adopted by the U.S. Nuclear Regulatory Commission (NRC) as Regulatory Guide 3.69 in September 1996. This revision to the regulatory guide updates the topical guidelines consistent with the license application content specified in 10 CFR 63.21 and the content and structure of the Yucca Mountain Review Plan (NUREG–1804) and Environmental Review Guidance for Licensing Actions Associated with NMSS Programs (NUREG–1748), and the U.S. Department of Energy Final Environmental Impact Statement for a Yucca Mountain repository.

Document is defined in 10 CFR 2.1001 as "any written, printed, recorded, magnetic, graphic matter, or other documentary material, regardless of form or characteristic." In addition, 10 CFR 2.1001 defines documentary material as:

USE OF THE REGULATORY GUIDE

The regulatory guide is consistent with requirements for the content of a license application in 10 CFR 63.21 and with licensing information specified in the Yucca Mountain Review Plan (NUREG–1804). It is also consistent with Environmental Review Guidance for Licensing Actions Associated with NMSS Programs (NUREG–1748). The actual format of the documents submitted is not specified in this regulatory guide. Requirements regarding electronic formats of LSN documents are defined in 10 CFR 2.1011.

Section C of this regulatory guide lists the topics of documents to be identified in or made available via the LSN. Appendix A to this guide contains a nonexhaustive list of the types of documents to which the topical guidelines in Section C should be applied. Types of documents not included in Appendix A should also be identified in or made available via the LSN if they are relevant to a topic in Section C of this regulatory guide.

Because the topical guidelines of Section C have been kept broad and at a fairly high level of detail, the user should consider each topic to be inclusive rather than exclusive with regard to documents germane to that topic for the site. For example, much of the information that supports the licensing proceeding will be based on the use of methodologies, computer codes, and models. Such information should be made available via the LSN. The Yucca Mountain Review Plan (NUREG–1804), provides guidelines on, and 10 CFR 63.21 sets the requirements for, information that should be submitted in the license application. Section C of this regulatory guide is based, in part, on these provisions.

The topical guidelines also include subcategories for the "Information for a Geologic Repository Environmental Impact Statement." This information should be made available via the LSN pursuant to 10 CFR 2.1003(b).

C. TOPICAL GUIDELINES

1. GENERAL INFORMATION
   - 1.1 General Description
   - 1.2 Proposed Schedules for Construction, Receipt, and Emplacement of Waste
   - 1.3 Physical Protection Plan
   - 1.4 Material Control and Accounting Program
   - 1.5 Description of Site Characterization Work

2. SAFETY ANALYSIS REPORT
   - 2.1 Repository Safety Before Permanent Closure
     - 2.1.1 Preclosure Safety Analysis
       - 2.1.1.1 Site Description as it Pertains to Preclosure Safety Analysis
       - 2.1.1.2 Description of Structures, Systems, Components, Equipment, and Operational Process Activities
       - 2.1.1.3 Identification of Hazards and Initiating Events
       - 2.1.1.4 Identification of Event Sequences
       - 2.1.1.5 Consequence Analyses
         - 2.1.1.5.1 Consequence Analysis Methodology and Demonstration that the Design Meets 10 CFR Parts 20 and 63 Numerical

Radiation Protection Requirements for Normal Operations and Category 1 Event Sequences

2.1.1.5.2 Demonstration that the Design Meets 10 CFR Part 63 Numerical Radiation Protection Requirements for Category 2 Event Sequences

2.1.1.6 Identification of Structures, Systems, and Components Important to Safety; Safety Controls; and Measures to Ensure Availability of the Safety Systems

2.1.1.7 Design of Structures, Systems, and Components Important to Safety and Safety Controls

2.1.1.7.1 Design Criteria and Design Bases

2.1.1.7.2 Design Methodologies

2.1.1.7.3 Repository Design and Design Analyses

2.1.1.8 Meeting the 10 CFR Part 20 As Low As Is Reasonably Achievable Requirements for Normal Operations and Category 1 Event Sequences

2.1.2 Plans for Retrieval and Alternative Storage of Radioactive Wastes

2.1.3 Plans for Permanent Closure and Decontamination, or Decontamination and Dismantlement of Surface Facilities

2.2 Repository Safety After Permanent Closure

2.2.1 Performance Assessment

2.2.1.1 System Description and Demonstration of Multiple Barriers

2.2.1.2 Scenario Analysis and Event Probability

2.2.1.2.1 Scenario Analysis

2.2.1.2.2 Identification of Events with Probabilities Greater Than 10^{-8} Per Year

2.2.1.3 Model Abstraction

2.2.1.3.1 Degradation of Engineered Barriers

2.2.1.3.2 Mechanical Disruption of Engineered Barriers

2.2.1.3.3 Quantity and Chemistry of Water Contacting Waste Packages and Waste Forms

2.2.1.3.4 Radionuclide Release Rates and Solubility Limits

2.2.1.3.5 Climate and Infiltration

2.2.1.3.6 Flow Paths in the Unsaturated Zone

2.2.1.3.7 Radionuclide Transport in the Unsaturated Zone

2.2.1.3.8 Flow Paths in the Saturated Zone

2.2.1.3.9 Radionuclide Transport in the Saturated Zone

2.2.1.3.10 Volcanic Disruption of Waste Packages

2.2.1.3.11 Airborne Transport of Radionuclides

2.2.1.3.12 Concentration of Radionuclides in Ground Water

2.2.1.3.13 Redistribution of Radionuclides in Soil

2.2.1.3.14 Biosphere Characteristics

2.2.1.4 Demonstration of Compliance with the Postclosure Public Health and Environmental Standards

2.2.1.4.1 Demonstration of Compliance with the Postclosure Individual Protection Standard

2.2.1.4.2 Demonstration of Compliance with the Human Intrusion Standard

APPENDIX A
TYPES OF DOCUMENTS TO AVAILABLE VIA THE LICENSING SUPPORT NETWORK

This appendix contains examples of the types of documents that should be identified in or made available via the Licensing Support Network (LSN) by participants. See 10 CFR 2.1003 and the exclusions in 10 CFR 2.1005.

1. Technical reports and analyses by all participants (including those developed by contractors). Note that this applies only to final technical reports and does not include preliminary drafts (including predecisional and other internal review drafts) other than "circulated drafts," as defined in 10 CFR Part 2, Subpart J (Item 6 below). See 10 CFR 2.1019(i)(2), which states that preliminary drafts, although subject to derivative discovery, are excluded from entry in the LSN.

2. Quality assurance records

3. External correspondence

4. Internal memoranda

5. Meeting minutes/transcripts

6. Draft documents circulated for supervisor concurrence or signature on which a nonconcurrence has been registered

7. Other documents (for 7.1 and 7.9, include references to other databases)

    7.1 Draft and final environmental evaluations or assessments
    7.2 Site characterization plan
    7.3 Site characterization study plans
    7.4 Site characterization progress reports
    7.5 Issue-resolution reports
    7.6 License application
    7.7 DOE environmental report
    7.8 Topical reports, data, and data analyses
    7.9 Draft, supplemental, and final environmental impact statements
    7.10 NRC preliminary comments on the sufficiency of DOE information for inclusion in a license application for a possible geologic repository at Yucca Mountain, Nevada
    7.11 The DOE site recommendation to the President of the United States (e.g., transmittal letter, statutory materials supporting the recommendation)
    7.12 Publicly available information on rulemakings
    7.13 Public and agency comments on documents
    7.14 Responses to comments
    7.15 NRC technical positions
    7.16 NRC regulatory guides
    7.17 The DOE project-decision schedules
    7.18 DOE program-management documents

Exhibit 6

Exhibit 6

Strategic Decision Support Team
Issues List and Description

Issues 1, 2, and 3

Accept/emplacement date of 2010 + Emplacement Plan/rate +Acceptance rate

Issue
The present operating concept envisions acceptance and emplacement of 400 MTU SNF in an underground repository by 2010 followed by a ramp-up to 3000 MTU per year by 2014. Should the program consider an initial operating strategy that is considerably less aggressive?

Background - Several issues identified by the team may be addressed in a related manner if an alternative operating concept is considered. The issues involved are: accept/emplacement date of 2010, emplacement plan/rate, acceptance rate, contingency planning, early receipt/funding profile, constructor constraints, transportation mode in Nevada, site utility services, stakeholder involvement, thermal strategy and maybe more. The program should consider whether there are benefits that outweigh the costs of implementing a "go slow" approach to emplacement underground. This approach would also be responsive to suggestions of step-wise development.

Three variations of the go-slow approach could be considered:

1. Receive and emplace a small amount of waste over the first 5 to 10 years following initiation of operations. For example, receive 1 truck shipment per week (50 trucks per year). This could be about 100 MTU of commercial fuel or 50 cans of defense high-level waste or some combination.
2. Receive and emplace as described above but enhance receipt by receiving existing dual purpose systems that are already packaged at reactor sites (assuming that they can be qualified for storage at the repository)
3. Receive and emplace as described above, but enhance waste acceptance at the current rate with deployment of significant quantities above ground storage.

Potential impacts
There will be increase in the Total System Life Cycle Costs; however, there may not be a negative impact of the fee adequacy since near term spending would be reduced (significantly for scenarios 1 &2). The hot vs. cold operating approaches could be evaluated using actual wastes.

Milestone need
Any decision to change to this type of operating concept would be needed prior to initiating LA and may be beneficial to announce with SR

Organizational Owner
Lots of organizations would be involved in the implementation

Status
Is not under active consideration by th4e program. There have been modular studies developed by RW-46 (with repository input) over the past several years. The National Academy of Sciences just recently kicked off a study on repository staging.

10. There will be timely support for the approval of preclosure technical baseline changes identified during subsequent engineering studies and advanced conceptual design.

Regulatory

11. 10 CFR 63 and 10 CFR 963 are issued by October 2001 for consideration by the SSE. The schedule assumes the final rules have no substantive deviations or changes from the draft versions.

12. The YMRP will be complete before drafting the LA chapters. No impacts to technical work are assumed as a result of issuing the YMRP. Impacts to the technical workscope, if any, will be address through the scope, cost, and schedule baseline control process.

13. The information required to support development of the LA is defined by the LA Products List, which is based on the LA Guidance (formerly TGD). The LA Guidance prescribes the current required level of detail to be included in the LA. The level of detail guidance that captures NRC expectations will be issued shortly to support this assumption, with subsequent incorporation into the LA Guidance and LA Products list. Sufficient draft versions of the LA Products List and LA Guidance are available to support this planning exercise. When the NRC issues 10 CFR 63 and the Yucca Mountain Review Plan, the LA Guidance and the LA Products list will be updated again.

14. The draft LA chapters will be complete within two months after the inputs to the chapters are complete.

15. The schedule will accommodate early and phased review by NRC of programmatic, design, and science and analysis topics between SR and LA. Documentation shall be complete to the point that meaningful discussions can be held with the NRC. A detailed interactions schedule will be developed to show the relationships of the supporting work to the interactions. During the six month period prior to LSN certification, the schedule will accommodate early and phased review by NRC of completed programmatic, design, and science & analysis documentation. Documentation completed earlier than this time frame will be provided to NRC as soon as it is available. Documentation supporting the license application will be "frozen" at the time of LSN certification. Continued evolution of material will be utilized to support post-docketing interactions with the NRC.

16. LSN certification will occur six months prior to the License Application submittal. There will be no substantive safety related changes between certification of the LSN and License Application submittal (documentation supporting the LSN will be "frozen"). The schedule will be adjusted to allow ISA and TSPA backcheck and adjustment prior to LSN certification.

Exhibit 7

Exhibit 7

PORB POSITION PAPER

Date: March 7, 2001 **PORB Number:** #010314-01

Sponsors: S. Brocoum and R. Wells

Statement for Consideration: *A brief description of the decision to be made.*

OCRWM Licensing Support Network Strategic Approach (LSNSA) establishes DOE policy (DOE/RW-0535) for developing the OCRWM Licensing Support Network (OCRWM/LSN), specifically identifies the DOE Certification Official, and provides a process to identify relevant documentary material to be placed into the OCRWM/LSN (See Attached DOE/RW-0535). The LSNSA provides high-level guidance for OCRWM and BSC to utilize in developing lower-level implementation (Operational) plans and procedures.

The DOE Certification Official is designated by DOE/RW-0535 to be the YMP Program Manager who is also responsible for LSN recertification as required by the regulation. The OCRWM/LSN Management and Operating Contractor Program Plan, a Level 3 Deliverable that was provided January 9, 2001, provides a detailed certification and re-certification process.

The DOE is required by 10 CFR Part 2, Subpart J to deliver and certify that all relevant documentary material has been identified and made available to the LSN within 30 days after the DOE Secretary delivers the Site Recommendation to the President. DOE's October 6, 2000 comments on the NRC's proposed revision to 10 CFR Part 2, Subpart J, recommended linking LSN certification to License Application, not Site Recommendation.

Based on 10 CFR Part 2, Subpart J, "documentary material" is defined as: 1) "any information upon which a party, potential party, or interested governmental participant intends to rely and/or to cite in support of its position...," 2) "any information that is known to, and in the possession of, or developed by the party that is relevant to, but does not support, that information or that party's position;" and 3) "all reports and studies, prepared by or on behalf of the potential party, interested governmental participant, or party, including all "circulated drafts," relevant to both the license application and the issues set forth in the Topical Guidelines in Regulatory Guide 3.69, regardless of whether they will be relied upon and/or cited by a party. The scope of documentary material shall be guided by the topical guidelines in the applicable NRC Regulatory Guide."

The LSN Advisory Review Panel Technical Working Group has provided LSN Functional Requirements that are implementing requirements required to meet the requirements of 10 CFR Part 2, Subpart J. The LSNSA addresses all of the known requirements as of this date.

Recommendation: *A brief statement of the recommended option/alternative and rationale, and rationale for the rejection of other options/alternatives.*

- Accept DOE Policy DOE/RW-0535

Impact:

- Provides specification of the DOE Certification Official
- Provides a basis for identifying what documentary material DOE intends to make available for the LSN.

Estimated Cost:

- Implementation of the LSN Strategic Approach would not involve funding in addition to what is in the original FY-01 baseline.

Method of Implementation:

- ☐ **Prepare/Submit Baseline Control Change Request**
- ☐ **Prepare/Submit Document Change Request**
- ☐ **Administrative Change**
- X **Technical Direction Letter**
- ☐ **Work Authorization** (if required)
- ☐ **Other** (explain)

Individual Responsible for Implementation: S. Brocoum/April Gil

Submit to Decision Database:
__X__ **Yes** _____ **No**

Concurrence:

Linda K Bauer
PORB Chairman

3-21-01
Date

Decision: Project Manager/Program Director accept or reject recommendation. Include summary statement if necessary.

Proceed, with working assumption that LSN certification will be linked to LA, vice SR.

✓ _____ **Accept** _____ **Reject**

Approved by:

Project Manager/Program Director

3/21/01
Date

PORB Sponsor:

PORB Number:

PORB Title:

ATS Title

Acession Number:

ATS Number:

Keywords:

Exhibit 8

Exhibit 8

Office of Civilian Radioactive Waste Management (OCRWM)

Licensing Support Network Strategic Approach (LSNSA)

DOE POLICY DOE/RW-0535
October 5, 2001
Job Control Number: 01-2939

The Office of Civilian Radioactive Waste Management's (OCRWM) opportunity to identify and define OCRWM's approach to the issues associated with meeting the Nuclear Regulatory Commission's (NRC) requirements for the OCRWM Licensing Support Network.

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compliance with this NWPA mandate. The issues associated with definition, development, implementation, and maintenance of the OCRWM/LSN are especially challenging because of the immense amount of information that will be provided and the requirement that all interested parties have access to the information.

Section 114(d) of the NWPA requires the Commission to issue a final decision approving or disapproving issuance of the construction authorization for a geologic repository for high-level-waste (HLW) within three years of the "submission" (i.e., docketing) of the DOE license application. The Commission anticipated that the HLW proceeding would involve a substantial number of documents created by well-informed parties regarding numerous, complex issues. The Commission believed that the LSN could facilitate the timely NRC technical review, and the timely petitioner "discovery type" review, of DOE's license application by providing access to relevant documents before DOE submits its license application. Additionally the NRC believed the LSN could supplant the need for the traditional discovery process used in NRC proceedings involving the physical production of these documents after the license application is docketed. The NRC also believed that early provision of these documents would allow for a thorough, comprehensive technical review of the license application by all parties and potential parties to the HLW licensing proceeding, resulting in better-focused contentions in the proceeding. [4] The LSN could also facilitate agency response to other requests by providing the public with electronic access to documentary material. The rule requires DOE to certify the contents of the OCRWM/LSN six months prior to the submittal of the LA.

OCRWM has successfully completed publication of the Viability Assessment and its associated supporting documentation, publication of the Draft Environmental Impact Statement (DEIS), Supplement to the Draft Environmental Impact Statement (SDEIS), Science and Engineering Report (S&ER), Preliminary Site Suitability Evaluation (PSSE), and associated supporting documentation. Identification of other documentary material that will need to be reprocessed prior to screening for transmission of information to the OCRWM/LSN has been completed.

1.3 REQUIREMENTS

The LSN and associated electronic information systems are governed by NRC's 10 CFR 2, Subpart J, "Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders." Additional guidance for the OCRWM/LSN functions are contained in the Statement of Considerations accompanying 10 CFR 2, Subpart J as well as staff memos to the Commission. For example, according to SECY-00-0135, June 23, 2000, the primary functions of such a system (as stated in 10 CFR 2, Subpart J) are:

1. To provide full text search and retrieval access to the relevant documents of all parties and potential parties to the HLW repository licensing

[4] Amendment to 10 CFR Part 2, Subpart J, Supplementary Information, May 31, 2001, 66 Fed. Reg. 29453

Exhibit 9

Exhibit 9

DRAFT

Office of Civilian Radioactive Waste Management (OCRWM)

Licensing Support Network (LSN) Strategic Approach

OCRWM's opportunity to address and resolve the issues associated with meeting the Nuclear Regulatory Commission's (NRC's) requirements for the Licensing Support Network (LSN).

§ Licensing Application (LA)

One level of reference will be included for documentary material identified as relevant to the OCRWM LSN. Additional reports or studies that are reviewed and are determined that the subject matter falls within the purview of Regulatory Guide 3.69 will be included as they are identified.

Strategic Approach

Resolution of these issues are key to the success of OCRWM's LSN. Resolution however, must be made without the benefit of:

§ The final Part 63;
§ Updated Regulation Guide 3.69, based on the final Part 63;
§ The LA Review Plan; and,
§ An outline for LA development that is responsive to the Review Plan.

Additionally, the Department of Energy has generated approximately 1,030,000 documents consisting of approximately 11,000,000 images. Any scheme for screening the documents against selection criteria for "relevant," "relied upon," and "reports and studies," etc., is a complex, labor intensive, time-consuming, and costly process. Therefore, the Department of Energy will:

§ Make available all documents that will be referenced by or supporting the LA;
§ Make available all documents relevant to the LA;
§ Make available all first level references directly associated with these documents; and,
§ Review all documents that are defined as "reports" or "studies" within the RIS and include those documents that fall within the purview of Regulation Guide 3.69.

If it is determined that the documentary material definition requires expansion, the Department of Energy will provide that guidance and additional resources will be required to review any documents that will be incorporated because of the expanded definition.

Upon the initial implementation (August, 2001unless formal direction is received from the NRC directing otherwise) of the OCRWM LSN, the following documentary material and associated first level reference material will be made available electronically:

- AMR's and associated first level references;
- PMR's and associated first level references;
- Site Description Document;
- All Correspondence and Electronic Mail Relevant to the License Application;
- System Description Documents (SDD's) and associated first level references;
- Viability Assessment (VA) and associated first level references;
- Draft Environmental Impact Study (DEIS) and associated first level references;
- Responses to the NRC's IRSR's;
- Site Characterization Plan (SCP) and associated first level references;
- Site Recommendation and associated first level references;
- Circulated Drafts for Documentary material;
- Procedures cited in the License Application;
- Environmental Impact Study (EIS) and associated first level references;
- All reports and studies relevant to both the LA and the issues in Regulatory Guide 3.69, regardless of whether they will be relied upon or cited,
- Once submitted to the NRC, the License Application (LA) and associated first level references.

5.1.2 Within the Department of Energy, who does the Certification?

The DOE must designate an official who will be responsible for administration of the OCRWM program to provide electronic files of documentary material. The DOE Responsible Official must certify:

- § Procedures related to the requirements of 10 CFR 2.1003 "Availability of Material" have been developed and fully implemented.
- § To the best of his/her knowledge, the documentary material specified in 10 CFR 2.1003 has been provided.

Strategic Approach

If the Nuclear Regulatory Commission (NRC) accepts DOE's October 6, 2000 comments, the OCRWM LSN would need to be operational and certified six (6) months prior to the submission of the License Application (LA). Submission of the LA is currently scheduled for March 2003. The amount of information initially provided to the OCRWM LSN will be limited to only those documents that are known to directly support the LA. This scenario means that OCRWM will have just over two years to resolve remaining issues concerning the identification of the document set that meets the definition of "documentary material," ensure the procedures are developed and fully implemented, and to perform the quality compliance steps necessary to insure that the OCRWM LSN is complete and accurate.

In the interim, the DOE will proceed as if Certification of the documentary material provided to the OCRWM LSN must take place in August 2001, the date currently defined in the Rule. Processes, procedures, and staffing will be allocated to that end.

The DOE will insure that the Contractor identifies the processes and develops the procedures that will specify how the OCRWM LSN site will be populated with the required information, in searchable full text, images, and headers. The OLRC Regulatory Interactions and Policy Development Team Lead will develop and execute a certification process (to be recommended by the YMSCO AM OLRC and approved by, the Project Operations Review Board [PORB]), and appropriate procedures. The OIM Team Lead will provide an operational OCRWM LSN system and make all relevant information available to the Regulatory Team to insure the proper execution of the Certification process.

5.2 INFORMATION MANAGEMENT ISSUES

The information provided by the NRC in the LSN Functional Requirements document is sufficient to prepare cost and scope documentation, and identify the essential hardware and software that will be required to implement the OCRWM LSN. It is expected that further OCRWM LSN requirements will be discussed and agreed upon between the DOE, Contractor organizations, and the NRC through follow-up LSN Advisory Review Panel (LSNARP) Technical Work Group (TWG) meetings to be held in the future. The LSNARP is made up of eight different organizational entities directly involved in the full scope of the NRC's LSN. The TWG is a working subgroup of the LSN ARP responsible for addressing technical issues.

5.2.1 What about the 214,000 non-electronic records remaining to be reprocessed?

Based on the definition of documentary material as included in 5.1.1 above, some or all of the non-electronic records, i.e., microfilm and hardcopy, may need to be reprocessed into electronic format and included in the OCRWM LSN. At a minimum, those records specifically identified as documentary material will be reprocessed.