

APPENDIX

DOCUMENTS SENT TO THE DCS ON NOVEMBER 30, 1987

HIGH-LEVEL WASTE LICENSING SUPPORT SYSTEM ADVISORY COMMITTEE

1. 9/87 Negotiated Rulemaking Meeting Summary (1 page)
2. 7/30/87 Ltr to James L. Dean, GSA, From John C. Hoyle, NRC,  
Subject: DRAFT CHARTER FOR PROPOSED NEW ADVISORY  
COMMITTEE (3 pages)

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### NEGOTIATED RULEMAKING MEETING SUMMARY

On September 16-17, 1987 the NRC held the first meeting of the HLW Licensing Support System Advisory Committee in Washington, D.C.. The purpose of this federal advisory committee is to negotiate a proposed rule on the submittal and management of records and documents related to the licensing of a high-level radioactive waste repository. (See SECY-86-133, SECY-86-308, and SECY-87-140 for more detailed information on the purpose of this rule and the use of negotiated rulemaking).

The meeting was organizational in nature; the major items on the agenda being to discuss organizational protocols, develop a list of issues for negotiation, discuss training and information needs, and plan an agenda for future meetings. William Olmstead (OGC) and Francis Cameron (OGC) sit at the negotiating table, respectively, as principle and alternate spokespersons for the NRC. They receive input from the other NRC Offices through the NRC negotiating team. In accordance with the 10 CFR Part 7.10, Donnie Grimsley (ARM) is serving as the designated Federal Officer for the Advisory Committee. Ken Kalman (NMSS) is the Project Officer. Other members of the negotiating committee represent DOE, the affected States and Tribes, local governments, utilities, citizens groups and environmental groups.

The next meeting of the negotiating committee will be held in Washington, D.C. on October 15-16, 1987. At this meeting, NRC contractors will provide the negotiating committee with instruction in the capabilities of electronic information management systems, negotiating, and the legal constraints affecting this rulemaking.

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UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20540  
CENTRAL

JUL 30 1987

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Taylor  
Rehm  
Thompson  
Beckjord  
Murley  
Murray  
McDonald

1. Thompson  
2. Bernero  
HLWM

James L. Dean, Director  
Committee Management Services  
General Services Administration  
Washington, D.C. 20405

RE: DRAFT CHARTER FOR PROPOSED NEW  
ADVISORY COMMITTEE

Dear Mr. Dean:

Section 9 of the Federal Advisory Committee Act, U.S.C. App. 1, requires that agencies consult with the General Services Administration prior to creation of a new advisory committee. In accordance with that requirement, this is to inform you that the Nuclear Regulatory Commission has determined that it is necessary and in the public interest to establish an advisory committee to attempt to negotiate a consensus on proposed revisions 10 CFR Part 2 related to the submission and management of records and documents for the high-level waste repository licensing proceeding. Your views on the establishment of this committee are requested. This is the same subject on which your informal views were recently obtained. It is my understanding that DOE has no objection.

In the Commission's view, it is essential and in the public interest that this negotiated rulemaking committee be established at this time. Section 114(d) of the Nuclear Waste Policy Act (NWPA), 42 U.S.C. 10134, requires the Commission to issue a final decision on the issuance of a construction authorization for the HLW repository within three years after DOE submits the license application (with a one year extension for cause). The HLW licensing proceeding will not only involve novel and complex technical issues, but will also involve millions of documents, a substantially larger number than the volume of documents involved in the average nuclear power reactor licensing proceeding. In view of this, the Commission does not believe that the use of traditional licensing procedures will enable the Commission to meet the statutory timetable, or will provide all parties with an opportunity for the most effective review of the license application. In order to meet the statutory schedule, and to provide for the most effective review of the license application by the Commission and other parties, the Commission is initiating measures to streamline the licensing process.

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One of these measures is the development of an information management system that would contain all of the data supporting the DOE license application, as well as all of the potentially relevant documents generated by the NRC and other parties to the licensing proceeding, in a standardized electronic format. All parties would then have access to this system. Because all relevant information would be readily available through access to the system, the initial time-consuming interrogatory discovery process involving the physical production and on-site review of documents by parties to a NRC licensing proceeding would not be necessary.

The Commission believes that the process of negotiated rulemaking is the method most likely to achieve the greatest consensus on the rules governing availability and access to pertinent documents generated prior to and during the licensing proceeding. In negotiated rulemaking, the representatives of parties who may be affected by a proposed rule, including the Commission, convene as a group over a period of time to try to reach consensus as the basis for a proposed rule which the agency issues for notice and comment. The consensus is not the basis per se for the final rule which the agency will develop after traditional notice and comment procedures. The Commission, however may ultimately find it useful to rely on, or to refer to, the consensus in connection with its adoption of the final rule.

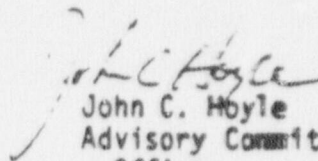
The negotiated rulemaking process facilitates the comprehensive treatment of the rulemaking issues because those groups that may be affected by the rulemaking are present at the discussions and can react directly to each other's concerns and positions. Because of the special makeup of the proposed Committee, its functions cannot be performed by any other organization within this Agency and the necessary advice to be obtained from this Committee is not available in another existing advisory committee. There does not appear to be any other means by which such advice may be obtained in such a comprehensive manner. The Commission believes that negotiated rulemaking is an appropriate process for this rulemaking because it will help to establish the credibility of the LSS, i.e., the belief that all relevant documents will be entered into the system and that the system is free from tampering. In addition, because the LSS will constitute a new process for managing a Commission licensing proceeding, it is important that affected and knowledgeable organizations directly participate in establishing the rules for system operation, particularly because individual parties to this proceeding will possess substantial research data that should be placed into the LSS.

The NRC's plan for attaining a balanced membership on the committee is derived from the several interests that might be affected by this particular rulemaking as identified in the response to an earlier Federal Register Notice announcing the Commission's intent to conduct a negotiated rulemaking. Membership will be based on (1) whether the party has a direct, immediate, and substantial stake in the rulemaking, (2) whether

the party may be adequately represented by another party on the committee, and (3) whether the participation is essential to a successful negotiation. The Commission intends to appoint individuals representing the NRC, the Department of Energy, three individual States, two State coalitions, several Indian tribes and Nations, a coalition of nonprofit environmental groups, a coalition of local nongovernmental groups, and the nuclear industry.

We are planning that the first meeting of the committee be held on September 16 and 17, 1987. We would appreciate your views at a very early date so that we may take the needed administrative actions well in advance of the planned meeting date. A copy of the charter for the proposed committee is attached.

Sincerely,



John C. Hoyle  
Advisory Committee Management  
Officer

Attachment:  
Charter for the HLW Licensing  
Support System Advisory Comm.