

January 30, 1996

FOR: The Commissioners
 FROM: James M. Taylor /s/
 Executive Director for Operations
 SUBJECT: LICENSING SUPPORT SYSTEM PROGRAM ADMINISTRATION - SEMIANNUAL REPORT

PURPOSE:

To inform the Commission of the status of the Licensing Support System (LSS) and the activities of the LSS Administrator's (LSSA) staff for the six-month period ending December 31, 1995.

BACKGROUND:

Manual Chapter 0109 requires that LSS status reports be sent to the Commission on a quarterly basis. The Commission's Staff Requirements Memorandum dated January 31, 1992, revised the report's frequency to semiannual. Additionally, a Staff Requirements Memorandum dated June 28, 1995, directs that the Senior Management Team (SMT) provide a report on the LSS before finalizing a Memorandum of Understanding (MOU) with the Department of Energy (DOE **EXIT**), before launching a pilot program, or before finalizing the LSSA's Compliance Assessment Program documents. This report addresses the status of these initiatives as well as providing a summary of activity during the last six months. The scope of this report includes all LSS program activities.

The Executive Director for Operations established an LSS Senior Management Team in February 1995 to review the original objectives of the LSS, evaluate the impact of current factors on the LSS, and recommend future strategy for the LSS. As a result of several SMT meetings, SECY-95-153, *Licensing Support System Senior Management Team Recommendations on Direction of the Licensing Support System*, was issued on June 4, 1995. The six recommendations described in SECY-95-153 were considered by the Commission. The Commission directed that the SMT should report back prior to finalizing the MOUs, proceeding with the pilot program or making final decisions on which documents would be included in the LSS. The Commission noted that Congressional developments regarding NRC's and DOE's authorizations or appropriations might require future adjustments.

DISCUSSION:

Impacts of Congressional Budget Action

DOE's Office of Civilian Radioactive Waste Management (OCRWM) had originally formulated an FY 1996 budget in excess of \$600 million for the High Level Radioactive Waste Management Program. The final authorization for OCRWM was \$400 million, with \$85 million of that amount being "fenced off" for interim storage pending a congressional revisit of the Nuclear Waste Policy Act sometime in the spring of 1996. Additionally, the conference report on the Energy and Water Appropriations Act for FY 1996 emphasized that DOE expenditures should be limited to site characterization activities rather than licensing activities. Arguably, development of the LSS could fall within the spending limitations for "licensing" activities. The impact of this scaled back appropriation brought all DOE's LSS related activities to a complete halt with the start of the new fiscal year. DOE contractor staff involved with LSS design and development were disbanded, and DOE's LSS Advisor Review Panel (LSSARP) representatives were instructed by their management to not expend any further time on the LSS.

A collateral effect was that the LSSA's initiatives for finalization of LSS system functional requirements, the finalization of a MOU, and the development of a prototype system were all halted due to lack of DOE availability. An LSSARP meeting scheduled for December 1995 was postponed because DOE representatives could not commit to attending and because most of the affected units of local government had not been provided any FY 1996 funds for oversight of DOE's High Level Waste (HLW) activities.

The LSSA was able to complete the Participant Commitments and Compliance Assessment Program, but was unable to present the finished products to the LSSARP when the December meeting was postponed.

The status of other products and activities is further detailed in the following sections.

LSS Advisory Review Panel Meetings

The LSSARP held a meeting on July 6 and 7, 1995, at the Oneida Nation Reservation in Green Bay, WI.

- Panel members were provided a briefing on pending legislation concerning the civilian nuclear waste program.
- Discussions were held regarding the use of an NRC system, NMSS' **Technical Reference Document Database System** (TDOCS), and its collection of documents on DOE's Multi-Purpose Canister (MPC) as a pilot environment to test LSS functionality. LSSA staff completed an analysis of the LSS functionality compared with that available in TDOCS and provided that information to the DOE staff responsible for LSS design and development in early October. The LSSA staff concluded that the TDOCS system could reasonably meet most of the search and retrieval functions of the stated LSS requirements, but not all of the electronic submission and docketing functions. LSSA staff additionally concluded that there was some potential for size limitations.
- Panel members were informed of the status of DOE's efforts to develop descriptive statements about intended LSS functionality that can be used by ADP system developers. These statements are also known as the LSS Phase 2 Functional Requirements. Plans were made to close the comment period afforded to the LSSARP by August 1 and allow DOE to develop a finalized document. That finalized version was circulated to LSSARP members in August, NRC provided final commentary in mid-August, and DOE responded to NRC's commentary by mid-September. DOE plans to conduct a survey of commercially available systems were discussed. This survey would allow DOE to determine whether it would be more cost effective to integrate components with in-house staff or to acquire an existing product. Completed products from the functional requirements statement and the competitive market survey were to be delivered at the planned December LSSARP meeting.
- The LSSA reported on the status of a MOU between DOE and NRC and comments and clarifying suggestions on the first draft were offered by Panel members.
- Panel members were provided with the LSSA's latest drafts of the Participant Commitments and Compliance Assessment Program documentation and the LSSA requested their final comments by the end of August. Completed products were to be delivered at the planned December LSSARP meeting.

- Additional discussions were held in the areas of Yucca Mountain data sharing, access to the DOE records system by participants, the status of DOE document reprocessing, and technical aspects of document scanning versus electronic file conversion.

Senior Management Team (SMT) Review of DOE Records Management

In response to an informal DOE request at the March 22-23, 1995, LSSARP meeting and subsequent discussions, the LSSA made a recommendation at the July 7, 1995, LSSARP meeting for a field visit to DOE's records management facility. NRC's SMT subsequently visited OCRWM's Management and Operating (M&O) contractors who perform DOE's records management functions. The objective of the meeting was to review DOE's records management approaches in order to identify opportunities for DOE to focus their relevancy/inclusionary criteria and thereby reduce the volume of pages they intended to submit to the LSS. The SMT visit of July 20, 1995, identified issues in the areas of cataloging procedures integrity and accuracy, records package reconstruction, referenced document availability, retention of non-DOE authored materials, retention policies exceeding normal NARA retention schedules, and, deficiencies in decision tracking.

The SMT concluded that DOE was retaining several times the number of pages that appeared to be necessary to support the licensing process. Another initial impression was that DOE was not documenting its decisions to the extent NRC expects to be needed for licensing. However, this impression was not sufficiently reliable to form the foundation for SMT actions at that time. [A summary of the SMT findings is included with this report as [Attachment 1.](#)]

Compliance Assessment Program

The LSSA received final comments from LSSARP panel members on three documents which essentially complete the LSS Compliance Assessment Program (CAP). The three documents finalized on 12/28/95 were: *LSSA Guidance on the Format and Content of LSS Participant Compliance Program Plans*, *LSSA Participant Compliance Program Plan Certification Document*, and, the *LSS Participant Commitments*. Final action on the Compliance Assessment Program is being held in abeyance.

Memorandum of Understanding

DOE delivered a version of the MOU outlining responsibilities for design, development, acquisition and implementation of the LSS to the LSSA on September 25, 1995--four days before the end of the fiscal year. This version was characterized as one which the DOE's LSS point of contact felt comfortable taking to DOE management to see if they would concur. The LSSA was satisfied with this version of the MOU and was preparing a report to the Commission when DOE stopped the process of presenting this version to their management, effective with the end of FY 1995. Final action on the MOU is being held in abeyance.

Prototype

NRC evaluated the reusability of NMSS' TDOCS as a prototype using MPC documents. The evaluation was delivered as DOE was ceasing all activities related to investigating candidate hardware and software for the LSS (make-vs-buy). The SMT continued to pursue the viability of making TDOCS externally accessible to LSS participants by establishing Internet access to the MPC document holdings of TDOCS. However, the funding reductions taken by NMSS in the FY 1996 funding appropriation have caused this effort to be assigned a lower priority and the efforts to provide external access are now on hold.

Topical Guidelines

The Regulatory Guide providing the Topical Guidelines for the LSS was prepared in final form and placed in concurrence around late January or February of 1995. When the package reached the EDO's Office, the Commission was establishing the NRC SMT to oversee the LSS. The EDO decided to send the package back to the SMT while they established their Charter, and it has not yet been forwarded to the Commission pending the conclusion of the SMT work on DOE's document submission volume estimates.

Funding Mechanism

DOE did identify two likely mechanisms to provide funding to NRC for the LSSA's activities. Definitization and validation of those approaches was not pursued by DOE after the first week of August 1995--when DOE first anticipated that there would be no FY 1996 LSS activities.

Prospects

- Congressional committee chairmen are optimistic that the Nuclear Waste Policy Act will be revisited this spring. The outcome of that effort is, however, unpredictable. Failing success in its springtime efforts, prospects for congressional action once the campaign season begins are not good.
- Early FY 96 indications were that DOE will delay its license application until sometime beyond the year 2001.
- In the meantime, DOE's ongoing site characterization work will continue to generate new documentation.
- The abrupt halt to progress on the LSS since the start of FY 1996 clearly demonstrates NRC's dependence on DOE funding to sustain any automation progress.

The license application for a HLW repository, for interim storage, and cask certifications are all still eventual prospects confronting NRC. The LSS is not an end in and of itself but does represent Commission intentions to be prepared for a streamlined, cost-effective, and expeditious license application hearing. These are still worthy objectives regardless of the prospects for, and uncertain outcome of, anticipated congressional action.

Given the SMT findings in its initial review of the DOE records system, DOE's cancellation of LSS activities and records reprocessing raises concerns about their ability to effect timely and cost-effective remedies to SMT concerns on an ever-growing collection of materials. Likewise, DOE budgetary resources are insufficient to support the prototyping of participant access to licensing information. These factors suggest that this is an opportune time for the SMT to refocus DOE on the documentation needed for its license application, assess radical developments in computer communications and internetworking, address a major refocus of licensing and cask certification activities, and, re-examine the foundations and assumptions upon which the LSS rule is based.

The SMT will address these issues, develop an action plan and advise the Commission within the next six months. This

effort will include a reassessment of the requirements for a licensing support system as prescribed in the LSS rule.

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Attachment: Summary of Findings from SMT Visit to DOE Records Management Facility on 7/20/95

cc: OGC
OCAA
OIG
OPA
OCA
EDO
SECY

ATTACHMENT

SUMMARY OF FINDINGS FROM SMT VISIT TO DOE RECORDS
MANAGEMENT FACILITY ON 7/20/95

CATALOGING PROCEDURES INTEGRITY AND ACCURACY: We noted that the DOE cataloging procedure for records packages that the bibliographic header field for Related Record was not completed for any of the parent child relationships within that records package. The package being viewed had seven items in it. One of the items was a one page transmittal letter indicating that it transmitted the audit notification as an attachment. It was cataloged as an item, and the header for that item indicated no related record. The following item in the records package was the referenced attachment. The bibliographic header for that item contained nothing in its Related Record field to show that it was the attachment to the previous transmittal. If carried over into the LSS, you would see an image of an item that says it has an attachment, but, the bibliographic entry does not give you the DOE accession number for the item that is the attachment. This item needs to be addressed by the LSS header working group.

PACKAGE RECONSTRUCTION: We noted that the packages are only identifiable via use of the Package Identifier. The Related Record field was not completed for any of the reciprocal relationships between the header record for the table of contents and the seven items that make up the package. This appears to be because of DOE identifying a package as a single entity. The Package Identifier will allow the reconstruction of the items in a package only by performing a second iterative search for all items where Pkg ID = nnnnnnn. This item needs to be addressed by the LSS header working group.

REFERENCED MATERIALS: Until the December 1994 ARP meeting, DOE did not have guidance on what constituted readily available items. As a result, referenced items such as geologic dictionaries and chapters from textbooks are included as attachments to some of the documents we reviewed. It should be expected that DOE will screen these materials out during their reprocessing efforts based on the direction given by the ARP on what constituted readily available. No additional NRC guidance should be required of NRC to allow DOE to implement this screening-out criteria.

NON-DOE AUTHORED MATERIALS: There were numerous examples of documents authored by other organizations which were found in the examples reviewed. EPA, NRC policy and guidance documents, federal register, federal rules, federal regs and other similar materials were found. DOE may choose to include these in their records system for reasons unrelated to licensing documentation requirements, and that is their business. However, if DOE is allowed to dump the entire contents of their automated records holdings into the LSS, it would cause a situation where DOE is submitting other participants materials. On the one hand, it is the other participants' responsibility to enter their own materials, but on the other hand, DOE is not confident that other parties will be submitting their documents which DOE feels it might rely upon. DOE's tracking, at the 11th hour, whether other participants documents made it in adds a responsibility on DOE that is equally shared by others (i.e., Nevada relying on DOE documents...) But the burden on DOE is perhaps larger by magnitudes and the risks are against their license application's success.

[A filtering search on the DOE records system holdings for all items where the AUTHORG = NRC or NEV or CLARK or NYE. . . could preclude those from being bulk migrated into LSS, but the cataloging problem is that each one of those that was part of a reciprocal cross reference will result in a dead end pointer in LSS. DJG]

DOE DOCUMENT DISPOSITION SCHEDULE: An SMT member observed that DOE seems to be maintaining high-level radioactive waste (HLW) records beyond the disposition period recommended by the National Archives and Records Administration. He asked the M&O contractor why is DOE changing (extending) the normal disposition schedules, just for HLW records? He suggested that NARA retention schedules may supersede other requirements. A representative of the M&O noted that only 3-5 percent of the RMS collection are considered to be Permanent Records by NARA. This issue may be need further consideration.

DECISION TRACKING: After reviewing a random selection of DOE documents, an SMT member observed that, unlike NRC's policy to capture the concurrence signature blocks, DOE is not tracking the decision making process. He observed that there is no discernable way to determine whether a senior manager had actually reviewed a particular document. There is no clear sign off process on the administrative documents. In response, a representative of DOE noted that the LSS is a discovery support system, not a litigation support system -- if the LSS was supposed to be an issues tracking system, it should have been stated in the rule. There is a disconnect here that may need further clarification.

[In the DOE system, the concurrence block is filmed/imaged. A two page letter will be imaged as 3 pages, the two pages as the document went out plus a duplicate of the last signature page with the superimposed concurrence chain signed and initialed. You will only see it if you pull up the document image. DJG]