

ATTACHMENT 1

MAJOR ISSUES RAISED IN PUBLIC COMMENTS
ON
DRAFT REGULATORY GUIDE
"TOPICAL GUIDELINES FOR THE LICENSING SUPPORT SYSTEM' (DG- 3009)
AND
NRC STAFF RESPONSES

The staff has organized its responses by category, to focus on the key issues raised. There were five comment letters received in response to the Federal Register notice (58FR40169, July 27, 1993), through which the Draft Regulatory Guide, "Topical Guidelines for the Licensing Support System", (DG- 3009) was issued. Comment letters were received from the U. S. Department of Energy (DOE); the State of Nevada (NV); Clark County, NV; Nye County, NV; and Lincoln County, NV. Staff has worked with the Licensing Support System Advisory Review Panel (LSSARP) throughout the development of the regulatory guide and comments received in this process have also been addressed.

The comments have been grouped into the following major categories of issues: 1) coordination with the LSSARP; 2) environmental, transportation, and socioeconomic issues; 3) scope of information; 4) exclusions; 5) issue closure; 6) types of documentation; 7) siting guidelines; 8) quality assurance records; 9) testing and inspection; 10) performance confirmation; and 11) other comments.

1. Coordination with the LSSARP

One of the major concerns the commenters expressed was that the staff should consider the LSSARP's input and advice on the list of topics. As noted in the responses to comments below, the staff has worked with the LSSARP throughout the development of the regulatory guide and appreciates the comments provided by the LSSARP. The following comments address coordination with the LSSARP.

Comment:

-- "Lincoln County would encourage NRC to expand the list of topics contained within DG- 3009 to be consistent with the Commission's interim topical guidelines published April 14, 1990, in the Federal Register. Failure by NRC to reconsider input and advice of LSSARP members may bring into question the utility of future stakeholder participation in such advisory capacities. "

Staff Response:

The staff has discussed DG- 3009 with the LSSARP on several occasions. Before its publication for public comment, DG- 3009 and an explanation of the disposition of the interim topical guidelines were provided to the LSSARP. DG- 3009 was discussed at the October 1990, LSSARP meeting in Reno, NV. At that meeting the staff explained how and why some of the interim topical guidelines were incorporated into DG- 3009 and why some of the interim topical guidelines were excluded. DG- 3009 was published for public comment in July 1993. In an October 5-6, 1993, meeting of the LSSARP, the staff again

discussed DG-3009. Although the LSSARP chose, as a group, not to comment formally on the draft regulatory guide, the staff reviewed the transcript of the meeting and incorporated relevant comments. In addition, individual members of the LSSARP, such as the representatives of Nye County and Clark County, chose to provide their own written comments separately from the LSSARP.

The list of topics in DG-3009 was prepared using the published interim topical guidelines, and the structure of DG-3009 was based on information needed in a license application that was identified in the U. S. Nuclear Regulatory Commission's Draft Regulatory Guide, "Format and Content for the License Application for the High-Level Waste Repository" (DG-3003). These information needs were designed to provide full coverage of 10 CFR Part 60 requirements. Some of the elements of the interim topical guidelines were not specifically included in DG-3009 because they were not related to licensing requirements. Other elements of the interim topical guidelines were not specifically included because they were considered sub-elements of the topics contained in Section C of DG-3009.

It should be remembered that, as stated in the introduction to DG-3009, each topical guideline is inclusive and that if any information is relevant to the regulatory requirements associated with the repository licensing proceedings, it would be within one of the existing topical guidelines.

Comment:

-- Nye County also raised a concern with "the procedure of drafting and publishing for comment the LSS topical guidelines, without some formal mechanism for their discussion and/or approval by the LSSARP." The County "...strongly urge[s] the staff to do so with the second draft of the regulatory guide."

Staff Response:

As noted in the response to the previous comment, the staff has worked with the LSSARP throughout the development of this regulatory guide, and staff has been available to discuss the issues with LSSARP members for the past several years. The proposed draft regulatory guide was transmitted to the LSSARP in July 1990, before its publication for public comment. As directed by the Commission, the LSSARP was briefed on the draft regulatory guide in October 1990. In its letter of review in February 1991, the LSSARP agreed that the refinement and condensation of the interim topical guidelines presented in DG-3009 were needed. However, panel members were concerned about the exclusion of environmental and transportation information (including socio-economic information) from the Licensing Support System (LSS). In the draft guide, the staff added Topic 1.8, "Environmental Information," and Topic 1.9, "Transportation Information" under "General Information," under General Information. After publishing the draft regulatory guide for public comment, individual members of the LSSARP continued to express concerns about

transportation and environmental issues. Therefore, the staff added Topic 12.0, "Information for Preparation of a Geologic Repository Environmental Impact Statement," to Section C in the final version and eliminated Topics 1.8 and 1.9. (See item 2 below.) Also other LSSARP comments, such as "Provide definitions of excluded material" were incorporated in DG-3009. DG-3009 was published for public comment in July 1993. In an October 5-6, 1993, meeting of the LSSARP, the staff discussed the draft regulatory guide. Although the LSSARP chose, as a group, not to formally comment on the draft regulatory guide, the staff reviewed the transcript of the public meeting and incorporated any relevant comments of the group. In addition, individual members of the LSSARP, such as the representatives of Nye County and Clark County, chose to provide their own written comments separately from the LSSARP. The staff believes it has been responsive to all LSSARP concerns.

2. Environmental, Transportation, and Socio-economic Issues

Commenters were concerned that environmental information that was produced for, and considered in, the DOE Environmental Impact Statement had not been specifically included in the topical guidelines. Other commenters were concerned that socio-economic issues would not be fully covered if it were assumed that socio-economics was included under transportation. Commenters asked for clarification of the terms "environmental information" and "transportation information." Specific comments are as follows:

-- Page 2, last paragraph - Amend the last sentence to reflect the fact that only information related to transportation of spent nuclear fuel and high-level waste destined for the repository should be considered. (DOE)

-- Page 4, Guideline 1.9 - Can the term "Transportation Information" be interpreted to include information related to any shipment of high-level radioactive waste destined for the MGDS [Mined Geologic Disposal System]? (This would exclude shipments made to an MRS [Monitored Retrievable Storage] facility and include transportation from/through States other than NV.) (DOE)

-- Paragraphs 1.8, "Environmental Information," and 1.9, "Transportation Information," under paragraph 1, "General Information" are ambiguous. The term "Environmental Information" should be expanded so that it reads "Environmental Information, including information relating to the socio- and economic environment." The term "Transportation Information" should be expanded so that it reads "all information related to the transportation of high-level nuclear waste or spent nuclear fuel from the point of origin to a proposed repository." (Nye County)

-- Socio-economic information should be included in addition to environmental and transportation. It is not sufficient to assume that socio-economic issues will be included within environmental information. Page 2, 1st full paragraph, 7th and 8th sentences. Add socio-economic information. (Lincoln County)

-- Regarding Appendix A, where should socio-economic information be placed?
(DOE)

-- Socio-economic issues were not included in the draft regulatory guide.
(Clark County)

Staff Response:

In response to these concerns, an additional category (Category 12.0) will be added to Section C in the final version of the regulatory guide. Category 12.0 adds the following topical guidelines:

*12.0 Information for Preparation of
a Geologic Repository Environmental Impact Statement*

- 12.1 Environmental*
- 12.2 Socio-economic*
- 12.3 Transportation*

In addition, language will be added to DG-3009 stating that only information on transportation of high-level waste from a reactor to the repository, or from a monitored retrievable storage facility to a repository should be included under Sub-category 12.3, the transportation topical guideline. This does not cover transportation from the reactor to a monitored retrievable storage facility because that aspect of transportation is not related to the repository. Reference to transportation and environmental issues under Category 1, "General Information," will be removed.

3. Scope of Information

Comment:

-- Page 10, Category 4 - Interpreted liberally, this category [Internal Memoranda] could mean all DOE memoranda. Only those memos related to the Civilian Radioactive Waste Management Program should be considered. (DOE)

Staff Response:

The staff believes that the introduction to DG-3009 as well as the Code of Federal Regulations statement of applicability of 10 CFR Part 2, Subpart J, makes it clear that the only material that must be included in the LSS is material relevant to the licensing of a geologic repository pursuant to 10 CFR Part 60. However, this material may be broader than that generated by DOE's Office of Civilian Radioactive Waste Management.

Comment:

-- Page 2, 2nd full paragraph, 3rd sentence - How would DG-3009 be used by the Pre-License Application Presiding Officer? "Without knowing the relationship

of DG-3009 to this process, it is not possible to fully evaluate the appropriateness of DG-3009." (Lincoln County)

Staff Response:

The second paragraph on page 1 of DG-3009 discusses the relationship of the regulatory guide to the LSS process. DG-3009 defines the scope of topics under which documentary material is to be submitted to the LSS. It provides an inclusive list of topics under which participants may place information in the LSS.

Comment:

-- Page 3, 4th full paragraph, 4th sentence - If DG-3009 is intended to provide guidance to DOE on the scope of information that is contained within the LA ... then all the interim guidelines should be included. Limiting the scope "may encourage DOE to submit a license application which does not address issues of particular importance to stake holders ..." and may lead to "protracted legal proceedings" (Lincoln County)

Staff Response:

This regulatory guide provides instructions for all users of an electronic data base associated with licensing documentation and potential discovery in a hearing process. Information from DOE (the applicant/licensee) will form a significant portion of the total database. However, it is not the intent, or within the scope of, this regulatory guide to provide specific guidance on the content of the license application that must demonstrate compliance in a licensing proceeding. Section C of the "Topical Guidelines" is used to identify topics of documents that should be placed in the LSS. Any participant would be required to use Section C to determine the topics that were applicable to the work being done by that participant. The guidelines contained in the final regulatory guide should not be used by DOE to prepare a license application. Guidance for preparing a license application is in DG-3003 and, indirectly, in NUREG-1323, "License Application Review Plan for a Geologic Repository for Spent Nuclear Fuel and High-Level Radioactive Waste."

Comment:

-- Page 10, Appendix A - In addition, independent analyses prepared by the states and local governments should be included. (Lincoln County)

Staff Response:

Independent analyses prepared by the States and local governments should be included under the appropriate topical guideline listed in Section C. Such analyses are covered under Item 1, in Appendix A, which lists the types of

documents that would be placed in the LSS. The regulatory guide is intended to provide guidance to all LSS participants.

Comment:

-- Page 4, Item 10 - Add NEPA. (Lincoln County)

Staff Response:

The National Environmental Policy Act (NEPA) will be added.

Comment:

-- A category of documents, "Pre-Licensing depositions and other discovery documents," should be included in Appendix A. (NV wants certain depositions taken during pre-licensing included in the LSS.)

Staff Response:

Any material relevant to repository licensing that offers information concerning any of the topics listed in Section C of the regulatory guide would be appropriate to include in the LSS.

4. Exclusions

Comment:

-- Page 4, Guidelines 1.4 and 1.5. - What is the definition of "publicly available?" Does it refer to information that has had any security or other restrictions relieved and therefore is releasable to the public? (DOE)

Staff Response:

The term "publicly available," does refer to information that is releasable to the public. However, classified information is subject to the requirements of 10 CFR Part 2, Subpart I, "Special Procedures Applicable to Adjudicatory Proceedings Involving Restricted Data and/or National Security Information." This regulation does not allow for the public release of classified information related to the Certification of Safeguards, the Physical Security Plan, or National Security Information (if applicable) required to be submitted as part of the license application for the high-level waste repository.

Comment:

-- Page 10, Category 1 - Clarify that this applies only to final technical reports and does not include preliminary drafts (including predecisional and other internal review drafts). Under 10 CFR 2.1019(i)(2) preliminary drafts, although subject to derivative discovery, are excluded from entry in the LSS. (DOE)

Staff Response:

A clarification has been made in the regulatory guide that this section applies only to final technical reports and does not include preliminary drafts other than "circulated drafts," as defined in 10 CFR Part 2, Subpart J.

Comment:

-- Page 10, Category 6 - This category is perhaps a bit restrictive since it identifies only draft documents on which a nonconurrence has been registered as being included in the LSS. The definition of "Circulated draft" (2.1001) also includes a document circulated for concurrence that does not become final due to "the passage of a substantial period of time in which no action has been taken on the document." (DOE)

Staff Response:

The phrase cited by the commenter is not a separate category but a subset of "circulated draft." A "non-conurrence" draft is within the definition of "circulated draft" whether it is finalized or not.

5. Issue Closure

Comment:

-- The Nuclear Regulatory Commission has determined that there will be no closure of issues prior to a licensing proceeding. The item listed as '8.5 Issue - resolution reports' is inconsistent with the NRC's policy directive and, therefore, the NWPO [NV Waste Policy Office] comments that 8.5 should be removed as a category in Appendix A. To the extent that issues are limited in any respect the item listed as '8.7 Topical reports, data, and data analysis' is adequate to cover the category." (NV)

Staff Response:

The inclusion of issue-resolution reports is not contrary to NRC policy. NRC policy is that issues are only resolved at the staff level during pre-licensing. However, documentation of such staff-level issue resolution would be useful for the record and is appropriate for inclusion. See also 10 CFR 60.18(1).

6. Types of Documentation

Comment:

-- Page 9, Guideline 8 - Revise the following guidelines to minimize redundancy with documents mentioned in Section C and Appendix A (DOE)

Staff Response:

The list of documents in Appendix A is based on one of the three original groups of interim topical guidelines and NRC believes that it is useful to maintain this non-exhaustive list of categories of documents. Section C, on the other hand, provides a list of inclusive topics under which documents are to be submitted. The regulatory guide has been revised to more clearly state the use of Section C and Appendix A.

7. Siting Guidelines

Comment:

-- Page 5 - Add a new Guideline 2.8 entitled "Department of Energy Siting Guidelines including Supporting Rationale." See 10 CFR Part 960. (DOE)

Information relating to DOE siting guidelines would be submitted under the appropriate topical guideline heading listed in Section C. Therefore a separate guideline is not needed.

8. Quality Assurance (QA) Records

Comment:

-- Appendix A, Page 10, Category 2 - DOE requests a better definition of QA records. DOE believes that QA records should be included in the information on the Repository Subsystems chapters. (DOE)

Staff Response:

NRC believes that QA records are sufficiently defined in 10 CFR Part 50, Appendix B (which is incorporated by reference into 10 CFR Part 60), and in ASME NQA-1, "Quality Assurance Program Requirements for Nuclear Facilities." The NRC staff believes that QA records are sufficiently distinct and have such specific storage and maintenance requirements associated with them that QA will remain a separate category.

9. Testing and Inspection

Comment:

-- DOE suggests a new guideline on "Testing and Inspection." It cites 10 CFR 60.74 and 75. (DOE)

Staff Response:

Any information on tests and inspections that relate to regulatory requirements for a high-level waste license application should be placed under the appropriate topical guideline in Section C. Tests and inspections would be included by the same logic process described for the performance confirmation program, as described under "Use of the Regulatory Guide" on page 3 of DG-3009.

10. Performance Confirmation

Comment:

-- DOE wishes to take Performance Confirmation out of the Repository Subsystems chapters and make it a separate chapter. (DOE)

Staff Response:

The staff believes that performance confirmation should be maintained with the subsystems chapters because the information is similar in technical content. This has been generically clarified in the regulatory guide under the title "Use of the Regulatory Guide."

11. Other Comments

The several suggested editorial corrections have been made. However, suggestions for the addition of other guidelines have not been followed because the topics in DG-3009 are based on the DG-3003, which provides full coverage of Part 60 requirements. Some of the specific suggestions and the responses follow.

Comment:

-- DOE suggested that because DG-3003 is the basis of the listing of topics in DG-3009, then DG-3009 should not be used until the DG-3003 is made final. (DOE)

Staff Response:

The staff does not believe that finalization of DG-3003 is necessary to proceed with DG-3009. As is the case with any such guidance, it will be revised at a later date if necessary.

Comment:

-- Page 5, Guidelines 2.1 and 2.4. - Add "future variations" to hydrologic system and geochemical system (DOE)

Staff Response:

The subheadings for the subsystems of the "Natural System" are appropriate as they appear in DG-3009. Information on "future variations" that are relevant to the license application would appropriately be included under the specific subsystem heading in the current structure.

Comment:

-- Page 5, Guideline 2.5 - This category (Integrated Natural System Response to the Maximum Design Thermal Loading) might be too restrictive by considering only the maximum design thermal loading when the integrated response for a variety of thermal loadings is being considered. Deleting the phrase "...Maximum Design..." would remove this restriction. (DOE)

Staff Response

The current wording of the final regulatory guide correctly reflects the regulatory requirement. Any information related to demonstrating compliance with this regulatory requirement would be within Topical Guideline 2.5.

Comment:

-- Page 6 - Add a new guideline 3.2.8 entitled "Communications Systems." This is consistent with the same item under guidelines 3.1 and 3.3. (DOE)

Staff Response:

Section C, Category 3 of the final regulatory guide addresses the physical facilities of the geologic repository operations area. No communication systems have been identified as unique to the "Shafts and Ramps" portion of the "Geologic Repository Operations Area." Should such a system be identified and included in the License Application, it would be within topical guideline 3.2.7, "Other Shaft/Ramp Systems."

Comment:

-- Page 10, Category 8 - The structure of the LSS does not accommodate the inclusion of other databases. The indices to information contained in the databases or the data from a database may be submitted to the LSS, if appropriate. However, it is not technically feasible nor desirable to embed one database within another. (DOE)

Staff Response:

If the inclusion of a given database in its current form is not feasible, then it will be necessary to make the information in that database available in another form. This should not be a problem with current computer technology.

ATTACHMENT 2

REGULATORY GUIDE 3009

TOPICAL GUIDELINES FOR THE LICENSING SUPPORT SYSTEM (MARKED-UP VERSION)

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 nuclear waste at a geologic repository under 10 CFR Part 60. Pursuant to these regulations, the Licensing Support System (LSS), an electronic information management system, is being designed and implemented to provide for the entry of and access to potentially relevant licensing information.

This regulatory guide defines the scope of documentary material that should be included in the LSS. Interim topical guidelines, drafted by the High-Level Waste Licensing Support System Advisory Review Panel, were adopted by the U. S. Nuclear Regulatory Commission with the statement that the topical guidelines would later be revised and set forth as a regulatory guide by NRC staff (see 54 FR 14925, dated April 14, 1989). The interim topical guidelines were partially modeled after the environmental assessments prepared in connection with the U. S. Department of Energy's (DOE's) site selection process.

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 "...any material or other information that is relevant to, or likely to lead to the discovery of information that is relevant to, the licensing of the likely candidate site for a geologic repository. The scope of documentary material shall be guided by the topical guidelines in the applicable NRC Regulatory Guide." The forms of these materials are listed in Appendix A, a non-exhaustive list of types of documents that may be included in the LSS.

In developing this final regulatory guide, the interim topical guidelines, the Draft Regulatory Guide ~~DG-3003~~, "Format and Content of the License Application for the High-Level Waste Repository" ~~(FCRG) (DG-3003)~~, **and comments from the public and LSS Advisory Review Panel (which strongly advocates expanding the LSS topical guidelines to all relevant information)** were considered. ~~in the development of this draft regulatory guide. DG-3003 is being developed to provide guidance on information that should be submitted in the license application. Pursuant to Section 114(f)(4) of the Nuclear Waste Policy Act of 1982, as amended (42 U.S.C. 10134(f)(4)), the Commission is required, "to the extent practicable," to adopt the environmental impact statement (EIS) prepared by DOE. The Commission's regulations have been amended to be in accord with this statutory provision (see 10 CFR 51.26(c)). The environmental issues in the licensing proceeding will be limited to those needed to determine whether or to what extent it is practicable to adopt the EIS prepared by DOE, as established by regulation in 10 CFR 52.109. However, in considering whether to adopt the EIS prepared by DOE, the Commission must consider whether "significant and substantial new information or new considerations render such environmental impact statement inadequate" (see 10 CFR 51.109(c)(2)). To determine whether any such information or consideration is "new," the environmental information and transportation information considered by DOE in preparing its EIS may need to be examined. Therefore, the topics of environmental information and transportation information have been included in~~

~~the topical guidelines.~~ Topics for information entered into the LSS will not only be consistent with information that is needed for the license application but also will contain additional information related to DOE's Environmental Impact Statement.

B. DISCUSSION

Purpose of the Regulatory Guide

The purpose of this regulatory guide is to provide a list of the topics (Section C) for which LSS participants should submit documentary materials for entry into the LSS under 10 CFR 2.1003. The topical guidelines are designed to be broad enough to encompass all potential licensing issues. This regulatory guide will also be used by the Pre-License Application Presiding Officer for evaluating petitions for access to the LSS, during the pre-license application period phase, under 10 CFR 2.1008.

This regulatory guide will not be used as the detailed topical index for documentary evidence contained in the LSS. Neither will it be used to establish standing in the high-level waste licensing proceeding nor serve to determine the scope of contentions that may be offered in the application proceeding under 10 CFR 2.1014.

Use of the Regulatory Guide

To the extent practicable, the regulatory guide format follows the repository systems and conforms to the approach taken in other generic NRC licensing documents for the high-level waste repository program. The actual format of the documents submitted is not specified in this regulatory guide. Format specifications are provided in other guidance documents such as the Commission's Draft Regulatory Guide, "Format and Content for the License Application for the High-Level Waste Repository (DG-3003). Section C of this regulatory guide lists the topics of documents which must be placed in the LSS. Appendix A to this regulatory guide contains a nonexhaustive list of

documents to which the topical guidelines of Section C should be applied. Documents should still be included in the LSS if they are not included in Appendix A but are related 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. For instance, in 10 CFR Part 60, Subpart F requires a performance confirmation program for the various components of the repository system. However, performance confirmation is not listed as a topic in this regulatory guide. Rather, information pertinent to performance confirmation for any particular component of the repository system would be considered to ~~fall under~~ be within the topic designating that particular system (performance confirmation relevant to geologic processes would be considered topical information under the appropriate heading for the "Natural System").

~~The topical guidelines are presented at one-to-three levels of detail.~~ Each topical guideline of Section C should be considered all-inclusive with regard to all 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. It is appropriate for such information to be included in the LSS. As stated above, DG-3003 is being developed to provide guidance on the information that should be submitted in the license application and on the types of information that ~~could~~ should be included in the LSS.

To ensure that socio-economic issues would be covered, the subcategories Environmental, Socioeconomic, and Transportation are included under topical guideline 12.0, "Information for Preparation of a Geologic Repository Environmental Impact Statement." Only information on transportation of high level waste from a reactor, from an independent spent fuel storage facility, or from a monitored retrievable storage facility to a repository should be included under the transportation topical guideline.

C. TOPICAL GUIDELINES

1. General Information

1.1 General Facility Description

1.2 Basis for Licensing Authority

1.3 Schedules Relevant to the NRC/DOE Repository Programs

1.4 Any Publicly Available Information on Certification of Safeguards

1.5 Any Publicly Available Information on the Physical Security Plan

1.6 Site Characterization

1.7 License Specifications (those variables, conditions, or other items that DOE determines to be probable subjects of license specifications)

~~1.8 Environmental Information~~

~~1.9 Transportation Information~~

~~1.10~~

1.8 Information Relevant to NRC Findings Regarding Compliance with Statutes [other than: (a) The Atomic Energy Act, as amended; (b) the Energy Reorganization Act of 1974; and (c) the Nuclear Waste Policy Act, as amended] that Federal agencies must take cognizance of in licensing actions (e. g., American Indian Religious Freedom Act, Endangered Species Act of 1973, or **the National Environmental Policy Act**).

- 2. The Natural Systems of the Geologic Setting
 - 2.1 Geologic System
 - 2.1.1 Regional Geology
 - 2.1.2 Site Geology
 - 2.1.3 Future Variations in Geologic Processes
 - 2.2 Hydrologic System
 - 2.2.1 Surface Water Hydrology
 - 2.2.2 Regional Hydrogeology
 - 2.2.3 Site Hydrogeology
 - 2.3 Geochemical System
 - 2.3.1 Regional Geochemistry
 - 2.3.2 Site Geochemistry
 - 2.4 Climatological and Meteorological Systems
 - 2.4.1 Present Climate and Meteorology
 - 2.4.2 Paleoclimatology
 - 2.4.3 Future Climatic Variation
 - 2.5 Integrated Natural System Response to the Maximum Design Thermal Loading
 - 2.6 Processes and Events (anticipated and unanticipated, potentially disruptive)
 - 2.7 Effectiveness of Natural Barriers against the Release of Radioactive Material to the Environment (information relevant to the performance objectives of 10 CFR 60.113)

3. Geologic Repository Operations Area (GROA): Physical Facilities

3.1 Surface Facilities

- 3.1.1 Waste-Handling System/Buildings/Equipment (Including Hot Cell)**
- 3.1.2 Onsite Radioactive Waste Management System**
- 3.1.3 Fire and Explosion Protection Systems**
- 3.1.4 Emergency Systems**
- 3.1.5 Communication Systems**
- 3.1.6 Utility Systems**
- 3.1.7 Instrumentation and Control Systems**
- 3.1.8 Onsite Transportation System**
- 3.1.9 Ventilation Systems**
- 3.1.10 Operations Support Systems**
- 3.1.11 Plans for the Decommissioning System**
- 3.1.12 Other Surface Systems**

3.2 Shafts/Ramps

- 3.2.1 Waste Shaft/Ramp**
- 3.2.2 Muck Shaft/Ramp**
- 3.2.3 Ventilation Intake Shafts**
- 3.2.4 Ventilation Exhaust Shafts**
- 3.2.5 Personnel and Materials Shafts**
- 3.2.6 Plans for the Decommissioning System**
- 3.2.7 Other Shaft/Ramp Systems**

3.3 Underground Facility

- 3.3.1 Excavation and Ground Support Systems**
- 3.3.2 Muck-Handling System**
- 3.3.3 Ventilation System**
- 3.3.4 Waste Emplacement System**
- 3.3.5 Waste Retrieval System**
- 3.3.6 Emergency Systems**

- 3.3.7 Communication System
 - 3.3.8 Operations Support System
 - 3.3.9 Plans for the Decommissioning System
 - 3.3.10 Other Underground Systems
 - 3.4 Interface of Structures, Systems, and Components
 - 3.5 Retrievability of Waste
 - 3.6 Effectiveness of the GROA against the Release of Radioactive Materials to the Environment (information relevant to the performance objectives of 10 CFR 60.111)
 - 4. Engineered Barrier Systems
 - 4.1 Waste Package
 - 4.2 Waste Form
 - 4.3 Underground Facility
 - 4.4 Engineered Barrier System Waste Package Emplacement Environment
 - 4.5 Engineered Barrier System Alternate Design Features
 - 4.6 Effectiveness of Engineered Barriers against the Release of Radioactive Material to the Environment (information relevant to the performance objectives of 10 CFR 60.113)
 - 5. Overall System Performance Assessment
 - 5.1 Basic Approach

- 5.2 System Description
 - 5.2.1 Conceptual Models
 - 5.2.2 Processes and Events (Potentially Disruptive)
 - 5.2.3 Processes and Events (Undisturbed Performance)
- 5.3 Cumulative Release of Radioactive Materials
 - 5.3.1 Screening of Processes and Events
 - 5.3.2 Scenario Development and Screening
 - 5.3.3 Consequence Analyses: Estimates of Cumulative Releases
 - 5.3.4 Probability Estimates
 - 5.3.5 Model and Code Validation
- 5.4 Undisturbed Performance
 - 5.4.1 Individual Protection Requirements
 - 5.4.2 Groundwater Protection Requirements
 - 5.4.3 Model and Code Validation
- 6. Conduct of Repository Operations
 - 6.1 Maintenance
 - 6.2 Organization
 - 6.3 Personnel
 - 6.4 Records/Reports
 - 6.5 Training Programs
 - 6.6 Schedules
 - 6.7 Identification of Operating Controls and Limits

- 6.8 Preservation of Records
- 6.9 Site Markers
- 7. Land Ownership and Control
 - 7.1 Plans for Restricting Controlled Area Access
 - 7.1.1 Identification of Controlled Area
 - 7.1.2 Identification of Existing Legal Interests
 - 7.1.3 Identification of Legal Interests To Be Obtained
 - 7.1.4 Water Rights
 - 7.2 Plans for Regulating Land Use Outside the Controlled Area
 - 7.2.1 Identification of Adjacent Areas of Concern
 - 7.2.2 Identification of Existing Legal Interests
 - 7.2.3 Identification of Legal Interests To Be Obtained
 - 7.3 Plans for Regulating Land Use at the GROA
 - 7.4 Other Types of Legal Interests
- 8. Quality Assurance (QA) Records
 - 8.1 QA Records for Site Characterization
 - 8.2 QA Records for Design and Construction
 - 8.3 QA Records, Including Records Covering Operations, Permanent Closure, Decontamination, and Decommissioning
 - 8.4 QA Records for All Relevant Research Activities
- 9. Emergency Planning

- 10. Radiation Protection
 - 10.1 Ensuring that Radiation Exposures are As Low As Is Reasonably Achievable (~~ALARA~~)
 - 10.2 Radiation Sources
 - 10.3 Radiation Protection Design Features
 - 10.4 Estimated Onsite Dose Assessment
 - 10.5 Health Physics Program
 - 10.6 Estimated Offsite Dose Assessment
- 11. Any Alternatives Considered (e. g. , design interpretations, models)
- 12. Information for Preparation of a Geologic Repository Environmental Impact Statement
 - 12.1 Environmental
 - 12.2 Socioeconomic
 - 12.3 Transportation [Transport of high-level waste from a reactor, from an independent spent fuel storage facility, or from a monitored retrievable storage facility to proposed repository]

APPENDIX A

CATEGORIES OF DOCUMENTS TO BE INCLUDED IN THE LICENSING SUPPORT SYSTEM

This appendix contains a non-exhaustive list of the types of documents that ~~may~~ **should** be included in the Licensing Support System (LSS).

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 LSS.**
2. Quality assurance records
3. External correspondence
4. Internal memoranda
5. Meeting minutes/transcripts
6. Draft documents on which a nonconurrence has been registered
7. Congressional questions and answers (~~Qs and As~~)
8. Other documents (for 8.1 through 8.9, ~~include data bases and references~~ **include references to other data bases**)
 - 8.1 Draft and final environmental assessment for the site characterized
 - 8.2 Site characterization plan
 - 8.3 Site characterization study plans
 - 8.4 Site characterization progress reports
 - 8.5 Issue-resolution reports
 - 8.6 License application

- 8.7 Topical reports, data, and data analyses
- 8.8 The U. S. ~~Department of Energy (DOE)~~ Environmental Impact Statement
- 8.9 Recommendation report to the President of the United States (notice of disapproval, if submitted)
- 8.10 Any publicly available information on rulemakings
- 8.11 Public and agency comments on documents
- 8.12 Response to comments
- 8.13 U. S. Nuclear Regulatory Commission technical positions
- 8.14 NRC regulatory guides
- 8.15 The DOE project-decision schedules
- 8.16 DOE program-management documents

APPENDIX B

EXCLUDED AND PRIVILEGED INFORMATION

10 CFR 2. 1005, "Exclusions," lists types of information excluded from the Licensing Support System (LSS). 10 CFR 2. 1006(a), (b), and (c) discuss discovery privileges. These sections of the ~~Code of Federal Regulations~~ **10 CFR** are printed below.

10 CFR 2. 1005 Exclusions.

The following material is excluded from entry into the Licensing Support System, either through initial entry pursuant to 10 CFR 2. 1003 of this subpart, or through derivative discovery pursuant to 10 CFR 2. 1019(i) of this subpart--

- (a) Official notice materials;
- (b) Reference books and text books;
- (c) Material pertaining exclusively to administration, such as material related to budgets, financial management, personnel, office space, general distribution memoranda, or procurement, except for the scope of work on a procurement related to repository siting, construction, or operation, or to the transportation of spent nuclear fuel or high-level waste;
- (d) Press clippings and press releases;
- (e) Junk mail;
- (f) Preferences [sic] [references] cited in contractor reports that are readily available;
- (g) Classified material subject to Subpart I of this Part.

10 CFR 2. 1006 Privilege.

- (a) Subject to the requirements in 10 CFR 2. 1003(d) of this subpart, the traditional discovery privileges recognized in U. S. Nuclear Regulatory Commission adjudicatory proceedings and the exceptions from disclosure in Section 2. 790 of this part may be asserted by potential parties, interested

governmental participants, and parties. In addition to Federal agencies, the deliberative process privilege may also be asserted by State and local government entities and Indian Tribes.

- (b) Any document for which a claim of privilege is asserted, but is denied in whole or in part by the Pre-License Application Presiding Officer or the Presiding Officer, must be submitted by the party, interested governmental participant, or potential party that asserted the claim to--
 - (1) The LSS Administrator, for entry into the LSS into an open access file; or
 - (2) To the LSS Administrator or to the Pre-License Application Presiding Officer or to the Presiding Officer, for entry into a Protective Order file, if the Pre-License Application Presiding Officer or the Presiding Officer so directs under 10 CFR 2.1010(b) or 10 CFR 2.1018(c) of this subpart.

- (c) Notwithstanding any availability of the deliberative process privilege under paragraph (a) of this section, circulated drafts not otherwise privileged shall be submitted for entry into the LSS pursuant to 10 CFR 2.1003(a) and 2.1003(b) of this subpart.

REGULATORY ANALYSIS

A separate regulatory analysis was not prepared for this ~~draft~~ regulatory guide. The regulatory analysis prepared for Draft Regulatory Guide DG-3003, "Format and Content for the License Application for the High-Level Waste Repository," provides the regulatory basis for this ~~R~~regulatory ~~G~~uide as well. A copy of the regulatory analysis is available, in the file for DG-3009, for inspection, and copying, for a fee at the NRC Public Document Room, 2120 L Street N.W., Washington, DC; ~~the PDR's~~. **The Public Document Room's** mailing address is Mail Stop LL-6, Washington, DC 20555; phone (202) 634-3273; fax (202) 634-3343.

ATTACHMENT 3

March 2001
Division 3
Task DG- 3009

Contact: J. G. Spraul (301) 415- 6715

REGULATORY GUIDE 3009

TOPICAL GUIDELINES FOR THE LICENSING SUPPORT SYSTEM

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 nuclear waste at a geologic repository under 10 CFR Part 60. Pursuant to these regulations, the Licensing Support System (LSS), an electronic information management system, is being designed and implemented to provide for the entry of and access to potentially relevant licensing information.

This regulatory guide defines the scope of documentary material that should be included in the LSS. Interim topical guidelines, drafted by the High-Level Waste Licensing Support System Advisory Review Panel, were adopted by the U. S. Nuclear Regulatory Commission with the statement that the topical guidelines would later be revised and set forth as a regulatory guide by NRC staff (see 54 FR 14925, dated April 14, 1989). The interim topical guidelines were partially modeled after the environmental assessments prepared in connection with the U. S. Department of Energy's (DOE's) site selection process.

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 "...any material or other information that is relevant to, or likely to lead to the discovery of information that is relevant to, the licensing of the likely candidate site for a geologic repository. The scope of documentary material shall be guided by the topical guidelines in the applicable NRC Regulatory Guide." The forms of these materials are listed in Appendix A, a non-exhaustive list of types of documents that may be included in the LSS.

In developing this final regulatory guide, the interim topical guidelines, the Draft Regulatory Guide, "Format and Content of the License Application for the High-Level Waste Repository" (DG-3003), and comments from the public and Licensing Support System Advisory Review Panel (LSSARP) (which strongly advocates expanding the LSS topical guidelines to all relevant information) were considered. Topics for information entered into the LSS will not only be consistent with information that is needed for the license application but also will contain additional information related to DOE's Environmental Impact Statement.

B. DISCUSSION

Purpose of the Regulatory Guide

The purpose of this regulatory guide is to provide a list of the topics (Section C) for which LSS participants should submit documentary materials for entry into the LSS under 10 CFR 2.1003. The topical guidelines are designed to be broad enough to encompass all potential licensing issues. This regulatory guide will also be used by the Pre-License Application Presiding Officer for evaluating petitions for access to the LSS during the pre-license application phase under 10 CFR 2.1008.

This regulatory guide will not be used as the detailed topical index for documentary evidence contained in the LSS. Neither will it be used to establish standing in the high-level waste licensing proceeding nor serve to

determine the scope of contentions that may be offered in the application proceeding under 10 CFR 2.1014.

Use of the Regulatory Guide

To the extent practicable, the regulatory guide format follows the repository systems and conforms to the approach taken in other generic NRC licensing documents for the high-level waste repository program. The actual format of the documents submitted is not specified in this regulatory guide. Format specifications are provided in other guidance documents such as the Commission's Draft Regulatory Guide, "Format and Content for the License Application for the High-Level Waste Repository" (DG-3003). Section C of this regulatory guide lists the topics of documents that must be placed in the LSS. Appendix A to this regulatory guide contains a nonexhaustive list of documents to which the topical guidelines of Section C should be applied. Documents should still be included in the LSS if they are not included in Appendix A but are related 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. For instance, in 10 CFR Part 60, Subpart F requires a performance confirmation program for the various components of the repository system. However, performance confirmation is not listed as a topic in this regulatory guide. Rather, information pertinent to performance confirmation for any particular component of the repository system would be considered to be within the topic designating that particular system (performance confirmation relevant to geologic processes would be considered topical information under the appropriate heading for the "Natural System").

Each topical guideline of Section C should be considered all-inclusive with regard to all 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. It is appropriate

for such information to be included in the LSS. As stated above, DG-3003 is being developed to provide guidance on the information that should be submitted in the license application and on the types of information that should be included in the LSS.

To ensure that socio-economic issues would be covered, the subcategories "Environmental," "Socio-economic," and "Transportation" are included under topical guideline 12.0, "Information for Preparation of a Geologic Repository Environmental Impact Statement." Only information on transportation of high-level waste from a reactor, from an independent spent fuel storage facility, or from a monitored retrievable storage facility to a repository should be included under the transportation topical guideline.

C. TOPICAL GUIDELINES

1. General Information

1.1 General Facility Description

1.2 Basis for Licensing Authority

1.3 Schedules Relevant to the NRC/DOE Repository Programs

1.4 Any Publicly Available Information on Certification of Safeguards

1.5 Any Publicly Available Information on the Physical Security Plan

1.6 Site Characterization

1.7 License Specifications (those variables, conditions, or other items that DOE determines to be probable subjects of license specifications)

1. 8 Information Relevant to NRC Findings Regarding Compliance with Statutes [other than: (a) The Atomic Energy Act, as amended; (b) the Energy Reorganization Act of 1974; and (c) the Nuclear Waste Policy Act, as amended] that Federal agencies must take cognizance of in licensing actions (e. g., American Indian Religious Freedom Act, Endangered Species Act of 1973, or the National Environmental Policy Act).

2. The Natural Systems of the Geologic Setting

2. 1 Geologic System

2. 1. 1 Regional Geology

2. 1. 2 Site Geology

2. 1. 3 Future Variations in Geologic Processes

2. 2 Hydrologic System

2. 2. 1 Surface Water Hydrology

2. 2. 2 Regional Hydrogeology

2. 2. 3 Site Hydrogeology

2. 3 Geochemical System

2. 3. 1 Regional Geochemistry

2. 3. 2 Site Geochemistry

2. 4 Climatological and Meteorological Systems

2. 4. 1 Present Climate and Meteorology

2. 4. 2 Paleoclimatology

2. 4. 3 Future Climatic Variation

2. 5 Integrated Natural System Response to the Maximum Design Thermal Loading

- 2.6 Processes and Events (anticipated and unanticipated, potentially disruptive)
- 2.7 Effectiveness of Natural Barriers against the Release of Radioactive Material to the Environment (information relevant to the performance objectives of 10 CFR 60.113)
- 3. Geologic Repository Operations Area (GROA): Physical Facilities
 - 3.1 Surface Facilities
 - 3.1.1 Waste-Handling System/Buildings/Equipment (Including Hot Cell)
 - 3.1.2 Onsite Radioactive Waste Management System
 - 3.1.3 Fire and Explosion Protection Systems
 - 3.1.4 Emergency Systems
 - 3.1.5 Communication Systems
 - 3.1.6 Utility Systems
 - 3.1.7 Instrumentation and Control Systems
 - 3.1.8 Onsite Transportation System
 - 3.1.9 Ventilation Systems
 - 3.1.10 Operations Support Systems
 - 3.1.11 Plans for the Decommissioning System
 - 3.1.12 Other Surface Systems
 - 3.2 Shafts/Ramps
 - 3.2.1 Waste Shaft/Ramp
 - 3.2.2 Muck Shaft/Ramp
 - 3.2.3 Ventilation Intake Shafts
 - 3.2.4 Ventilation Exhaust Shafts
 - 3.2.5 Personnel and Materials Shafts
 - 3.2.6 Plans for the Decommissioning System
 - 3.2.7 Other Shaft/Ramp Systems

- 3.3 **Underground Facility**
 - 3.3.1 **Excavation and Ground Support Systems**
 - 3.3.2 **Muck-Handling System**
 - 3.3.3 **Ventilation System**
 - 3.3.4 **Waste Emplacement System**
 - 3.3.5 **Waste Retrieval System**
 - 3.3.6 **Emergency Systems**
 - 3.3.7 **Communication System**
 - 3.3.8 **Operations Support System**
 - 3.3.9 **Plans for the Decommissioning System**
 - 3.3.10 **Other Underground Systems**

- 3.4 **Interface of Structures, Systems, and Components**

- 3.5 **Retrievability of Waste**

- 3.6 **Effectiveness of the GROA against the Release of Radioactive Materials to the Environment (Information relevant to the performance objectives of 10 CFR 60.111)**

- 4. **Engineered Barrier Systems**
 - 4.1 **Waste Package**

 - 4.2 **Waste Form**

 - 4.3 **Underground Facility**

 - 4.4 **Engineered Barrier System Waste Package Emplacement Environment**

 - 4.5 **Engineered Barrier System Alternate Design Features**

- 4.6 Effectiveness of Engineered Barriers against the Release of Radioactive Material to the Environment (Information relevant to the performance objectives of 10 CFR 60.113)

- 5. Overall System Performance Assessment
 - 5.1 Basic Approach

 - 5.2 System Description
 - 5.2.1 Conceptual Models
 - 5.2.2 Processes and Events (Potentially Disruptive)
 - 5.2.3 Processes and Events (Undisturbed Performance)

 - 5.3 Cumulative Release of Radioactive Materials
 - 5.3.1 Screening of Processes and Events
 - 5.3.2 Scenario Development and Screening
 - 5.3.3 Consequence Analyses: Estimates of Cumulative Releases
 - 5.3.4 Probability Estimates
 - 5.3.5 Model and Code Validation

 - 5.4 Undisturbed Performance
 - 5.4.1 Individual Protection Requirements
 - 5.4.2 Groundwater Protection Requirements
 - 5.4.3 Model and Code Validation

- 6. Conduct of Repository Operations
 - 6.1 Maintenance

 - 6.2 Organization

 - 6.3 Personnel

- 6.4 Records/Reports
- 6.5 Training Programs
- 6.6 Schedules
- 6.7 Identification of Operating Controls and Limits
- 6.8 Preservation of Records
- 6.9 Site Markers
- 7. Land Ownership and Control
 - 7.1 Plans for Restricting Controlled Area Access
 - 7.1.1 Identification of Controlled Area
 - 7.1.2 Identification of Existing Legal Interests
 - 7.1.3 Identification of Legal Interests To Be Obtained
 - 7.1.4 Water Rights
 - 7.2 Plans for Regulating Land Use Outside the Controlled Area
 - 7.2.1 Identification of Adjacent Areas of Concern
 - 7.2.2 Identification of Existing Legal Interests
 - 7.2.3 Identification of Legal Interests To Be Obtained
 - 7.3 Plans for Regulating Land Use at the GROA
 - 7.4 Other Types of Legal Interests
- 8. Quality Assurance (QA) Records
 - 8.1 QA Records for Site Characterization

- 8.2 QA Records for Design and Construction
- 8.3 QA Records Including Records Covering Operations, Permanent Closure, Decontamination, and Decommissioning
- 8.4 QA Records for All Relevant Research Activities
- 9. Emergency Planning
- 10. Radiation Protection
 - 10.1 Ensuring that Radiation Exposures are As Low As Is Reasonably Achievable
 - 10.2 Radiation Sources
 - 10.3 Radiation Protection Design Features
 - 10.4 Estimated Onsite Dose Assessment
 - 10.5 Health Physics Program
 - 10.6 Estimated Offsite Dose Assessment
- 11. Any Alternatives Considered (e.g., design interpretations, models)
- 12.0 Information for Preparation of a Geologic Repository Environmental Impact Statement
 - 12.1 Environmental
 - 12.2 Socioeconomic
 - 12.3 Transportation [Transport of high-level waste from a reactor, from an independent spent fuel storage facility, or from a monitored retrievable storage facility to proposed repository]

APPENDIX A

CATEGORIES OF DOCUMENTS TO BE INCLUDED IN THE LICENSING SUPPORT SYSTEM

This appendix contains a non-exhaustive list of the types of documents that should be included in the Licensing Support System.

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 LSS.
2. Quality assurance records
3. External correspondence
4. Internal memoranda
5. Meeting minutes/transcripts
6. Draft documents on which a nonconcurrence has been registered
7. Congressional questions and answers
8. Other documents (for 8.1 through 8.9, include references to other data bases)
 - 8.1 Draft and final environmental assessment for the site characterized
 - 8.2 Site characterization plan
 - 8.3 Site characterization study plans
 - 8.4 Site characterization progress reports
 - 8.5 Issue-resolution reports

- 8.6 License application
- 8.7 Topical reports, data, and data analyses
- 8.8 The U. S. Department of Energy (DOE) Environmental Impact Statement
- 8.9 Recommendation report to the President of the United States (notice of disapproval, if submitted)
- 8.10 Any publicly available information on rulemakings
- 8.11 Public and agency comments on documents
- 8.12 Response to comments
- 8.13 U. S. Nuclear Regulatory Commission (NRC) technical positions
- 8.14 NRC regulatory guides
- 8.15 The DOE project-decision schedules
- 8.16 DOE program management documents

APPENDIX B

EXCLUDED AND PRIVILEGED INFORMATION

10 CFR 2.1005, "Exclusions," lists types of information excluded from the Licensing Support System (LSS). Sections 2.1006(a), (b), and (c) discuss discovery privileges. These sections of 10 CFR are printed below.

10 CFR 2.1005 Exclusions.

The following material is excluded from entry into the Licensing Support System, either through initial entry pursuant to 10 CFR 2.1003 of this subpart, or through derivative discovery pursuant to 10 CFR 2.1019(i) of this subpart--

- (a) Official notice materials;
- (b) Reference books and text books;
- (c) Material pertaining exclusively to administration, such as material related to budgets, financial management, personnel, office space, general distribution memoranda, or procurement, except for the scope of work on a procurement related to repository siting, construction, or operation, or to the transportation of spent nuclear fuel or high-level waste;
- (d) Press clippings and press releases;
- (e) Junk mail;
- (f) Preferences [sic] [references] cited in contractor reports that are readily available;
- (g) Classified material subject to Subpart I of this Part.

10 CFR 2.1006 Privilege.

- (a) Subject to the requirements in 10 CFR 2.1003(d) of this subpart, the traditional discovery privileges recognized in NRC adjudicatory proceedings and the exceptions from disclosure in 10 CFR 2.790 of this part may be asserted by

potential parties, interested governmental participants, and parties. In addition to Federal agencies, the deliberative process privilege may also be asserted by State and local government entities and Indian Tribes.

- (b) Any document for which a claim of privilege is asserted, but is denied in whole or in part by the Pre-License Application Presiding Officer or the Presiding Officer, must be submitted by the party, interested governmental participant, or potential party that asserted the claim to--
 - (1) The LSS Administrator, for entry into the LSS, into an open access file; or
 - (2) To the LSS Administrator or to the Pre-License Application Presiding Officer or to the Presiding Officer, for entry into a Protective Order file, if the Pre-License Application Presiding Officer or the Presiding Officer so directs under 10 CFR 2.1010(b) or 10 CFR 2.1018(c) of this subpart.

- (c) Notwithstanding any availability of the deliberative process privilege under paragraph (a) of this section, circulated drafts not otherwise privileged shall be submitted for entry into the LSS pursuant to 10 CFR 2.1003(a) and 2.1003(b) of this subpart.

REGULATORY ANALYSIS

A separate regulatory analysis was not prepared for this regulatory guide. The regulatory analysis prepared for Draft Regulatory Guide DG-3003, "Format and Content for the License Application for the High-Level Waste Repository," provides the regulatory basis for this regulatory guide as well. A copy of the regulatory analysis is available, in the file for DG-3009, for inspection, and copying for a fee, at the NRC Public Document Room, 2120 L Street N.W., Washington, DC. The Public Document Room's mailing address is Mail Stop LL-6, Washington, DC 20555; phone (202) 634-3273; fax (202) 634-3343.