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NRC REVISES REGULATIONS ON AVAILABILITY OF INFORMATION  
FOR HIGH-LEVEL RADIOACTIVE WASTE REPOSITORY LICENSING PROCEEDING

The Nuclear Regulatory Commission is amending its procedural rules for the future licensing of a high-level radioactive waste repository. The changes require that all potential participants in the license application review process make their documents available in electronic form to all members of the public.

The amendments replace the "Licensing Support System" concept set out in NRC regulations adopted in April 1989 with what is known as a "Licensing Support Network."

The NRC published a proposed rule on this subject in the Federal Register on November 13, 1997, for comment. The agency agreed with a suggestion from the public that "Licensing Support Network" is a more appropriate name for the system. It also made several other changes to the proposed rule as a result of public comments received.

The Licensing Support System concept featured an electronic information management system with a centralized database. One of its main purposes was to reduce the time normally spent on the legal discovery of documents at the start of a licensing proceeding. It would have done so by making available simultaneously to all parties the information and data that might be produced in the discovery phase of the high-level waste licensing proceeding. That regulation gave NRC responsibility for administering and maintaining the database, and the Department of Energy (DOE) responsibility for designing and implementing it.

However, DOE – which must apply to NRC for a waste repository license -- has not yet developed the central database envisioned in the Licensing Support System. But while that effort has stalled, the technology of automated document storage and retrieval has advanced rapidly, so that the use of computers to generate and maintain complex documents in litigation is widespread and commonplace. The Internet is universally available to tie geographically dispersed systems together. Therefore, the centralized Licensing Support System database described in the current regulation now appears to be an unjustified expense.

Under the amendments now being put into effect, the documents that will have to be made available electronically under the Licensing Support Network will consist of the information that a party, potential party, or interested government participant intends to rely on in support of its position in the licensing proceeding, and certain other relevant information.

A pre-license application presiding officer will be named by the NRC to resolve any disputes over electronic access to documents.

Parties to the proceeding will be DOE, the NRC staff, and any person admitted as a party under NRC's rules, as well as -- if certain procedures are followed -- the host state and any affected unit of local government or Indian tribe. In addition, any person can be considered a potential party to the proceeding who complies with the new regulations, including the requirement to contribute documentary material, and agrees to comply with orders of the pre-license application presiding officer.

DOE and NRC will have to make their documents available beginning 30 days after DOE submits its site recommendation decision to the President. All other potential parties or interested governmental participants will have to make their material available no later than 30 days after the repository site selection decision becomes final after review by Congress.

The proposed rule would have eliminated the requirement in the current regulations for an administrator, with responsibility for ensuring the viability of the central database. However, the Commission agreed with comments from the public that this function should be retained. Thus the final rule provides for a Licensing Support Network Administrator, who will coordinate the functioning of the electronic network and will report periodically on its status to the Commission.

The proposed rule would also have eliminated the current advisory review panel, replacing it with an informal users group. In response to comments, the Commission has retained the requirement for a panel, to be renamed the "LSN Advisory Review Panel," which will provide advice on the type of computer system necessary to access the licensing support network effectively, on format standards and on other issues.

The final rule also adopts a suggestion that, because the Licensing Support Network appears likely to be a World Wide Web-based system, easily accessible by home or office personal computers, rather than a specially designed stand-alone system, there is little reason to continue the provision for limiting access to the documents to potential parties to the licensing proceeding. Instead, the material will be made available to all members of the public. The list in the proposed rule of specified individuals to whom electronic information must be made available has therefore been deleted.

Other details of the final rule are described in a Federal Register notice to be published shortly.

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