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SECY-96-151

FOR: The Commission (Information)
FROM: James M. Taylor
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 Senior Management Team for the six-month period ending June 30, 1996.

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, directed 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), before launching a pilot program, or before finalizing the Licensing Support System Administrator's (LSSA) 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.

DISCUSSION:

Impact on LSS of Congressional Budget Action Related to DOE's HLW Program

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 (NWPA) sometime in the spring of 1996.

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Congress did not revisit the NHPA in the spring of 1996 and that funding was not made available to DOE. Hence, there was no resumption of any LSS activities and all DOE's LSS related activities remained stalled. Likewise, LSSA's initiatives for finalization of LSS system functional requirements, the finalization of an MOU, and the development of a prototype system remained stalled. The State of Nevada and the affected units of local government began scaling-back, or outright closing down, their HLW oversight organizations and there was only partial representation at the Licensing Support System Advisory Review Panel (LSSARP) meeting held in Las Vegas on May 2, 1996.

LSSA Support Contracts

The two contracts used by the LSSA to develop the compliance and assessment program and to provide LSSARP meeting support were terminated under normal circumstances during the period.

Topical Guidelines

SECY-96-119 was issued to the Commission on May 31, 1996, as a negative consent paper concerning publishing the Topical Guidelines for the Licensing Support System as a final regulatory guide. Absent Commission guidance to the contrary, the Regulatory Guide will be published as Regulatory Guide 3009.

Memorandum of Understanding

A draft Memorandum of Understanding (MOU) between DOE and NRC had been negotiated by the LSSA and the DOE representative. The draft covered roles and responsibilities for design, development, implementation, and operation of the LSS. The MOU will be updated, if necessary, and submitted for high-level agency concurrence at NRC and DOE after resumption of LSS activity by DOE.

Compliance Assessment Program

The Compliance Assessment Program, including participant commitments and the LSSA auditing program, has been completed and the products have been shelved pending decisions on the technological approach to be used to meet LSS functionality.

Inspector General Follow-up Survey

The NRC Inspector General (IG) performed a follow-up survey to their March 1995 audit on NRC's LSS activities. The IG report and survey ratified: (1) the need for LSS functionality, (2) the criticality of capturing and maintaining key records in decision documents, (3) the need for NRC to continue working on achieving LSS goals, and (4) that NRC needs to maintain its relationship with the LSSARP.

NRC Senior Management Team

Throughout the spring, and preparatory to the May meeting of the LSSARP, the SMT met on a regular basis to develop concepts on revising the regulatory and technical foundations of 10 CFR 2, Subpart J. The SMT felt that the LSSARP would be an appropriate forum to "float" ideas, surface issues, and elicit feedback from the affected parties which could then be used in developing SMT recommendations to the Commission.

The ideas presented by the SMT are reported in the following discussions on the May 1996 LSSARP meeting.

LSS Advisory Review Panel Meeting

The LSSARP held a meeting on May 2, 1996, at the Clark County Offices in Las Vegas, NV.. Following are the major topics that were discussed.

DOE's Planning for the LSS. DOE emphasized that they regard the LSS as a critical path activity for licensing the repository, and that they plan to fund and develop the LSS in time for a 2002 repository license application. Although LSS activity was deferred during FY 1996, DOE announced plans to resume activity in FY 1997 with a time line to complete the procurement of LSS hardware, software, and loading in the first quarter of FY 1999. The LSSA would participate in installation, testing, and acceptance of the LSS. DOE also indicated that it will have the entire backlog of DOE documents (600,000 documents) loaded in the second quarter of FY 1999. Testing of the LSS would begin in FY 1999 and the system would be operational in the third quarter of FY 1999. DOE would seek NRC certification of the system in the first quarter of FY 2000.

Separate from the development of the LSS, the DOE is moving ahead to make its Records Information System (RIS) available to members of the LSSARP via the Internet. RIS contains no documents which fall under the FOIA exclusions and also has all DOE HLW records in it--not just the documents required by the LSS rule. The Internet version of RIS represents only limited functionality compared to the LSS requirements because it only provides term searches of words contained in the bibliographic "headers." The documents must then be requested from DOE since neither images nor full text search of the documents themselves will be available on line until some time in the future. DOE provided the address of the website to LSS participants, but emphasized that an Internet searchable version of RIS is not a good match with LSS functionality at this point, that it was a prototype, and that it needs to be tested by the users.

DOE stated that they had no plans to load other participants' documents into their Internet searchable RIS because it was inconsistent with the LSS rule. In addition, RIS is not a pilot LSS, rather only a way to show what is in the DOE records system. DOE also indicated that it does not have the resources to add other participants' documents to RIS at this point.

NRC Senior Management Team Proposals. The LSSA presented ideas that the NRC SMT was considering for presentation to the Commission on potential revisions

to the LSS concept, including potential revisions to the LSS rule. One example of a potential option is the use of a "distributed" LSS rather than a centralized LSS as presently envisioned. This would involve having each LSS participant develop its own Internet World Wide Web site containing its relevant documents. All other participants would have access to these websites. An existing search engine would be used to search each of these databases. The LSS rule would be revised accordingly.

The participants were receptive to this idea provided that the current LSS functionalities would be maintained. In addition, there was concern over how such issues as the LSS Administrator's responsibilities for compliance, system security, and document quality control would be handled under a distributed system.

The NRC acknowledged that the current procedures for NRC adjudicatory hearings, in general, as outlined in 10 CFR Part 2, Subpart G, could, and probably should, be streamlined to include the use of electronic technology such as envisioned in the LSS rule. If such changes were made, they could, in effect, subsume the LSS rule.

In summary, the participant concerns and reactions were as follows:

- The State of Nevada stated that the LSS as described in Subpart J is very important to Nevada, and the State planned to rely on the system in developing its case on the license application. The State does not want to see the LSS "unravel" and wants the LSS or something equivalent to remain for the repository licensing process. Several of the counties also affirmed the Nevada concern.
- Nye County stated that the County was still enthusiastic about the LSS. It recognized the value of achieving cost-efficiencies through new technologies but was not interested in abandoning Subpart J and proceeding with a new Subpart G unless it includes early discovery before the license application is filed.
- DOE expressed concern about the impact of the SMT proposals on its current plans for LSS development. In order to have the LSS operational by 1999, DOE needs to initiate its procurement in the first quarter of FY 1997. DOE therefore needs an answer from NRC on any new direction on the LSS by January 1997.
- The tribal representative from the National Congress of American Indians requested that the NRC consider any special problems that Native American organizations may have in accessing the Internet. It was also pointed out that these problems would be similar to those faced by anyone situated in rural communities.

- The use of negotiated rulemaking to revise the LSS rule was raised by the State of Nevada. Nevada believes the NRC is obligated to use negotiated rulemaking to implement any changes to the rule. (NRC responded that the participants would have an opportunity for active involvement in discussions of any revision to the LSS rule, whether it would involve negotiated rulemaking or not.)

Proposal for an LSS Pilot. The NRC proposed the use of NMSS' Consolidated Document Management System (CDOCS) as the basis of a pilot LSS. Under this proposal, the NRC would make CDOCS available to LSS participants through an Internet World Wide Web. The NRC also indicated that it would load other LSS participant's documents on the website if they were interested. This website could also be tied in with the DOE RIS website discussed above. The NRC also indicated that perhaps the pilot could be initiated as a part of the NRC's continuing support for the "RuleNet" concept.

Nevada supported this idea and indicated that it would like to get as many of its documents on to the pilot as possible. This was seconded by Nye County and Clark County who cited diminishing government HLW budgets as another reason to use the pilot to load the documents of all LSS participants. They also indicated that the pilot should be initiated as soon as possible. All participants supported the concept of a pilot LSS with access being provided to all LSS participants, including the industry and citizens groups.

Need for a DOE Decision Tracking System. The NRC voiced the need for NRC and DOE to implement a mechanism for documenting NRC and DOE decisions on the HLW program, and stated that this need exists independently of the LSS. Such a system would make it easier to document who made what decision, when, and on the basis of what data. The NRC also noted that it was already maintaining an Open Item Tracking System to track open issues in the repository licensing process. In this regard, DOE noted that it also maintained a licensing issues tracking system known as "Tracer" and would like to at least compare open items with the NRC issues tracking system.

There was general agreement among LSSARP participants, including the NRC, that a system for documenting decisions should be developed, and although there needs to be a link between the decision tracking system and the LSS, the tracking system does not need to be an integral part of the development of the LSS.

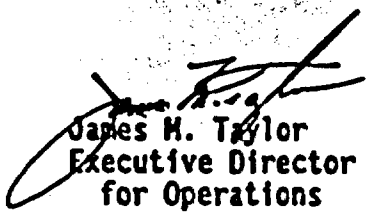
Future LSSARP Activities. Because of funding constraints, NRC proposed other ways for the LSSARP to discuss LSS issues without the need to physically convene. Videoconferencing and the Internet were possibilities, although the LSSARP could also meet face-to-face as the situation requires and funding allows. Many of the participants were familiar with RuleNet and were impressed with its capability as a discussion tool. The LSSARP was receptive to exploring other mechanisms for discussing LSS issues.

The Commissioners

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Future SMT Activities

As indicated in the previous LSS semiannual report, SECY-96-020, the SMT will develop an action plan that addresses all outstanding LSS-related issues. Included will be a proposed approach to reassess the requirements for the LSS as now prescribed in Part 2 in view of the availability of new electronic communication technology. The action plan will be submitted to the Commission by the end of July.



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