

## §2.911

part of the record and will be considered by the Commission in the event of review of the determination.

(e) The presiding officer may postpone all or part of the procedures established in this section until the reception of all other evidence has been completed. Service of the unclassified statement required in paragraph (a) of this section shall not be postponed if any party does not have access to Restricted Data or other National Security Information.

### §2.911 Admissibility of restricted data or other national security information.

A presiding officer shall not receive any Restricted Data or other National Security Information in evidence unless:

(a) The relevance and materiality of the Restricted Data or other National Security Information to the issues in the proceeding, and its competence, are clearly established; and

(b) The exclusion of the Restricted Data or other National Security Information would prejudice the interests of a party or the public interest.

### §2.912 Weight to be attached to classified evidence.

In considering the weight and effect of any Restricted Data or other National Security Information received in evidence to which an interested party has not had opportunity to receive access, the presiding officer and the Commission shall give to such evidence such weight as is appropriate under the circumstances, taking into consideration any lack of opportunity to rebut or impeach the evidence.

### §2.913 Review of Restricted Data or other National Security Information received in evidence.

At the close of the reception of evidence, the presiding officer shall review the record and shall direct that any Restricted Data or other National Security Information be expunged from the record where such expunction would not prejudice the interests of a party or the public interest. Such directions by the presiding officer will be considered by the Commission in the

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event of review of the determinations of the presiding officer.

### Subpart J—Procedures Applicable to Proceedings for the Issuance of Licenses for the Receipt of High-Level Radioactive Waste at a Geologic Repository

SOURCE: 54 FR 14944, Apr. 14, 1989, unless otherwise noted.

#### §2.1000 Scope of subpart J.

The rules in this subpart, together with the rules in subparts C and G of this part, govern the procedure for an application for authorization to construct a high-level radioactive waste repository at a geologic repository operations area noticed under §§2.101(f)(8) or 2.105(a)(5), and for an application for a license to receive and possess high level radioactive waste at a geologic repository operations area. The procedures in this subpart take precedence over those in 10 CFR part 2, subpart C, except for the following provisions: §§2.301; 2.303; 2.307; 2.309; 2.312; 2.313; 2.314; 2.315; 2.316; 2.317(a); 2.318; 2.319; 2.320; 2.321; 2.322; 2.323; 2.324; 2.325; 2.326; 2.327; 2.328; 2.330; 2.331; 2.333; 2.335; 2.338; 2.339; 2.342; 2.343; 2.344; 2.345; 2.346; 2.348; and 2.390. The procedures in this subpart take precedence over those in 10 CFR part 2, subpart G, except for the following provisions: §§2.701, 2.702; 2.703; 2.708; 2.709; 2.710; 2.711; 2.712.

[69 FR 2264, Jan. 14, 2004]

#### §2.1001 Definitions.

*Bibliographic header* means the minimum series of descriptive fields that a potential party, interested governmental participant, or party must submit with a document or other material.

*Circulated draft* means a nonfinal document circulated for supervisory concurrence or signature in which the original author or others in the concurrence process have non-concurred. A “circulated draft” meeting the above criterion includes a draft of a document that eventually becomes a final document, and a draft of a document that does not become a final document due to either a decision not to finalize

the document or the passage of a substantial period of time in which no action has been taken on the document.

*Complex document* means a document that consists (entirely or in part) of electronic files having substantial portions that are neither textual nor image in nature, and graphic or other Binary Large Objects that exceed 50 megabytes and cannot logically be divided. For example, specialized submissions may include runtime executable software, viewer or printer executables, dynamic link library (.dll) files, large data sets associated with an executable, and actual software code for analytical programs that a party may intend to introduce into the proceeding.

*Document* means any written, printed, recorded, magnetic, graphic matter, or other documentary material, regardless of form or characteristic.

*Documentary material* means:

(1) Any information upon which a party, potential party, or interested governmental participant intends to rely and/or to cite in support of its position in the proceeding for a construction authorization for a high-level radioactive waste repository at a geologic repository operations area pursuant to parts 60 or 63 of this chapter, a license to receive and possess high-level radioactive waste at a geologic repository operations area pursuant to parts 60 or 63 of this chapter;

(2) Any information that is known to, and in the possession of, or developed by the party that is relevant to, but does not support, that information or that party's position; and

(3) All reports and studies, prepared by or on behalf of the potential party, interested governmental participant, or party, including all related "circulated drafts," relevant to both the license application and the issues set forth in the Topical Guidelines in Regulatory Guide 3.69, regardless of whether they will be relied upon and/or cited by a party. The scope of documentary material shall be guided by the topical guidelines in the applicable NRC Regulatory Guide.

*DOE* means the U.S. Department of Energy or its duly authorized representatives.

*Electronic docket* means the NRC information system that receives, dis-

tributes, stores, and retrieves the Commission's adjudicatory docket materials.

*Image* means a visual likeness of a document, presented on a paper copy, microform, or a bit-map on optical or magnetic media.

*Interested governmental participant* means any person admitted under § 2.315(c) of this part to the proceeding on an application for a construction authorization for a high-level radioactive waste repository at a geologic repository operations area under parts 60 or 63 of this chapter, and an application for a license to receive and possess high level radioactive waste at a geologic repository operations area under parts 60 and 63 of this chapter.

*Large document* means a document that consists of electronic files that are larger than 50 megabytes.

*Licensing Support Network* means the combined system that makes documentary material available electronically to parties, potential parties, and interested governmental participants to a proceeding for a construction authorization for a high-level radioactive waste repository at a geologic repository operations area, and an application for a license to receive and possess high level radioactive waste at a geologic repository operations area under parts 60 and 63 of this chapter.

*LSN Administrator* means the person within the U.S. Nuclear Regulatory Commission responsible for coordinating access to and the integrity of data available on the Licensing Support Network. The LSN Administrator shall not be in any organizational unit that either represents the U.S. Nuclear Regulatory Commission staff as a party to the high-level waste repository licensing proceeding or is a part of the management chain reporting to the Director, Office of Nuclear Material Safety and Safeguards. For the purposes of this subpart, the organizational unit within the NRC selected to be the LSN Administrator shall not be considered to be a party to the proceeding.

*Marginalia* means handwritten, printed, or other types of notations added to a document excluding underlining and highlighting.

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*NRC* means the U.S. Nuclear Regulatory Commission or its duly authorized representatives.

*Party* for the purpose of this subpart means the DOE, the NRC staff, the host State, any affected unit of local government as defined in Section 2 of the Nuclear Waste Policy Act of 1982, as amended (42 U.S.C. 10101), any affected Indian Tribe as defined in section 2 of the Nuclear Waste Policy Act of 1982, as amended (42 U.S.C. 10101), and a person admitted under § 2.309 to the proceeding on an application for construction authorization for a high-level radioactive waste repository at a geologic repository operations area under parts 60 or 63 of this chapter, and an application for a license to receive and possess high level radioactive waste at a geologic repository operations area under parts 60 and 63 of this chapter; provided that a host State, affected unit of local government, or affected Indian Tribe files a list of contentions in accordance with the provisions of § 2.309.

*Personal record* means a document in the possession of an individual associated with a party, interested governmental participant, or potential party that was not required to be created or retained by the party, interested governmental participant, or potential party, and can be retained or discarded at the possessor's sole discretion, or documents of a personal nature that are not associated with any business of the party, interested governmental participant, or potential party.

*Potential party* means any person who, during the period before the issuance of the first pre-hearing conference order under § 2.1021(d), is given access to the Licensing Support Network and who consents to comply with the regulations set forth in subpart J of this part, including the authority of the Pre-License Application Presiding Officer designated pursuant to § 2.1010.

*Pre-license application electronic docket* means the NRC's electronic information system that receives, distributes, stores, and maintains NRC pre-license application docket materials during the pre-license application phase.

*Pre-license application phase* means the time period before a construction authorization for a high-level radio-

active waste repository at a geologic repository operations area under parts 60 or 63 of this chapter is docketed under § 2.101(f)(3), and the time period before a license application to receive and possess high-level radioactive waste at a geologic repository operations area under parts 60 or 63 is docketed under § 2.101(f)(3).

*Pre-License Application Presiding Officer* means one or more members of the Commission, or an atomic safety and licensing board, or a named officer who has been delegated final authority in the pre-license application phase with jurisdiction specified at the time of designation.

*Preliminary draft* means any nonfinal document that is not a circulated draft.

*Presiding Officer* means one or more members of the Commission, or an atomic safety and licensing board, or a named officer who has been delegated final authority in the matter, designated in the notice of hearing to preside.

*Searchable full text* means the electronic indexed entry of a document that allows the identification of specific words or groups of words within a text file.

*Simple document* means a document that consists of electronic files that are 50 megabytes or less.

*Topical Guidelines* means the set of topics set forth in Regulatory Guide 3.69, Topical Guidelines for the Licensing Support System, which are intended to serve as guidance on the scope of "documentary material".

[54 FR 14944, Apr. 14, 1989, as amended at 56 FR 7795, Feb. 26, 1991; 63 FR 71736, Dec. 30, 1998; 66 FR 29465, May 31, 2001; 66 FR 55788, Nov. 2, 2001; 69 FR 2264, Jan. 14, 2004; 69 FR 32848, June 14, 2004]

### § 2.1002 [Reserved]

### § 2.1003 Availability of material.

(a) Subject to the exclusions in § 2.1005 and paragraphs (b), (c), and (e) of this section, DOE shall make available, no later than six months in advance of submitting its license application for a geologic repository, the NRC shall make available no later than thirty days after the DOE certification of compliance under § 2.1009(b), and