

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Parts 1, 2, 13 and 110

RIN 3150-AH74

#### Use of Electronic Submissions in Agency Hearings

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to require the use of electronic submissions in all agency hearings, except for those conducted on a high-level radioactive waste repository application (which are covered under a separate set of regulations). The amendments would require the electronic transmission of electronic documents in submissions made to the NRC's adjudicatory boards, and in serving copies of those submissions on all participants to the proceedings. Although exceptions to these requirements would be established to allow paper filings in limited circumstances, the NRC would maintain a strong preference for fully electronic filing and service. The proposed rule builds upon prior NRC rules and developments in the Federal courts regarding the use of electronic submissions. The Commission is also seeking comment on draft guidance on how to submit hearing documents to the NRC electronically.

**DATES:** Submit comments on the proposed rule and guidance document by March 1, 2006. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date. The NRC staff will hold a public meeting to demonstrate electronic filing and discuss questions on issues arising from this proposed action. The public meeting will be held in the auditorium at NRC Headquarters, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland on January 10, 2006, beginning at 9:30 a.m. and ending before noon.

**ADDRESSES:** You may submit comments by any one of the following methods. Please include 3150-RIN AH74 in the subject line of your comments. Comments on rulemakings submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including personal

information such as social security numbers and birthdates in your submissions.

Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.

E-mail comments to: [SECY@nrc.gov](mailto:SECY@nrc.gov). If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at (301) 415-1966. You may also submit comments via the NRC's rulemaking Web site at <http://ruleforum.llnl.gov>. Address questions about our rulemaking Web site to Carol Gallagher (301) 415-5905; e-mail [CAG@nrc.gov](mailto:CAG@nrc.gov). Comments can also be submitted via the Federal Rulemaking Portal <http://www.regulations.gov>.

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. Federal workdays. (Telephone (301) 415-1966).

Fax comments to: Secretary, U.S. Nuclear Regulatory Commission at (301) 415-1101.

Publicly available documents related to this rulemaking may be viewed electronically on the public computers located at the NRC's Public Document Room (PDR), O1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. Selected documents, including comments, can be viewed and downloaded electronically via the NRC rulemaking Web site at <http://ruleforum.llnl.gov>.

Publicly available documents created or received at the NRC after November 1, 1999, are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>.

From this site, the public can gain entry into the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC PDR Reference staff at 1 (800) 397-4209, (301) 415-4737, or by e-mail at [pdr@nrc.gov](mailto:pdr@nrc.gov).

#### FOR FURTHER INFORMATION CONTACT:

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#### I. Background

This proposed rule, E-Filing, would require that submissions in any adjudicatory hearing governed by 10 CFR part 2, subpart C; part 13; or part 110, be made electronically. The subpart C requirements are applicable to hearings held under subparts G, K, L, M, N, and O of 10 CFR part 2, but they are not applicable to hearings held under subpart J governing applications for construction or operation of a high-level radioactive waste repository, which are covered by a separate set of requirements.

E-Filing would be one of the ways that the NRC implements the provisions of the Government Paperwork Elimination Act (GPEA), see Title XVII of Public Law 105-277, the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999, enacted October 21, 1998, §§ 1701 *et seq.*, codified at 44 U.S.C. 3504. The GPEA requires Government agencies to provide the public with the option of electronically maintaining, submitting, or disclosing information "where practicable," with the goal of lessening the amount of paperwork when dealing with the Federal government.

In crafting the proposed rule, the NRC has relied upon its past experience with electronic submissions and has also examined Federal court practices.

#### A. The NRC's Experience With Electronic Submissions

Well before the passage of the GPEA, the NRC had taken major steps to increase the use of electronic documents and electronic transmissions. For example, many of the agency's regulations on record keeping have long permitted storage in electronic format. After the GPEA became law, the NRC began testing the Electronic Information Exchange (EIE), a system that permits users to make electronic submissions to the agency in a secure manner. The EIE uses digital signature technology to authenticate documents and validate the identity of the person submitting the information. Upon receipt, the EIE system time stamps documents transmitted to the NRC and sends the submitter an e-mail notice confirming receipt of the document.

As a result of the testing program, on January 26, 2001, the NRC issued Regulatory Issue Summary (RIS) 2001-05, "Guidance on Submitting

Documents to the NRC by Electronic Information Exchange or on CD-ROM," which encouraged power reactor licensees to submit documents to the NRC by the EIE process or on CD-ROM. On August 10, 2001, the agency issued a letter to certain fuel cycle licensees extending this option to them. Thereafter, the NRC greatly expanded its authorization of electronic submissions through rulemaking, but those rules did not apply to adjudicatory hearings.

#### B. The E-Rule

On October 10, 2003 (68 FR 58792), the NRC issued a final rule called "Electronic Maintenance and Submission of Information" (E-Rule). The E-Rule allows licensees, vendors, applicants, and members of the public to submit documents such as license applications and Freedom of Information Act requests to the NRC in an electronic format, such as on CD-ROM, by e-mail, or through the NRC's EIE. However, the E-Rule does not apply to filings in NRC hearings.

For the E-Rule, the NRC addressed technical matters (document format, size, file naming conventions, resolution, etc.) in a guidance document rather than in the regulations to avoid frequent rulemakings to incorporate technological advances into NRC practice. Although the amendments to the regulations allowed electronic submissions, an accompanying guidance document contained the detailed technical standards and procedures for electronic submissions to the NRC. The **Federal Register** document for the E-Rule explained the need for the standards and procedures by noting that the GPEA only required electronic submissions "where practicable" (68 FR 58792, 58793, October 10, 2003):

At the very least, it is not "practicable" for the agency to receive electronic submissions unless they are made in a manner that enables the agency to receive, read, authenticate, distribute, process and retrieve a page at a time, and archive the submissions.

#### C. 10 CFR Part 2 Subpart J: Procedures for the High-Level Waste Repository Proceedings

In section 114(d) of the Nuclear Waste Policy Act of 1982, Congress set a short deadline for the NRC to issue a decision on any Department of Energy (DOE) application for authorization to construct a geologic repository for high-level waste (HLW). Because any licensing proceeding on such an application is projected to be the largest, most complex hearing before the NRC to date, the NRC determined that all filings in the HLW proceedings must be

electronic in order to meet the deadline. Over the course of several rulemakings, the NRC developed the HLW procedures in 10 CFR part 2 subpart J and the corresponding guidance, "Guidance for the Submission of Electronic Docket Materials Under 10 CFR part 2, subpart J" (HLW Guidance Document). The E-Filing Guidance on which we are seeking comments is largely drawn from the subpart J regulations.

#### D. The Use of Electronic Filing by the Federal Courts

Some Federal courts have developed a system for electronic filing with technical standards quite similar to those in subpart J. Because the Federal courts and the NRC have distinct needs and serve different classes of parties, not every feature of the Federal court system is relevant to NRC proceedings. However, certain basic features of the electronic filing methods used by some Federal courts are incorporated in the NRC's proposed approach, e.g., for filings submitted over the Internet, a specific file format that is portable and produces a faithful image of the original must be used (i.e., Adobe® Acrobat Portable Document Format, also commonly referred to as PDF), and submitters are sent a notice of the filing with an Internet location from which the filing can be downloaded.

#### E. The General Approach Taken by E-Filing

E-Filing would adopt some technical and procedural provisions nearly verbatim from the E-Rule, 10 CFR part 2, subpart J, and the procedures adopted by the Federal courts. The adoption of technical standards from the E-Rule Guidance and subpart J would create uniformity across NRC proceedings, making administration easier.

In addition, E-Filing shares with subpart J a strong preference for electronic submission, because electronic filing and service are faster, more efficient, and less expensive than the traditional forms of filing. Under E-Filing, participants in NRC proceedings would no longer have to pay for the copying and service of most documents. In lengthy, complex proceedings with multiple participants, this could save participants hundreds, if not thousands, of dollars in copying and mailing costs. Although almost all participants in NRC hearings now file pleadings by e-mail (with conforming paper copy to follow), the Commission recognizes that not all participants will be able to meet the proposed electronic filing and service requirements. The Commission, therefore, has created exemptions to the electronic submission requirement that

participants wishing to file and serve by the traditional paper method can request.

Like the E-Rule and subpart J, E-Filing would have an accompanying guidance document (E-Filing Guidance) that would be available at <http://www.nrc.gov/site-help/eie.html>. As with the E-Rule, this guidance would set forth the technical standards for electronic transmission and for formatting electronic documents. By not including these standards in the rule, it should be easier and faster for the NRC to amend the guidance, when warranted, to allow use of the most current technology.

## II. Summary of the E-Filing Process

The following is a step-by-step capsule of the E-Filing process:

1. Prior to submitting its first filing, an entity seeking to participate (participant) in an NRC adjudicatory proceeding would request a digital identification (ID) certificate from the Secretary of the Commission using the link on the NRC Web site. (See more on digital ID certificates in section III.E. of this document).

2. The participant would log onto the Electronic Information Exchange (EIE) and open the E-Filing submission form. The form contains a pull-down menu, which allows a previously admitted party to designate the proper proceeding. For all initial filings, the participant would select the generic docket. (See more on the EIE and generic dockets in sections III.C. & III.D. of this document).

3. The participant would attach its document, digitally sign the filing, and authorize transmission to the EIE. (See more on signatures and transmission in sections III.H. and III.I. of this document).

4. The Secretary of the Commission would review the generic account for initial filings, establish the appropriate electronic hearing docket, send notifications to the applicant/licensee, intervenor(s), NRC staff, any interested governmental participant(s), and the presiding officer, and create an electronic distribution list based upon the digital IDs issued to proceeding participants.

5. For all subsequent filings, the participant would select the intended recipients from the electronic distribution list. The EIE then would send all selected recipients an e-mail notification that a filing has been made and provide a link to the Internet location of the document. The EIE would also send an e-mail to the submitter confirming receipt of the filing, and notify the other participants.

(See more on electronic distribution lists in section III.F. of this document).

6. Each recipient could open the link to the document and view and/or save the document to its personal computer, thereby enabling access to the document without logging back into the system. (See more on retrieving documents in section III.O. of this document).

### III. Discussion of the Proposed Rule

E-Filing represents a major revision to the NRC's methods of filing and service in adjudicatory proceedings governed by the part 2, subpart C requirements. The proposed rule is thoroughly explained in sections III and IV of this document; section III gives a broad overview of some of the major concepts involved in E-Filing and section IV provides a section-by-section analysis of the amendments to the principal sections in subpart C. While some of the details described below may seem complex, once a user learns to file electronically, the Commission expects that he/she will find the process to be both fast and simple.

#### A. Conceptual Framework for Electronic Filing and Service

Filing and service involve the transfer of a document from one participant to the presiding officer, the other participants in the proceeding, and the Secretary of the Commission. Two types of electronic filing and service would exist under E-Filing: fully electronic and partially electronic. Fully electronic filing and service would involve the electronic transmission of an electronic document. Partially electronic filing and service would entail the physical delivery or mailing of an optical storage medium (OSM) (such as a CD-ROM) containing an electronic document. While E-Filing would permit partially electronic filing and service in cases where necessary, the NRC rule generally calls for fully electronic filing (with certain exceptions permitted by the rule and further described in the E-Filing Guidance).

#### B. Benefits of Electronic Filing and Service

The benefits of electronic filing and service originate from the use of electronic transmission and electronic documents. The electronic transmission of documents is more cost effective and faster than physical delivery of paper mail. While the added cost and delay of physically delivering or mailing one document may be small, the total cost and delay could be significant over the course of a proceeding with many filings and a large service list.

In addition, compared to paper documents, electronic documents save resources and increase efficiency. Electronic documents are less expensive to produce, store, transport, and retrieve than paper documents. Electronic documents also have text-searching capability, which allows users to review many documents quickly and find those sections that are relevant to their needs, along with text-capture capability, which enables users to transport entire passages from one document to another quickly. Finally, the filing of electronic documents in the appropriate format would benefit the NRC because the agency already processes filings into electronic formats for storage as official agency records.

#### C. The Electronic Information Exchange

Under E-Filing, a participant wishing to file a document would be required to convert the document into the appropriate electronic format and electronically transmit it to an electronic system monitored by the NRC, called the Electronic Information Exchange. The NRC would establish the EIE, which is a Web site located on the NRC's public Web site at <http://www.nrc.gov/site-help/eie.html>. The EIE would receive, store, and distribute documents filed in proceedings covered by this proposed rule for which an electronic hearing docket had been established. The establishment of dockets for filings received through the EIE is discussed later. (See section III.D. of this document).

To electronically submit a filing, a participant with a digital ID would complete a form on the EIE and select the docket from a provided drop-down list, which would list all dockets to which that person is a participant, as well as a generic docket. All initial filings would be sent to a generic docket. The participant would then attach, digitally sign, and transmit the document. In doing so, the submitter would select the participants to be served electronically from the electronic distribution list, which is a list of the board members and other individuals involved in the proceeding as participants or party representatives. This transmission process could be performed either by the owner of a digital ID or another authorized individual, such as a secretary or clerk.

The EIE thereafter would serve all the persons selected by the submitter for distribution by sending an e-mail notifying them that a document has been filed and providing them with a link from which they could save or view the document. This e-mail would constitute service upon the participants

to whom it was sent. Finally, the EIE would send an electronic acknowledgment to the filer, which is an e-mail that confirms receipt of the filing and reports that an e-mail has been sent to the selected persons on the electronic distribution list.

A person filing electronically would be able to seek assistance through the "Contact Us about EIE" link located on the NRC Web site at <http://www.nrc.gov/site-help/eie.html> or by calling NRC technical help lines.

#### D. Electronic Hearing Dockets

The electronic hearing docket is a Web site on the NRC homepage that houses a visual presentation of the docket for a particular proceeding and a link to all the filings in that proceeding. A participant would electronically submit its initial filing, such as a petition to intervene and request for hearing, to a generic docket number on the EIE. Upon receiving the initial filing, the Secretary of the Commission would establish an electronic hearing docket for the proceeding using the licensing docket number under which the proceeding was designated in the **Federal Register** notice. If an electronic docket has already been established, the Secretary would respond to filings by informing the participants of the docket's existence. After creating the electronic docket, the Secretary would maintain that docket and all publicly available filings would be accessible from that site.

After a presiding officer is assigned to the proceeding, the Secretary would replace the licensing docket number with a proceeding docket number. The proceeding docket number would be exactly the same numerical digits as the licensing docket number, except that a two or three letter suffix is added. The Secretary would inform the participants of the modified proceeding docket number, and would instruct them to use the proceeding docket number rather than the licensing docket number when accessing documents.

#### E. Digital ID Certificates

To access the EIE, a participant would obtain a digital ID certificate from the NRC, which will be supplied to them at no cost. A digital ID certificate is a unique file downloaded onto a participant's computer that would identify the participant to the EIE. Digital IDs would verify the participant's identity for the EIE when making an electronic filing, and would allow the participant to digitally sign documents submitted to the EIE.

A participant must request a digital ID from the NRC before submitting its first

electronic filing with the NRC. If the participant is an organization, the digital ID would be assigned to a participant representative, rather than the participant itself. The notices of opportunity for hearing that the NRC publishes in the **Federal Register** would remind potential participants of this requirement. A participant would apply for a digital ID on the NRC Web site at <http://www.nrc.gov/site-help/eie.html>. A participant would be able to seek assistance in obtaining a digital ID through the "Contact Us about EIE" link located on the NRC Web site at <http://www.nrc.gov/site-help/eie.html> or through the NRC technical help lines. After a digital ID is assigned, that ID would provide the participant with access to all the EIE proceedings to which it is a participant; therefore, only one digital ID would be required per participant regardless of the number of proceedings in which it is involved. The NRC would reserve the right to revoke a digital ID certificate if it were being abused. A participant who anticipates participation in NRC proceedings may request a digital ID certificate prior to publication of a notice of opportunity for hearing.

In addition to digital IDs assigned to individuals, Group IDs may be assigned to firms or other organizations. Group IDs, which can be downloaded onto several computers, allow multiple individuals who do not have an individual digital ID to be served with a filing to the EIE, thus permitting those individuals to retrieve documents filed in the proceeding. Because Group IDs would be assigned to entities, the Group ID would not have an electronic signature associated with it and, thus, could not be used to electronically sign filings submitted to the EIE. At least one representative from the Group ID must obtain an individual digital ID to be able to file electronically.

#### F. Electronic Distribution List

Each proceeding with an electronic docket would have a distribution list, which includes the presiding officer, as well as all of the participants (such as the intervenor(s), applicant/licensee, interested governmental participant(s), and NRC staff) participating electronically in that specific proceeding. Upon receiving an initial filing from a participant, the Secretary will add the participant to the electronic distribution list, thereby providing the participant access to documents that have been and will be filed in the proceeding and enable it to electronically file and serve the presiding officer and others on the distribution list.

#### G. Certificates of Service and Service List

For the following reasons, E-filing will require that submitters attach a certificate of service, including a service list, to their filings to inform the recipients of the entities who received the filing and how they were served. This is because the EIE would not create a list of the entities selected to receive the filing. Also, the electronic distribution list may not be an all-inclusive list of the participants in the proceeding because it would not include any participants permitted to file by paper.

#### H. Signatures

All electronic documents would be signed and submitted electronically using the digital ID certificate assigned to the submitter of that document. Proposed § 2.304 (d) provides two ways for documents to be signed: with the assigned digital ID certificate or with a typed "Original signed by" designation.

To sign a filing with a digital ID certificate, proposed § 2.304 (d)(1)(I) requires that a signature page containing a signature block be added to the electronic document before it is submitted. The signature block would consist of the phrase "Signed (electronically) by," followed by the signer's name and the capacity in which the person is signing. It would also contain the date of signature and the signer's postal address, phone number, and e-mail address. The participant would not need to sign a paper document if it chooses this method of signature. The digital signature would be added at the time of submittal to the EIE by the participant clicking the "Click to Digitally Sign Documents" button. A person authorized by the owner of the digital ID, such as a secretary or clerk, could type the signature block and submit the document on the owner's behalf. To sign with a typed-in "Original signed by" designation, the participant would add a signature block, as described above, and type in the phrase "Original signed by" on the signature line of the signature block. The participant would then sign a paper document and be required to retain that copy of the filing with the original signature in its records. The NRC staff could also use this method, but would type in "/RA/," meaning "Record Approved," which is the agency's current method of signing digitally filed documents.

Documents signed under oath or affirmation, such as affidavits, must be signed with the "Original signed by" designation. The participant submitting

these documents is required to retain the original signed copy in its files.

#### I. Electronic Transmission

Under E-Filing, participants would convert their documents into the appropriate electronic formats detailed by the E-Filing Guidance and electronically transmit these documents to the presiding officer, the other participants, and the Secretary of the Commission. E-Filing Guidance would set technical standards for filing and service under the proposed rule and would define the file sizes and formats for electronic transmissions. By putting the technical provisions in the E-Filing Guidance, the Commission would be able to update the electronic transmission standards to keep pace with technology and the changing needs of the NRC and the participants in its adjudication without additional rulemaking. Exemptions to the electronic transmission requirement are discussed below. (See section III.K.).

#### J. Electronic Document Requirements

Because the EIE system can accept documents only in specified electronic formats, E-Filing, like the E-Rule and subpart J, would have specific electronic document standards that would be enumerated in the E-Filing Guidance. For the foreseeable future, the only acceptable formats are certain types of PDFs. In addition, individual submissions cannot exceed 50 megabytes (approximately 5000 pages of text), which the NRC considers the upper limit for practical Internet transmissions.

Similar to the guidance for subpart J, E-Filing Guidance would create three categories of documents: simple, large, and complex. Simple documents would be documents filed in an acceptable PDF format and could be transmitted to the EIE in a single transmission. Large documents, meaning documents exceeding 50 megabytes, also would be in an acceptable PDF format. The proposed E-Filing Guidance provides that these documents should be segmented into smaller files that meet the megabyte limit and then transmitted to the EIE, which reunites the files into one document. Participants would also be asked to physically deliver to all the participants in the proceeding OSMs containing the large document in a unified form that could be used as a reference copy. Complex documents would be those that (1) are not entirely in an acceptable PDF format; (2) contain Classified National Security Information or Safeguards Information; or (3) exceed the 50 megabyte limit and could not be segmented. The E-Filing Guidance

would ask participants to electronically submit to the EIE the sections of a complex document that are in PDF, do not contain Classified National Security Information or Safeguards Information, and could be segmented into less than 50 megabytes. The Guidance would also ask participants to deliver the entire complex document on an OSM.

As was previously noted, the current version of the proposed E-Filing Guidance considers only certain forms of PDF as qualifying formats. In choosing PDF over other formats, the NRC considered whether:

(1) The document format is of a type that can be entered as an official agency record;

(2) The format behaves consistently over a broad range of operating systems and platforms (meaning pagination remains identical regardless of the printer used);

(3) The format can be easily accessed by most users;

(4) The format is one to which other document formats can be easily converted;

(5) The format supports images, text, and other types of documentary material that can be useful in a hearings context; and

(6) The format had text-searching and text-capture capabilities.

PDF has all of these features.

#### *K. Exemptions From the Electronic Filing and Service Requirements*

In recent years, almost all participants to NRC adjudications have been filing and serving documents via e-mail in addition to submitting paper copies, which are generally regarded as the "official" versions of the documents. This use of e-mail submissions exists because a vast majority of the participants in NRC proceedings have ready access to computers, word processing programs, and the Internet. This trend has led the NRC to conclude that almost all potential parties are ready to take the next step and move to a fully electronic environment. The NRC recognizes that implementing a rule governing electronic submission could entail initial costs for some persons, since participants would need ready access to a computer, software that will save/render documents in PDF format, the Internet, and perhaps a scanner. The participants might recoup these expenses, however, through cost savings in labor, copying, and mailing paper documents to multiple participants. The NRC is seeking comments from affected stakeholders, particularly those with limited financial resources, about the potential costs and savings of the

electronic filing requirements of this proposed rule.

#### (1) Good Cause Required for Exemption From Electronic Filing

Despite these advantages, the NRC recognizes that some individuals may not be able to file electronically for a variety of reasons. The NRC, therefore, would allow exemptions from the E-Filing rule for certain participants in appropriate circumstances. A person who requests an exemption from the electronic filing requirement should submit a request for authorization from the presiding officer with its first filing in the proceeding to participate using traditional paper filing and service. "Good cause" for such an exemption would depend on the party's circumstances and could include such matters as: Disability, lack of readily-available Internet access, or the cost of purchasing the necessary equipment or software. The presiding officer would determine if a participant met the good cause burden on a case-by-case basis.

A participant requesting an exemption after submitting its first filing electronically, would, in addition to the requisite showing of good cause, have to show that an unforeseen change in its circumstances occurred leading to the late request for exemption and that granting the exemption is in the interests of fairness. Until the presiding officer rules on the request, the participant would continue to file electronically.

E-Filing would provide exemptions from the requirement to send the filing to the EIE electronically as well as from the requirement to submit documents in computer file format. This is discussed below.

#### (2) Electronic Transmission Exemption

A participant willing to submit a document in PDF, but capable only of delivering the document via OSM or e-mail, could request an exemption from electronic transmission over the Internet to the EIE. This participant's filings would be exempt from the requirement of being sent to the EIE, and could deviate from the guidance that calls for filings to be in PDF format as set forth in the E-Filing Guidance.

#### (3) Electronic Document Exemption

A participant can also request an exemption from the requirement to file documents in PDF format as well as the electronic transmission requirement through the EIE. This participant would physically file and serve paper documents on the presiding officer and other participants in a manner determined by the presiding officer. In

return, the presiding officer, other participants and the Secretary of the Commission would physically serve paper documents on a participant with this exemption.

Although these exemptions would be available for participants in NRC proceedings, the NRC believes that the cost savings from electronic filing will exceed electronic filing associated equipment/software/Internet access procurement costs and, thus, encourages potential participants to move to electronic filing and service, whenever possible, rather than seeking an exemption. When a participant is granted either a document exemption or a transmission exemption, E-Filing would permit a mixed service proceeding, which is discussed in the next section.

#### *L. Mixed Service Proceedings and Computation of Time*

The Commission recognizes the possibility that there could be a proceeding in which a participant will receive an exemption permitting the participant to file and serve paper copies, while the other participants will file and serve documents electronically. As mentioned previously, if an exemption from electronic filing and formatting is granted, the NRC would prefer mixed service proceedings to traditional proceedings that rely solely on paper. Mixed service proceedings would be proceedings in which some but not all of the participants file and serve by the same method. For example, rather than requiring that all participants physically serve and file paper documents when one participant to the proceeding is granted an electronic documents exemption, mixed service proceedings would allow the exempted participant to file, serve, and be served physically, while the rest of the participants file and serve each other electronically according to the standards in the E-Filing Guidance. Standards concerning timelines and the number of days for service would be established by the presiding officer who grants the electronic filing exemption on a case-by-case basis as fairness and efficiency considerations dictate.

#### *M. Completeness of Electronic Filings*

Under proposed § 2.302(d)(1), filing by electronic transmission or e-mail is considered complete "when the filer performs the last act that it must perform to transmit a document electronically." For electronic transmissions and e-mail, the "last act" would occur when the participant hits the "submit/transmission" or "send" button. The language in § 2.302(d)(1)

and the meaning of “last act” are taken from the Advisory Committee Notes to the 2002 amendments to Rule 25(c)(4) of the Federal Rules of Appellate Procedure, which covers service requirements. The NRC proposes to adopt the “last act” standard for several reasons. First, the “last act” standard, which penalizes a party only for events within its control, is fair. Upon hitting the send or transmit button, a participant relinquishes all control over a document and cannot be certain when the document will be received by the NRC’s system. Making completeness of filing dependent upon receipt of the transmission would subject participants to the vagaries of electronic transmission, which may include such problems as the filer’s Internet connection being slower on the day of filing, the filer’s Internet service disconnecting during transmission, or the filer’s connection to the EIE server failing to connect because the allotted time for connection ran out.

Second, the “last act” standard conceptually coincides with the standard for filing by mail, when a filing is considered complete upon depositing the document in a mailbox. In effect, the “last act” of depositing the document in the mailbox is equivalent to hitting the “submit/transmission” or “send” button.

#### *N. Completeness of Filing When Multiple Filing Methods Are Required*

When two or more methods of filing are permitted in a mixed proceeding, proposed § 2.302(d)(4) indicates that filing is complete when all the methods of filing used are complete. For example, if a participant needs to make a filing consisting of three electronic documents, one of which is entirely Classified National Security Information, E-Filing Guidance would direct the filer to submit the two non-classified documents by electronic transfer and all three documents on an OSM. If the participant mails the OSM on Monday and performs the electronic transfer on Tuesday, filing would be complete Tuesday. Although the OSM mailed Monday would contain the entire filing, a filing would not be complete until all required filing methods have been performed.

#### *O. Retrieving Documents Filed in a Proceeding*

Upon receiving an electronic filing, the EIE would send an e-mail notification to all persons selected by the submitter from the electronic distribution list by the submitter. The e-mail would notify those selected that a filing has been made in the proceeding

and would provide a link to the document. Each person would then click on the link to access the document for viewing and/or saving in PDF compatible software and could save the document to his or her own computer. By doing so, to re-open the document, the person would be able to access it from his or her own computer. Alternatively, once it is processed into the agency’s ADAMS system, a person could access the document by logging onto the Electronic Hearing Docket (EHD) located in the Electronic Reading Room, which is available at <http://www.nrc.gov/reading-rm.html>. The EHD is a publicly available Web site and no digital ID certificate is required to retrieve documents from the EHD. A link to the EHD will be available on the NRC Web site.

#### **IV. Section-by-Section Analysis of Substantive Changes**

Although significant changes are proposed for some sections in 10 CFR part 2 subpart C, other sections in Title 10 require only minor modifications to language that currently provides only for paper documents. The analysis below focuses on only the sections to which significant changes are being proposed: §§ 2.302, 2.304, 2.305, 2.306, 13.9, 13.26, 13.27, 110.89, and 110.90.

##### *A. Section 2.302—Filing of Documents*

Proposed § 2.302 would contain the core of the E-Filing requirements. Because the electronic transmission and format requirements for filing would apply equally to service and to filing of a document, the service requirements in proposed section § 2.305 rely heavily upon the filing processes provided for in proposed § 2.302.

##### **1. A New Way To File**

Proposed § 2.302 (a) would introduce a new way to file documents—by electronic submission. Accompanying E-Filing Guidance would provide the technical standards for electronic submission to the EIE.

##### **2. New Certificate of Service and Service List Requirement**

Proposed § 2.302 (c) would require that certificates of service be included with all filings to the agency regardless of the method of filing. Participants would list all methods of service for each participant served, because under E-Filing Guidance, some filings, such as those containing Classified National Security Information or Safeguards Information, would be partially served electronically over the Internet as well as transmitted on a physically delivered OSM. In such cases, the participant

would serve the other participants to the proceeding by both methods for service to be complete.

##### **3. When Filings Are Complete**

Proposed § 2.302 (d)(1)–(4) would specify when filings by various methods would be considered complete. For example, filing by expedited delivery service (e.g., express or overnight mail) would be complete when the document is deposited with the provider of the service. For electronic transmissions, the filing would be complete when the participant clicks the “send” or “submit/transmission” button.

##### **4. Unsuccessful Transmissions of Filings**

Proposed § 2.302 (e) would require participants filing by electronic transmission to make a good faith effort to transmit the entire filing. Under 2.302 (e), if the filer “knows or has reason to know” that the transmission was unsuccessful, then the filing would not be considered complete. A filer, however, would not be required to take any affirmative steps to ensure that an electronic transmission was successful. Filing would not be complete under subsection (e) if, for example, the filer’s e-mail service notifies the filer that delivery was unsuccessful or the system otherwise indicates that the filing was not transmitted. In such cases, the good faith effort to transmit the entire filing may include, but not be limited to, repeated attempts by the same method, calls to applicable NRC technical help lines, the use of alternate means of electronic transmission, and, finally, if all else fails, the use of an expeditious form of physical delivery or mail. Participants aware that a filing was unsuccessful should notify the other participants immediately and explain what good faith efforts they are conducting to submit the filing successfully.

##### **5. Requesting a Digital ID Certificate**

Under proposed § 2.302(f), to electronically transmit documents to the EIE, all participants or representatives, including NRC staff and counsel, would need to request a digital ID certificate in advance of its first electronic filing. The NRC would issue a digital ID certificate that would provide access to the EIE. Application for a digital ID certificate can be submitted on the NRC Web site at <http://www.nrc.gov/site-help/eie.html>.

##### **6. Filing Requirements**

Under E-Filing, most participants in NRC adjudications would file according to the standards in proposed § 2.302

(g)(1). Paragraph (g)(1) would direct participants to file documents in an electronic format and transmit the documents electronically in accordance with the E-Filing Guidance. Also, proposed § 2.302 (g)(1) would establish that E-Filing Guidance sets out methods for filing documents containing Classified National Security Information or Safeguards Information, or electronic computer file formats that are not accepted by the EIE.

#### 7. Exemptions From the Filing Requirements

E-Filing would provide for two exemptions to the filing requirements specified in paragraph (g)(1): the electronic transmission exemption and the electronic document exemption. (See section III.K.).

#### B. Section 2.304—Formal Requirements for Documents; Signatures; Acceptance for Filing

##### 1. Requirements

Minor conforming amendments would be made to proposed § 2.304 (b) to clarify that those requirements apply only to paper filings. Proposed § 2.304(c) would contain requirements that apply to all methods of filing.

##### 2. Signatures

Existing § 2.304(c) would be amended in proposed § 2.304(d) to include two methods of signing electronic documents: digital ID certificates or typed in designations. (See section III.H).

##### 3. Multiple Copy Requirements Eliminated

The multiple copy requirement in the existing § 2.304(d) would be eliminated for electronic submissions to save participants time as well as the reproduction and mailing expenses associated with multiple copies. The multiple copy requirement in § 2.304(b) for paper filings would be retained.

#### C. Section 2.305—Service of Documents; Methods; Proof

##### 1. Service of Documents by the Commission

Proposed § 2.305(a) would require the Secretary of the Commission to serve all documents issued by the Commission or the presiding officer by using the same method that the participants to the proceeding used when they filed and accepted service. Participants that filed by electronic transmission would receive Commission and presiding officer issuances by electronic transmission and would not receive paper copies. Participants granted an

exemption under proposed § 2.302(g)(2) and (3) would receive service by the methods provided for by their exemption. Thus, the same electronic service requirements imposed upon the participants would apply to the Commission and the presiding officer.

##### 2. Method of Service Accompanying a Filing.

Proposed § 2.305(c) would make several changes. First, it would allow for electronic service of documents submitted through the EIE. Also, proposed § 2.305(c) would no longer require that a paper copy accompany a filing served by e-mail because the documents would be filed electronically.

In addition, proposed § 2.305(c) would amend the mandate currently given to presiding officers to require service by the most expeditious means. Under proposed paragraph (c), a presiding officer would be able to tailor service requirements to the individual participants rather than utilize only the one method that all participants are able to use.

Proposed § 2.305(c)(1) would require a participant to serve the other participants in the proceeding by the same method that those participants filed, unless one of the exceptions in paragraphs (c)(2) or (c)(3) applied.

Proposed § 2.305(c)(2) would apply to a participant granted the electronic transmission exemption under § 2.302(g)(2). When a participant has been excused from the electronic transmission requirement, that participant would serve the participants in the proceeding that filed electronically by physically delivering or mailing OSMs and the other participants that did not file by electronic transmission by the method in which they filed, for example, first-class mail.

Proposed § 2.305(c)(3) would apply to a participant granted the electronic document exemption under § 2.302(g)(3). When a participant is relieved of both the electronic format and transmission requirements, that participant would serve the other participants who filed electronically either in person, by courier/express mail/expedited delivery service, or by first-class mail, subject to any orders of the presiding officer.

Proposed § 2.305(c)(4) would require a certificate of service and a service list for each filing served.

Proposed § 2.305(c) would be patterned after the proof of service requirement found in part 2, subpart J, and would include electronic acknowledgment, affidavits, and

certificates of counsel. However, participants should be cautious when submitting an electronic acknowledgment as proof of service. An electronic certificate cannot be used as proof of service in mixed service proceedings when some, but not all, of the participants are served electronically or when a filing is partially electronically submitted and partially physically delivered/mailed. In such mixed service proceedings, an electronic acknowledgment would not establish that service by a method other than electronic transmission to the EIE was made. Further, because the timeliness of filing and service under E-Filing is determined by the time that the electronic transmission begins rather than ends (see proposed § 2.302(d)), the electronic acknowledgment sent from the EIE at the completion of the transmission would not necessarily correspond to the time service was made.

##### 3. Method of Service Not Accompanying a Filing

Proposed § 2.305(d) governs material that typically may not be part of a "filing," such as demonstrative evidence (e.g., physical exhibits or oversized maps or charts), pre-filed testimony, and discovery documents exchanged among participants. For material that is not filed with the agency, but is served upon other participants, as is often the case now with discovery exchanges, the NRC proposes that the participants should determine the most efficient and effective methods for serving such documents on each other.

##### 4. Service on the Secretary

Proposed § 2.305 (e) would be the same as the existing § 2.305 (d), except provision is made for electronic service of pleadings and pre-filed testimony on the Secretary of the Commission.

##### 5. When Service Is Complete

Proposed § 2.305 (f) would create a completed service standard for electronic submissions, as well as amend the standard for e-mail and clarify the standard for expedited delivery service. The standards for the completion of filing and service thus would be the same because receipt of the electronic filing by the EIE triggers an e-mail containing a link to the document that is considered to constitute service of the document upon the presiding officer and the other participants to the proceeding.

Proposed § 2.305 (f)(4) would clarify that service by expedited delivery service is complete when the document

is deposited at the expedited delivery provider, which is a method analogous to service by mail.

Proposed § 2.305 (f)(5) would amend the service completion standards for e-mail by no longer requiring that a paper copy containing a signature be transmitted to the Secretary. Proposed § 2.305 (f)(5) would adopt the “last act” standard used for filing completion in § 2.302 (d)(1) as the service completion standard for e-mail.

Proposed § 2.305 (f)(7) would provide that when multiple service methods are required, service would not be considered complete until each method is complete pursuant to paragraphs (f)(1)–(6) of proposed § 2.305. For example, according to E-Filing Guidance, for a large document, a participant would serve the complete document both by electronic transmission and by physically delivering or mailing an OSM. Therefore, the filing would be complete upon serving both the electronic transmission of the entire document and the physical delivery or mailing of an OSM. However, when a complex document containing Safeguards Information is filed, only the portions that do not contain the Safeguards Information would be electronically transmitted, while the entire document would be transmitted by physically delivering or mailing an OSM. In each instance, completion of service is dependant on both electronic transmission and the physical delivery or mailing of an OSM.

#### 6. Service on the NRC Staff

Proposed § 2.305 (g) would require that service on the NRC staff be in the same or equivalent method as service upon the Secretary or the presiding officer.

#### D. Section 2.306—Time Computation

The proposed changes made to § 2.306 reflect two different goals. One is to expedite proceedings; the other is to ensure that in mixed service proceedings in which the filing participant serves some electronically and others by physical delivery or mail, the times provided for the other participants to respond do not cause unfairness.

#### 1. Changes in the Number of Additional Days Allowed for Responding to the Service of a Notice or Other Document

Current § 2.306 grants an additional day for electronic filings received after 5 p.m. in the time zone of the participant receiving the filing. The proposed rule would eliminate that provision and grant no additional days

for documents filed electronically. All electronic filings must be filed and served by midnight in the filer’s time zone.

The proposed rule also would reduce from five days to three days the number of additional days given to participants responding to filings served by first-class mail. This amendment not only saves time over the course of a proceeding, but would be consistent with the Federal Rules of Civil Procedure. The concern that mail service in some parts of the country is slower and may take more than three days is ameliorated by a study of first-class mail service conducted by an independent auditing firm. According to the study, the U.S. Postal Service’s cross-country service and service to and from rural areas is efficient. *See* 2003 Comprehensive Statement on Postal Operations, Ch. 2, p. 59. Also, three additional days “is thought to represent a reasonable transmission time, and a fair compromise between the harshness of measuring time strictly from the date of mailing and the indefiniteness of attempting to measure from the date of receipt, which in many cases would be unverifiable.” *See* Charles Alan Wright and Arthur R. Miller, *Federal Practice and Procedure* § 1171 (3d ed. 2002).

#### 2. How Mixed Service Proceedings and Multiple Service Methods Affect the Number of Additional Days Granted for Responding to the Service of a Notice or Other Document

To handle the special time computation problems involved in mixed service proceedings, proposed § 2.306(b)(4) would give the Commission or presiding officer the authority to determine the proper period of time necessary to ensure fairness and efficiency in a mixed service proceeding.

E-Filing would provide for the use of multiple service methods when necessary, such as in proceedings where large or complex documents are filed. In these instances, response times would be computed according to the fastest method used to serve the entire document. For example, if a large document is filed, the filing would be complete upon sending the electronic transmission, even though the participant must also send an OSM containing the filing. However, when a complex document containing Safeguards Information is filed, the response time will depend on the physical delivery or mailing of an OSM, because that is when the Safeguards material would be filed.

#### E. Part 13—Program Fraud Civil Remedies

##### 1. Section 13.9 Answer

Proposed § 13.9 indicates that answers should be electronically filed in accordance with proposed § 13.26.

##### 2. Section 13.26 Filing and Service of Papers

The changes proposed to § 13.26 would conform the filing and service requirements of Part 13 to those in proposed §§ 2.302 and 2.305.

##### 3. Section 13.27 Computation of Time

Revised § 13.27 (a) and (b) adopts the proposed wording of § 2.306 (a) and (b) regarding not counting Federal legal holidays and emergency closures of the Federal government if they are the last day of the period when computing the amount of time a participant would have to file a response. Proposed § 13.27 (c) adopts the same time computation scheme as in proposed § 2.306 (b).

Existing paragraph (c) would be withdrawn.

#### F. Part 110—Public Participation Procedures Concerning Export and Import of Nuclear Equipment and Materials License Applications

##### 1. Section 110.89 Filing and Service

The changes proposed to § 110.89 would conform that section’s filing and service requirements to those in proposed §§ 2.302 and 2.305.

##### 2. Section 110.90 Computation of Time

Although § 110.90 (a) would adopt the proposed wording of § 2.306 (a), the substance of § 110.90 (a) would not be altered. The proposed language in paragraphs (a) and (b) of this section would no longer count emergency closures of the Federal government if it is the last day of the period when computing the amount of time a participant would have to respond. Proposed § 110.90 (c) adopts the same time computation scheme as in proposed § 2.306 (b). Existing paragraph (d) would be withdrawn.

#### V. Minor Conforming Changes

Several sections in Title 10 of the Code of Federal Regulations would require minor modifications to conform to the electronic filing and service methods in E-Filing. Changes are proposed to the language in §§ 1.5, 2.340, 2.390, 2.346, and 2.808 as well as the sections discussed above (e.g., § 2.305 (b)) to provide for electronic documents as well as for paper documents. The modifications consist of changing the word “paper” to

“document” or “motion.” Sections containing language that does not exclude electronic documents, such as “writing” or “written,” would not be modified because those sections already conform to the electronic filing and service methods being proposed. In addition, minor changes include amending the paragraph indexing when proposed paragraphs would be inserted or current paragraphs deleted. If, as a result of public comments or the NRC’s review, it determines conforming changes are needed to other sections of the NRC’s regulations, the NRC will incorporate those changes into the final rule.

#### VI. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995, Public Law 104–113, requires that Federal agencies use technical standards that are developed by voluntary, private sector, consensus standards bodies unless using such a standard is inconsistent with applicable law or otherwise impractical. This proposed rule establishes requirements and standards for the submission of filings to an electronic docket in hearings under 10 CFR part 2 subpart C. Through this rulemaking, the agency would implement the requirement in the Government Paperwork Elimination Act, Public Law 105–277, that Federal agencies allow electronic submissions of information where practicable; therefore, this proposed rule does not constitute the establishment of a Government-unique standard as defined in Office of Management and Budget (OMB) Circular A–199 (1998).

#### VII. Environmental Impact: Categorical Exclusion

The proposed rule amends the filing and service procedures in 10 CFR part 2 subpart C and makes conforming changes to other parts of Title 10 and, therefore, qualifies as an action eligible for the categorical exclusion from environmental review under 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this proposed rulemaking.

#### VIII. Paperwork Reduction Act Statement

This proposed rule does not contain information collection requirements and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### IX. Regulatory Analysis

A regulatory analysis has not been prepared for this rulemaking. The amendments below will neither impose new, nor relax existing, safety requirements and, thus, do not call for the sort of safety/cost analysis described in the agency’s regulatory analysis guidelines in NUREG/BR–0058. Further, the NRC is required by the Government Paperwork Elimination Act, Public Law 105–277 (44 U.S.C. 3505, note), to allow electronic submissions when practicable. The proposed rule states the requirements for electronic filing and service in all NRC hearings, except those conducted on a high-level radioactive waste repository application. The Commission, while strongly preferring that participants file and serve their documents electronically, nonetheless permits participants to submit paper filings if the participants can offer good cause for taking this alternative approach. An analysis of costs and benefits, therefore, would not alter the NRC’s decision to implement the policy embodied in this rule.

The NRC believes that this proposed rule would reduce the current filing costs of persons who deal with the agency. Currently, most submissions to the Commission are electronically mailed with a conforming paper copy to follow. This rule would eliminate the need to mail the paper copy. Because a majority of the participants in NRC hearings electronically mail filings, they already have most, if not all, of the requisite equipment. Also, the cost of the additional equipment and software is minimal in relation to the savings expected from eliminating the expenses of copying and postage. Although a participant could purchase a scanner and a program that converts documents to PDF format for approximately \$100 each, the savings in copying and postage costs could be hundreds, if not thousands, of dollars.

#### X. Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605 (b), the Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities. It is probable that some poorly funded entities seeking to intervene would be adversely affected by this Rule, but their number is too small to necessitate the preparation of a Regulatory Flexibility Certification. This rule applies in the context of Commission adjudicatory proceedings concerning nuclear reactors or nuclear materials. Reactor licensees are large

organizations that do not fall within the definition of a small business found in section 3 of the Small Business Regulatory Enforcement Fairness Act of 1996, 15 U.S.C. 632, within the small business standards set forth in 13 CFR part 121, or within the size standards adopted by the NRC (10 CFR 2.810). Based upon the historically low number of requests for hearings involving materials licensees, it is not expected that this rule would have any significant economic impact on a substantial number of small businesses.

#### XI. Backfit Analysis

The NRC has determined that the backfit rule does not apply to this proposed rule because these amendments modify the procedures to be used in NRC adjudicatory proceedings, and do not involve any provisions that would impose backfits as defined in 10 CFR 50.109, 70.76, 72.62, and 76.76. Therefore, a backfit analysis has not been prepared for this proposed rule.

#### List of Subjects

##### 10 CFR Part 1

Organization and function (Government agencies).

##### 10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalties, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

##### 10 CFR Part 13

Claims, Fraud, Organization and function (Government agencies), Penalties.

##### 10 CFR Part 110

Administrative practice and procedure, Classified information, Criminal penalties, Export, Import, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Scientific equipment.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 553; the NRC is proposing the following amendments to 10 CFR parts 1, 2, 13, and 110.

## PART 1—STATEMENT OF ORGANIZATION AND GENERAL INFORMATION

1. The authority citation for part 1 continues to read as follows:

**Authority:** Secs. 23, 161, 68 Stat. 925, 948, as amended (42 U.S.C. §§ 2033, 2201); sec. 29, Pub. L. 85–256, 71 Stat. 579, Pub. L. 95–209, 91 Stat. 1483 (42 U.S.C. § 2039); sec. 191, Pub. L. 87–615, 76 Stat. 409 (42 U.S.C. 2241); secs. 201, 203, 204, 205, 209, 88 Stat. 1242, 1244, 1245, 1246, 1248, as amended (42 U.S.C. §§ 5841, 5843, 5844, 5845, 5849); 5 U.S.C. §§ 552, 553, Reorganization Plan No. 1 of 1980, 45 FR 40561, June 16, 1980.

2. In § 1.5, paragraph (a) is revised to read as follows:

### § 1.5 Location of principal offices and Regional Offices.

(a) The principal NRC offices are located in the Washington, DC, area. Facilities for the service of process and documents are maintained in the State of Maryland at 11555 Rockville Pike, Rockville, Maryland 20852–2738. The agency's official mailing address is U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. The locations of NRC offices in the Washington, DC area are as follows:

\* \* \* \* \*

## PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS AND ISSUANCE OF ORDERS

3. The authority citation for Part 2 is revised to read as follows:

**Authority:** Secs. 161, 181, 68 Stat. 948, 953, as amended (42 U.S.C. §§ 2201, 2231); sec. 191, as amended, Pub. L. 87–615, 76 Stat. 409 (42 U.S.C. § 2241); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. § 5841); 5 U.S.C. § 552; sec 1704, 112 Stat. 2750 (44 U.S.C. § 3504 note).

4. Section 2.4 is amended to add in alphabetical order the following definitions:

### § 2.4 Definitions.

*Digital ID certificate* means a file stored on a participant's computer that contains the participant's name, e-mail address, and participant's digital signature, proves the participant's identity when filing documents and serving participants electronically through the EIE, and contains public keys, which allow for the encryption and decryption of documents so that the documents can be securely transferred over the Internet.

*E-Filing Guidance* means the document issued by the Commission that sets forth the transmission methods and formatting standards for filing and service under E-Filing. The document

can be obtained by visiting the NRC's Web site at <http://www.nrc.gov>.

*Electronic acknowledgment* means a communication transmitted electronically from the EIE to the submitter confirming receipt of electronic filing and service.

*Electronic Hearing Docket* means the publicly available website which houses a visual presentation of the docket and a link to its files.

*Electronic Information Exchange* means the information system that acts as a portal to receive electronic filings and documents and notify participants that new filings have been received.

*Optical Storage Medium* means any physical computer component that meets E-Filing Guidance standards for storing, saving, and accessing electronic documents.

5. Section 2.302 is revised to read as follows:

### § 2.302 Filing of Documents.

(a) Documents filed in Commission adjudicatory proceedings subject to this part shall be electronically transmitted through the EIE, unless the Commission or presiding officer grants an exemption permitting an alternative filing method or unless the filing falls within the scope of paragraph (g)(1) of this section.

(b) Upon an order from the presiding officer permitting alternative filing methods, or otherwise set forth in E-Filing Guidance, documents may be filed by:

(1) *First-class mail:* Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff;

(2) *Courier, express mail, and expedited delivery services:* Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, Attention: Rulemakings and Adjudications Staff; or

(3) *E-mail:* Office of the Secretary, U.S. Nuclear Regulatory Commission, [HEARINGDOCKET@nrc.gov](mailto:HEARINGDOCKET@nrc.gov).

(c) All documents offered for filing must be accompanied by a certificate of service stating the names and addresses of the persons served as well as the manner and date of service.

(d) Filing is considered complete:

(1) By electronic transmission or e-mail when the filer performs the last act that it must perform to transmit a document electronically;

(2) By first-class mail as of the time of deposit in the mail;

(3) By courier, express mail, or expedited delivery service upon depositing the document with the provider of the service; or

(4) If a filing must be submitted by two or more methods, such as a filing

that the E-Filing Guidance indicates should be transmitted electronically as well as physically delivered or mailed on an optical storage medium, the filing is complete when all methods of filing have been completed.

(e) For filings by electronic transmission, the filer must make a good faith effort to successfully transmit the entire filing. Notwithstanding paragraph (c) of this section, a filing will not be considered complete if the filer knows or has reason to know that the entire filing has not been successfully transmitted.

(f) Digital ID Certificates.

(1) Through digital ID certificates, the NRC permits participants in the proceeding to access the EIE to file documents, serve other participants, and retrieve documents in the proceeding.

(2) Any participant or participant representative that does not have a digital ID certificate shall seek one from the NRC before that participant or representative intends to make its first electronic filing to the EIE. A participant or representative may apply for a digital ID certificate on the NRC Web site at <http://www.nrc.gov/site-help/eie.html>.

(3) Group ID Certificate. A participant wishing to obtain a digital ID certificate valid for several persons may obtain a group digital ID certificate. A Group ID cannot be used to file documents. The Group ID provides access to the EIE for the individuals specifically identified in the group's application to retrieve documents recently received by the EIE. The Group ID also enables a group of people, all of whom may not have individual digital ID certificates, to be notified when a filing has been made in a particular proceeding.

(g) Filing Method Requirements.

(1) *Electronic filing requirement.*

Unless otherwise provided by order, all filings must be made as electronic submissions in a manner that enables the NRC to receive, read, authenticate, distribute, and archive the submission, and process and retrieve it a single page at a time. Detailed guidance on making electronic submissions may be found in the E-Filing Guidance and on the NRC Web site at <http://www.nrc.gov/site-help/eie.html>. If a filing contains sections of information or electronic formats that may not be transmitted electronically for security or other reasons, the portions not containing those sections will be transmitted electronically to the EIE. In addition, an optical storage medium (OSM) containing the entire filing must be physically delivered or mailed. In such cases, the submitter does not need to apply to the Commission or presiding

officer for an exemption to deviate from the requirements in paragraph (g)(1) of this section.

(2) *Electronic transmission exemption.* Upon a finding of good cause, the Commission or presiding officer can grant an exemption from election transmission requirements found in paragraph (g)(1) of this section to a participant who is filing electronic documents. The exempt person is permitted to file electronic documents by physically delivering or mailing an optical storage medium containing the documents or by using another electronic transmission method, such as e-mail. A participant granted this exemption would still be required to meet the electronic formatting requirement in paragraph (g)(1) of this section.

(3) *Electronic document exemption.* Upon a finding of good cause, the presiding officer can exempt a participant from both the electronic (computer file) formatting and electronic transmission requirements in paragraph (g)(1) of this section. A participant granted such an exemption can file paper documents either in person or by courier, express mail, some other expedited delivery service, or first-class mail, as ordered by the presiding officer.

(4) *Requesting an exemption.* A filer seeking an exemption under paragraphs (g)(2) or (g)(3) of this section must submit the exemption request with its first filing in the proceeding. In the request, a filer must show good cause as to why he or she cannot file electronically. The filer may not change its formats and delivery methods for filing until a ruling on the exemption request is issued. Exemption requests under paragraphs (g)(2) or (g)(3) of this section sought after the first filing in the proceeding will be granted only if the requestor shows that a significant change in circumstances makes the electronic filing requirements onerous or if the interests of fairness so require.

6. Section 2.304 is revised to read as follows:

**§ 2.304 Formal requirements for documents; signatures; acceptance for filing.**

(a) Each document filed in an adjudication to which a docket number has been assigned must show the docket number and title of the proceeding.

(b) In addition to the requirements in this part, paper documents must be stapled or bound on the left side; typewritten, printed, or otherwise reproduced in permanent form on good unglazed paper of standard letterhead size; signed in ink by the participant, its

authorized representative, or an attorney having authority with respect to it; and filed with an original and two conforming copies.

(c) Each page in a document must begin not less than one inch from the top, with side and bottom margins of not less than one inch. Text must be double-spaced, except that quotations should be single-spaced and indented. The requirements of this paragraph do not apply to original documents, or admissible copies, offered as exhibits, or to specifically prepared exhibits.

(d) The original of each document must be signed by the participant or its authorized representative, or by an attorney having authority with respect to it. The document must state the capacity of the person signing; his or her address, phone number, and e-mail address; and the date of signature. The signature of a person signing in a representative capacity is a representation that the document has been subscribed in the capacity specified with full authority, that he or she has read it and knows the contents, that to the best of his or her knowledge, information, and belief the statements made in it are true, and that it is not interposed for delay. If a document is not signed, or is signed with intent to defeat the purpose of this section, it may be stricken.

(1) To sign an electronic document, the filing participant can either use a digital ID certificate, or a typed in designation that the original has been signed.

(i) When signing an electronic document using a digital ID certificate, a signature page shall be added to the electronic document. This signature page should contain a typed signature block that includes: The phrase "Signed (electronically) by,"; the name and the capacity of the person signing; the person's address, phone number, and e-mail address; and the date of signature.

(ii) When a group of people must sign a document, a typed-in designation with the phrase "Original signed by" typed into the signature line on the signature block indicating that the original has been signed shall be submitted.

(2) Paper documents must be signed in ink.

(e) The first document filed by any participant in a proceeding must designate the name and address of a person on whom service may be made. This document must also designate the e-mail address, if any, of the person on whom service may be made.

(f) Any document that fails to conform to the requirements of this section may be refused acceptance for filing and may be returned with an indication of the

reason for nonacceptance. Any document that is not accepted for filing will not be entered on the Commission's docket.

7. Section 2.305 is revised to read as follows:

**§ 2.305 Service of documents; methods; proof.**

(a) *Service of documents by the Commission.* Except for subpoenas, the Commission shall serve all orders, decisions, notices, and other documents to all participants, by the same delivery method those participants file and accept service.

(b) *Who may be served.* Any document required to be served upon a participant shall be served upon that person or upon the representative designated by the participant or by law to receive service of documents. When a participant has appeared by attorney, service shall be made upon the attorney of record. For purposes of service of documents, the staff of the Commission is considered a participant.

(c) *Method of service accompanying a filing.* Service must be made electronically to the EIE. Upon an order from the presiding officer permitting alternative filing methods under § 2.302(g)(4), service may be made by personal delivery, courier, expedited delivery service, e-mail, or by first-class, express, certified or registered mail. If service is made by e-mail, the original signed copy must be transmitted to the Secretary by personal delivery, courier, expedited delivery service, or by first-class, express, certified, or registered mail. As to each participant that cannot serve electronically, the presiding officer shall require service by the most expeditious means permitted under this paragraph that are available to the participant, unless the presiding officer finds that this requirement would impose undue burden or expense on the participant.

(1) Unless otherwise provided in this paragraph(c)(1), a participant will serve documents on the other participants by the same method that those participants filed.

(2) A participant granted an exemption under § 2.302(g)(2) will serve the presiding officer, and the participants in the proceeding that filed electronically, by physically delivering or mailing an optical storage medium containing the electronic document.

(3) A participant granted an exemption under § 2.302(g)(3) will serve the presiding officer, and the other participants in the proceeding, by physically delivering or mailing a paper copy.

(4) A certificate of service stating the names and addresses of the persons served as well as the method and date of service must accompany any paper served upon participants to the proceeding.

(5) Proof of service, which states the name and address of the person served as well as the method and date of service, may be made as required by law, by rule, or by order of the presiding officer.

(d) *Method of service not accompanying a filing.* Unless otherwise provided in paragraph (c) of this section, a participant shall serve pre-filed testimony on the presiding officer electronically and will serve the other participants in the proceeding by the same method that those participants filed documents. Service of demonstrative evidence, e.g., maps and other physical evidence, may be made by first-class mail in all cases, unless the presiding officer directs otherwise or the participant desires to serve by a faster method. In instances when service of a document under § 2.336, such as a discovery document, will not accompany a filing with the agency, the participant may use any reasonable method of service to which the recipient agrees.

(e) *Service on the Secretary.* (1) All motions, briefs, pleadings, and other documents must be served on the Secretary of the Commission by the same or equivalent method, such as by electronic transmission or first-class mail, that they are served upon the presiding officer, so that the Secretary will receive the filing at approximately the same time that it is received by the presiding officer to which the filing is directed.

(2) When pleadings are personally delivered to a presiding officer conducting proceedings outside the Washington, DC area, service on the Secretary may be accomplished electronically to the EIE, as well as by courier, express mail, expedited delivery service, or e-mail.

(3) Service of demonstrative evidence (e.g., maps and other physical exhibits) on the Secretary of the Commission may be made by first-class mail in all cases, unless the presiding officer directs otherwise or the participant desires to serve by a faster method. All pre-filed testimony shall be served on the Secretary of the Commission by the same or equivalent method that it is served upon the presiding officer to the proceedings, i.e., electronically to the EIE, personal delivery or courier, express mail or expedited delivery service, or electronic transmission.

(4) The addresses for the Secretary are:

(i) Internet: the EIE at <http://www.nrc.gov>.

(ii) First-class mail: Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff.

(iii) Courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemakings and Adjudications Staff; and

(iv) E-mail addressed to the Secretary, U.S. Nuclear Regulatory Commission, [HEARINGDOCKET@nrc.gov](mailto:HEARINGDOCKET@nrc.gov).

(f) *When service is complete.* Service upon a participant is complete:

(1) By the EIE, when filing electronically to the EIE is considered complete under § 2.302 (c) and (d).

(2) By personal delivery, upon handing the document to the person, or leaving it at his or her office with that person's clerk or other person in charge or, if there is no one in charge, leaving it in a conspicuous place in the office, or if the office is closed or the person to be served has no office, leaving it at his or her usual place of residence with some person of suitable age and discretion then residing there;

(3) By mail, upon deposit in the United States mail, properly stamped and addressed;

(4) By expedited service, upon depositing the document with the provider of the expedited service;

(5) By e-mail, when the participant performs the last act that he or she must perform to transmit the document electronically. Service will not be considered complete, however, if the participant making service knows or has reason to know that the document was not successfully transmitted.

Participants shall make a good faith effort to successfully serve the presiding officer and the other participants; or

(6) When service cannot be effected by a method provided by paragraphs (f)(1)–(5) of this section, by any other method authorized by law.

(7) When two or more methods of service are required, service is considered complete when service by each method is complete under paragraphs (f)(1)–(5) of this section.

(g) *Service on the NRC staff.*

(1) Service shall be made upon the NRC staff of all documents required to be filed with participants and the presiding officer in all proceedings, including those proceedings where the NRC staff informs the presiding officer of its determination not to participate as

a participant. Service upon the NRC staff shall be by the same or equivalent method as service upon the Office of the Secretary and the presiding officer, e.g., electronically, personal delivery or courier, express mail or expedited delivery service, or e-mail.

(2) If the NRC staff decides not to participate as a participant in a proceeding, it shall, in its notification to the presiding officer and participants of its determination not to participate, designate a person and address for service of documents.

8. Section 2.306 is revised to read as follows:

#### § 2.306 Computation of time.

(a) In computing any period of time, the day of the act, event, or default after which the designated period of time begins to run is not included. The last day of the period so computed is included unless it is a Saturday, Sunday, or Federal legal holiday at the place where the action or event is to occur, or emergency closure of the Federal government in Washington, DC, during which the NRC Headquarters does not open for business, in which event the period runs until the end of the next day that is not a Saturday, Sunday, Federal legal holiday, or emergency closure.

(b) Whenever a participant has the right or is required to do some act within a prescribed period after the service of a notice or other document upon him or her, no additional time is added to the prescribed period except in the following circumstances:

(1) If a notice or document is served upon a participant, by first-class mail only, three (3) calendar days will be added to the prescribed period for all the participants in the proceeding.

(2) If a notice or document is served upon a participant, by express mail or other expedited service only, two (2) calendar days will be added to the prescribed period for all the participants in the proceeding.

(3) If a document is to be served by multiple service methods, such as partially electronic and entirely on an optical storage medium, the additional number of days is computed according to the service method used to deliver the entire document, excluding courtesy copies, to all of the other participants in the proceeding.

(4) In mixed service proceedings when all participants are not using the same filing and service method, the number of days for service will be determined by the presiding officer based on considerations of fairness and efficiency. The same number of additional days will be added to the

prescribed period for all the participants in the proceeding with the number of days being determined by the slowest method of service being used in the proceeding.

(5) One (1) day will be added to the prescribed period for all the participants in the proceeding:

(i) For a documents served in person or by expedited service, in a document is received after 5 p.m. in the recipient's time zone; or

(ii) For a document served by the Hearings Network or by electronic mail, if a document is transmitted by the sender on or after midnight in the sender's time zone.

9. In § 2.340, paragraph (f)(2) is revised to read as follows:

**§ 2.340 Initial decision in contested proceedings on applications for facility operating licenses; immediate effectiveness of initial decision directing issuance or amendment of construction permit or operating license.**

\* \* \* \* \*

(f) \* \* \*  
(2) Commission. Within sixty (60) days of the service of any presiding officer decision that would otherwise authorize issuance of a construction permit, the Commission will seek to issue a decision on any stay motions that are timely filed. These motions must be filed as provided by § 2.341. For the purpose of this paragraph, a stay motion is one that seeks to defer the effectiveness of a presiding officer decision beyond the period necessary for the Commission action described herein. If no stay motions are filed, the Commission will, within the same time period (or earlier if possible), analyze the record and construction permit decision below on its own motion and will seek to issue a decision on whether a stay is warranted. However, the Commission will not decide that a stay is warranted without giving the affected participants an opportunity to be heard. The initial decision will be considered stayed pending the Commission's decision. In deciding these stay questions, the Commission shall employ the procedures set out in § 2.342.

\* \* \* \* \*

10. In § 2.346, the introductory text is revised to read as follows:

**§ 2.346 Authority of the Secretary.**

When briefs, motions or other documents are submitted to the Commission itself, as opposed to officers who have been delegated authority to act for the Commission, the Secretary or the Assistant Secretary is authorized to:

\* \* \* \* \*

11. In § 2.390, paragraph (b)(1)(iii) is revised to read as follows:

**§ 2.390 Public inspections, exemptions, requests for withholding.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(iii) In addition, an affidavit accompanying a withholding request based on paragraph (a)(4) of this section must contain a full statement of the reason for claiming the information should be withheld from public disclosure. Such statement shall address with specificity the considerations listed in paragraph (b)(4) of this section. In the case of an affidavit submitted by a company, the affidavit shall be executed by an officer or upper-level management official who has been specifically delegated the function of reviewing the information sought to be withheld and authorized to apply for its withholding on behalf of the company. The affidavit shall be executed by the owner of the information, even though the information sought to be withheld is submitted to the Commission by another person. The application and affidavit shall be submitted at the time of filing the information sought to be withheld. The information sought to be withheld shall be incorporated, as far as possible, into a separate document. The affiant must designate with appropriate markings information submitted in the affidavit as a trade secret, or confidential or privileged commercial or financial information within the meaning of § 9.17(a)(4) of this chapter, and such information shall be subject to disclosure only in accordance with the provisions of § 9.19 of this chapter.

\* \* \* \* \*

12. In § 2.808, the introductory text is revised to read as follows:

**§ 2.808 Authority of the Secretary to rule on procedural matters.**

When briefs, motions or other documents listed herein are submitted to the Commission itself, as opposed to officers who have been delegated authority to act for the Commission, the Secretary or the Assistant Secretary is authorized to:

\* \* \* \* \*

**PART 13—PROGRAM FRAUD CIVIL REMEDIES**

13. The authority citation for Part 13 continues to read as follows:

**Authority:** Public Law 99-509, secs. 6101-6104, 100 Stat. 1874 (31 U.S.C. 3801-3812). Sections 13.13 (a) and (b) also issued under section Pub. L. 101-410, 104 Stat. 890, as amended by section 31001(s), Pub. L. 104-

134, 110 Stat. 1321-373 (28 U.S.C. 2461 note.)

14. In § 13.9, paragraph (a) is revised to read as follows:

**§ 13.9 Answer.**

(a) The defendant may request a hearing by filing an answer with the reviewing official within thirty (30) days of service of the complaint. Service of an answer shall be made by electronically delivering a copy to the reviewing official in accordance with § 13.26. An answer shall be deemed a request for hearing.

\* \* \* \* \*

15. Section 13.26 is revised to read as follows:

**§ 13.26 Filing and service of papers.**

(a) *Filing.* (1) Unless otherwise provided by order, all filings must be made as electronic submissions in a manner that enables the NRC to receive, read, authenticate, distribute, and archive the submission, and process and retrieve it a single page at a time. Detailed guidance on making electronic submissions may be found in the E-Filing Guidance and on the NRC Web site at <http://www.nrc.gov/site-help/eie.html>. If a filing contains sections of information or electronic formats that may not be transmitted electronically for security or other reasons, portions not containing those sections will be transmitted electronically to the EIE. In addition, an optical storage medium containing the entire filing must be physically delivered or mailed. In such cases, the submitter does not need to apply to the Commission for an exemption to deviate from the requirements in paragraph (a) of this section.

(2) Electronic transmission exemption. The ALJ may relieve a person who is filing electronic documents of the transmission requirements in paragraph (a) of this section. Such a person will file electronic documents by physically delivering or mailing an optical storage medium containing the documents or by another electronic transmission method, such as e-mail. The electronic formatting requirement in paragraph (a) of this section must be met. If service is made by e-mail, the original signed copy must be transmitted to the Secretary by personal delivery, courier, expedited delivery service, or by first-class, express, certified, or registered mail.

(3) Electronic document exemption. The ALJ may relieve a participant of both the electronic (computer file) formatting and transmission requirements in paragraph (a)(1) of this section. Such a participant will file

paper documents physically or by mail to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff. Filing by mail is complete upon deposit in the mail.

(4) Requesting an exemption. A participant seeking an exemption under paragraph (a)(2) or (a)(3) of this section must submit the exemption request with its first filing in the proceeding. In the request, the requestor must show good cause as to why he or she cannot file electronically. The filer may not change its formats and delivery methods for filing until a ruling on the exemption request is issued. Exemption requests submitted after the first filing in the proceeding will be granted only if a significant change in circumstances makes the electronic filing requirements onerous or if the interests of fairness so require.

(5) Every pleading and paper filed in the proceeding shall contain a caption setting forth the title of the action, the case number assigned by the presiding officer, and a designation of the document (e.g., motion to quash subpoena).

(6) Every pleading and document shall be signed by, and shall contain the address and telephone number of the participant or the person on whose behalf the paper was filed, or his or her representative.

(7) All documents offered for filing must be accompanied by a certificate of service stating the names and addresses of the persons served as well as the methods and date of service.

(8) Filing is complete when the filer performs the last act that it must perform to submit a document, such as hitting the send/submit/transmit button for an electronic transmission or depositing the document in a mailbox.

(b) *Service.* A participant filing a document with the ALJ shall at the time of filing, serve a copy of such document on every other participant. Service upon any participant of any document other than those required to be served as prescribed in § 13.8 shall be made electronically to the EIE. When a participant is represented by a representative, service shall be made upon such representative in lieu of the actual participant. Upon an order from the ALJ permitting alternative filing methods under paragraphs (a)(2) or (a)(3) of this section, service may be made by e-mail, physical delivery, or mail. As to each participant that cannot serve electronically, the ALJ shall require service by the most expeditious means permitted under this paragraph that are available to the participant, unless the ALJ finds that this

requirement would impose undue burden or expense on the participant.

(1) Unless otherwise provided in this paragraph, a participant will serve documents on the other participants by the same method that those participants filed.

(2) A participant granted an exemption under paragraph (a)(2) of this section will serve the participants in the proceeding that filed electronically by physically delivering or mailing an optical storage medium containing the electronic document.

(3) A participant granted an exemption under (a)(3) will serve the other participants in the proceeding by physically delivering or mailing a paper copy.

(4) A certificate of service stating the names and addresses of the persons served as well as the method and date of service must accompany any paper served upon participants to the proceeding.

(5) Proof of service, which states the name and address of the person served as well as the method and date of service, may be made as required by law, by rule, or by order of the Commission.

16. Section 13.27 is revised to read as follows:

#### § 13.27 Computation of time.

(a) In computing any period of time under this part or in an order issued thereunder, the time begins with the day following the act, event, or default, and includes the last day of the period, unless it is a Saturday, Sunday, Federal legal holiday at the place where the action or event is to occur, or emergency closure of the Federal government in Washington, DC, during which the NRC Headquarters does not open for business, in which event it includes the next day that is not a Saturday, Sunday, holiday or emergency closure.

(b) When the period of time allowed is less than seven (7) days, intermediate Saturdays, Sundays, Federal legal holidays, and emergency closures shall be excluded from the computation.

(c) Whenever an action is required within a prescribed period by a document served pursuant to § 13.26, no additional time is added to the prescribed period except in the following circumstances:

(1) If a notice or document is served upon a participant, by first-class mail only, three (3) calendar days will be added to the prescribed period for all the participants in the proceeding.

(2) If a notice or document is served upon a participant, by express mail or other expedited service only, two (2) calendar days will be added to the

prescribed period for all the participants in the proceeding.

(3) If a document is to be served by multiple service methods, such as partially electronic and entirely on an OSM, the additional number of days is computed according to the service method used to deliver the entire document, excluding courtesy copies, to all of the other participants in the proceeding.

(4) In mixed service proceedings where all participants are not using the same filing and service method, the same number of additional days will be added to the prescribed period for all the participants in the proceeding with the number of days being determined by the slowest method of service being used in the proceeding.

(5) One (1) day will be added to the prescribed period for all the participants in the proceeding:

(i) For a document served in person or by expedited service, if a document is received after 5 p.m. in the recipient's time zone; or

(ii) For a document served by the Hearings Network or by electronic mail, if a document is transmitted by the sender on or after midnight in the sender's time zone.

#### PART 110—EXPORT AND IMPORT OF NUCLEAR EQUIPMENT AND MATERIAL

17. The authority citation for Part 110 continues to read as follows:

**Authority:** Secs. 51, 53, 54, 57, 63, 64, 65, 81, 82, 103, 104, 109, 111, 126, 127, 128, 129, 161, 181, 182, 183, 187, 189, 68 Stat. 929, 930, 931, 932, 933, 936, 937, 948, 953, 954, 955, 956, as amended (42 U.S.C. 2071, 2073, 2074, 2077, 2092–2095, 2111, 2112, 2133, 2134, 2139, 2139a, 2141, 2154–2158, 2201, 2231–2233, 2237, 2239); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 5, Pub. L. 101–575, 104 Stat. 2835 (42 U.S.C. 2243); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note). Sections 110.1(b)(2) and 110.1(b)(3) also issued under Pub. L. 96–92, 93 Stat. 710 (22 U.S.C. 2403). Section 110.11 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152) and secs. 54c and 57d, 88 Stat. 473, 475 (42 U.S.C. 2074). Section 110.27 also issued under sec. 309(a), Pub. L. 99–440. Section 110.50(b)(3) also issued under sec. 123, 92 Stat. 142 (42 U.S.C. 2153). Section 110.51 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 110.52 also issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236). Sections 110.80–110.113 also issued under 5 U.S.C. 552, 554. Sections 110.130–110.135 also issued under 5 U.S.C. 553. Sections 110.2 and 110.42(a)(9) also issued under sec. 903, Pub. L. 102–496 (42 U.S.C. 2151 et seq.).

18. Section 110.89 is revised to read as follows:

**§ 110.89 Filing and service.**

(a) Hearing requests, intervention petitions, answers, replies and accompanying documents must be filed with the Commission electronically through the EIE, unless one of the exemptions applies. Unless otherwise provided, all filings must be made as electronic submissions in a manner that enables the NRC to receive, read, authenticate, distribute, and archive the submission, and process and retrieve it a single page at a time. Detailed guidance on making electronic submissions may be found in the E-Filing Guidance and on the NRC Web site at <http://www.nrc.gov/site-help/eie.html>. Filing by electronic transmission is complete when the participant performs the last act that it must perform to transmit a document electronically.

(1) If a filing contains sections of information or electronic formats that are not to be transmitted electronically for security or other reasons, portions not containing those sections will be transmitted electronically to the EIE. In addition, an optical storage medium containing the entire filing must be physically delivered or mailed. In such cases, the submitter does not need to apply to the Commission for an exemption to deviate from the requirements in paragraph (a) of this section.

(2) Electronic transmission exemption. Upon a finding of good cause, the Commission may relieve a person who is filing electronic documents of the transmission requirements in paragraph (a) of this section. Such a person will file electronic documents by physically delivering or mailing an optical storage medium containing the documents or by another electronic transmission method, such as e-mail. The electronic formatting requirement in paragraph (a) of this section must be met. If service is made by e-mail, the original signed copy must be transmitted to the Secretary by personal delivery, courier, expedited delivery service, or by first-class, express, certified, or registered mail.

(3) Electronic document exemption. Upon a finding of good cause, the Commission may relieve a participant of both the electronic (computer file) formatting and transmission requirements in paragraphs (a) and (a)(1) of this section. Such a participant will file paper documents physically or by mail to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff. Filing by mail is complete upon deposit in the mail.

(4) Requesting an exemption. A participant seeking an exemption under paragraph (a)(2) or (a)(3) of this section must submit the exemption request with its first filing in the proceeding. In the request, the requestor must show good cause as to why he or she cannot file electronically. The filer may not change its formats and delivery methods for filing until a ruling on the exemption request is issued. Exemption requests submitted by a participant after its first filing in the proceeding will be granted only if a significant change in circumstances makes the electronic filing requirements onerous or if the interests of fairness so require.

(5) All documents offered for filing must be accompanied by a certificate of service stating the names and addresses of the persons served as well as the methods and date of service.

(6) The Department of State or other Executive Branch agencies may file paper documents with the Commission and do not need to apply to the Commission for an exemption to deviate from the requirements in paragraph (a) of this section.

(b) All filings and Commission notices and orders must be served upon the applicant; the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555; the Executive Secretary, Department of State, Washington, DC 20520; and participants if any. Hearing requests, intervention petitions, and answers and replies must be served by the person filing those pleadings.

(c) Service must be made electronically to the EIE. Upon an order from the Commission permitting alternative filing methods under paragraph (a)(2) or (a)(3) of this section, service may be made by e-mail, physical delivery, or mail. As to each participant that cannot serve electronically, the Commission shall require service by the most expeditious means permitted under this paragraph that is available to the participant, unless the Commission finds that this requirement would impose undue burden or expense on the participant.

(1) Unless otherwise provided in this subsection, a participant will serve documents on the other participants by the same method that those participants filed.

(2) A participant granted an exemption under paragraph (a)(2) of this section will serve the participants in the proceeding that filed electronically by physically delivering or mailing an optical storage medium containing the electronic document.

(3) A participant granted an exemption under paragraph (a)(3) of this

section will serve the other participants in the proceeding by physically delivering or mailing a paper copy.

(4) A certificate of service stating the names and addresses of the persons served as well as the method and date of service must accompany any paper served upon participants to the proceeding.

(5) Proof of service, which states the name and address of the person served as well as the method and date of service, may be made as required by law, by rule, or by order of the Commission.

(6) Service to the Executive Secretary, Department of State, is completed by:

- (i) Physically delivering the filing;
- (ii) Depositing it in the United States mail, properly stamped and addressed;
- (iii) Electronically through the EIE in cases where the Executive Secretary has obtained a digital ID; or
- (iv) Any other method authorized by law, when service cannot be made as provided in paragraphs (c)(6)(i) through (c)(6)(iii) of this section.

19. Section 110.90 is revised to read as follows:

**§ 110.90 Computation of time.**

(a) In computing any period of time, the day of the act, event, or default after which the designated period of time begins to run is not included. The last day of the period so computed is included unless it is a Saturday, Sunday, Federal legal holiday at the place where the action or event is to occur, or emergency closure of the Federal government in Washington, DC, during which the NRC Headquarters does not open for business, in which event the period runs until the end of the next day that is not a Saturday, Sunday, holiday, or emergency closure.

(b) In time periods of less than seven (7) days, intermediate Saturdays, Sundays, Federal legal holidays, and emergency closures are not counted.

(c) Whenever an action is required within a prescribed period by a document served under § 110.89 of this part, no additional time is added to the prescribed period except in the following circumstances:

(1) If a notice or document is served upon a participant, by first-class mail only, three (3) calendar days will be added to the prescribed period for all the participants in the proceeding.

(2) If a notice or document is served upon a participant, by express mail or other expedited service only, two (2) calendar days will be added to the prescribed period for all the participants in the proceeding.

(3) If a document is to be served by multiple service methods, such as

partially electronic and entirely on OSM, the additional number of days is computed according to the service method used to deliver the entire document, excluding courtesy copies, to all of the other participants in the proceeding.

(4) In mixed service proceedings where all participants are not using the same filing and service method, the same number of additional days will be added to the prescribed period for all the participants in the proceeding with the number of days being determined by the slowest method of service being used in the proceeding.

(5) One (1) day will be added to the prescribed period for all the participants in the proceeding:

(i) For a documents served in person or by expedited service, in a document is received after 5 p.m. in the recipient's time zone; or

(ii) For a document served by the Hearings Network or by electronic mail, if a document is transmitted by the sender on or after midnight in the sender's time zone.

Dated at Rockville, Maryland, this 30th day of November, 2005.

For the Nuclear Regulatory Commission.

**Annette Vietti-Cook,**

*Secretary of the Commission.*

**Note:** *This Appendix will not be printed in the Code of Federal Regulations*

## **Proposed Guidance for Submission of Electronic Docket Materials Under 10 CFR Part 2, Subpart C, 10 CFR Part 13, 10 CFR Part 110**

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## **1.0 Introduction**

### *1.1 Background*

On December 16, 2005, the Nuclear Regulatory Commission (NRC) promulgated a final rule on electronic submission of filings to the agency. This rule modified provisions of Title 10, parts 2, subpart C (10 CFR part 2, subpart C), 13 (10 CFR part 13), and 110 (10 CFR part 110) to require that all filings submitted and all orders and decisions issued during the course of most proceedings must be transmitted electronically to participants in the proceeding, the presiding officer, and the Office of the Secretary of the Commission (SECY). The NRC maintains Electronic Hearing Dockets (EHDs), which contain the official record of documents and materials submitted in the NRC's electronic proceedings, for the electronic submission of filings. The final rule stated that the NRC would issue specific guidance on acceptable procedures for electronic submissions. That guidance is contained in this document. This guidance document is the source of information on the electronic submission of adjudicatory filings to the NRC. The NRC plans to update this guidance periodically to reflect changes in technology and agency experience by posting the latest version of the document on the NRC's Web site at <http://www.nrc.gov/sitehelp/eie.html>. The NRC recommends that parties in proceedings before the agency routinely check the NRC website before submitting documents to the agency electronically to ensure they have the most updated version of the guidance document. While the Commission mandates the submission of electronic filings, exemptions are available to submit paper documents if good cause is set forth by the requesting party.

The NRC has analyzed and evaluated the capabilities of current information technologies and the various document and record management processes executed by the Agency to handle the anticipated submittals. Based on those analyses, the NRC anticipates that some electronic submittals in NRC adjudicatory proceedings could be “large documents” consisting of hundreds of pages of textual and graphic-oriented materials with electronic file sizes more than several hundred megabytes (MB). To provide for the integrity and accessibility of the large and complex electronic documents in NRC proceedings, the NRC is

providing this guidance document to facilitate, (1) submittal processing, (2) ready access to, and use of, such submittals by participants in NRC proceedings, and (3) public access to the EHDs. (Attachment B to this guidance presents a glossary of related terms.)

### *1.2 Scope*

This guidance document contains the information on the electronic transmission and submission of filings to the NRC by all participants in adjudicatory proceedings conducted under 10 CFR part 2, subpart C, 10 CFR part 13, and 10 CFR part 110. This guidance does not apply to any proceeding governed by 10 CFR part 2, subpart J (Procedures Applicable to Proceedings for the Issuance of Licenses for the Receipt of High-Level Radioactive Waste in a Geologic Repository).

This guidance includes the procedures for filing electronically with the NRC via the Internet using the Electronic Information Exchange (EIE) (section 4.0) and by Optical Storage Media (OSMs) (e.g., CD-ROM (Compact Disk, Read Only Memory)) (section 5.0). Physical delivery of OSM is permitted, in part, in recognition that it may not be practical to submit some large and complex electronic files via the Internet.<sup>1</sup> *Any OSM delivered to the NRC should contain a complete copy of the electronic submission, including any and all associated files that were also transmitted by the EIE.*

Electronic filings may contain textual documents, graphic-oriented documents (e.g., maps, photographs, charts, handwritten documents), or other large or complex electronic objects (e.g., computer programs, computer simulations, spreadsheets, audio and/or video files, data files). Examples of documents submitted or issued in adjudicatory proceedings include:

- Adjudicatory documents (e.g., intervention petitions, motions, responses, transcripts, exhibits, decisions, and orders)
- License Applications and supporting materials
- Environmental Impact Statements
- Responses to NRC requests for additional information

Generally, this guidance provides for service of adjudicatory docket materials

<sup>1</sup> The following electronic files may not be suitable for submission via the EIE:

- Multimedia files (e.g., audio and/or video files, simulations);
- Executable programs, including database files, spreadsheets;
- Data files specific to commercially available software; and
- Data files specific to non-commercially available software.

via the Internet using the NRC's EIE (see section 4.0) in an electronic format that "locks down" the content and pagination of documentary material for ease of citation in the proceeding, thereby ensuring document integrity when accessed by the users on their computer desktops. The EIE system also uses a public key infrastructure and digital signature certificate technology to authenticate documents and validate the identity of the person submitting the information. That is, the system ensures that the exchanged information is secure and that the person submitting the material is, in fact, who is indicated. It requires the use of digital signatures and certain software plug-ins. Procedures for acquiring a digital signature certificate

for communicating with the NRC via the EIE and for acquiring the required software can be found on the NRC's Web site at <http://www.nrc.gov/site-help/eie.html>.

Failure to comply with this guidance may result in the rejection of the submittal.

### *1.3 Exceptions to Electronic Submissions*

The following must not be submitted electronically via the Internet using the EIE:

1. Classified Information (*i.e.*, National Security Information and Restricted Data), and Safeguards Information. This information may only be submitted electronically in an OSM.

2. Documents served on the NRC as a participant in Federal Court proceedings or in non-NRC administrative proceedings (such as administrative reviews before the Merit Systems Protection Board), unless electronic submission is authorized by rule or order issued by a Federal Court or Agency.

### *2.0 Applicable Submittal Types*

The NRC anticipates that electronic documentary submittals will fall into three general categories based on the submittal type, size, and characteristics. The following table describes these categories and summarizes the applicable submission methods.

**BILLING CODE 7590-01-P**

**Submittal Description Table**

Submittal Type	Submittal Size	File Characteristics	Method
Simple	Less than 50 MB	One or more textual or graphic-oriented electronic files in Portable Document Format (PDF)	Use a single EIE transmission to submit the file(s) with a transmittal letter.*
Large	Greater than or equal to 50 MB	Textual or graphic-oriented electronic files in PDF that can logically be segmented into 50 MB or less files	<ul style="list-style-type: none"> <li>• Use multiple EIE transmissions (<math>\leq 50</math> MB each) to submit the files with a transmittal letter.</li> <li style="text-align: center;">— <i>and</i> —</li> <li>• Deliver a courtesy copy of the files submitted via the EIE on OSM</li> </ul>
Complex	Any	<p>Any combination of the following electronic object categories:</p> <ul style="list-style-type: none"> <li>• Textual or graphic-oriented electronic files in PDF</li> <li>• electronic files that can not be segmented into 50 MB or less files</li> <li>• Other electronic objects, such as computer programs, simulations, video, audio, pictures, data files, and files with special printing requirements</li> </ul>	<p>Use the Dual Submittal Method:</p> <ul style="list-style-type: none"> <li>• Use one or more EIE transmissions (<math>\leq 50</math> MB each) to submit a transmittal letter and (if <b>applicable</b>), single or multiple segmented PDF files.</li> <li style="text-align: center;">— <i>and</i> —</li> <li>• Deliver the balance of the submission, <b>together with all associated files transmitted via the EIE</b>, on OSM for a complete submission. Note: if documentary material is only being submitted on OSM, the transmittal letter is still sent via the EIE.</li> </ul>

\* A submittal of a single file less than 50 MB does not require a transmittal letter.

3.0 Parameters for Electronic File Submission

This section describes how documentary material should be constructed for submission to the NRC.

3.1 File Formats

Electronic documentary materials submitted in NRC adjudicatory proceedings should be submitted in PDF (a widely available format) or otherwise meet the specifications delineated in this section. Scanning of the best

available copy of a paper document to create a Searchable Image (Exact) PDF file creates an accurate electronic copy of the original document.

The following table defines the particular PDF output file formats and their use when submitting electronic documents to the NRC:

PREFERRED PDF OUTPUT FILE FORMAT GENERAL INFORMATION TABLE

File format	Version	Filename extension	Recommended use
Adobe® Acrobat Portable Document Format (PDF) Formatted Text and Graphics (Formerly known as PDF Normal). Options should be set according to the settings described in Attachment A.	Current or 2 previous* ....	pdf .....	Textual documents converted from native applications only **, ***.
Adobe® Acrobat PDF Searchable Image (Exact) [formerly known as PDF Original Image with Hidden Text]. Options should be set according to the settings described in Attachment A.	Current or 2 previous* ....	pdf .....	Textual documents converted from scanned documents.
Adobe® Acrobat PDF Image Only. Options should be set according to the settings described in Attachment A.	Current or 2 previous* ....	pdf .....	Preferred format for graphic-, image-, and forms-oriented documents (cannot be used for textual documents because it is not Section 508 compliant****).

\*The acceptable versions of PDF output files include the current market (non-beta) version distributed by the software vendor, the version distributed directly previous to the current version, and the version distributed two versions previous to the current version.

\*\*Textual documents scanned from original paper copies converted to PDF Formatted Text and Graphics result in capture of only a text file that contains OCR conversion errors. This inaccurate representation of the original document is not acceptable for capture by the NRC as an archival record. If the native format of a document is not available for creating a PDF file, the NRC recommends that Searchable Image (Exact) PDF be generated from a scanned image of the document. This will create a PDF file that contains a 100% accurate representation of the original document which will be acceptable for transfer to the National Archives.

\*\*\*Adobe® PDF Formatted Text and Graphics files that contain embedded images of text will not be accepted. These files are usually a result of cutting and pasting images of text instead of the text itself, from one document to another while creating documents using word processing applications. This practice results in a picture of the text being created that is not full text searchable. However, images of text that are intended as a graphical representation only and are not meant to convey the information contained in the text will be accepted.

\*\*\*\*See Sec. 3.12 of this document for more section 508.

NOTE: Adobe has recently established a fourth PDF output file format (PDF Searchable Image (Compact)) that uses compression techniques to reduce file sizes of images. This is not an acceptable format for submission to the NRC.

Adobe® Distiller 6 provides various default optimizations when creating the Formatted Text and Graphics PDF. The NRC has reviewed these optimizations and has established a custom optimization that strikes a balance between print and screen optimizations. This custom optimization provides adequate retrieval response time for viewing online while providing sufficient clarity and resolution for printing. The settings contained within this custom optimization are in Attachment A and can be saved locally for use on all submittals to the NRC. The parameter values listed in Attachment A are specific to Adobe® Distiller 6;

however, when PDF creation software other than Adobe® Distiller 6 is used, the PDF creation software should be configured with parameter values equivalent to those listed in Attachment A. All fonts should be embedded in the PDF file to ensure compliance with NARA guidelines.

Images originally created in a Tagged Image File Format (TIFF) that are primarily graphic-oriented in nature should be converted into PDF for submission to NRC using the PDF Image Only format as described above.

When submitting an electronic file using one of the acceptable formats listed in the tables above, the file name

should contain the three-character default extension in which the file was created (e.g., a document prepared as "license\_amendment.pdf" should be submitted with the ".pdf" file extension).

Spreadsheet Formats

The NRC requires that the results of spreadsheet applications be converted to one of the acceptable PDF file formats. The NRC staff may also request spreadsheet data to perform additional calculations/analyses. Spreadsheet data may be submitted using the following acceptable formats.

ACCEPTABLE FILE EXTENSIONS GENERAL INFORMATION TABLE

File format	Version	Filename extension	Preferred use
Microsoft® Excel® .....	Current or 2 previous* ....	xls .....	Spread Sheet calculations.
Corel® QuattroPro .....	Current or 2 previous* ....	wb3 .....	Spread Sheet calculations.
Lotus® 1-2-3 .....	Current or 2 previous* ....	wk3/wk4 .....	Spread Sheet calculations.

\*The acceptable versions of spreadsheets include the current market (non-beta) version distributed by the software vendor, the version distributed directly previous to the current version, and the version distributed two versions previous to the current version.

### *Graphic-Oriented and Large and Complex Electronic Objects*

To the extent practical, textual files, graphic-oriented files, and other electronic objects (e.g., spreadsheets, audio and/or video files) should be submitted electronically as PDF files. In rare instances PDF conversion may not be successful due to technical reasons (e.g., fatal hardware, software, or operating systems errors that prevent completion of the conversion). In addition, if the applicable file size and resolution restrictions (see sections 3.2, 3.7) cannot be met for a given graphic-oriented file or other electronic object, users must not submit that file or object in PDF. Submission of non-PDF files should include a detailed statement for each file that explains why PDF is not practical.

The NRC recommends submitting oversized image files that, for technical reasons, do not successfully convert to PDF in a non-proprietary format that does not utilize lossy compression (e.g., tagged image file format, also known as TIFF). Similarly, the NRC recommends submitting video and audio files in a format compatible with commercially available playback devices.

Electronic objects specific to highly specialized software applications such as special-purpose computer programs, simulations, and data files are acceptable in their native file format. Submission of these specialized electronic objects that are specific to commercially available software should include the following information about the software:

- Software title and version
- Compatible computer operating system
- Hardware requirements (including the minimum recommended hardware configuration)
- A list of user-controlled parameters used with the software.

Submission of these specialized electronic objects that are specific to non-commercially available software should include (1) a freely distributable "run-time" version of all software components that the submitter used to create the files, and (2) the following information:

- Compatible computer operating system
- Software and hardware installation/configuration parameters
- Hardware requirements (including the minimum recommended hardware configuration)
- Other information to ensure seamless access to and review, duplication, and printing of the files.

### *3.2 File Size Limitations*

Large files create challenges for users when transmitting, viewing, or downloading documents. Submitters should limit file sizes to 50 MB for electronic submittals and divide larger electronic files into segments of 50 MB or less at logical breaks in the document (e.g., at individual chapters) as described in section 3.3.

Compression techniques that are not inherent in authoring software used to produce PDF or TIFF files may not be used.

The 50 MB file size limitation will allow participants in the adjudicatory proceeding and the general public to access electronic files in the EHDs via the Internet. Test results indicate that 50 MB is a reasonable file size for downloading files via the Internet. In addition, larger files (greater than 50 MB) are difficult for end-users to navigate.

While we do not recommend a minimum file size, small files that are components of a larger document should be combined into one file to facilitate efficient distribution and use of the documentary material. For example, if a document consists of 15 separate 2 MB files, those 15 files should be combined to result in one 30 MB file.

### *3.3 Segmentation of Large Documents*

Large documents with file sizes greater than 50 MB should be divided in file segments of 50 MB or less at logical breakpoints such as:

- a. Chapters.
- b. Sections.
- c. Subsections.
- d. Appendices.
- e. Exhibits or attachments.
- f. Charts; tables; formulae.
- g. For large transcripts, the end of a witness' testimony or session recess.

If the recommended file size cannot be achieved, consider moving the graphics (which are often large files) to an appendix or attachment. Any graphic or other Binary Large Object (BLOB) that exceeds the 50 MB limit and that cannot logically be divided, should not be segmented. In this case, the graphic or BLOB cannot be sent via the EIE (see section 4.0) and should be provided on OSM in accordance with guidance in section 5.0.

When OSM are submitted, use electronic folders to organize the contents at the chapter level consistent with the file name guidance outlined in Section 3.5. In addition to the limit on file name length, the Joliet Extension to ISO 9660 allows an overall limit on *length of path* of 255 characters,

including the file name and extension.<sup>2</sup> The numeric portion of the file name should be sequential across all folders. Therefore:

- Each Chapter will have its own folder which should then contain all files associated with that Chapter, including sections, subsections, and graphics (either embedded within those sections/subsections or provided separately).
- The sections/subsections should be placed in logical sequential order within a folder.
- Separate folders may be created for appendices, exhibits, or attachments. Each item should have the file name reflect the folder where it resides, if practical, in conjunction with complying with the file name guidance in section 3.5.

If multiple OSM are submitted (either alone or as a supplement to an EIE submission), place the Table of Contents for the entire submission on each OSM in a multi-set submission. Place all files submitted via the EIE on the first OSM and as many additional OSM as required to store those files submitted via the EIE. Submit other electronic objects such as computer programs, simulations, video, audio, data files, etc., on separate OSM and include any special software components, their configuration parameters, and any hardware configuration requirements, as applicable.

### *3.4 Transmittal Letter*

Include with each submittal, a transmittal letter<sup>3</sup> (see Attachment C) that provides explanatory information that will enable the NRC to ensure the completeness and integrity of the submission. On the first page of the transmittal letter submitters should provide the following information:

- Organization or Individual Name/Address (Author);
- Docket Number (###-####);
- Subject Line (a non-sensitive, brief but descriptive narrative of the subject of the submission); and
- Any requests for withholding from public disclosure in accordance with 10 CFR 2.390.

On the last page[s] of the transmittal letter, submitters should provide:

- The name, mailing and e-mail addresses, and phone number of a point of contact that can resolve discrepancies in document submittals should they arise;
- A complete listing of the document components (electronic files and/or

<sup>2</sup> See Glossary on page B2 for an explanation of these terms.

<sup>3</sup> A submittal of a single file less than 50 MB does not require a transmittal letter.

physical objects) that make up the submittal. The components should be listed in the order in which they appear in the document, and if applicable, the total number of OSM that are submitted by expedited delivery (e.g., same day courier, overnight) (see section 3.5);

- A detailed statement of any deviation from PDF (see section 3.1);
- A disclaimer statement for each file that may have links to another file(s) or the Internet (see section 3.9); and
- A list of parties served with the submission.

Each of the listed components should indicate the following information:

- The filename (as defined in section 3.5, including file extension);
- The size of the file;
- Sensitivity level (e.g., publicly available, proprietary, classified, etc.);
- An indication of whether the component is being submitted via the EIE and/or submitted on OSM; and
- A file that provides a non-sensitive description of all electronic components characterized as “BLOBS” or other physical objects.<sup>4</sup>

The NRC may reject any submittal if there are any inconsistencies, including omission, between the transmittal letter and the files or physical objects received. In such instances, the NRC will inform the submitter of the

rejection. In addition, if one or more of the optical storage devices contain classified information (i.e., National Security Information and Restricted Data), sensitive unclassified information, or non-public documents, additional sensitive information requirements apply as described later in section 3.13.

**3.5 Electronic File Naming Conventions**

OSM identified in a transmittal letter submitted via the EIE should meet the ISO 9660 format. The Joliet Extension to ISO 9660 should be followed. The file naming conventions, for consistency, are applicable to files transmitted via the EIE as well as PDF files submitted on OSM.

The Joliet Extension allows file names of up to 64 characters; however, documents submitted via the EIE are programmatically provided a unique sequential number assigned to each of the files contained in the submission and a date of receipt for each file. This is a 15-character unique number. Documents submitted to the NRC should therefore have filenames that are limited to 49 characters in length (including the “.”, spaces, and the three-character filename extension). This 49

character limit is subject to the following criteria:

- The first three characters of the file name should always be used to identify the sequence of the file in the organization of the document. For example, a document may be comprised of 3 separate files. The name of the first file for the document would start with “001,” the name of the second file that comprises the document would start with “002” and so on for as many files as necessary to comprise the document. For consistency, if a document is comprised of only one file, the file name should still begin with “001.”

- The filenames should reflect, to the extent possible within the remaining characters, the section number and title of the file/segment being submitted, per the following:

‘section number’ ‘title’.pdf

(Where ‘section number’ reflects the lowest level of document breakpoint and ‘title’ is a meaningful reference to the actual document title.)

- The default three-character file extension associated with the format in which the document was created needs to be retained. (Example: for files created to conform to PDF, “.pdf”).

FILE NAMING EXAMPLE TABLE

Document title	File name
<b>Multiple File Documents</b>	
Chapter 1, Section 1 Estimate of Long-Term Geo-chemical Behavior ...	001_1.1 Estimate of Long-Term Geochem Behavior.pdf.
Chapter 2, Section 2 Estimate of Long-Term Geo-chemical Behavior ...	002_2.2 Estimate of Long-Term Geochem Behavior.pdf.
Appendix A Estimate of Long-Term Geo-chemical Behavior .....	003_Ap A Estimate—Long-Term Geochem Behavior.pdf.
<b>Single File Documents</b>	
Attachment II, CAL–EBS–NU–000017 Rev 003 Calculation, Radiolytic Specie Generation from Internal Waste Package Criticality.	001_Att 2 CAL–EBS–NU–000017 R003.pdf.
List and Schedule for Model Validation Reports related to Criticality .....	001_List_Sched for MVRs related to Criticality.pdf.

**3.6 Security/Access Settings**

Submissions should not contain any security settings, password protections, or any other attributes that will prevent full NRC access to and use of the files. NRC’s internal security and archival processes will maintain the integrity of the materials that are submitted.

Encrypted documents are not acceptable for submittal to the NRC and will be rejected.

**3.7 Resolution**

To meet the expectations of the document users, and to comply with NARA Standards, PDF documents

should be created using the following resolution guidelines:

- Bi-tonal (black and white) PDF resolution, not less than 300 dpi.
- Color PDF resolution, not less than 300 dpi.
- Grayscale PDF resolution, not less than 300 dpi.

Also see Attachment A for additional guidance on Adobe Acrobat settings.

Adobe® Acrobat “downsampling” (an optimization option available in Adobe Acrobat) may result in images with resolutions less than acceptable for submission to the NRC. Therefore, its use is not recommended.

The 300 dpi minimum resolution also applies to non-PDF graphic-oriented electronic files (e.g., TIFF images).

**3.8 Files With Special Printing Requirements**

Documents that contain electronic files with special printing requirements, such as requiring the use of a plotter or other special equipment to print, oversize drawings or graphics that require a paper size larger than 11 inches by 17 inches, or other enhancements such as 3D images, etc., may only be submitted electronically via OSM as separate files. If special software components (e.g., printer

<sup>4</sup> Include any special instructions or information necessary to view or use the information, such as

special instructions regarding the use of OSM, computer operating system or software

requirements for data files, computer models, etc. (See Attachment D.)

drivers) are necessary, include those components, their configuration parameters, and any hardware configuration requirements on the same OSM.

### 3.9 File Linkages

Files containing objects (e.g., pictures, tables, spreadsheets, and images of text) using link protocols such as Object Linking and Embedding (OLE), Dynamic Data Exchange (DDE), or any other object linking between electronic files are not practicable for the NRC to accept because the relationships among links in multiple file submissions are lost when captured in ADAMS or other agency electronic recordkeeping systems.

However, links within a single electronic PDF file are acceptable, if those links are created using PDF authoring software. Multiple linked PDF files may be combined into a single PDF file using utilities often included in PDF authoring software.

Electronic submissions to the hearing docket cannot rely on the use of any hyperlinks to other electronic files or Web sites to generate additional documentary material. If the submittal contains such hyperlinks, then it must include a disclaimer to the effect that the hyperlinks are either inoperable or are not essential to the use of the filing. However, hyperlinks within a single electronic PDF file are acceptable and require no disclaimer provided that such links are created with PDF rendering software. Attachment E illustrates the various types of hyperlinks and the need for disclaimers.

If the submittal relies on Internet based material, then the Internet based material must be submitted as part of the filing. If the submittal contains hyperlinks to material in another electronic file, and such hyperlinks are necessary to access that material, then either a reference to the material must be provided or the material itself must be submitted.

### Required Disclaimers

For a submittal that consists of a single PDF of less than 50 megabytes, include the following in the body of the submittal if the PDF contains hyperlinks to other PDFs or to the Internet:

“This PDF contains hyperlinks to other PDFs or to the Internet. These hyperlinks are either inoperable or are not essential to the use of the filing. Any material referenced by hyperlinks to the Internet that was essential for use of this filing has been submitted as part of the filing. Any material referenced by a hyperlink to another PDF that was essential for the use of this filing has either been included by reference or submitted as part of this filing.”

For a submittal that consists of more than one PDF, include the following in the transmittal memorandum if one or more PDFs contain hyperlinks to other PDFs or to the Internet:

This submittal contains PDFs, one or more of which contains hyperlinks to other PDFs or to the Internet. These hyperlinks are either inoperable or are not essential to the use of the filing. Any material referenced by hyperlinks to the Internet that was essential for use of this filing has been submitted as part of the filing. Any material referenced by a hyperlink to another PDF that was essential for the use of this filing has either been included by reference or submitted as part of this filing.

### 3.10 Viruses

Files received by the NRC will be checked for viruses prior to acceptance. Macros in files such as Microsoft® Excel are sometimes detected as viruses. Therefore, the use of macros should be limited because a file identified as having a virus will be rejected and the submitter notified of the rejection.

### 3.11 Copyrighted Information

Submitting information electronically to the NRC shall be deemed to constitute authority for the NRC to place a copy of the information on its public document database and to reproduce and distribute sufficient copies to carry out its official responsibilities. NRC use of the information specified herein does not constitute authority for others to use the information outside applicable requirements of copyright law.

### 3.12 Accessibility (Section 508)

Section 508 of the Rehabilitation Act and the accessibility standards set forth in implementing regulations requires that Federal agencies' electronic and information technology is accessible to people with disabilities. Tools and plug-ins are now available to allow PDF files to comply with section 508, but care must be taken in developing documents and converting them to PDF to ensure that the author has constructed the documents and used the appropriate tools with accessibility in mind. The submitter should consider accessibility issues during document authoring. The use of simple layouts, consistent application of styles, accessible table formats, and the inclusion of alternate text for images improves the ability of people with disabilities to use the information.

### 3.13 Sensitive Information

This section does not apply to documents containing Safeguards Information, which are discussed in section 3.14, below. If a document

contains information that is deemed sensitive unclassified, proprietary, such as trade secrets, privileged, company confidential or financial information, personal privacy, or other official-use-only information, it may be submitted via the EIE. The document must be clearly marked (e.g., watermark or header/footer) and the transmittal letter must indicate the sensitivity for each document.

If it is not practical to submit a large document containing sensitive unclassified information via the EIE (see section 1.2, 3.3, 3.4), submit the document via OSM. Submissions made on OSM must be accompanied by a transmittal letter (see section 3.4) that contains information regarding the sensitivity level of the transmitted documents. This letter should contain a listing of each file contained in the submission, with a description and the sensitivity for each file clearly marked.

When submitting documents via OSM that contain both publicly and non-publicly available files, all of the files should be included. In addition, separate OSM must be provided that contains only the publicly available files. Each OSM must be clearly labeled indicating its availability. Files contained on OSM labeled as “Publicly Available” will be released to the public.

If sensitive unclassified, classified, or safeguards documents are appended to filings in the adjudicatory proceeding, the submitter shall seek an appropriate order from the presiding officer pursuant to 10 CFR part 2, subpart C, part 13, or part 110, or follow the procedures for Classified Information in 10 CFR part 2, subpart I.

### 3.14 Classified or Safeguards Information

Documents containing Classified or Safeguards Information may not be submitted via the EIE. OSM containing Classified Information must be processed and produced on systems approved under the provisions of 10 CFR 95.49. Each OSM must be clearly labeled as containing classified information. The mailing package containing OSM with documents comprised of Safeguards, proprietary, or Privacy Act information must be processed, marked and transmitted in accordance with the requirements set forth in 10 CFR 2.390(b), 73.21(e), 73.21(g), and 73.21(h), as appropriate. Documents containing Safeguards Information may not be submitted via the EIE. OSM containing Classified Information (i.e., National Security Information or Restricted Data), must be packaged and submitted to the NRC in

accordance with the requirements contained in 10 CFR 95.37, 95.39, and 95.41. If sensitive unclassified, classified, or safeguards documents are appended to filings in the adjudicatory proceeding, the submitter shall seek an appropriate order from the presiding officer pursuant to 10 CFR part 2, subpart C, part 13, or part 110, or follow the procedures for Classified Information in 10 CFR part 2, subpart I.

### 3.15 Document Updates

Document component updates will not be accepted. If changes to the submitted document are necessary, the entire document (including all of the electronic files and electronic objects that comprise the document), and all OSM sets in their entirety, should be re-submitted as that version will become a new document. The subsequent transmittal letter should indicate the part(s) (e.g., chapter, section, or graphic) that has been changed as well as the general scope of the change. The submittal guidelines given in section 3.4 of this guidance should once again be followed. The document should be identified as a new version and file identification information submitted accordingly.

### 4.0 EIE Submissions

Each individual that plans to transmit electronic filings via the EIE needs to obtain a digital signature certificate (digital ID certificate) and software plug-ins downloaded and installed on the user's computer. The NRC EIE Web page (located on the Internet at <http://www.nrc.gov> by choosing "Site Map" followed by "Electronic Information Exchange") has detailed information about the EIE and instructions on how to obtain a digital ID.

- All EIE users will be assigned a digital ID certificate necessary to use the EIE. A digital ID certificate is used to submit and digitally sign the form for the submission of electronic documents and will be required in order to access the EIE external server to retrieve documents, if appropriate. The EIE system requires the use of an NRC-issued digital ID certificate.

- All EIE system users will need to download and install software plug-ins. The specific plug-ins required are the Internet Form Viewer, which is a required plug-in regardless of the browser used, a signing plug-in for Netscape users, and a separate viewer plug-in for Microsoft® Internet Explorer users.

- Documents are submitted using the NRC's EIE form. The EIE form is a document based on Extensible Mark-up Language (XML). It allows participants

to sign, enclose, submit, and verify documents via the Internet. The document to be submitted must be presented as an attachment to the form. Once the form is displayed, users will need to fill in the fields on the form and attach the document(s) for transmission to the NRC. After the fields have been filled in and the intended documents are attached, the form must be digitally signed. Large documents greater than 50 MB must be sent in separate segments.

- NRC regulations require that some documents be filed under oath or affirmation. There are currently two acceptable methods for providing this oath using the EIE processes.

1. Documents requiring oath or affirmation may use the EIE to digitally sign the affirmation on the document. Using this process, the document must conclude with a statement to this effect:

I declare under penalty of perjury that the foregoing is true and correct. Executed on [date]."

*The electronic document must be digitally signed by the person affirming this statement.* This person may then transmit the document directly to the NRC using EIE or may forward the document to someone else (e.g., the attorney for the sponsoring party) for transmission to the NRC. In the latter case, the transmitter must also sign the document to authorize the electronic transmission.

Except as set forth below, multiple documents requiring individual digital signatures by different persons cannot be sent in a single EIE transmission. Therefore, the NRC recommends that the method described below in item 2 be used for submissions that require multiple oath and affirmations.

**Note:** When digitally signing a document, the submitter is actually digitally signing the EIE transmission form, not the document. Signing the form is the equivalent of signing the document.

2. Oath or affirmation affidavits may also be signed with an "Original signed by" designation. The original paper copy must be retained by the submitter. The NRC staff may use a typed in "/RA/" meaning "Record approved" designation, rather than "Original signed by."

**Note:** Although there are other methods available to electronically sign documents using word processing and other software, these are not currently acceptable for use in signing documents for submission to the NRC because they do not provide the levels of authentication, certification, and non-repudiation that are present in the EIE process.

- *Verification of Receipt:* The NRC EIE form must be digitally signed. Any submission sent via the EIE that is successfully received will receive a date/time stamp and the EIE will return a "message received" confirmation. In the absence of this confirmation, it is the submitter's responsibility to follow-up and verify that the submittal was received. The NRC will compare the files delivered to the list identified in the transmittal letter to ensure that all files have been delivered. The NRC will reject the submittal and notify the submitter in the following situations:

- If a period of 8 hours has elapsed between the beginning of the transmittal of the first file of a given EIE submission and notification of receipt of the last file of the same EIE submission, and the EIE system has not yet received all files. This time limit is intended to address the transmittal of multiple EIE forms and their attachments in situations where the size of the submission requires more than one EIE transmission to accomplish delivery of all attachments that comprise the submission.

- In the event that the NRC identifies discrepancies between the transmittal letter and the files actually received via the EIE (e.g., a file is listed but not included, an unidentified file is sent, or the total number of attachments stated does not equal the number actually received).

- If the OSM received do not contain all of the files described in the transmittal letter.

- If the OSM do not arrive within the time specified in section 5.0.

The processes and steps described above are specific to both Netscape Navigator/Communicator 4.6 or higher and Microsoft Internet Explorer 5.0 or higher. Other browser types, such as AOL or Mosaic, are not currently supported for use in the EIE system. The recommended workstation configuration requires a Pentium 900 MHZ processor (or higher) with a minimum of 128 MB of RAM, adequate available disk space,<sup>5</sup> a device for creating and/or reading OSM, and access to the World Wide Web (web) through an Internet Service Provider (ISP). The operating system should be either Windows NT or Windows 95 (or higher).

<sup>5</sup> The requirement for disk space is dependent on the volume of material the participant intends to submit and/or retrieve. To calculate required disk space, multiply the size of the submittal or retrieval by 2, for example, a 33 MB file will require 66MB of available disk space.

### 5.0 Optical Storage Media Submissions

OSM should be used in the following circumstances:

- The documentary material cannot be transmitted via the EIE (e.g., file size, complex document).
- The EIE submittal exceeds 50 MB and is comprised of multiple segmented files.
- A document segment cannot be submitted via the EIE although the remaining document portions could be transmitted via the EIE.
- The document contains sensitive unclassified information (i.e., Safeguards information) or classified information (i.e., National Security information and Restricted Data).

In addition:

- The transmittal letter should be included on the OSM (see section 3.4 for transmittal letter guidelines).
- NRC regulations require that some documents be filed under oath or affirmation.
- If such a document is submitted on OSM, either the transmittal letter or the first page of the document contained on the OSM must contain the oath and the signature of the person swearing to the accuracy of the information submitted. Specifically, the letter must include the following statement with the signature of the person affirming it:

"I declare under penalty of perjury that the foregoing is true and correct. Executed on [date]."

If the oath or affirmation is submitted on the transmittal letter, it must contain the "Original signed by" designation of the person swearing to the accuracy of the information or, in the case of the NRC staff, an "/RA/" designation.

- Include the entire submission (i.e., all files submitted separately through the EIE and those submitted only on OSM). Place files submitted through the EIE on an OSM that is separate from the OSM containing the files submitted only on OSM.

Software used to produce the OSM should be configured to ensure that the OSM is "read only" prior to its delivery to NRC.

All OSM content should be readable either by commercially available software, or by providing, where appropriate, executable programs that are located on the OSM.

The OSM should be labeled with the Transfer Media Configuration (e.g., drive transfer rate) as well as any numbering, exterior marking, or labeling that should reference the submittal provided through the EIE. If appropriate, the version number may also be included.

As stated in sections 3.3 and 3.5, the acceptable OSM format must be compliant with ISO-9660, using the Joliet Extension.

Submitters should transmit the OSM, along with a paper copy of the transmittal letter, by expedited delivery service. Given the paramount importance of submittal and document integrity and fidelity, expedited delivery of the OSM is essential to ensure proper coordination of the companion submittals transmitted via the EIE and on OSM. In addition, to ensure that all intended information has been received, the NRC will not deem a submittal complete, "in-hand," or ready for further processing and staff review until the agency has received the last document/segment.

Subsequent to the anthrax mailings in late September 2001, incoming mail addressed to the Federal government is irradiated prior to delivery. Irradiation of electronic information media may result in damage to the media and its contents. Therefore, packages containing OSM submission should be clearly marked "Contents Contain Optical Storage Media Do Not Irradiate."

The following address is to be used for delivering OSM to the NRC:

Courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, Attention: Rulemakings and Adjudications Staff.

**BILLING CODE 7590-01-P**

## ATTACHMENT A - SETTINGS

The following table provides guidance on the settings to be used when using Adobe® Distiller 6 to produce an optimal PDF for submission and subsequent use by NRC staff and the public. When PDF creation software other than Adobe® Distiller 6 is used, the PDF creation software should be configured with parameter values equivalent to those listed below.

Options	Recommendation Optimal on 5.0
<b>General</b>	
Compatibility	Acrobat 6.0 (PDF 1.5)
Object Level Compression	Off
Auto-Rotate	
Binding	Left
Resolution (dpi)	300
Embed Thumbnails	
Optimize for Fast Web	X
<b>Compression</b>	
<b>Color Images</b>	
Downsample	Off
Pixels per inch	300
Compression	Zip
<b>Grayscale</b>	
Downsample	Off
Pixels per inch	450
Compression	Zip
<b>Monochrome</b>	
Downsample	Off
Pixels per inch	450
Compression	CCITT - Group 4
Anti - Alias to Gray	Off
<b>Font</b>	
Embed All Fonts <sup>1</sup>	X
Subset embedded fonts when percent of characters used is less than	100%
When Embedding Fails	Warn & Continue
<b>Color</b>	
Setting File	None
Color Management Policy	Tag Everything for Color Management

<sup>1</sup> You must check the license(s) for any font(s) you intend to embed, to verify that embedding is allowed. In some cases, the program will warn you if a font is not licensed for embedding, but this varies by vendor. Fonts must be embedded to comply with NARA guidelines.

	Intent:	Default
	Gray	None
	RGB	SRGB IEC61966-2.1
Color	CMYK	US Web Coated (SWOP) v2
	Preserve Under Color	X
	Transfer Function	Preserve
	Preserve Halftone	
Advanced		
	Allow PS to Override Job	X
	Allow PS X Objects	
	Gradients to Smooth	X
	Create JD File	
	Preserve Level 2 Semantics	X
	Preserve Overprint Settings	X
	Overprinting Default is	X
	Save PDF Settings in File	X
	Save Original JPEG in PDF	
	Save Job Ticket	
	Use Prologue ps &	X
	Process DSC Comments	X
	Log DSC Warnings	
	Preserve EPS Info	X
	Preserve OPI Comments	X
	Preserve Doc Info from	X
	Resize EPS	X
PDF/X		
	PDF/X - 1a	
	PDF/X - 3	

**Attachment B—Glossary***Agencywide Documents Access and Management System (ADAMS)*

ADAMS is the NRC's primary records management system that contains the bibliographic header (metadata) about a record, searchable text, and an image of a record (either in PDF or TIFF formats). Two access methods for the public are offered today:

- Through the Citrix server (which provides client/server-type access to ADAMS);
- A Web browser based interface to publicly available records.

*Bibliographic Header*

A structured description of a document, file, or object.

*Binary Large Object File (BLOB)*

A large file, typically an image or sound file, that must be handled (for example, uploaded, downloaded, or stored in a database) in a special way because of its size.

*Complex Document*

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.

*Courtesy Copy*

A non-required copy of a document provided as a useful reference copy of an official document.

*Document*

A document is any written, printed, recorded, magnetic, graphic matter, or other documentary material, regardless of form or characteristic.

*Documentary Material*

Documentary material means 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.

*Electronic Information Exchange (EIE)*

Electronic Information Exchange is the electronic transfer mechanism established by the NRC for electronic transmission of documents to the agency via the Internet, where the documents are transmitted in a verifiable and certifiable mode that includes digital signatures. EIE is a Public Key Infrastructure (PKI) system using RSA Labs' 128-bit encryption, Verisign's Public Key Certificate Services (PKCS), and PureEdge's

Extensible Forms Definition Language (XFDL) webform.

*File Format*

A file format is the layout of a file in terms of how the data within the file is organized. A program that uses the data in a file must be able to recognize and access data within the file. A particular file format is often indicated as part of a file's name by a file name extension (suffix). Conventionally, the extension is separated by a period from the name and contains three or four letters that identify the format. Examples are: (1) Word processing (.doc for MS® Word, .wpd for Corel® WordPerfect), (2) spreadsheet (.xls for MS® Excel, .wb3 for Corel® Quattro Pro), (3) "generic" (.pdf for Adobe® Systems' Acrobat).

*Length of Path (ISO 9660, Joliet Extension)*

The Joliet Extension to ISO 9660 allows filenames of 64 characters in length and is the least restrictive interchangeable format. However, the ISO 9660 standard imposes a limit on length of path to each file that cannot exceed 255 characters. Length of path is the sum of the lengths of all relevant directories, the length of the file name and extension, and the number of relevant directories.

*Macro*

A symbol, name, or key that represents a list of commands, actions, or keystrokes. For example, in Microsoft Word and other programs, a macro is a saved sequence of commands or keyboard strokes that can be stored and then recalled with a single command or keyboard stroke.

*Optical Character Recognition (OCR)*

Optical Character Recognition is the recognition of printed or written text characters by a computer. This involves the photo scanning of the text character-by-character, the analysis of the scanned-in image, and then translation of the character image into character codes, such as ASCII. The scanned-in image is analyzed for light and dark areas in order to identify each alphabetic letter or numeric digit. When a character is recognized, it is converted into an ASCII code. OCR can be accomplished either through software alone, or through a combination of specialized hardware and software.

*Portable Document Format (PDF)*

This is Adobe® Systems, Incorporated's Acrobat document publishing software package output format. The PDF standard, though it is proprietary to Adobe, has been

published, is freely available, and the capability to create PDF documents has been integrated into many other software applications. PDF documents can be generated from any application that can generate Postscript printer files (a popular printing language standard); thus, anything that can be printed can be represented in PDF. When files are converted from standard applications to PDF, the information and pagination are "locked down" for the general user, who can access the content through the use of PDF viewer software. The following are definitions of the various types of PDFs:

- *Formatted Text & Graphics.*

Formerly known as "PDF Normal". This type of PDF is a popular output file format created when materials have been produced on a word processing or publishing system. It contains the full text of the page with appropriate coding to define fonts, sizes, etc. The files are relatively small and screen display and printed versions are comparable in readability of content.

- *Searchable Image.*

Formerly known as "PDF Original Image with Hidden Text." When a document is created in this type of PDF, the resultant file consists of two layers: a bit-mapped layer and a hidden text layer. The bitmapped layer maintains the visual representation of the original document. The text layer is created through optical character recognition software (OCR). There are two "flavors" of this type of PDF:

- *Searchable Image (Exact).*

Formerly known as 'PDF Image + Hidden Text.' This creates the largest file size, but is the more accurate of the two "flavors". When the plug-in is launched, a layer of text is placed behind the image, making the page appear exactly as it did when scanned, but now it is searchable. Thus, the Searchable Image (Exact) preserves the look of the original scanned image, making it an ideal format for meeting legal requirements. Therefore, NRC will only accept PDF documents in this "flavor".

- *Searchable Image (Compact).*

This captures the same image as searchable image (exact), producing smaller files sizes than the Exact method. The general look and feel of the image is retained and it becomes searchable. The quality is not quite as good as the Exact method, as the compression routines used are "lossy" techniques. Because of the lossy techniques used here, the NRC will not accept any documents created in this format. This decision is consistent with guidance from NARA.

- *Image Only.*

This type of PDF is essentially a scanned image of the page in a PDF wrapper and contains no searchable text. There is no ability for text searching. The image quality is dependent on the quality of the source materials and the quality of the scanning operation. The NRC cannot accept text documents in this type of PDF because the format is not ADA 508 compliant.

*Segment*

A segment is subpart, or subunit, of a document usually created at a logical division such as a chapter, section, or subsection of a large document.

*Submittal*

An information package delivered to the NRC for a specific purpose and may consist of one or more documents.

*Target File*

A file required by most electronic document management systems to store and retrieve bibliographic header information.

**BILLING CODE 7590-01-P**

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**ATTACHMENT C - Sample Transmittal Letters and Corresponding EIE Forms****SIMPLE SUBMITTAL**

State of Xxxx  
Office of the Governor  
12345 Main Street  
Anywhere, XX 56789

September 23, 2005

United States Nuclear Regulatory Commission  
Atomic Safety and Licensing Board  
Attn: Document Control Desk  
11555 Rockville Pike  
Rockville, MD 20852

WM-00011(PRE)

Enclosed are the State of XXXX's Response to DOE Interrogatories 3 and 7 and Notice of Appearance for J. Doe, Esq.

Questions concerning this submittal may be directed to:  
State of XXXX  
Office of the Governor  
Attn: Mary Smith (000) 555-xxxx  
e-Mail: MESmith@stateofXX.us  
12345 Main Street  
Anywhere, XX 56789

Sincerely,  
J. Doe  
Attorney for the State of XX

cc: Provide list of parties served

**Document Components:**

001 State Transmittal Letter.pdf 1024 bytes (EIE)  
002 State Response to 3 & 7.pdf, 15,683,112 bytes (EIE)  
003 Notice of Appearance-Doe.pdf, 1,056,011 bytes (EIE)

**Submittal Form**

WM-00011

## Hearing Form

ASLBP #

LSN #

Affiliation

Document Date

09-23-2005

Author Name

John Doe

Document Title

State of XX Response to DOE  
Interrogatories 3 & 7

Document Type

Legal - Interrogatories and Response

[Click For Exhibit Info >>](#)

Issues

Party Identifier

Panel Judges

 Check box if this is part of a  
multi-part submission

Unique ID

This is  
part of

Service List

[Click For Service list](#)[Attach File ...](#)[Extract File...](#)[View...](#)[Remove File...](#)[Click to Authorize Transmission](#)[Submit Document](#)

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**LARGE SUBMITTAL**

United States Department of Energy  
Office of the General Counsel  
Hearing Division  
Washington, DC 20585

September 18, 2005

United States Nuclear Regulatory Commission  
Atomic Safety and Licensing Board  
Attn: Document Control Desk  
11555 Rockville Pike  
Rockville, MD 20852

WM-00011(PRE)

Enclosed are DOE's Response to Interrogatories Related to Quality Control Procedures

Questions concerning this submittal may be directed to:  
US Department of Energy  
Hearing Division  
Attn: S. Smith (202) 555-xxxx  
e-Mail: SESmith@usdoe.gov  
Washington, DC 20585

J. Doe, Attorney for DOE

cc: Provide list of parties served

**Document Components:**

001 DOE Transmittal Letter.pdf 1024 bytes (EIE)  
002 Evaluation Quality Control (1 of 4).pdf 48,321,678 bytes (EIE)  
003 Evaluation Quality Control (2 of 4).pdf 47,421,178 bytes (EIE), Proprietary  
004 Evaluation Quality Control (3 of 4).pdf 49,223,167 bytes (EIE)  
005 Evaluation Quality Control (4 of 4).pdf 37,522,178 bytes (EIE)

**Submittal Form**

WM-00011

**Hearing Form**

ASLBP #

LSN #

Affiliation

Document Date

09-23-2005

Author Name

J. Doe

Document Title

Response to  
Interrogatories Related to  
Quality Control Procedures

Document Type

Legal - Interrogatories and Response

[Click For Exhibit Info >>](#)

Issues

Party Identifier

Panel Judges

 Check box if this is part of a  
multi-part submission

Unique ID

This is part  
of

Service List

[Click For Service list](#)[Attach File ...](#)[Extract File...](#)[View...](#)[Remove File...](#)[Click to Authorize Transmission](#)[Submit Document](#)

**COMPLEX SUBMITTAL**

United States Nuclear Regulatory Commission  
Office of the General Counsel  
Hearing Division  
Washington, DC 20555

September 30, 2005

United States Nuclear Regulatory Commission  
Atomic Safety and Licensing Board  
Attn: Document Control Desk  
11555 Rockville Pike  
Rockville, MD 20852

WM-00011(PRE)

Enclosed are NRC Motion in Support of DOE's Site Characterization Plan - Estimates on Groundwater Travel in Area 16 of the Yucca Mountain Facility and Notice of Appearance for J. Jones, Esq.

Questions concerning this submittal may be directed to:  
United States Nuclear Regulatory Commission  
Office of the General Counsel  
Hearing Division  
Attn: Jane Doe, (301) 415-xxxx  
e-Mail: xxx@nrc.gov  
11555 Rockville Pike  
Rockville, MD 20852

Jane A. Doe, Attorney for the NRC

cc: Provide list of parties served

**Document Components:**

001 NRC Transmittal Letter.pdf 1024 bytes (EIE)  
002 NRC Motion in Support of DOE Analysis.pdf, 15,679,411 bytes (EIE)  
003 Notice of Appearance for J. Jones, Esq.pdf, 1,056,911 bytes (EIE)  
004 Description Analytical Code DOE Site Plan.pdf, 142,846 bytes (EIE), Proprietary  
005 Description Core Sample 3.pdf, 1,032,116 bytes (EIE), LSN-#####  
006 Description Video - Jan. 21, 2003.pdf, 156,936 bytes (EIE), LSN-#####

**OSM#1:**

Located in the OSM root:  
000 Table of Contents.pdf

Located in the "documents" folder:  
001 NRC Transmittal Letter.pdf 1024 bytes (EIE)  
002 NRC Motion in Support of DOE Analysis.pdf, 15,679,411 bytes (EIE)  
003 Notice of Appearance for J. Jones, Esq.pdf, 1,056,911 bytes (EIE)  
004 Description Analytical Code DOE Site Plan.pdf, 142,846 bytes (EIE), LSN-#####

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005 Description Core Sample 3.pdf, 1,032,116 bytes ( EIE), LSN-#####

006 Description Video - Jan. 21, 2003.pdf, 156,936 bytes (EIE), LSN-#####

**OSM#2**

Located in the OSM root:

000 Table of Contents.pdf

Located in the "Analytical Code" folder:

001 DOE Site Characterization Plan Analysis.exe 123,311,123 bytes, (Description submitted via the EIE), Proprietary

Located in the "Video" folder:

002 Video Recording of Jan. 21, 2003 Meeting.wmv, 236,561,440 bytes, (Description submitted via the EIE), LSN-#####

# Submittal Form

Hearing Form

WM-00011

ASLBP #

LSN #

Affiliation

Document Date 09-23-2005

Author Name J. Doe

Document Title Motion in Support of Site Plan

Document Type Legal - Motion

[Click For Exhibit Info >>](#)

Issues

Party Identifier

Panel Judges

Check box if this is part of a multi-part submission

Unique ID

This is part of

Service List [Click For Service list](#)

[Attach File ...](#) | [Extract File...](#) | [View...](#) | [Remove File...](#)

[Click to Authorize Transmission](#)

[Submit Document](#)

**ATTACHMENT D - Sample Files Describing "BLOBS" or Physical Objects**

**004 Analytical Code Used for DOE Site Characterization Plan, Chpt 4, Groundwater Level Analysis, (Description submitted via the EIE) LSN-D4567823**

This enclosure provides the Analytical Code used for the analysis of information presented in Chapter 4 of DOE's Site Characterization. Code is run on a UNIX PC utilizing abcd Operating system,

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**005 Core Sample 3, Area 16 (Description submitted via the EIE)  
LSN-C456789**

Core Sample 3 was taken from Area 16 on the southeastern slope of Yucca Mountain and displays strata from

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**006 Videotape of Jan. 21, 2003 Meeting to Discuss Core Sample Evaluations  
(Description submitted via the EIE, Video file submitted on OSM) LSN-V987654**

This is a video recording of the January 21, 2003 meeting between the US Department of Energy, the Center for Nuclear Waste Regulatory Analyses, and the Nuclear Regulatory Commission to discuss procedures used to perform core sample evaluations of area 22 on the southwestern slope of Yucca Mountain.

**Technical Parameters/Special Instructions:**

This video file was created using XXX software running on a 900 MHz personal computer utilizing Windows XP Video Viewer 123, which is widely available for free on the Internet. File Size is 236 MB. Total run time is approximately 1 hours and 20 minutes.

**ATTACHMENT E - TYPES OF HYPERLINKS AND NEED FOR DISCLAIMERS**

