

entered into the LSN, either under the documentary material requirements of § 2.1003, or under the derivative discovery provisions of § 2.1019. These include materials that are either widely available or do not have any significant relevance to the issues that might be litigated in the HLW licensing proceeding. The Commission is proposing to add "correspondence between a party, potential party, or interested governmental participant and the Congress of the United States" to these exclusions. This reflects the Commission's current judgment that this type of material will not have a significant bearing on repository licensing issues. Much of this material either relates to budgetary issues or is merely a reiteration of an agency primary document. It would normally not be the source of material that a party would rely on for its case in the hearing or as a source of material that would be contrary to such reliance information. However, the material directed to Federal entities will still be available as part of the normal Federal recordkeeping requirements. If a particular item of Congressional correspondence does become relevant to a contention admitted in the HLW proceeding, it can be made available at that time. The Commission does not anticipate that any disputes over this clearly and narrowly defined exclusion would be brought before the PAPO.

Plain Language

The Presidential memorandum dated June 1, 1998, entitled, "Plain Language in Government Writing," directed that the Government's writing be in plain language. This memorandum was published June 10, 1998 (63 FR 31883). In complying with this directive, editorial changes have been made in these proposed revisions to improve the organization and readability of the existing language of the paragraphs being revised. These types of changes are not discussed further in this document. The NRC requests comments on the proposed rule specifically with respect to the clarity of the language used. Comments should be sent to the address listed under the **ADDRESSES** caption of the preamble.

Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995, Pub. L. 104-113, requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless using such a standard is inconsistent with applicable law or otherwise impractical. This proposed rule would

establish requirements and standards for the submission of filings to the electronic docket for the HLW licensing proceeding. Although the specific standards in the proposed rule are unique to the Commission's HLW proceeding, they are based on industry-wide standards such as Portable Document Format (PDF).

Environmental Impact: Categorical Exclusion

The NRC has determined that this proposed regulation is the type of action described in categorical exclusion 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared.

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 (44 U.S.C. 3501 *et seq.*).

Regulatory Analysis

The following regulatory analysis identifies several alternatives to the Commission's proposal set forth in the proposed rule. Subpart J of 10 CFR part 2 establishes an electronic environment for the adjudicatory proceeding for consideration of a potential license application by the U.S. Department of Energy (DOE) to construct, receive, and emplace waste at the proposed HLW repository at Yucca Mountain, Nevada. The NRC expects to begin receiving and processing a significant volume of electronic documents associated with the adjudicatory proceeding in the near future. Some of these filings will consist of large or complex documents. Examples of these large electronic files include maps, charts, video presentations, computer modeling or simulation programs with their associated databases, and narrative reports with extensive embedded graphic objects. Consistent with 10 CFR part 2, subpart J:

- The NRC has established the Licensing Support Network (LSN) so that all parties, potential parties, and participants in the proceeding will be able to make their documentary material electronically available to meet discovery requirements through individual participant LSN Web sites.
- The NRC will direct all participants in the adjudicatory proceeding to use the agency's EIE capabilities to submit their filings electronically to the NRC when practicable.
- After processing, documents submitted in the HLW proceeding would be available in the Electronic

Hearing Docket (EHD), which is accessible via the Internet; electronic objects that cannot be made directly accessible via the EHD Web site, such as computer simulation models, will be described in the EHD and made available on optical storage media.

The assessment of existing and anticipated technology capabilities identified a number of potential issues that may make it difficult to meet the challenges of electronic submission of large documents as specified in 10 CFR part 2, subpart J. Those challenges are driven by the following fundamental issues:

- Technology limitations of current electronic document and records transmission and management systems.
- Maintaining document and object fidelity, integrity, and authenticity.
- Receiving source document formats in an acceptable resolution.
- Management of and access to non-textual information.
- Federal recordkeeping requirements.
- General usability of the electronic submittals.
- Potential limitations of information technology (hardware, software, or Internet service provider) used by the general public.

The Nature of the Documents

Documents may be large, complex, or a combination of both, as follows:

- Large documents consist of electronic files that, because of their size, create challenges for both the NRC and the public when transmitting, viewing, or downloading the document (e.g., significant delays in transmission, uploading, or downloading times). The NRC anticipates that the potential license application and some filings in the HLW adjudicatory proceeding will be of a size that will create transmission, viewing, or downloading challenges. In electronic format, some of these files could contain several hundred megabytes.
- Complex documents consist (entirely or in part) of electronic files having substantial portions that are neither textual nor image in nature. For example, specialized exhibits may include computer software programs and their operating components, large data files, and actual software code for analytical programs that a party may intend to introduce into the proceeding.

Articulation of the Issues

Large and/or complex documents may pose challenges in any or all of the following general areas:

- *Electronic Submission Process.*