

bibliographic header information and the transmittal letter, and make that information available to the EHD. A possible fatal flaw is that some file types may not be able to be segmented into manageable sizes (e.g., graphic-oriented materials showing subsurface geology in color or computer modeling information and/or software), and some materials may not be accessible via the EHD.

Alternative 4

Description: All text-based components (e.g. narrative with embedded graphics) are rendered as optimized PDF format files and transmitted in manageable segments. All non-text components (e.g., runtime executable software, viewer or printer executables) that are not suitable for an optimized PDF file are placed on optical storage media (e.g., CD-ROM). When necessary, due to the nature of the submittal, a submittal letter identifies all electronic files that comprise the submission, clearly indicating which components are submitted via EIE, and which are submitted on optical storage media (e.g., CD-ROM). The submittal letter, enhanced Web-forms, and all segmented text files are sent through the EIE. The optical storage media (e.g., CD-ROM) containing the complete submission (i.e., text-based segments submitted via EIE and any files submitted only on optical storage media) are delivered to the NRC and other parties via an overnight mail carrier or other overnight delivery service. The NRC links a bibliographic header to the optical storage media (e.g., CD-ROM) component of the submission.

Based on the service list, the NRC sends an e-mail containing links from the EIE server to the transmittal letter and the various components submitted through the EIE for immediate access by parties and participants to the proceeding. The NRC indexes the text-based components sent via EIE and makes them available to the EHD as a "package" or "compound document." Additionally, the NRC provides copies (upon request and for a fee) of the optical storage media (e.g., CD-ROM) for the public. Interested parties can search on the bibliographic header information, content, or a combination of both. Retrieval of text-based components is directly to the user's computer, and non-text components are retrievable from the optical storage media (e.g., CD-ROM).

Positives: This alternative combines the best features and advantages of Alternatives 2 and 3, including text-based component submission through the EIE and non-text component

submissions via optical storage media (e.g., CD-ROM). This alternative provides several means to optimize a submission and allows the NRC to process the submission appropriately; provide access to end-users (i.e., adjudicatory proceeding participants and the general public); and prepare for the eventual transfer to NARA.

Negatives: Processing by the NRC staff will need to be closely coordinated to maintain the integrity of the various submittal components (segmented files stored in ADAMS with the bibliographic header records that point to optical storage media, such as a CD-ROM).

Documentary material submitted on optical storage media and sent by overnight mail (or other expedited delivery services) would not meet the electronic transmission requirements of 10 CFR part 2, subpart J. There may be a delay in parties and participants receiving document components contained only on the optical storage media (e.g., CD-ROM).

Planned Actions

Alternative 4 is the recommended approach for the NRC to meet the identified objectives. The NRC believes that this alternative provides the best means for transferring the wide variety of file types and sizes received from parties and participants in the proceeding, as well as the most practical means for delivering electronic information to parties and participants in the HLW adjudicatory proceeding, the presiding officer, and the Office of the Secretary (SECY), under the requirements of 10 CFR part 2, subpart J.

Toward that end, the agency will take the following steps:

- Develop guidance for use in generating HLW proceeding submissions that specifies the size, file characteristics, and method (either EIE or optical storage media) for different submittal types (i.e. simple, large, or complex). This guidance will also provide direction concerning the information the agency requires to ensure proper identification of each segment.
- Implement enhancements to the agency's existing IT/IM systems (such as an improved EIE capability) in anticipation of storage, search, and retrieval needs, as they pertain to Alternative 4.
- Implement enhancements to the agency's current document processing work flows in anticipation of the receipt, indexing, and distribution of information, as they pertain to Alternative 4.

- Develop a rule change to implement the recommended alternative.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Commission has evaluated the impact of the proposed rule on small entities. The NRC has established standards for determining who qualifies as small entities (10 CFR 2.810). The Commission certifies that this proposed rule, if adopted, would not have a significant economic effect on a substantial number of small entities. The proposed amendments would modify the NRC's rules of practice and procedure in regard to the HLW licensing proceeding. Parties to the HLW licensing proceeding will be required to submit their filings during the proceeding according to the standards in the proposed rule. Some of the participants affected by the proposed rule, for example, DOE, NRC, the State of Nevada, would not fall within the definition of "small entity" under the NRC's size standards. Other parties and potential parties may qualify as "small entities" under these size standards. However, the required standards will overall make it easier for those parties who are small entities to participate in the HLW licensing proceeding.

Backfit Analysis

The NRC has determined that a backfit analysis is not required for this proposed rule because these amendments would not include any provisions that require backfits as defined in 10 CFR chapter I.

List of Subjects in 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.

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 Nuclear Regulatory Commission is proposing the following amendments to 10 CFR part 2.

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

1. The authority citation for Part 2 continues to read as follows: