

## Nuclear Regulatory Commission

## § 51.22

§ 51.22(b), the Commission may, in special circumstances, prepare an environmental assessment on an action covered by a categorical exclusion.

[54 FR 27870, July 3, 1989]

### **§ 51.22 Criterion for categorical exclusion; identification of licensing and regulatory actions eligible for categorical exclusion or otherwise not requiring environmental review.**

(a) Licensing, regulatory, and administrative actions eligible for categorical exclusion shall meet the following criterion: The action belongs to a category of actions which the Commission, by rule or regulation, has declared to be a categorical exclusion, after first finding that the category of actions does not individually or cumulatively have a significant effect on the human environment.

(b) Except in special circumstances, as determined by the Commission upon its own initiative or upon request of any interested person, an environmental assessment or an environmental impact statement is not required for any action within a category of actions included in the list of categorical exclusions set out in paragraph (c) of this section. Special circumstances include the circumstance where the proposed action involves unresolved conflicts concerning alternative uses of available resources within the meaning of section 102(2)(E) of NEPA.

(c) The following categories of actions are categorical exclusions:

(1) Amendments to parts 1, 2, 4, 5, 7, 8, 9, 10, 11, 12, 13, 15, 16, 19, 21, 25, 26, 55, 75, 95, 110, 140, 150, 160, 170, or 171 of this chapter, and actions on petitions for rulemaking relating to parts 1, 2, 4, 5, 7, 9, 10, 11, 12, 13, 14, 15, 16, 19, 21, 25, 26, 55, 75, 95, 110, 140, 150, 160, 170, or 171 of this chapter.

(2) Amendments to the regulations in this chapter which are corrective or of a minor or nonpolicy nature and do not substantially modify existing regulations, and actions on petitions for rulemaking relating to these amendments.

(3) Amendments to parts 20, 30, 31, 32, 33, 34, 35, 37, 39, 40, 50, 51, 52, 54, 60, 61, 63, 70, 71, 72, 73, 74, 81, and 100 of this chapter which relate to—

(i) Procedures for filing and reviewing applications for licenses or construction permits or early site permits or other forms of permission or for amendments to or renewals of licenses or construction permits or early site permits or other forms of permission;

(ii) Recordkeeping requirements;

(iii) Reporting requirements;

(iv) Education, training, experience, qualification or other employment suitability requirements or

(v) Actions on petitions for rulemaking relating to these amendments.

(4) Entrance into or amendment, suspension, or termination of all or part of an agreement with a State pursuant to section 274 of the Atomic Energy Act of 1954, as amended, providing for assumption by the State and discontinuance by the Commission of certain regulatory authority of the Commission.

(5) Procurement of general equipment and supplies.

(6) Procurement of technical assistance, confirmatory research provided that the confirmatory research does not involve any significant construction impacts, and personal services relating to the safe operation and protection of commercial reactors, other facilities, and materials subject to NRC licensing and regulation.

(7) Personnel actions.

(8) Issuance, amendment, or renewal of operators' licenses pursuant to part 55 of this chapter.

(9) Issuance of an amendment to a permit or license for a reactor under part 50 or part 52 of this chapter that changes a requirement or issuance of an exemption from a requirement, with respect to installation or use of a facility component located within the restricted area, as defined in part 20 of this chapter; or the issuance of an amendment to a permit or license for a reactor under part 50 or part 52 of this chapter that changes an inspection or a surveillance requirement; provided that:

(i) The amendment or exemption involves no significant hazards consideration;

(ii) There is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite; and

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(iii) There is no significant increase in individual or cumulative occupational radiation exposure.

(10) Issuance of an amendment to a permit or license issued under this chapter which—

(i) Changes surety, insurance and/or indemnity requirements;

(ii) Changes recordkeeping, reporting, or administrative procedures or requirements;

(iii) Changes the licensee's or permit holder's name, phone number, business or e-mail address;

(iv) Changes the name, position, or title of an officer of the licensee or permit holder, including but not limited to, the radiation safety officer or quality assurance manager; or

(v) Changes the format of the license or permit or otherwise makes editorial, corrective or other minor revisions, including the updating of NRC approved references.

(11) Issuance of amendments to licenses for fuel cycle plants and radioactive waste disposal sites and amendments to materials licenses identified in §51.60(b)(1) which are administrative, organizational, or procedural in nature, or which result in a change in process operations or equipment, provided that (i) there is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite, (ii) there is no significant increase in individual or cumulative occupational radiation exposure, (iii) there is no significant construction impact, and (iv) there is no significant increase in the potential for or consequences from radiological accidents.

(12) Issuance of an amendment to a license under parts 50, 52, 60, 61, 63, 70, 72, or 75 of this chapter relating solely to safeguards matters (*i.e.*, protection against sabotage or loss or diversion of special nuclear material) or issuance of an approval of a safeguards plan submitted under parts 50, 52, 70, 72, and 73 of this chapter, provided that the amendment or approval does not involve any significant construction impacts. These amendments and approvals are confined to—

(i) Organizational and procedural matters;

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(ii) Modifications to systems used for security and/or materials accountability;

(iii) Administrative changes; and

(iv) Review and approval of transportation routes pursuant to 10 CFR 73.37.

(13) Approval of package designs for packages to be used for the transportation of licensed materials.

(14) Issuance, amendment, or renewal of materials licenses issued pursuant to 10 CFR parts 30, 31, 32, 33, 34, 35, 36, 39, 40 or part 70 authorizing the following types of activities:

(i) Distribution of radioactive material and devices or products containing radioactive material to general licensees and to persons exempt from licensing.

(ii) Distribution of radiopharmaceuticals, generators, reagent kits and/or sealed sources to persons licensed pursuant to 10 CFR 35.18.

(iii) Nuclear pharmacies.

(iv) Medical and veterinary.

(v) Use of radioactive materials for research and development and for educational purposes.

(vi) Industrial radiography.

(vii) Irradiators.

(viii) Use of sealed sources and use of gauging devices, analytical instruments and other devices containing sealed sources.

(ix) Use of uranium as shielding material in containers or devices.

(x) Possession of radioactive material incident to performing services such as installation, maintenance, leak tests and calibration.

(xi) Use of sealed sources and/or radioactive tracers in well-logging procedures.

(xii) Acceptance of packaged radioactive wastes from others for transfer to licensed land burial facilities provided the interim storage period for any package does not exceed 180 days and the total possession limit for all packages held in interim storage at the same time does not exceed 50 curies.

(xiii) Manufacturing or processing of source, byproduct, or special nuclear materials for distribution to other licensees, except processing of source material for extraction of rare earth and other metals.

(xiv) Nuclear laundries.

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(xv) Possession, manufacturing, processing, shipment, testing, or other use of depleted uranium military munitions.

(xvi) Any use of source, byproduct, or special nuclear material not listed above which involves quantities and forms of source, byproduct, or special nuclear material similar to those listed in paragraphs (c)(14) (i) through (xv) of this section.

(15) Issuance, amendment or renewal of licenses for import of nuclear facilities and materials pursuant to part 110 of this chapter, except for import of spent power reactor fuel.

(16) Issuance or amendment of guides for the implementation of regulations in this chapter, and issuance or amendment of other informational and procedural documents that do not impose any legal requirements.

(17) Issuance of an amendment to a permit or license under parts 30, 40, 50, 52, or part 70 of this chapter which deletes any limiting condition of operation or monitoring requirement based on or applicable to any matter subject to the provisions of the Federal Water Pollution Control Act.

(18) Issuance of amendments or orders authorizing licensees of production or utilization facilities to resume operation, provided the basis for the authorization rests solely on a determination or redetermination by the Commission that applicable emergency planning requirements are met.

(19) Issuance, amendment, modification, or renewal of a certificate of compliance of gaseous diffusion enrichment facilities pursuant to 10 CFR part 76.

(20) Decommissioning of sites where licensed operations have been limited to the use of—

(i) Small quantities of short-lived radioactive materials;

(ii) Radioactive materials in sealed sources, provided there is no evidence of leakage of radioactive material from these sealed sources; or

(iii) Radioactive materials in such a manner that a decommissioning plan is not required by 10 CFR 30.36(g)(1), 40.42(g)(1), or 70.38(g)(1), and the NRC has determined that the facility meets the radiological criteria for unrestricted use in 10 CFR 20.1402 without further remediation or analysis.

(21) Approvals of direct or indirect transfers of any license issued by NRC and any associated amendments of license required to reflect the approval of a direct or indirect transfer of an NRC license.

(22) Issuance of a standard design approval under part 52 of this chapter.

(23) The Commission finding for a combined license under §52.103(g) of this chapter.

(24) Grants to institutions of higher education in the United States, to fund scholarships, fellowships, and stipends for the study of science, engineering, or another field of study that the NRC determines is in a critical skill area related to its regulatory mission, to support faculty and curricular development in such fields, and to support other domestic educational, technical assistance, or training programs (including those of trade schools) in such fields, except to the extent that such grants or programs include activities directly affecting the environment, such as:

(i) The construction of facilities;

(ii) A major disturbance brought about by blasting, drilling, excavating or other means;

(iii) Field work, except that which only involves noninvasive or non-harmful techniques such as taking water or soil samples or collecting non-protected species of flora and fauna; or

(iv) The release of radioactive material.

(25) Granting of an exemption from the requirements of any regulation of this chapter, provided that—

(i) There is no significant hazards consideration;

(ii) There is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite;

(iii) There is no significant increase in individual or cumulative public or occupational radiation exposure;

(iv) There is no significant construction impact;

(v) There is no significant increase in the potential for or consequences from radiological accidents; and

(vi) The requirements from which an exemption is sought involve:

(A) Recordkeeping requirements;

(B) Reporting requirements;

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(C) Inspection or surveillance requirements;

(D) Equipment servicing or maintenance scheduling requirements;

(E) Education, training, experience, qualification, requalification or other employment suitability requirements;

(F) Safeguard plans, and materials control and accounting inventory scheduling requirements;

(G) Scheduling requirements;

(H) Surety, insurance or indemnity requirements; or

(I) Other requirements of an administrative, managerial, or organizational nature.

(d) In accordance with section 121 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10141), the promulgation of technical requirements and criteria that the Commission will apply in approving or disapproving applications under part 60 or 63 of this chapter shall not require an environmental impact statement, an environmental assessment, or any environmental review under subparagraph (E) or (F) of section 102(2) of NEPA.

[49 FR 9381, Mar. 12, 1984]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 51.22, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at [www.govinfo.gov](http://www.govinfo.gov).

### **§ 51.23 Environmental impacts of continued storage of spent nuclear fuel beyond the licensed life for operation of a reactor.**

(a) The Commission has generically determined that the environmental impacts of continued storage of spent nuclear fuel beyond the licensed life for operation of a reactor are those impacts identified in NUREG-2157, “Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel.”

(b) The environmental reports described in §§ 51.50, 51.53, and 51.61 are not required to discuss the environmental impacts of spent nuclear fuel storage in a reactor facility storage pool or an ISFSI for the period following the term of the reactor operating license, reactor combined license, or ISFSI license. The impact determinations in NUREG-2157 regarding continued storage shall be deemed in-

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corporated into the environmental impact statements described in §§ 51.75, 51.80(b), 51.95, and 51.97(a). The impact determinations in NUREG-2157 regarding continued storage shall be considered in the environmental assessments described in §§ 51.30(b) and 51.95(d), if the impacts of continued storage of spent fuel are relevant to the proposed action.

(c) This section does not alter any requirements to consider the environmental impacts of spent fuel storage during the term of a reactor operating license or combined license, or a license for an ISFSI in a licensing proceeding.

[49 FR 34694, Aug. 31, 1984, as amended at 55 FR 38474, Sept. 18, 1990; 72 FR 49509, Aug. 28, 2007; 75 FR 81037, Dec. 23, 2010; 79 FR 56260, Sept. 19, 2014]

DETERMINATIONS TO PREPARE ENVIRONMENTAL IMPACT STATEMENTS, ENVIRONMENTAL ASSESSMENTS OR FINDINGS OF NO SIGNIFICANT IMPACT, AND RELATED PROCEDURES

### **§ 51.25 Determination to prepare environmental impact statement or environmental assessment; eligibility for categorical exclusion.**

Before taking a proposed action subject to the provisions of this subpart, the appropriate NRC staff director will determine on the basis of the criteria and classifications of types of actions in §§ 51.20, 51.21 and 51.22 of this subpart whether the proposed action is of the type listed in § 51.22(c) as a categorical exclusion or whether an environmental impact statement or an environmental assessment should be prepared. An environmental assessment is not necessary if it is determined that an environmental impact statement will be prepared.

### **§ 51.26 Requirement to publish notice of intent and conduct scoping process.**

(a) Whenever the appropriate NRC staff director determines that an environmental impact statement will be prepared by NRC in connection with a proposed action, a notice of intent will be prepared as provided in § 51.27, and