

## PART 51—ENVIRONMENTAL PROTECTION REGULATIONS FOR DOMESTIC LICENSING AND RELATED REGULATORY FUNCTIONS

### Sec.

- 51.1 Scope.
- 51.2 Subparts.
- 51.3 Resolution of conflict.
- 51.4 Definitions.
- 51.5 Interpretations.
- 51.6 Specific exemptions.

### Subpart A—National Environmental Policy Act—Regulations Implementing Section 102(2)

- 51.10 Purpose and scope of subpart; application of regulations of Council on Environmental Quality.
- 51.11 Relationship to other subparts. [Reserved]
- 51.12 Application of subpart to ongoing environmental work.
- 51.13 Emergencies.
- 51.14 Definitions.
- 51.15 Time schedules.
- 51.16 Proprietary information.
- 51.17 Information collection requirements; OMB approval.

#### PRELIMINARY PROCEDURES

##### CLASSIFICATION OF LICENSING AND REGULATORY ACTIONS

- 51.20 Criteria for and identification of licensing and regulatory actions requiring environmental impact statements.
- 51.21 Criteria for and identification of licensing and regulatory actions requiring environmental assessments.
- 51.22 Criterion for categorical exclusion; identification of licensing and regulatory actions eligible for categorical exclusion or otherwise not requiring environmental review.
- 51.23 Environmental impacts of continued storage of spent nuclear fuel beyond the licensed life for operation of a reactor.

##### 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.
- 51.26 Requirement to publish notice of intent and conduct scoping process.
- 51.27 Notice of intent.

#### SCOPING

- 51.28 Scoping—participants.

- 51.29 Scoping—environmental impact statement and supplement to environmental impact statement.

#### ENVIRONMENTAL ASSESSMENT

- 51.30 Environmental assessment.
- 51.31 Determinations based on environmental assessment.

#### FINDING OF NO SIGNIFICANT IMPACT

- 51.32 Finding of no significant impact.
- 51.33 Draft finding of no significant impact; distribution.
- 51.34 Preparation of finding of no significant impact.
- 51.35 Requirement to publish finding of no significant impact; limitation on Commission action.

#### ENVIRONMENTAL REPORTS AND INFORMATION—REQUIREMENTS APPLICABLE TO APPLICANTS AND PETITIONERS FOR RULEMAKING

##### GENERAL

- 51.40 Consultation with NRC staff.
- 51.41 Requirement to submit environmental information.

##### ENVIRONMENTAL REPORTS—GENERAL REQUIREMENTS

- 51.45 Environmental report.

##### ENVIRONMENTAL REPORTS—PRODUCTION AND UTILIZATION FACILITIES

- 51.49 Environmental report—limited work authorization.
- 51.50 Environmental report—construction permit, early site permit, or combined license stage.
- 51.51 Uranium fuel cycle environmental data—Table S-3.
- 51.52 Environmental effects of transportation of fuel and waste—Table S-4.
- 51.53 Postconstruction environmental reports.
- 51.54 Environmental report—manufacturing license.
- 51.55 Environmental report—standard design certification.
- 51.58 Environmental report—number of copies; distribution.

##### ENVIRONMENTAL REPORTS—MATERIALS LICENSES

- 51.60 Environmental report—materials licenses.
- 51.61 Environmental report—independent spent fuel storage installation (ISFSI) or monitored retrievable storage installation (MRS) license.
- 51.62 Environmental report—land disposal of radioactive waste licensed under 10 CFR part 61.
- 51.66 Environmental report—number of copies; distribution.

**Pt. 51**

**10 CFR Ch. I (1–1–23 Edition)**

51.67 Environmental information concerning geologic repositories.

ENVIRONMENTAL REPORTS—RULEMAKING

51.68 Environmental report—rulemaking.

ENVIRONMENTAL IMPACT STATEMENTS

DRAFT ENVIRONMENTAL IMPACT STATEMENTS—  
GENERAL REQUIREMENTS

51.70 Draft environmental impact statement—general.

51.71 Draft environmental impact statement—contents.

51.72 Supplement to draft environmental impact statement.

51.73 Request for comments on draft environmental impact statement.

51.74 Distribution of draft environmental impact statement and supplement to draft environmental impact statement; news releases.

DRAFT ENVIRONMENTAL IMPACT STATEMENTS—  
PRODUCTION AND UTILIZATION FACILITIES

51.75 Draft environmental impact statement—construction permit, early site permit, or combined license.

51.76 Draft environmental impact statement—limited work authorization.

51.77 Distribution of draft environmental impact statement.

DRAFT ENVIRONMENTAL IMPACT STATEMENTS—  
MATERIALS LICENSES

51.80 Draft environmental impact statement—materials license.

51.81 Distribution of draft environmental impact statement.

DRAFT ENVIRONMENTAL IMPACT STATEMENTS—  
RULEMAKING

51.85 Draft environmental impact statement—rulemaking.

51.86 Distribution of draft environmental impact statement.

LEGISLATIVE ENVIRONMENTAL IMPACT  
STATEMENTS—PROPOSALS FOR LEGISLATION

51.88 Proposals for legislation.

FINAL ENVIRONMENTAL IMPACT STATEMENTS—  
GENERAL REQUIREMENTS

51.90 Final environmental impact statement—general.

51.91 Final environmental impact statement—contents.

51.92 Supplement to the final environmental impact statement.

51.93 Distribution of final environmental impact statement and supplement to final environmental impact statement; news releases.

51.94 Requirement to consider final environmental impact statement.

FINAL ENVIRONMENTAL IMPACT STATEMENTS—  
PRODUCTION AND UTILIZATION FACILITIES

51.95 Postconstruction environmental impact statements.

FINAL ENVIRONMENTAL IMPACT STATEMENTS—  
MATERIALS LICENSES

51.97 Final environmental impact statement—materials license.

FINAL ENVIRONMENTAL IMPACT STATEMENTS—  
RULEMAKING

51.99 [Reserved]

NEPA PROCEDURE AND ADMINISTRATIVE  
ACTION

GENERAL

51.100 Timing of Commission action.

51.101 Limitations on actions.

51.102 Requirement to provide a record of decision; preparation.

51.103 Record of decision—general.

51.104 NRC proceeding using public hearings; consideration of environmental impact statement.

PRODUCTION AND UTILIZATION FACILITIES

51.105 Public hearings in proceedings for issuance of construction permits or early site permits; limited work authorizations.

51.105a Public hearings in proceedings for issuance of manufacturing licenses.

51.106 Public hearings in proceedings for issuance of operating licenses.

51.107 Public hearings in proceedings for issuance of combined licenses; limited work authorizations.

51.108 Public hearings on Commission findings that inspections, tests, analyses, and acceptance criteria of combined licenses are met.

MATERIALS LICENSES

51.109 Public hearings in proceedings for issuance of materials license with respect to a geologic repository.

RULEMAKING

51.110 [Reserved]

PUBLIC NOTICE OF AND ACCESS TO  
ENVIRONMENTAL DOCUMENTS

51.116 Notice of intent.

51.117 Draft environmental impact statement—notice of availability.

51.118 Final environmental impact statement—notice of availability.

51.119 Publication of finding of no significant impact; distribution.

51.120 Availability of environmental documents for public inspection.

51.121 Status of NEPA actions.

## Nuclear Regulatory Commission

## § 51.4

51.122 List of interested organizations and groups.

51.123 Charges for environmental documents; distribution to public; distribution to governmental agencies.

### COMMENTING

51.124 Commission duty to comment.

### RESPONSIBLE OFFICIAL

51.125 Responsible official.

APPENDIX A TO SUBPART A OF PART 51—FORMAT FOR PRESENTATION OF MATERIAL IN ENVIRONMENTAL IMPACT STATEMENTS

APPENDIX B TO SUBPART A OF PART 51—ENVIRONMENTAL EFFECT OF RENEWING THE OPERATING LICENSE OF A NUCLEAR POWER PLANT

### Subpart B [Reserved]

AUTHORITY: Atomic Energy Act of 1954, secs. 161, 193 (42 U.S.C. 2201, 2243); Energy Reorganization Act of 1974, secs. 201, 202 (42 U.S.C. 5841, 5842); National Environmental Policy Act of 1969 (42 U.S.C. 4332, 4334, 4335); Nuclear Waste Policy Act of 1982, secs. 144(f), 121, 135, 141, 148 (42 U.S.C. 10134(f), 10141, 10155, 10161, 10168); 44 U.S.C. 3504 note.

Sections 51.20, 51.30, 51.60, 51.80, and 51.97 also issued under Nuclear Waste Policy Act secs. 135, 141, 148 (42 U.S.C. 10155, 10161, 10168).

Section 51.22 also issued under Atomic Energy Act sec. 274 (42 U.S.C. 2021) and under Nuclear Waste Policy Act sec. 121 (42 U.S.C. 10141).

Sections 51.43, 51.67, and 51.109 also issued under Nuclear Waste Policy Act sec. 114(f) (42 U.S.C. 10134(f)).

SOURCE: 49 FR 9381, Mar. 12, 1984, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 51 appear at 80 FR 74980, Dec. 1, 2015.

### § 51.1 Scope.

This part contains environmental protection regulations applicable to NRC's domestic licensing and related regulatory functions. These regulations do not apply to export licensing matters within the scope of part 110 of this chapter or to any environmental effects which NRC's domestic licensing and related regulatory functions may have upon the environment of foreign nations. Subject to these limitations, the regulations in this part implement:

(a) Section 102(2) of the National Environmental Policy Act of 1969, as amended.

### § 51.2 Subparts.

(a) The regulations in subpart A of this part implement section 102(2) of the National Environmental Policy Act of 1969, as amended.

### § 51.3 Resolution of conflict.

In any conflict between a general rule in subpart A of this part and a special rule in another subpart of this part or another part of this chapter applicable to a particular type of proceeding, the special rule governs.

### § 51.4 Definitions.

As used in this part:

*Act* means the Atomic Energy Act of 1954 (Pub. L. 83-703, 68 Stat. 919) including any amendments thereto.

*Commission* means the Nuclear Regulatory Commission or its authorized representatives.

*Construction* means:

(1) For production and utilization facilities, the activities in paragraph (1)(i) of this definition, and does not mean the activities in paragraph (1)(ii) of this definition.

(i) Activities constituting construction are the driving of piles, subsurface preparation, placement of backfill, concrete, or permanent retaining walls within an excavation, installation of foundations, or in-place assembly, erection, fabrication, or testing, which are for:

(A) Safety-related structures, systems, or components (SSCs) of a facility, as defined in 10 CFR 50.2;

(B) SSCs relied upon to mitigate accidents or transients or used in plant emergency operating procedures;

(C) SSCs whose failure could prevent safety-related SSCs from fulfilling their safety-related function;

(D) SSCs whose failure could cause a reactor scram or actuation of a safety-related system;

(E) SSCs necessary to comply with 10 CFR part 73;

(F) SSCs necessary to comply with 10 CFR 50.48 and criterion 3 of 10 CFR part 50, appendix A; and

(G) Onsite emergency facilities (*i.e.*, technical support and operations support centers), necessary to comply with 10 CFR 50.47 and 10 CFR part 50, appendix E.

(ii) Construction does not include:

## §51.5

## 10 CFR Ch. I (1–1–23 Edition)

(A) Changes for temporary use of the land for public recreational purposes;

(B) Site exploration, including necessary borings to determine foundation conditions or other preconstruction monitoring to establish background information related to the suitability of the site, the environmental impacts of construction or operation, or the protection of environmental values;

(C) Preparation of a site for construction of a facility, including clearing of the site, grading, installation of drainage, erosion and other environmental mitigation measures, and construction of temporary roads and borrow areas;

(D) Erection of fences and other access control measures that are not safety or security related, and do not pertain to radiological controls;

(E) Excavation;

(F) Erection of support buildings (e.g., construction equipment storage sheds, warehouse and shop facilities, utilities, concrete mixing plants, docking and unloading facilities, and office buildings) for use in connection with the construction of the facility;

(G) Building of service facilities (e.g., paved roads, parking lots, railroad spurs, exterior utility and lighting systems, potable water systems, sanitary sewerage treatment facilities, and transmission lines);

(H) Procurement or fabrication of components or portions of the proposed facility occurring at other than the final, in-place location at the facility;

(I) Manufacture of a nuclear power reactor under a manufacturing license under subpart F of part 52 of this chapter to be installed at the proposed site and to be part of the proposed facility; or

(J) With respect to production or utilization facilities, other than testing facilities and nuclear power plants, required to be licensed under section 104.a or section 104.c of the Act, the erection of buildings which will be used for activities other than operation of a facility and which may also be used to house a facility (e.g., the construction of a college laboratory building with space for installation of a training reactor).

(2) For materials licenses, taking any site-preparation activity at the site of a facility subject to the regulations in

10 CFR parts 30, 36, 40, and 70 that has a reasonable nexus to radiological health and safety or the common defense and security; provided, however, that construction does not mean:

(i) Those actions or activities listed in paragraphs (1)(ii)(A)–(H) of this definition; or

(ii) Taking any other action that has no reasonable nexus to radiological health and safety or the common defense and security.

*NRC* means the Nuclear Regulatory Commission, the agency established by Title II of the Energy Reorganization Act of 1974, as amended.

*NRC staff* means any NRC officer or employee or his/her authorized representative, except a Commissioner, a member of a Commissioner's immediate staff, an Atomic Safety and Licensing Board, a presiding officer, an administrative judge, an administrative law judge, or any other officer or employee of the Commission who performs adjudicatory functions.

*NRC staff director* means the Executive Director for Operations; the Director, Office of Nuclear Reactor Regulation; the Director, Office of Nuclear Material Safety and Safeguards; the Director, Office of Nuclear Regulatory Research; the Director, Office of Public Affairs; and the designee of any NRC staff director.

[49 FR 9381, Mar. 12, 1984, as amended at 51 FR 35999, Oct. 8, 1986; 52 FR 31612, Aug. 21, 1987; 72 FR 57443, Oct. 9, 2007; 73 FR 5723, Jan. 31, 2008; 76 FR 56964, Sept. 15, 2011; 77 FR 46599, Aug. 3, 2012; 79 FR 75740, Dec. 19, 2014; 84 FR 65644, Nov. 29, 2019; 87 FR 68031, Nov. 14, 2022]

### §51.5 Interpretations.

Except as specifically authorized by the Commission in writing, no interpretation of the regulations in this part by any officer or employee of the Commission other than a written interpretation by the General Counsel will be recognized to be binding upon the Commission.

### §51.6 Specific exemptions.

The Commission may, upon application of any interested person or upon its own initiative, grant such exemptions from the requirements of the regulations in this part as it determines

## Nuclear Regulatory Commission

## §51.10

are authorized by law and are otherwise in the public interest.

### Subpart A—National Environmental Policy Act—Regulations Implementing Section 102(2)

#### §51.10 Purpose and scope of subpart; application of regulations of Council on Environmental Quality.

(a) The National Environmental Policy Act of 1969, as amended (NEPA) directs that, to the fullest extent possible: (1) The policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in NEPA, and (2) all agencies of the Federal Government shall comply with the procedures in section 102(2) of NEPA except where compliance would be inconsistent with other statutory requirements. The regulations in this subpart implement section 102(2) of NEPA in a manner which is consistent with the NRC's domestic licensing and related regulatory authority under the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and the Uranium Mill Tailings Radiation Control Act of 1978, and which reflects the Commission's announced policy to take account of the regulations of the Council on Environmental Quality published November 29, 1978 (43 FR 55978-56007) voluntarily, subject to certain conditions. This subpart does not apply to export licensing matters within the scope of part 110 of this chapter nor does it apply to any environmental effects which NRC's domestic licensing and related regulatory functions may have upon the environment of foreign nations.

(b) The Commission recognizes a continuing obligation to conduct its domestic licensing and related regulatory functions in a manner which is both receptive to environmental concerns and consistent with the Commission's responsibility as an independent regulatory agency for protecting the radiological health and safety of the public. Accordingly, the Commission will:

(1) Examine any future interpretation or change to the Council's NEPA regulations;

(2) Follow the provisions of 40 CFR 1501.5 and 1501.6 relating to lead agencies and cooperating agencies, except that the Commission reserves the right to prepare an independent environmental impact statement whenever the NRC has regulatory jurisdiction over an activity even though the NRC has not been designated as lead agency for preparation of the statement; and

(3) Reserve the right to make a final decision on any matter within the NRC's regulatory authority even though another agency has made a predecisional referral of an NRC action to the Council under the procedures of 40 CFR part 1504.

(c) The regulations in this subpart<sup>1</sup> also address the limitations imposed on NRC's authority and responsibility under the National Environmental Policy Act of 1969, as amended, by the Federal Water Pollution Control Act Amendments of 1972, Pub. L. 92-500, 86 Stat. 816 *et seq.* (33 U.S.C. 1251 *et seq.*) In accordance with section 511(c)(2) of the Federal Water Pollution Control Act (86 Stat. 893, 33 U.S.C. 1371(c)(2)) the NRC recognizes that responsibility for Federal regulation of nonradiological pollutant discharges<sup>2</sup> into receiving waters rests by statute with the Environmental Protection Agency.

(d) Commission actions initiating or relating to administrative or judicial civil or criminal enforcement actions or proceedings are not subject to Section 102(2) of NEPA. These actions include issuance of notices of violation, orders, and denials of requests for action pursuant to subpart B of part 2 of this chapter; matters covered by part 15 and part 160 of this chapter; and issuance of confirmatory action letters, bulletins, generic letters, notices

<sup>1</sup>See also Second Memorandum of Understanding Regarding Implementation of Certain NRC and EPA Responsibilities and Policy Statement on Implementation of Section 511 of the Federal Water Pollution Control Act (FWPCA) attached as Appendix A thereto, which were published in the FEDERAL REGISTER on December 31, 1975 (40 FR 60115) and became effective January 30, 1976.

<sup>2</sup>On June 1, 1976, the U.S. Supreme Court held that "'pollutants' subject to regulation under the FWPCA [Federal Water Pollution Control Act] do not include source, byproduct, and special nuclear materials. . . ." *Train v. Colorado PIRG*, 426 U.S. 1 at 25.

## § 51.11

of deviation, and notices of non-conformance.

[49 FR 9381, Mar. 12, 1984, as amended at 54 FR 43578, Oct. 26, 1989; 61 FR 43408, Aug. 22, 1996; 86 FR 67843, Nov. 30, 2021]

### § 51.11 Relationship to other subparts. [Reserved]

### § 51.12 Application of subpart to ongoing environmental work.

(a) Except as otherwise provided in this section, the regulations in this subpart shall apply to the fullest extent practicable to NRC's ongoing environmental work.

(b) No environmental report or any supplement to an environmental report filed with the NRC and no environmental assessment, environmental impact statement or finding of no significant impact or any supplement to any of the foregoing issued by the NRC before June 7, 1984, need be redone and no notice of intent to prepare an environmental impact statement or notice of availability of these environmental documents need be republished solely by reason of the promulgation on March 12, 1984, of this revision of part 51.

[49 FR 9381, Mar. 12, 1984, as amended at 49 FR 24513, June 14, 1984]

### § 51.13 Emergencies.

Whenever emergency circumstances make it necessary and whenever, in other situations, the health and safety of the public may be adversely affected if mitigative or remedial actions are delayed, the Commission may take an action with significant environmental impact without observing the provisions of these regulations. In taking an action covered by this section, the Commission will consult with the Council as soon as feasible concerning appropriate alternative NEPA arrangements.

### § 51.14 Definitions.

(a) As used in this subpart:

*Categorical Exclusion* means a category of actions which do not individually or cumulatively have a significant effect on the human environment and which the Commission has found to have no such effect in accordance with procedures set out in § 51.22, and

## 10 CFR Ch. I (1–1–23 Edition)

for which, therefore, neither an environmental assessment nor an environmental impact statement is required.

*Cooperating Agency* means any Federal agency other than the NRC which has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal (or a reasonable alternative) for legislation or other major Federal action significantly affecting the quality of the human environment. By agreement with the Commission, a State or local agency of similar qualifications or, when the effects are on a reservation, an Indian Tribe, may become a cooperating agency.

*Council* means the Council on Environmental Quality (CEQ) established by Title II of NEPA.

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

*Environmental Assessment* means a concise public document for which the Commission is responsible that serves to:

(1) Briefly provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact.

(2) Aid the Commission's compliance with NEPA when no environmental impact statement is necessary.

(3) Facilitate preparation of an environmental impact statement when one is necessary.

*Environmental document* includes an environmental assessment, an environmental impact statement, a finding of no significant impact, an environmental report and any supplements to or comments upon those documents, and a notice of intent.

*Environmental Impact Statement* means a detailed written statement as required by section 102(2)(C) of NEPA.

*Environmental report* means a document submitted to the Commission by an applicant for a permit, license, or other form of permission, or an amendment to or renewal of a permit, license or other form of permission, or by a petitioner for rulemaking, in order to aid the Commission in complying with section 102(2) of NEPA.

*Finding of No Significant Impact* means a concise public document for

## Nuclear Regulatory Commission

## §51.17

which the Commission is responsible that briefly states the reasons why an action, not otherwise excluded, will not have a significant effect on the human environment and for which therefore an environmental impact statement will not be prepared.

*NEPA* means the National Environmental Policy Act of 1969, as amended (Pub. L. 91-190, 83 Stat. 852, 856, as amended by Pub. L. 94-83, 89 Stat. 424, 42 U.S.C. 4321, *et seq.*).

*Notice of Intent* means a notice that an environmental impact statement will be prepared and considered.

*Uranium enrichment facility* means:

(1) Any facility used for separating the isotopes for uranium or enriching uranium in the isotope 235, except laboratory scale facilities designed or used for experimental or analytical purposes only; or

(2) Any equipment or device, or important component part especially designed for such equipment or device, capable of separating the isotopes of uranium or enriching uranium in the isotope 235.

(b) The definitions in 40 CFR 1508.3, 1508.7, 1508.8, 1508.14, 1508.15, 1508.16, 1508.17, 1508.18, 1508.20, 1508.23, 1508.25, 1508.26, and 1508.27, will also be used in implementing section 102(2) of NEPA.

[49 FR 9381, Mar. 12, 1984, as amended at 57 FR 18391, Apr. 30, 1992]

### §51.15 Time schedules.

Consistent with the purposes of NEPA, the Administrative Procedure Act, the Commission's rules of practice in part 2 of this chapter, §§51.100 and 51.101, and with other essential considerations of national policy:

(a) The appropriate NRC staff director may, and upon the request of an applicant for a proposed action or a petitioner for rulemaking shall, establish a time schedule for all or any constituent part of the NRC staff NEPA process. To the maximum extent practicable, the NRC staff will conduct its NEPA review in accordance with any time schedule established under this section.

(b) As specified in 10 CFR part 2, the presiding officer, the Atomic Safety and Licensing Board or the Commissioners acting as a collegial body may establish a time schedule for all or any

part of an adjudicatory or rulemaking proceeding to the extent that each has jurisdiction.

[49 FR 9381, Mar. 12, 1984, as amended at 69 FR 2276, Jan. 14, 2004]

### §51.16 Proprietary information.

(a) Proprietary information, such as trade secrets or privileged or confidential commercial or financial information, will be treated in accordance with the procedures provided in §2.390 of this chapter.

(b) Any proprietary information which a person seeks to have withheld from public disclosure shall be submitted in accordance with §2.390 of this chapter. When submitted, the proprietary information should be clearly identified and accompanied by a request, containing detailed reasons and justifications, that the proprietary information be withheld from public disclosure. A non-proprietary summary describing the general content of the proprietary information should also be provided.

[69 FR 2276, Jan. 14, 2004]

### §51.17 Information collection requirements; OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection requirements contained in this part under control number 3150-0021.

(b) The approved information collection requirements in this part appear in §§51.6, 51.16, 51.41, 51.45, 51.49, 51.50, 51.51, 51.52, 51.53, 51.54, 51.55, 51.58, 51.60, 51.61, 51.62, 51.66, 51.68, and 51.69.

[49 FR 24513, June 14, 1984, as amended at 62 FR 52188, Oct. 6, 1997; 67 FR 67100, Nov. 4, 2002; 72 FR 57443, Oct. 9, 2007]

## § 51.20

## 10 CFR Ch. I (1–1–23 Edition)

### PRELIMINARY PROCEDURES

#### CLASSIFICATION OF LICENSING AND REGULATORY ACTIONS

#### **§ 51.20 Criteria for and identification of licensing and regulatory actions requiring environmental impact statements.**

(a) Licensing and regulatory actions requiring an environmental impact statement shall meet at least one of the following criteria:

(1) The proposed action is a major Federal action significantly affecting the quality of the human environment.

(2) The proposed action involves a matter which the Commission, in the exercise of its discretion, has determined should be covered by an environmental impact statement.

(b) The following types of actions require an environmental impact statement or a supplement to an environmental impact statement:

(1) Issuance of a limited work authorization or a permit to construct a nuclear power reactor, testing facility, or fuel reprocessing plant under part 50 of this chapter, or issuance of an early site permit under part 52 of this chapter.

(2) Issuance or renewal of a full power or design capacity license to operate a nuclear power reactor, testing facility, or fuel reprocessing plant under part 50 of this chapter, or a combined license under part 52 of this chapter.

(3) Issuance of a permit to construct or a design capacity license to operate or renewal of a design capacity license to operate an isotopic enrichment plant pursuant to part 50 of this chapter.

(4) Conversion of a provisional operating license for a nuclear power reactor, testing facility or fuel reprocessing plant to a full term or design capacity license pursuant to part 50 of this chapter if a final environmental impact statement covering full term or design capacity operation has not been previously prepared.

(5)–(6) [Reserved]

(7) Issuance of a license to possess and use special nuclear material for processing and fuel fabrication, scrap recovery, or conversion of uranium hexafluoride pursuant to part 70 of this chapter.

(8) Issuance of a license to possess and use source material for uranium milling or production of uranium hexafluoride pursuant to part 40 of this chapter.

(9) Issuance of a license pursuant to part 72 of this chapter for the storage of spent fuel in an independent spent fuel storage installation (ISFSI) at a site not occupied by a nuclear power reactor, or for the storage of spent fuel or high-level radioactive waste in a monitored retrievable storage installation (MRS).

(10) Issuance of a license for a uranium enrichment facility.

(11) Issuance of renewal of a license authorizing receipt and disposal of radioactive waste from other persons pursuant to part 61 of this chapter.

(12) Issuance of a license amendment pursuant to part 61 of this chapter authorizing (i) closure of a land disposal site, (ii) transfer of the license to the disposal site owner for the purpose of institutional control, or (iii) termination of the license at the end of the institutional control period.

(13) Issuance of a construction authorization and license pursuant to part 60 or part 63 of this chapter.

(14) Any other action which the Commission determines is a major Commission action significantly affecting the quality of the human environment. As provided in § 51.22(b), the Commission may, in special circumstances, prepare an environmental impact statement on an action covered by a categorical exclusion.

[49 FR 9381, Mar. 12, 1984, as amended at 53 FR 31681, Aug. 19, 1988; 53 FR 24052, June 27, 1988; 54 FR 15398, Apr. 18, 1989; 54 FR 27870, July 3, 1989; 57 FR 18392, Apr. 30, 1992; 66 FR 55790, Nov. 2, 2001; 72 FR 49509, Aug. 28, 2007]

#### **§ 51.21 Criteria for and identification of licensing and regulatory actions requiring environmental assess- ments.**

All licensing and regulatory actions subject to this subpart require an environmental assessment except those identified in § 51.20(b) as requiring an environmental impact statement, those identified in § 51.22(c) as categorical exclusions, and those identified in § 51.22(d) as other actions not requiring environmental review. As provided in



## 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

## §51.22

## 10 CFR Ch. I (1–1–23 Edition)

(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;

(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.

## Nuclear Regulatory Commission

## § 51.22

(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;

## § 51.23

## 10 CFR Ch. I (1–1–23 Edition)

(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-

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

## Nuclear Regulatory Commission

## § 51.27

will be published in the FEDERAL REGISTER as provided in § 51.116, and an appropriate scoping process (see §§ 51.27, 51.28, and 51.29) will be conducted.

(b) The scoping process may include a public scoping meeting.

(c) Upon receipt of an application and accompanying environmental impact statement under § 60.22 or § 63.22 of this chapter (pertaining to geologic repositories for high-level radioactive waste), the appropriate NRC staff director will include in the notice of docketing required to be published by § 2.101(f)(8) of this chapter a statement of Commission intention to adopt the environmental impact statement to the extent practicable. However, if the appropriate NRC staff director determines, at the time of such publication or at any time thereafter, that NRC should prepare a supplemental environmental impact statement in connection with the Commission's action on the license application, the NRC shall follow the procedures set out in paragraph (a) of this section.

(d) Whenever the appropriate NRC staff director determines that a supplement to an environmental impact statement will be prepared by the NRC, a notice of intent will be prepared as provided in § 51.27, and will be published in the FEDERAL REGISTER as provided in § 51.116. The NRC staff need not conduct a scoping process (see §§ 51.27, 51.28, and 51.29), provided, however, that if scoping is conducted, then the scoping must be directed at matters to be addressed in the supplement. If scoping is conducted in a proceeding for a combined license referencing an early site permit under part 52, then the scoping must be directed at matters to be addressed in the supplement as described in § 51.92(e).

[49 FR 9381, Mar. 12, 1984, as amended at 54 FR 27870, July 3, 1989; 66 FR 55791, Nov. 2, 2001; 72 FR 49510, Aug. 28, 2007]

### § 51.27 Notice of intent.

(a) The notice of intent required by § 51.26(a) shall:

(1) State that an environmental impact statement will be prepared;

(2) Describe the proposed action and, to the extent sufficient information is available, possible alternatives;

(3) State whether the applicant or petitioner for rulemaking has filed an environmental report, and, if so, where copies are available for public inspection;

(4) Describe the proposed scoping process, including the role of participants, whether written comments will be accepted, the last date for submitting comments and where comments should be sent, whether a public scoping meeting will be held, the time and place of any scoping meeting or when the time and place of the meeting will be announced; and

(5) State the name, address and telephone number of an individual in NRC who can provide information about the proposed action, the scoping process, and the environmental impact statement.

(b) The notice of intent required by § 51.26(d) shall:

(1) State that a supplement to a final environmental impact statement will be prepared in accordance with § 51.72 or § 51.92. For a combined license application that references an early site permit, the supplement to the early site permit environmental impact statement will be prepared in accordance with § 51.92(e);

(2) Describe the proposed action and, to the extent required, possible alternatives. For the case of a combined license referencing an early site permit, identify the proposed action as the issuance of a combined license for the construction and operation of a nuclear power plant as described in the combined license application at the site described in the early site permit referenced in the combined license application;

(3) Identify the environmental report prepared by the applicant and information on where copies are available for public inspection;

(4) Describe the matters to be addressed in the supplement to the final environmental impact statement;

(5) Describe any proposed scoping process that the NRC staff may conduct, including the role of participants, whether written comments will be accepted, the last date for submitting comments and where comments should be sent, whether a public scoping meeting will be held, the time and place of

## § 51.28

any scoping meeting or when the time and place of the meeting will be announced; and

(6) State the name, address, and telephone number of an individual in NRC who can provide information about the proposed action, the scoping process, and the supplement to the environmental impact statement.

[49 FR 9381, Mar. 12, 1984, as amended at 72 FR 49510, Aug. 28, 2007]

### SCOPING

#### § 51.28 Scoping—participants.

(a) The appropriate NRC staff director shall invite the following persons to participate in the scoping process:

(1) The applicant or the petitioner for rulemaking;

(2) Any person who has petitioned for leave to intervene in the proceeding or who has been admitted as a party to the proceeding;

(3) Any other Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved or which is authorized to develop and enforce relevant environmental standards;

(4) Affected State and local agencies, including those authorized to develop and enforce relevant environmental standards;

(5) Any affected Indian Tribe; and

(6) Any person who has requested an opportunity to participate in the scoping process.

(b) The appropriate NRC staff director may also invite any other appropriate person to participate in the scoping process.

(c) Participation in the scoping process for an environmental impact statement does not entitle the participant to become a party to the proceeding to which the environmental impact statement relates. Participation in an adjudicatory proceeding is governed by the procedures in §§ 2.309 and 2.315 of this chapter. Participation in a rulemaking proceeding in which the Commission has decided to have a hearing is governed by the provisions in the notice of hearing.

[49 FR 9381, Mar. 12, 1984, as amended at 74 FR 62682, Dec. 1, 2009]

## 10 CFR Ch. I (1–1–23 Edition)

#### § 51.29 Scoping-environmental impact statement and supplement to environmental impact statement.

(a) The scoping process for an environmental impact statement shall begin as soon as practicable after publication of the notice of intent as provided in § 51.116, and shall be used to:

(1) Define the proposed action which is to be the subject of the statement or supplement. For environmental impact statements other than a supplement to an early site permit final environmental impact statement prepared for a combined license application, the provisions of 40 CFR 1502.4 will be used for this purpose. For a supplement to an early site permit final environmental impact statement prepared for a combined license application, the proposed action shall be as set forth in the relevant provisions of § 51.92(e).

(2) Determine the scope of the statement and identify the significant issues to be analyzed in depth.

(3) Identify and eliminate from detailed study issues which are peripheral or are not significant or which have been covered by prior environmental review. Discussion of these issues in the statement will be limited to a brief presentation of why they are peripheral or will not have a significant effect on the quality of the human environment or a reference to their coverage elsewhere.

(4) Identify any environmental assessments and other environmental impact statements which are being or will be prepared that are related to but are not part of the scope of the statement under consideration.

(5) Identify other environmental review and consultation requirements related to the proposed action so that other required analyses and studies may be prepared concurrently and integrated with the environmental impact statement.

(6) Indicate the relationship between the timing of the preparation of environmental analyses and the Commission's tentative planning and decision-making schedule.

(7) Identify any cooperating agencies, and as appropriate, allocate assignments for preparation and schedules for completion of the statement to the NRC and any cooperating agencies.

(8) Describe the means by which the environmental impact statement will be prepared, including any contractor assistance to be used.

(b) At the conclusion of the scoping process, the appropriate NRC staff director will prepare a concise summary of the determinations and conclusions reached, including the significant issues identified, and will send a copy of the summary to each participant in the scoping process.

(c) At any time prior to issuance of the draft environmental impact statement, the appropriate NRC staff director may revise the determinations made under paragraph (b) of this section, as appropriate, if substantial changes are made in the proposed action, or if significant new circumstances or information arise which bear on the proposed action or its impacts.

[49 FR 9381, Mar. 12, 1984, as amended at 72 FR 49510, Aug. 28, 2007]

#### ENVIRONMENTAL ASSESSMENT

##### § 51.30 Environmental assessment.

(a) An environmental assessment for proposed actions, other than those for a standard design certification under 10 CFR part 52 or a manufacturing license under part 52, shall identify the proposed action and include:

- (1) A brief discussion of:
  - (i) The need for the proposed action;
  - (ii) Alternatives as required by section 102(2)(E) of NEPA;
  - (iii) The environmental impacts of the proposed action and alternatives as appropriate; and

(2) A list of agencies and persons consulted, and identification of sources used.

(b) As stated in § 51.23, the generic impact determinations regarding the continued storage of spent fuel in NUREG-2157 shall be considered in the environmental assessment, if the impacts of continued storage of spent fuel are relevant to the proposed action.

(c) An environmental assessment for a proposed action regarding a monitored retrievable storage installation (MRS) will not address the need for the MRS or any alternative to the design criteria for an MRS set forth in section 141(b)(1) of the Nuclear Waste Policy

Act of 1982 (96 Stat. 2242, 42 U.S.C. 10161(b)(1)).

(d) An environmental assessment for a standard design certification under subpart B of part 52 of this chapter must identify the proposed action, and will be limited to the consideration of the costs and benefits of severe accident mitigation design alternatives and the bases for not incorporating severe accident mitigation design alternatives in the design certification. An environmental assessment for an amendment to a design certification will be limited to the consideration of whether the design change which is the subject of the proposed amendment renders a severe accident mitigation design alternative previously rejected in the earlier environmental assessment to become cost beneficial, or results in the identification of new severe accident mitigation design alternatives, in which case the costs and benefits of new severe accident mitigation design alternatives and the bases for not incorporating new severe accident mitigation design alternatives in the design certification must be addressed.

(e) An environmental assessment for a manufacturing license under subpart F of part 52 of this chapter must identify the proposed action, and will be limited to the consideration of the costs and benefits of severe accident mitigation design alternatives and the bases for not incorporating severe accident mitigation design alternatives in the manufacturing license. An environmental assessment for an amendment to a manufacturing license will be limited to consideration of whether the design change which is the subject of the proposed amendment either renders a severe accident mitigation design alternative previously rejected in an environmental assessment to become cost beneficial, or results in the identification of new severe accident mitigation design alternatives, in which case the costs and benefits of new severe accident mitigation design alternatives and the bases for not incorporating new severe accident mitigation design alternatives in the manufacturing license must be addressed. In either case, the environmental assessment will not

## §51.31

## 10 CFR Ch. I (1–1–23 Edition)

address the environmental impacts associated with manufacturing the reactor under the manufacturing license.

[49 FR 9381, Mar. 12, 1984, as amended at 49 FR 34694, Aug. 31, 1984; 53 FR 31681, Aug. 19, 1988; 72 FR 49510, Aug. 28, 2007; 79 FR 56260, Sept. 19, 2014]

### §51.31 Determinations based on environmental assessment.

(a) *General.* Upon completion of an environmental assessment for proposed actions other than those involving a standard design certification or a manufacturing license under part 52 of this chapter, the appropriate NRC staff director will determine whether to prepare an environmental impact statement or a finding of no significant impact on the proposed action. As provided in §51.33, a determination to prepare a draft finding of no significant impact may be made.

(b) *Standard design certification.* (1) For actions involving the issuance or amendment of a standard design certification, the Commission shall prepare a draft environmental assessment for public comment as part of the proposed rule. The proposed rule must state that:

(i) The Commission has determined in §51.32 that there is no significant environmental impact associated with the issuance of the standard design certification or its amendment, as applicable; and

(ii) Comments on the environmental assessment will be limited to the consideration of SAMDAs as required by §51.30(d).

(2) The Commission will prepare a final environmental assessment following the close of the public comment period for the proposed standard design certification.

(c) *Manufacturing license.* (1) Upon completion of the environmental assessment for actions involving issuance or amendment of a manufacturing license (manufacturing license environmental assessment), the appropriate NRC staff director will determine the costs and benefits of severe accident mitigation design alternatives and the bases for not incorporating severe accident mitigation design alternatives in the design of the reactor to be manufactured under the manufacturing li-

cense. The NRC staff director may determine to prepare a draft environmental assessment.

(2) The manufacturing license environmental assessment must state that:

(i) The Commission has determined in §51.32 that there is no significant environmental impact associated with the issuance of a manufacturing license or an amendment to a manufacturing license, as applicable;

(ii) The environmental assessment will not address the environmental impacts associated with manufacturing the reactor under the manufacturing license; and

(iii) Comments on the environmental assessment will be limited to the consideration of severe accident mitigation design alternatives as required by §51.30(e).

(3) If the NRC staff director makes a determination to prepare and issue a draft environmental assessment for public review and comment before making a final determination on the manufacturing license application, the assessment will be marked, “Draft.” The NRC notice of availability on the draft environmental assessment will include a request for comments which specifies where comments should be submitted and when the comment period expires. The notice will state that copies of the environmental assessment and any related environmental documents are available for public inspection and where inspections can be made. A copy of the final environmental assessment will be sent to the U.S. Environmental Protection Agency, the applicant, any party to a proceeding, each commenter, and any other Federal, State, and local agencies, and Indian Tribes, State, regional, and metropolitan clearinghouses expressing an interest in the action. Additional copies will be made available in accordance with §51.123.

(4) When a hearing is held under the regulations in part 2 of this chapter on the proposed issuance of the manufacturing license or amendment, the NRC staff director will prepare a final environmental assessment which may be subject to modification as a result of review and decision as appropriate to the nature and scope of the proceeding.



(5) Only a party admitted into the proceeding with respect to a contention on the environmental assessment, or an entity participating in the proceeding pursuant to § 2.315(c) of this chapter, may take a position and offer evidence on the matters within the scope of the environmental assessment.

[72 FR 49510, Aug. 28, 2007]

#### FINDING OF NO SIGNIFICANT IMPACT

#### § 51.32 Finding of no significant impact.

(a) A finding of no significant impact will:

- (1) Identify the proposed action;
  - (2) State that the Commission has determined not to prepare an environmental impact statement for the proposed action;
  - (3) Briefly present the reasons why the proposed action will not have a significant effect on the quality of the human environment;
  - (4) Include the environmental assessment or a summary of the environmental assessment. If the assessment is included, the finding need not repeat any of the discussion in the assessment but may incorporate it by reference;
  - (5) Note any other related environmental documents; and
  - (6) State that the finding and any related environmental documents are available for public inspection and where the documents may be inspected.
- (b) The Commission finds that there is no significant environmental impact associated with the issuance of:

- (1) A standard design certification under subpart B of part 52 of this chapter;
- (2) An amendment to a design certification;
- (3) A manufacturing license under subpart F of part 52 of this chapter; or
- (4) An amendment to a manufacturing license.

[49 FR 9381, Mar. 12, 1984, as amended at 72 FR 49511, Aug. 28, 2007]

#### § 51.33 Draft finding of no significant impact; distribution.

(a) As provided in paragraph (b) of this section, the appropriate NRC staff director may make a determination to prepare and issue a draft finding of no significant impact for public review

and comment before making a final determination whether to prepare an environmental impact statement or a final finding of no significant impact on the proposed action.

(b) Circumstances in which a draft finding of no significant impact may be prepared will ordinarily include the following:

(1) A finding of no significant impact appears warranted for the proposed action but the proposed action is (i) closely similar to one which normally requires the preparation of an environmental impact statement, or (ii) without precedent; and

(2) The appropriate NRC staff director determines that preparation of a draft finding of no significant impact will further the purposes of NEPA.

(c) A draft finding of no significant impact will (1) be marked "Draft", (2) contain the information specified in § 51.32, (3) be accompanied by or include a request for comments on the proposed action and on the draft finding within thirty (30) days, or such longer period as may be specified in the notice of the draft finding, and (4) be published in the FEDERAL REGISTER as required by §§ 51.35 and 51.119.

(d) A draft finding will be distributed as provided in § 51.74(a). Additional copies will be made available in accordance with § 51.123.

(e) When a draft finding of no significant impact is issued for a proposed action, a final determination to prepare an environmental impact statement or a final finding of no significant impact for that action shall not be made until the last day of the public comment period has expired.

#### § 51.34 Preparation of finding of no significant impact.

(a) Except as provided in paragraph (b) of this section, the finding of no significant impact will be prepared by the NRC staff director authorized to take the action.

(b) When a hearing is held on the proposed action under the regulations in subpart G of part 2 of this chapter or when the action can only be taken by the Commissioners acting as a collegial body, the appropriate NRC staff director will prepare a proposed finding of no significant impact, which may be

## § 51.35

## 10 CFR Ch. I (1–1–23 Edition)

subject to modification as a result of review and decision as appropriate to the nature and scope of the proceeding. In such cases, the presiding officer, or the Commission acting as a collegial body, as appropriate, will issue the final finding of no significant impact.

[49 FR 9381, Mar. 12, 1984, as amended at 77 FR 46600, Aug. 3, 2012; 79 FR 66604, Nov. 10, 2014]

### § 51.35 Requirement to publish finding of no significant impact; limitation on Commission action.

(a) Whenever the Commission makes a draft or final finding of no significant impact on a proposed action, the finding will be published in the FEDERAL REGISTER as provided in § 51.119.

(b) Except as provided in § 51.13, the Commission shall not take the proposed action until after the final finding has been published in the FEDERAL REGISTER.

ENVIRONMENTAL REPORTS AND INFORMATION—REQUIREMENTS APPLICABLE TO APPLICANTS AND PETITIONERS FOR RULEMAKING

#### GENERAL

### § 51.40 Consultation with NRC staff.

(a) A prospective applicant or petitioner for rulemaking is encouraged to confer with NRC staff as early as possible in its planning process before submitting environmental information or filing an environmental report.

(b) Requests for guidance or information on environmental matters may include inquiries relating to:

(1) Applicable NRC rules and regulations;

(2) Format, content and procedures for filing environmental reports and other environmental information, including the type and quantity of environmental information likely to be needed to address issues and concerns identified in the scoping process described in § 51.29 in a manner appropriate to their relative significance;

(3) Availability of relevant environmental studies and environmental information;

(4) Need for, appropriate level and scope of any environmental studies or information which the Commission

may require to be submitted in connection with an application or petition for rulemaking;

(5) Public meetings with NRC staff.

(c) Questions concerning environmental matters should be addressed to the following NRC staff offices as appropriate:

(1) *Utilization facilities*: ATTN: Document Control Desk, Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-1270, e-mail [RidsNrrOd@nrc.gov](mailto:RidsNrrOd@nrc.gov).

(2) *Production facilities*: ATTN: Document Control Desk, Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-7800, e-mail [RidsNmssOd@nrc.gov](mailto:RidsNmssOd@nrc.gov).

(3) *Materials licenses*: ATTN: Document Control Desk, Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-7800, e-mail [RidsNmssOd@nrc.gov](mailto:RidsNmssOd@nrc.gov).

(4) *Rulemaking*: ATTN: Chief, Regulatory Analysis and Rulemaking Support Branch, Division of Rulemaking, Environmental, and Financial Support, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (800) 368-5642.

(5) *General Environmental Matters*: Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 415-1700.

[49 FR 9381, Mar. 12, 1984, as amended at 53 FR 13399, Apr. 25, 1988; 60 FR 24552, May 9, 1995; 68 FR 58810, Oct. 10, 2003; 73 FR 5724, Jan. 31, 2008; 84 FR 65644, Nov. 29, 2019]

### § 51.41 Requirement to submit environmental information.

The Commission may require an applicant for a permit, license, or other form of permission, or amendment to or renewal of a permit, license or other form of permission, or a petitioner for rulemaking to submit such information to the Commission as may be useful in aiding the Commission in complying with section 102(2) of NEPA. The

## Nuclear Regulatory Commission

## § 51.45

Commission will independently evaluate and be responsible for the reliability of any information which it uses.

### ENVIRONMENTAL REPORTS—GENERAL REQUIREMENTS

#### § 51.45 Environmental report.

(a) *General.* As required by §§ 51.50, 51.53, 51.54, 51.55, 51.60, 51.61, 51.62, or 51.68, as appropriate, each applicant or petitioner for rulemaking shall submit with its application or petition for rulemaking one signed original of a separate document entitled “Applicant’s” or “Petitioner’s Environmental Report,” as appropriate. An applicant or petitioner for rulemaking may submit a supplement to an environmental report at any time.

(b) *Environmental considerations.* The environmental report shall contain a description of the proposed action, a statement of its purposes, a description of the environment affected, and discuss the following considerations:

(1) The impact of the proposed action on the environment. Impacts shall be discussed in proportion to their significance;

(2) Any adverse environmental effects which cannot be avoided should the proposal be implemented;

(3) Alternatives to the proposed action. The discussion of alternatives shall be sufficiently complete to aid the Commission in developing and exploring, pursuant to section 102(2)(E) of NEPA, “appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources.” To the extent practicable, the environmental impacts of the proposal and the alternatives should be presented in comparative form;

(4) The relationship between local short-term uses of man’s environment and the maintenance and enhancement of long-term productivity; and

(5) Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

(c) *Analysis.* The environmental report must include an analysis that considers and balances the environmental

effects of the proposed action, the environmental impacts of alternatives to the proposed action, and alternatives available for reducing or avoiding adverse environmental effects. An environmental report required for materials licenses under § 51.60 must also include a description of those site preparation activities excluded from the definition of construction under § 51.4 which have been or will be undertaken at the proposed site (*i.e.*, those activities listed in paragraphs (2)(i) and (2)(ii) in the definition of construction contained in § 51.4); a description of the impacts of such excluded site preparation activities; and an analysis of the cumulative impacts of the proposed action when added to the impacts of such excluded site preparation activities on the human environment. An environmental report prepared at the early site permit stage under § 51.50(b), limited work authorization stage under § 51.49, construction permit stage under § 51.50(a), or combined license stage under § 51.50(c) must include a description of impacts of the preconstruction activities performed by the applicant at the proposed site (*i.e.*, those activities listed in paragraph (1)(ii) in the definition of “construction” contained in § 51.4), necessary to support the construction and operation of the facility which is the subject of the early site permit, limited work authorization, construction permit, or combined license application. The environmental report must also contain an analysis of the cumulative impacts of the activities to be authorized by the limited work authorization, construction permit, or combined license in light of the preconstruction impacts described in the environmental report. Except for an environmental report prepared at the early site permit stage, or an environmental report prepared at the license renewal stage under § 51.53(c), the analysis in the environmental report should also include consideration of the economic, technical, and other benefits and costs of the proposed action and its alternatives. Environmental reports prepared at the license renewal stage under § 51.53(c) need not discuss the economic or technical benefits and costs of either the proposed action or alternatives except if these benefits

## §51.49

and costs are either essential for a determination regarding the inclusion of an alternative in the range of alternatives considered or relevant to mitigation. In addition, environmental reports prepared under §51.53(c) need not discuss issues not related to the environmental effects of the proposed action and its alternatives. The analyses for environmental reports shall, to the fullest extent practicable, quantify the various factors considered. To the extent that there are important qualitative considerations or factors that cannot be quantified, those considerations or factors shall be discussed in qualitative terms. The environmental report should contain sufficient data to aid the Commission in its development of an independent analysis.

(d) *Status of compliance.* The environmental report shall list all Federal permits, licenses, approvals and other entitlements which must be obtained in connection with the proposed action and shall describe the status of compliance with these requirements. The environmental report shall also include a discussion of the status of compliance with applicable environmental quality standards and requirements including, but not limited to, applicable zoning and land-use regulations, and thermal and other water pollution limitations or requirements which have been imposed by Federal, State, regional, and local agencies having responsibility for environmental protection. The discussion of alternatives in the report shall include a discussion of whether the alternatives will comply with such applicable environmental quality standards and requirements.

(e) *Adverse information.* The information submitted pursuant to paragraphs (b) through (d) of this section should not be confined to information supporting the proposed action but should also include adverse information.

[49 FR 9381, Mar. 12, 1984, as amended at 61 FR 28486, June 5, 1996; 61 FR 66542, Dec. 18, 1996; 68 FR 58810, Oct. 10, 2003; 72 FR 49511, Aug. 28, 2007; 72 FR 57443, Oct. 9, 2007; 73 FR 22787, Apr. 28, 2008; 76 FR 56965, Sept. 15, 2011]

## 10 CFR Ch. I (1–1–23 Edition)

### ENVIRONMENTAL REPORTS—PRODUCTION AND UTILIZATION FACILITIES

#### §51.49 Environmental report—limited work authorization.

(a) *Limited work authorization submitted as part of complete construction permit or combined license application.* Each applicant for a construction permit or combined license applying for a limited work authorization under §50.10(d) of this chapter in a complete application under 10 CFR 2.101(a)(1) through (a)(4), shall submit with its application a separate document, entitled, “Applicant’s Environmental Report—Limited Work Authorization Stage,” which is in addition to the environmental report required by §51.50 of this part. Each environmental report must also contain the following information:

(1) A description of the activities proposed to be conducted under the limited work authorization;

(2) A statement of the need for the activities; and

(3) A description of the environmental impacts that may reasonably be expected to result from the activities, the mitigation measures that the applicant proposes to implement to achieve the level of environmental impacts described, and a discussion of the reasons for rejecting mitigation measures that could be employed by the applicant to further reduce environmental impacts.

(b) *Phased application for limited work authorization and construction permit or combined license.* If the construction permit or combined license application is filed in accordance with §2.101(a)(9) of this chapter, then the environmental report for part one of the application may be limited to a discussion of the activities proposed to be conducted under the limited work authorization. If the scope of the environmental report for part one is so limited, then part two of the application must include the information required by §51.50, as applicable.

(c) *Limited work authorization submitted as part of an early site permit application.* Each applicant for an early site permit under subpart A of part 52 of this chapter requesting a limited work authorization shall submit with

## Nuclear Regulatory Commission

## §51.49

its application the environmental report required by §51.50(b). Each environmental report must contain the following information:

(1) A description of the activities proposed to be conducted under the limited work authorization;

(2) A statement of the need for the activities; and

(3) A description of the environmental impacts that may reasonably be expected to result from the activities, the mitigation measures that the applicant proposes to implement to achieve the level of environmental impacts described, and a discussion of the reasons for rejecting mitigation measures that could be employed by the applicant to further reduce environmental impacts.

(d) *Limited work authorization request submitted by early site permit holder.* Each holder of an early site permit requesting a limited work authorization shall submit with its application a document entitled, “Applicant’s Environmental Report—Limited Work Authorization under Early Site Permit,” containing the following information:

(1) A description of the activities proposed to be conducted under the limited work authorization;

(2) A statement of the need for the activities;

(3) A description of the environmental impacts that may reasonably be expected to result from the activities, the mitigation measures that the applicant proposes to implement to achieve the level of environmental impacts described, and a discussion of the reasons for rejecting mitigation measures that could be employed by the applicant to further reduce environmental impacts; and

(4) Any new and significant information for issues related to the impacts of construction of the facility that were resolved in the early site permit proceeding with respect to the environmental impacts of the activities to be conducted under the limited work authorization.

(5) A description of the process used to identify new and significant information regarding NRC’s conclusions in the early site permit environmental impact statement. The process must be a reasonable methodology for identi-

fying this new and significant information.

(e) *Limited work authorization for a site where an environmental impact statement was prepared, but the facility construction was not completed.* If the limited work authorization is for activities to be conducted at a site for which the Commission has previously prepared an environmental impact statement for the construction and operation of a nuclear power plant, and a construction permit was issued but construction of the plant was never completed, then the applicant’s environmental report may incorporate by reference the earlier environmental impact statement. In the event of such referencing, the environmental report must identify:

(1) Any new and significant information material to issues related to the impacts of construction of the facility that were resolved in the construction permit proceeding for the matters required to be addressed in paragraph (a) of this section; and

(2) A description of the process used to identify new and significant information regarding the NRC’s conclusions in the construction permit environmental impact statement. The process must use a reasonable methodology for identifying this new and significant information.

(f) *Environmental report.* An environmental report submitted in accordance with this section must separately evaluate the environmental impacts and proposed alternatives attributable to the activities proposed to be conducted under the limited work authorization. At the option of the applicant, the “Applicant’s Environmental Report—Limited Work Authorization Stage,” may contain the information required to be submitted in the environmental report required under §51.50, which addresses the impacts of construction and operation for the proposed facility (including the environmental impacts attributable to the limited work authorization), and discusses the overall costs and benefits balancing for the proposed action.

[72 FR 57444, Oct. 9, 2007]

**§ 51.50 Environmental report—construction permit, early site permit, or combined license stage.**

(a) *Construction permit stage.* Each applicant for a permit to construct a production or utilization facility covered by § 51.20 shall submit with its application a separate document, entitled “Applicant’s Environmental Report—Construction Permit Stage,” which shall contain the information specified in §§ 51.45, 51.51, and 51.52. Each environmental report shall identify procedures for reporting and keeping records of environmental data, and any conditions and monitoring requirements for protecting the non-aquatic environment, proposed for possible inclusion in the license as environmental conditions in accordance with § 50.36b of this chapter. As stated in § 51.23, no discussion of the environmental impacts of the continued storage of spent fuel is required in this report.

(b) *Early site permit stage.* Each applicant for an early site permit shall submit with its application a separate document, entitled “Applicant’s Environmental Report—Early Site Permit Stage,” which shall contain the information specified in §§ 51.45, 51.51, and 51.52, as modified in this paragraph.

(1) The environmental report must include an evaluation of alternative sites to determine whether there is any obviously superior alternative to the site proposed.

(2) The environmental report may address one or more of the environmental effects of construction and operation of a reactor, or reactors, which have design characteristics that fall within the site characteristics and design parameters for the early site permit application, provided however, that the environmental report must address all environmental effects of construction and operation necessary to determine whether there is any obviously superior alternative to the site proposed. The environmental report need not include an assessment of the economic, technical, or other benefits (for example, need for power) and costs of the proposed action or an evaluation of alternative energy sources. As stated in § 51.23, no discussion of the environmental impacts of the continued stor-

age of spent fuel is required in this report.

(3) For other than light-water-cooled nuclear power reactors, the environmental report must contain the basis for evaluating the contribution of the environmental effects of fuel cycle activities for the nuclear power reactor.

(4) Each environmental report must identify the procedures for reporting and keeping records of environmental data, and any conditions and monitoring requirements for protecting the non-aquatic environment, proposed for possible inclusion in the license as environmental conditions in accordance with § 50.36b of this chapter.

(c) *Combined license stage.* Each applicant for a combined license shall submit with its application a separate document, entitled “Applicant’s Environmental Report—Combined License Stage.” Each environmental report shall contain the information specified in §§ 51.45, 51.51, and 51.52, as modified in this paragraph. For other than light-water-cooled nuclear power reactors, the environmental report shall contain the basis for evaluating the contribution of the environmental effects of fuel cycle activities for the nuclear power reactor. Each environmental report shall identify procedures for reporting and keeping records of environmental data, and any conditions and monitoring requirements for protecting the non-aquatic environment, proposed for possible inclusion in the license as environmental conditions in accordance with § 50.36b of this chapter. The combined license environmental report may reference information contained in a final environmental document previously prepared by the NRC staff. As stated in § 51.23, no discussion of the environmental impacts of the continued storage of spent fuel is required in this report.

(1) *Application referencing an early site permit.* If the combined license application references an early site permit, then the “Applicant’s Environmental Report—Combined License Stage” need not contain information or analyses submitted to the Commission in “Applicant’s Environmental Report—Early Site Permit Stage,” or resolved in the Commission’s early site permit environmental impact statement, but must

## Nuclear Regulatory Commission

## §51.51

contain, in addition to the environmental information and analyses otherwise required:

(i) Information to demonstrate that the design of the facility falls within the site characteristics and design parameters specified in the early site permit;

(ii) Information to resolve any significant environmental issue that was not resolved in the early site permit proceeding;

(iii) Any new and significant information for issues related to the impacts of construction and operation of the facility that were resolved in the early site permit proceeding;

(iv) A description of the process used to identify new and significant information regarding the NRC's conclusions in the early site permit environmental impact statement. The process must use a reasonable methodology for identifying such new and significant information; and

(v) A demonstration that all environmental terms and conditions that have been included in the early site permit will be satisfied by the date of issuance of the combined license. Any terms or conditions of the early site permit that could not be met by the time of issuance of the combined license, must be set forth as terms or conditions of the combined license.

(2) *Application referencing standard design certification.* If the combined license references a standard design certification, then the combined license environmental report may incorporate by reference the environmental assessment previously prepared by the NRC for the referenced design certification. If the design certification environmental assessment is referenced, then the combined license environmental report must contain information to demonstrate that the site characteristics for the combined license site fall within the site parameters in the design certification environmental assessment.

(3) *Application referencing a manufactured reactor.* If the combined license

application proposes to use a manufactured reactor, then the combined license environmental report may incorporate by reference the environmental assessment previously prepared by the NRC for the underlying manufacturing license. If the manufacturing license environmental assessment is referenced, then the combined license environmental report must contain information to demonstrate that the site characteristics for the combined license site fall within the site parameters in the manufacturing license environmental assessment. The environmental report need not address the environmental impacts associated with manufacturing the reactor under the manufacturing license.

[72 FR 49511, Aug. 28, 2007, as amended at 79 FR 56260, Sept. 19, 2014]

### §51.51 Uranium fuel cycle environmental data—Table S-3.

(a) Under §51.50, every environmental report prepared for the construction permit stage or early site permit stage or combined license stage of a light-water-cooled nuclear power reactor, and submitted on or after September 4, 1979, shall take Table S-3, Table of Uranium Fuel Cycle Environmental Data, as the basis for evaluating the contribution of the environmental effects of uranium mining and milling, the production of uranium hexafluoride, isotopic enrichment, fuel fabrication, reprocessing of irradiated fuel, transportation of radioactive materials and management of low-level wastes and high-level wastes related to uranium fuel cycle activities to the environmental costs of licensing the nuclear power reactor. Table S-3 shall be included in the environmental report and may be supplemented by a discussion of the environmental significance of the data set forth in the table as weighed in the analysis for the proposed facility.

(b) Table S-3.

TABLE S–3—TABLE OF URANIUM FUEL CYCLE ENVIRONMENTAL DATA <sup>1</sup>  
 [Normalized to model LWR annual fuel requirement [WASH–1248] or reference reactor year [NUREG–0116]]  
 [See footnotes at end of this table]

Environmental considerations	Total	Maximum effect per annual fuel requirement or reference reactor year of model 1,000 MWe LWR
<b>NATURAL RESOURCE USE</b>		
Land (acres):		
Temporarily committed <sup>2</sup> .....	100	Equivalent to a 110 MWe coal-fired power plant.
Undisturbed area .....	79	
Disturbed area .....	22	
Permanently committed .....	13	Equivalent to 95 MWe coal-fired power plant.
Overburden moved (millions of MT) .....	2.8	
Water (millions of gallons):		
Discharged to air .....	160	= 2 percent of model 1,000 MWe LWR with cooling tower.
Discharged to water bodies .....	11,090	
Discharged to ground .....	127	
Total .....	11,377	<4 percent of model 1,000 MWe LWR with once-through cooling.
Fossil fuel:		
Electrical energy (thousands of MW-hour) .....	323	<5 percent of model 1,000 MWe LWR output.
Equivalent coal (thousands of MT) .....	118	Equivalent to the consumption of a 45 MWe coal-fired power plant.
Natural gas (millions of scf) .....	135	<0.4 percent of model 1,000 MWe energy output.
<b>EFFLUENTS—CHEMICAL (MT)</b>		
Gases (including entrainment): <sup>3</sup>		
SO <sub>x</sub> .....	4,400	Equivalent to emissions from 45 MWe coal-fired plant for a year.
NO <sub>x</sub> <sup>4</sup> .....	1,190	
Hydrocarbons .....	14	
CO .....	29.6	Principally from UF <sub>6</sub> production, enrichment, and reprocessing. Concentration within range of state standards—below level that has effects on human health.
Particulates .....	1,154	
Other gases:		
F .....	.67	Principally from UF <sub>6</sub> production, enrichment, and reprocessing. Concentration within range of state standards—below level that has effects on human health.
HCl .....	.014	
Liquids:		
SO <sub>4</sub> <sup>-4</sup> .....	9.9	From enrichment, fuel fabrication, and reprocessing steps. Components that constitute a potential for adverse environmental effect are present in dilute concentrations and receive additional dilution by receiving bodies of water to levels below permissible standards. The constituents that require dilution and the flow of dilution water are: NH <sub>3</sub> —600 cfs., NO <sub>3</sub> —20 cfs., Fluoride—70 cfs.
NO <sub>3</sub> <sup>-3</sup> .....	25.8	
Fluoride .....	12.9	
Ca <sup>+</sup> .....	5.4	From mills only—no significant effluents to environment. Principally from mills—no significant effluents to environment.
Cl <sup>-</sup> .....	8.5	
Na <sup>+</sup> .....	12.1	
NH <sub>3</sub> .....	10.0	From mills only—no significant effluents to environment. Principally from mills—no significant effluents to environment.
Fe .....	.4	
Tailings solutions (thousands of MT) .....	240	
Solids .....	91,000	
<b>Effluents—Radiological (curies)</b>		
Gases (including entrainment):		
Rn-222 .....		Presently under reconsideration by the Commission.
Ra-226 .....	.02	Principally from fuel reprocessing plants.
Th-230 .....	.02	
Uranium .....	.034	
Tritium (thousands) .....	18.1	Presently under consideration by the Commission.
C-14 .....	24	
Kr-85 (thousands) .....	400	
Ru-106 .....	.14	Principally from fuel reprocessing plants.
I-129 .....	1.3	
I-131 .....	.83	
Tc-99 .....		Presently under consideration by the Commission.
Fission products and transuranics .....	.203	
Liquids:		
Uranium and daughters .....	2.1	Principally from milling—included tailings liquor and returned to ground—no effluents; therefore, no effect on environment.
Ra-226 .....	.0034	From UF <sub>6</sub> production.
Th-230 .....	.0015	



TABLE S-3—TABLE OF URANIUM FUEL CYCLE ENVIRONMENTAL DATA <sup>1</sup>—Continued

[Normalized to model LWR annual fuel requirement (WASH-1248) or reference reactor year (NUREG-0116)]

[See footnotes at end of this table]

Environmental considerations	Total	Maximum effect per annual fuel requirement or reference reactor year of model 1,000 MWe LWR
Th-234 .....	.01	From fuel fabrication plants—concentration 10 percent of 10 CFR 20 for total processing 26 annual fuel requirements for model LWR.
Fission and activation products .....	$5.9 \times 10^{-6}$	
Solids (buried on site):		
Other than high level (shallow) .....	11,300	9,100 Ci comes from low level reactor wastes and 1,500 Ci comes from reactor decontamination and decommissioning—buried at land burial facilities. 600 Ci comes from mills—included in tailings returned to ground. Approximately 60 Ci comes from conversion and spent fuel storage. No significant effluent to the environment.
TRU and HLW (deep) .....	$1.1 \times 10^7$	Buried at Federal Repository.
Effluents—thermal (billions of British thermal units) .....	4,063	<5 percent of model 1,000 MWe LWR.
Transportation (person-rem):		
Exposure of workers and general public .....	2.5	From reprocessing and waste management.
Occupational exposure (person-rem) .....	22.6	

<sup>1</sup> In some cases where no entry appears it is clear from the background documents that the matter was addressed and that, in effect, the Table should be read as if a specific zero entry had been made. However, there are other areas that are not addressed at all in the Table. Table S-3 does not include health effects from the effluents described in the Table, or estimates of releases of Radon-222 from the uranium fuel cycle or estimates of Technetium-99 released from waste management or reprocessing activities. These issues may be the subject of litigation in the individual licensing proceedings.

Data supporting this table are given in the "Environmental Survey of the Uranium Fuel Cycle," WASH-1248, April 1974; the "Environmental Survey of the Reprocessing and Waste Management Portion of the LWR Fuel Cycle," NUREG-0116 (Supp. 1 to WASH-1248); the "Public Comments and Task Force Responses Regarding the Environmental Survey of the Reprocessing and Waste Management Portions of the LWR Fuel Cycle," NUREG-0216 (Supp. 2 to WASH-1248); and in the record of the final rulemaking pertaining to Uranium Fuel Cycle Impacts from Spent Fuel Reprocessing and Radioactive Waste Management, Docket RM-50-3. The contributions from reprocessing, waste management and transportation of wastes are maximized for either of the two fuel cycles (uranium only and no recycle). The contribution from transportation excludes transportation of cold fuel to a reactor and of irradiated fuel and radioactive wastes from a reactor which are considered in Table S-4 of § 51.20(g). The contributions from the other steps of the fuel cycle are given in columns A-E of Table S-3A of WASH-1248.

<sup>2</sup> The contributions to temporarily committed land from reprocessing are not prorated over 30 years, since the complete temporary impact accrues regardless of whether the plant services one reactor for one year or 57 reactors for 30 years.

<sup>3</sup> Estimated effluents based upon combustion of equivalent coal for power generation.

<sup>4</sup> 1.2 percent from natural gas use and process.

[49 FR 9381, Mar. 12, 1984; 49 FR 10922, Mar. 23, 1984, as amended at 67 FR 77652, Dec. 19, 2002; 72 FR 49512, Aug. 28, 2007]

#### § 51.52 Environmental effects of transportation of fuel and waste—Table S-4.

Under § 51.50, every environmental report prepared for the construction permit stage or early site permit stage or combined license stage of a light-water-cooled nuclear power reactor, and submitted after February 4, 1975, shall contain a statement concerning transportation of fuel and radioactive wastes to and from the reactor. That statement shall indicate that the reactor and this transportation either meet all of the conditions in paragraph (a) of this section or all of the conditions of paragraph (b) of this section.

(a)(1) The reactor has a core thermal power level not exceeding 3,800 megawatts;

(2) The reactor fuel is in the form of sintered uranium dioxide pellets hav-

ing a uranium-235 enrichment not exceeding 4% by weight, and the pellets are encapsulated in zircaloy rods;

(3) The average level of irradiation of the irradiated fuel from the reactor does not exceed 33,000 megawatt-days per metric ton, and no irradiated fuel assembly is shipped until at least 90 days after it is discharged from the reactor;

(4) With the exception of irradiated fuel, all radioactive waste shipped from the reactor is packaged and in a solid form;

(5) Unirradiated fuel is shipped to the reactor by truck; irradiated fuel is shipped from the reactor by truck, rail, or barge; and radioactive waste other than irradiated fuel is shipped from the reactor by truck or rail; and

(6) The environmental impacts of transportation of fuel and waste to and

§51.53

10 CFR Ch. I (1–1–23 Edition)

from the reactor, with respect to normal conditions of transport and possible accidents in transport, are as set forth in Summary Table S–4 in paragraph (c) of this section; and the values in the table represent the contribution of the transportation to the environmental costs of licensing the reactor.

(b) For reactors not meeting the conditions of paragraph (a) of this section, the statement shall contain a full description and detailed analysis of the

environmental effects of transportation of fuel and wastes to and from the reactor, including values for the environmental impact under normal conditions of transport and for the environmental risk from accidents in transport. The statement shall indicate that the values determined by the analysis represent the contribution of such effects to the environmental costs of licensing the reactor.

(c)

SUMMARY TABLE S–4—ENVIRONMENTAL IMPACT OF TRANSPORTATION OF FUEL AND WASTE TO AND FROM ONE LIGHT-WATER-COOLED NUCLEAR POWER REACTOR <sup>1</sup>

Normal Conditions of Transport

	Environmental impact
Heat (per irradiated fuel cask in transit) .....	250,000 Btu/hr.
Weight (governed by Federal or State restrictions) .....	73,000 lbs. per truck; 100 tons per cask per rail car.
Traffic density:	
Truck .....	Less than 1 per day.
Rail .....	Less than 3 per month

Exposed population	Estimated number of persons exposed	Range of doses to exposed individuals <sup>2</sup> (per reactor year)	Cumulative dose to exposed population (per reactor year) <sup>3</sup>
Transportation workers .....	200	0.01 to 300 millirem .....	4 man-rem.
General public:			
Onlookers .....	1,100	0.003 to 1.3 millirem .....	3 man-rem.
Along Route .....	600,000	0.0001 to 0.06 millirem .....	

Accidents in Transport

	Environmental risk
Radiological effects .....	Small <sup>4</sup>
Common (nonradiological) causes .....	1 fatal injury in 100 reactor years; 1 nonfatal injury in 10 reactor years; \$475 property damage per reactor year.

<sup>1</sup> Data supporting this table are given in the Commission's "Environmental Survey of Transportation of Radioactive Materials to and from Nuclear Power Plants," WASH–1238, December 1972; and Supp. 1 of NUREG–75/038, April 1975. Both documents are available for inspection and copying at the Commission's Public Document Room, One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852 and may be obtained from National Technical Information Service, Springfield, VA 22161. The WASH–1238 is available from NTIS at a cost of \$5.45 (microfiche, \$2.25) and NUREG–75/038 is available at a cost of \$3.25 (microfiche, \$2.25).

<sup>2</sup> The Federal Radiation Council has recommended that the radiation doses from all sources of radiation other than natural background and medical exposures should be limited to 5,000 millirem per year for individuals as a result of occupational exposure and should be limited to 500 millirem per year for individuals in the general population. The dose to individuals due to average natural background radiation is about 130 millirem per year.

<sup>3</sup> Man-rem is an expression for the summation of whole body doses to individuals in a group. Thus, if each member of a population group of 1,000 people were to receive a dose of 0.001 rem (1 millirem), or if 2 people were to receive a dose of 0.5 rem (500 millirem) each, the total man-rem dose in each case would be 1 man-rem.

<sup>4</sup> Although the environmental risk of radiological effects stemming from transportation accidents is currently incapable of being numerically quantified, the risk remains small regardless of whether it is being applied to a single reactor or a multireactor site.

[49 FR 9381, Mar. 12, 1984; 49 FR 10922, Mar. 23, 1984, as amended at 53 FR 43420, Oct. 27, 1988; 72 FR 49512, Aug. 28, 2007; 79 FR 66604, Nov. 10, 2014; 86 FR 67843, Nov. 30, 2021]

§51.53 Postconstruction environmental reports.

(a) *General.* Any environmental report prepared under the provisions of this section may incorporate by reference any information contained in a prior environmental report or supple-

ment thereto that relates to the production or utilization facility or site, or any information contained in a final environmental document previously prepared by the NRC staff that relates to the production or utilization facility or site. Documents that may be referenced include, but are not limited to,

the final environmental impact statement; supplements to the final environmental impact statement, including supplements prepared at the license renewal stage; NRC staff-prepared final generic environmental impact statements; and environmental assessments and records of decisions prepared in connection with the construction permit, operating license, early site permit, combined license and any license amendment for that facility.

(b) *Operating license stage.* Each applicant for a license to operate a production or utilization facility covered by §51.20 shall submit with its application a separate document entitled "Supplement to Applicant's Environmental Report—Operating License Stage," which will update "Applicant's Environmental Report—Construction Permit Stage." Unless otherwise required by the Commission, the applicant for an operating license for a nuclear power reactor shall submit this report only in connection with the first licensing action authorizing full-power operation. In this report, the applicant shall discuss the same matters described in §§51.45, 51.51, and 51.52, but only to the extent that they differ from those discussed or reflect new information in addition to that discussed in the final environmental impact statement prepared by the Commission in connection with the construction permit. No discussion of need for power, or of alternative energy sources, or of alternative sites for the facility, is required in this report. As stated in §51.23, no discussion of the environmental impacts of the continued storage of spent fuel is required in this report.

(c) *Operating license renewal stage.* (1) Each applicant for renewal of a license to operate a nuclear power plant under part 54 of this chapter shall submit with its application a separate document entitled "Applicant's Environmental Report—Operating License Renewal Stage."

(2) The report must contain a description of the proposed action, including the applicant's plans to modify the facility or its administrative control procedures as described in accordance with §54.21 of this chapter. This report must describe in detail the affected environment around the plant,

the modifications directly affecting the environment or any plant effluents, and any planned refurbishment activities. In addition, the applicant shall discuss in this report the environmental impacts of alternatives and any other matters described in §51.45. The report is not required to include discussion of need for power or the economic costs and economic benefits of the proposed action or of alternatives to the proposed action except insofar as such costs and benefits are either essential for a determination regarding the inclusion of an alternative in the range of alternatives considered or relevant to mitigation. The environmental report need not discuss other issues not related to the environmental effects of the proposed action and the alternatives. As stated in §51.23, no discussion of the environmental impacts of the continued storage of spent fuel is required in this report.

(3) For those applicants seeking an initial renewed license and holding an operating license, construction permit, or combined license as of June 30, 1995, the environmental report shall include the information required in paragraph (c)(2) of this section subject to the following conditions and considerations:

(i) The environmental report for the operating license renewal stage is not required to contain analyses of the environmental impacts of the license renewal issues identified as Category 1 issues in appendix B to subpart A of this part.

(ii) The environmental report must contain analyses of the environmental impacts of the proposed action, including the impacts of refurbishment activities, if any, associated with license renewal and the impacts of operation during the renewal term, for those issues identified as Category 2 issues in appendix B to subpart A of this part. The required analyses are as follows:

(A) If the applicant's plant utilizes cooling towers or cooling ponds and withdraws makeup water from a river, an assessment of the impact of the proposed action on water availability and competing water demands, the flow of the river, and related impacts on stream (aquatic) and riparian (terrestrial) ecological communities must be

provided. The applicant shall also provide an assessment of the impacts of the withdrawal of water from the river on alluvial aquifers during low flow.

(B) If the applicant's plant utilizes once-through cooling or cooling pond heat dissipation systems, the applicant shall provide a copy of current Clean Water Act 316(b) determinations and, if necessary, a 316(a) variance in accordance with 40 CFR part 125, or equivalent State permits and supporting documentation. If the applicant cannot provide these documents, it shall assess the impact of the proposed action on fish and shellfish resources resulting from thermal changes and impingement and entrainment.

(C) If the applicant's plant pumps more than 100 gallons (total onsite) of groundwater per minute, an assessment of the impact of the proposed action on groundwater must be provided.

(D) If the applicant's plant is located at an inland site and utilizes cooling ponds, an assessment of the impact of the proposed action on groundwater quality must be provided.

(E) All license renewal applicants shall assess the impact of refurbishment, continued operations, and other license-renewal-related construction activities on important plant and animal habitats. Additionally, the applicant shall assess the impact of the proposed action on threatened or endangered species in accordance with Federal laws protecting wildlife, including but not limited to, the Endangered Species Act, and essential fish habitat in accordance with the Magnuson-Stevens Fishery Conservation and Management Act.

(F) [Reserved]

(G) If the applicant's plant uses a cooling pond, lake, or canal or discharges into a river, an assessment of the impact of the proposed action on public health from thermophilic organisms in the affected water must be provided.

(H) If the applicant's transmission lines that were constructed for the specific purpose of connecting the plant to the transmission system do not meet the recommendations of the National Electric Safety Code for preventing electric shock from induced currents, an assessment of the impact of the pro-

posed action on the potential shock hazard from the transmission lines must be provided.

(I)–(J) [Reserved]

(K) All applicants shall identify any potentially affected historic or archaeological properties and assess whether any of these properties will be affected by future plant operations and any planned refurbishment activities in accordance with the National Historic Preservation Act.

(L) If the staff has not previously considered severe accident mitigation alternatives for the applicant's plant in an environmental impact statement or related supplement or in an environmental assessment, a consideration of alternatives to mitigate severe accidents must be provided.

(M) [Reserved]

(N) Applicants shall provide information on the general demographic composition of minority and low-income populations and communities (by race and ethnicity) residing in the immediate vicinity of the plant that could be affected by the renewal of the plant's operating license, including any planned refurbishment activities, and ongoing and future plant operations.

(O) Applicants shall provide information about other past, present, and reasonably foreseeable future actions occurring in the vicinity of the nuclear plant that may result in a cumulative effect.

(P) An applicant shall assess the impact of any documented inadvertent releases of radionuclides into groundwater. The applicant shall include in its assessment a description of any groundwater protection program used for the surveillance of piping and components containing radioactive liquids for which a pathway to groundwater may exist. The assessment must also include a description of any past inadvertent releases and the projected impact to the environment (e.g., aquifers, rivers, lakes, ponds, ocean) during the license renewal term.

(iii) The report must contain a consideration of alternatives for reducing adverse impacts, as required by §51.45(c), for all Category 2 license renewal issues in appendix B to subpart A of this part. No such consideration is

## Nuclear Regulatory Commission

## § 51.55

required for Category 1 issues in appendix B to subpart A of this part.

(iv) The environmental report must contain any new and significant information regarding the environmental impacts of license renewal of which the applicant is aware.

(d) *Postoperating license stage.* Each applicant for a license amendment authorizing decommissioning activities for a production or utilization facility either for unrestricted use or based on continuing use restrictions applicable to the site; and each applicant for a license amendment approving a license termination plan or decommissioning plan under § 50.82 of this chapter either for unrestricted use or based on continuing use restrictions applicable to the site; and each applicant for a license or license amendment to store spent fuel at a nuclear power reactor after expiration of the operating license for the nuclear power reactor shall submit with its application a separate document, entitled “Supplement to Applicant’s Environmental Report—Post Operating License Stage,” which will update “Applicant’s Environmental Report—Operating License Stage,” as appropriate, to reflect any new information or significant environmental change associated with the applicant’s proposed decommissioning activities or with the applicant’s proposed activities with respect to the planned storage of spent fuel. As stated in § 51.23, no discussion of the environmental impacts of the continued storage of spent fuel is required in this report. The “Supplement to Applicant’s Environmental Report—Post Operating License Stage” may incorporate by reference any information contained in “Applicant’s Environmental Report—Construction Permit Stage.”

[61 FR 66543, Dec. 18, 1996, as amended at 64 FR 48506, Sept. 3, 1999; 68 FR 58810, Oct. 10, 2003; 72 FR 49513, Aug. 28, 2007; 78 FR 37316, June 20, 2013; 79 FR 56260, Sept. 19, 2014; 79 FR 66604, Nov. 10, 2014]

### § 51.54 Environmental report—manufacturing license.

(a) Each applicant for a manufacturing license under subpart F of part 52 of this chapter shall submit with its application a separate document entitled, “Applicant’s Environmental Re-

port—Manufacturing License.” The environmental report must address the costs and benefits of severe accident mitigation design alternatives, and the bases for not incorporating severe accident mitigation design alternatives into the design of the reactor to be manufactured. The environmental report need not address the environmental impacts associated with manufacturing the reactor under the manufacturing license, the benefits and impacts of utilizing the reactor in a nuclear power plant, or an evaluation of alternative energy sources.

(b) Each applicant for an amendment to a manufacturing license shall submit with its application a separate document entitled, “Applicant’s Supplemental Environmental Report—Amendment to Manufacturing License.” The environmental report must address whether the design change which is the subject of the proposed amendment either renders a severe accident mitigation design alternative previously rejected in an environmental assessment to become cost beneficial, or results in the identification of new severe accident mitigation design alternatives that may be reasonably incorporated into the design of the manufactured reactor. The environmental report need not address the environmental impacts associated with manufacturing the reactor under the manufacturing license.

[72 FR 49513, Aug. 28, 2007]

### § 51.55 Environmental report—standard design certification.

(a) Each applicant for a standard design certification under subpart B of part 52 of this chapter shall submit with its application a separate document entitled, “Applicant’s Environmental Report—Standard Design Certification.” The environmental report must address the costs and benefits of severe accident mitigation design alternatives, and the bases for not incorporating severe accident mitigation design alternatives in the design to be certified.

(b) Each applicant for an amendment to a design certification shall submit with its application a separate document entitled, “Applicant’s Supplemental Environmental Report—

## § 51.58

## 10 CFR Ch. I (1–1–23 Edition)

Amendment to Standard Design Certification.” The environmental report must address whether the design change which is the subject of the proposed amendment either renders a severe accident mitigation design alternative previously rejected in an environmental assessment to become cost beneficial, or results in the identification of new severe accident mitigation design alternatives that may be reasonably incorporated into the design certification.

[72 FR 49513, Aug. 28, 2007]

### § 51.58 Environmental report—number of copies; distribution.

(a) Each applicant for a license or permit to site, construct, manufacture, or operate a production or utilization facility covered by §§ 51.20(b)(1), (b)(2), (b)(3), or (b)(4), each applicant for renewal of an operating or combined license for a nuclear power plant, each applicant for a license amendment authorizing the decommissioning of a production or utilization facility covered by § 51.20, and each applicant for a license or license amendment to store spent fuel at a nuclear power plant after expiration of the operating license or combined license for the nuclear power plant shall submit a copy to the Director of the Office of Nuclear Reactor Regulation, or the Director of the Office of Nuclear Material Safety and Safeguards, as appropriate, of an environmental report or any supplement to an environmental report. These reports must be sent either by mail addressed: ATTN: Document Control Desk; U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; by hand delivery to the NRC’s offices at 11555 Rockville Pike, Rockville, Maryland, between the hours of 7:30 a.m. and 4:15 p.m. eastern time; or, where practicable, by electronic submission, for example, via Electronic Information Exchange, or CD-ROM. Electronic submissions must be made 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 can be obtained by visiting the NRC’s Web site at <http://www.nrc.gov/site-help/e-submittals.html>;

by e-mail to [MSHD.Resource@nrc.gov](mailto:MSHD.Resource@nrc.gov); or by writing the Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. The guidance discusses, among other topics, the formats the NRC can accept, the use of electronic signatures, and the treatment of non-public information. If the communication is on paper, the signed original must be sent. If a submission due date falls on a Saturday, Sunday, or Federal holiday, the next Federal working day becomes the official due date. The applicant shall maintain the capability to generate additional copies of the environmental report or any supplement to the environmental report for subsequent distribution to parties and Boards in the NRC proceedings; Federal, State, and local officials; and any affected Indian Tribes, in accordance with written instructions issued by the Director of the Office of Nuclear Reactor Regulation or the Director of the Office of Nuclear Material Safety and Safeguards, as appropriate.

(b) Each applicant for a license to manufacture a nuclear power reactor, or for an amendment to a license to manufacture, seeking approval of the final design of the nuclear power reactor under subpart F of part 52 of this chapter, shall submit to the Commission an environmental report or any supplement to an environmental report in the manner specified in § 50.3 of this chapter. The applicant shall maintain the capability to generate additional copies of the environmental report or any supplement to the environmental report for subsequent distribution to parties and Boards in the NRC proceeding; Federal, State, and local officials; and any affected Indian Tribes, in accordance with written instructions issued by the Director of the Office of Nuclear Reactor Regulation.

[72 FR 49513, Aug. 28, 2007, as amended at 74 FR 62682, Dec. 1, 2009; 84 FR 65645, Nov. 29, 2019]

## Nuclear Regulatory Commission

## §51.61

### ENVIRONMENTAL REPORTS—MATERIALS LICENSES

#### **§51.60 Environmental report—materials licenses.**

(a) Each applicant for a license or other form of permission, or an amendment to or renewal of a license or other form of permission issued pursuant to parts 30, 32, 33, 34, 35, 36, 39, 40, 61, 70 and/or 72 of this chapter, and covered by paragraphs (b)(1) through (b)(5) of this section, shall submit with its application to: ATTN: Document Control Desk, Director, Nuclear Material Safety and Safeguards, a separate document, entitled “Applicant’s Environmental Report” or “Supplement to Applicant’s Environmental Report,” as appropriate. The “Applicant’s Environmental Report” shall contain the information specified in §51.45. If the application is for an amendment to or a renewal of a license or other form of permission for which the applicant has previously submitted an environmental report, the supplement to applicant’s environmental report may be limited to incorporating by reference, updating or supplementing the information previously submitted to reflect any significant environmental change, including any significant environmental change resulting from operational experience or a change in operations or proposed decommissioning activities. If the applicant is the U.S. Department of Energy, the environmental report may be in the form of either an environmental impact statement or an environmental assessment, as appropriate.

(b) As required by paragraph (a) of this section, each applicant shall prepare an environmental report for the following types of actions:

(1) Issuance or renewal of a license or other form of permission for:

(i) Possession and use of special nuclear material for processing and fuel fabrication, scrap recovery, or conversion of uranium hexafluoride pursuant to part 70 of this chapter.

(ii) Possession and use of source material for uranium milling or production of uranium hexafluoride pursuant to part 40 of this chapter.

(iii) Storage of spent fuel in an independent spent fuel storage installation (ISFSI) or the storage of spent fuel or

high-level radio-active waste in a monitored retrievable storage installation (MRS) pursuant to part 72 of this chapter.

(iv) Receipt and disposal of radioactive waste from other persons pursuant to part 61 of this chapter.

(v) Processing of source material for extraction of rare earth and other metals.

(vi) Use of radioactive tracers in field flood studies involving secondary and tertiary oil and gas recovery.

(vii) Construction and operation of a uranium enrichment facility.

(2) Issuance of an amendment that would authorize or result in (i) a significant expansion of a site, (ii) a significant change in the types of effluents, (iii) a significant increase in the amounts of effluents, (iv) a significant increase in individual or cumulative occupational radiation exposure, (v) a significant increase in the potential for or consequences from radiological accidents, or (vi) a significant increase in spent fuel storage capacity, in a license or other form of permission to conduct an activity listed in paragraph (b)(1) of this section.

(3) Amendment of a license to authorize the decommissioning of an independent spent fuel storage installation (ISFSI) or a monitored retrievable storage installation (MRS) pursuant to part 72 of this chapter.

(4) Issuance of a license amendment pursuant to part 61 of this chapter authorizing (i) closure of a land disposal site, (ii) transfer of the license to the disposal site owner for the purpose of institutional control, or (iii) termination of the license at the end of the institutional control period.

(5) Any other licensing action for which the Commission determines an Environmental Report is necessary.

[49 FR 9381, Mar. 12, 1984, as amended at 53 FR 31681, Aug. 19, 1988; 57 FR 18392, Apr. 30, 1992; 58 FR 7737, Feb. 9, 1993; 62 FR 26732, May 14, 1997; 68 FR 58811, Oct. 10, 2003]

#### **§51.61 Environmental report—independent spent fuel storage installation (ISFSI) or monitored retrievable storage installation (MRS) license.**

Each applicant for issuance of a license for storage of spent fuel in an

## §51.62

independent spent fuel storage installation (ISFSI) or for the storage of spent fuel and high-level radioactive waste in a monitored retrievable storage installation (MRS) pursuant to part 72 of this chapter shall submit with its application to: ATTN: Document Control Desk, Director, Office of Nuclear Material Safety and Safeguards, a separate document entitled “Applicant’s Environmental Report—ISFSI License” or “Applicant’s Environmental Report—MRS License,” as appropriate. If the applicant is the U.S. Department of Energy, the environmental report may be in the form of either an environmental impact statement or an environmental assessment, as appropriate. The environmental report shall contain the information specified in §51.45 and shall address the siting evaluation factors contained in subpart E of part 72 of this chapter. As stated in §51.23, no discussion of the environmental impacts of the continued storage of spent fuel in an ISFSI is required in this report.

[79 FR 56261, Sept. 19, 2014]

### **§51.62 Environmental report—land disposal of radioactive waste licensed under 10 CFR part 61.**

(a) Each applicant for issuance of a license for land disposal of radioactive waste pursuant to part 61 of this chapter shall submit with its application to: ATTN: Document Control Desk, Director of Nuclear Material Safety and Safeguards, a separate document, entitled “Applicant’s Environmental Report—License for Land Disposal of Radioactive Waste.” The environmental report and any supplement to the environmental report may incorporate by reference information contained in the application or in any previous application, statement or report filed with the Commission provided that such references are clear and specific and that copies of the information so incorporated are available at the NRC Web site, <http://www.nrc.gov>, and/or at the NRC Public Document Room.

(b) The environmental report shall contain the information specified in §51.45, shall address the applicant’s environmental monitoring program required by §§61.12(1), 61.53 and 61.59(b) of this chapter, and shall be as complete

## 10 CFR Ch. I (1–1–23 Edition)

as possible in the light of information that is available at the time the environmental report is submitted.

(c) The applicant shall supplement the environmental report in a timely manner as necessary to permit the Commission to review, prior to issuance, amendment or renewal of a license, new information regarding the environmental impact of previously proposed activities, information regarding the environmental impact of any changes in previously proposed activities, or any significant new information regarding the environmental impact of closure activities and long-term performance of the disposal site.

[49 FR 9381, Mar. 12, 1984, as amended at 53 FR 43420, Oct. 27, 1988; 64 FR 48952, Sept. 9, 1999; 68 FR 58811, Oct. 10, 2003]

### **§51.66 Environmental report—number of copies; distribution.**

Each applicant for a license or other form of permission, or an amendment to or renewal of a license or other form of permission issued under parts 30, 32, 33, 34, 35, 36, 39, 40, 61, 70, and/or 72 of this chapter, and covered by §§51.60(b)(1) through (6); or by §§51.61 or 51.62 shall submit to the Director of Nuclear Material Safety and Safeguards an environmental report or any supplement to an environmental report in the manner specified in §51.58(a). The applicant shall maintain the capability to generate additional copies of the environmental report or any supplement to the environmental report for subsequent distribution to Federal, State, and local officials, and any affected Indian Tribes in accordance with written instructions issued by the Director of Nuclear Material Safety and Safeguards.

[72 FR 49514, Aug. 28, 2007]

### **§51.67 Environmental information concerning geologic repositories.**

(a) In lieu of an environmental report, the Department of Energy, as an applicant for a license or license amendment pursuant to part 60 or 63 of this chapter, shall submit to the Commission any final environmental impact statement which the Department prepares in connection with any geologic repository developed under Subtitle A of Title I, or under Title IV, of



## Nuclear Regulatory Commission

## § 51.70

the Nuclear Waste Policy Act of 1982, as amended. (See § 60.22 or § 63.22 of this chapter as to the required time and manner of submission.) The statement shall include, among the alternatives under consideration, denial of a license or construction authorization by the Commission.

(b) Under applicable provisions of law, the Department of Energy may be required to supplement its final environmental impact statement if it makes a substantial change in its proposed action that is relevant to environmental concerns or determines that there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts. The Department shall submit any supplement to its final environmental impact statement to the Commission. (See § 60.22 or § 63.22 of this chapter as to the required time and manner of submission.)

(c) Whenever the Department of Energy submits a final environmental impact statement, or a final supplement to an environmental impact statement, to the Commission pursuant to this section, it shall also inform the Commission of the status of any civil action for judicial review initiated pursuant to section 119 of the Nuclear Waste Policy Act of 1982. This status report, which the Department shall update from time to time to reflect changes in status, shall:

(1) State whether the environmental impact statement has been found by the courts of the United States to be adequate or inadequate; and

(2) Identify any issues relating to the adequacy of the environmental impact statement that may remain subject to judicial review.

[54 FR 27870, July 3, 1989, as amended at 66 FR 55791, Nov. 2, 2001]

### ENVIRONMENTAL REPORTS—RULEMAKING

#### § 51.68 Environmental report—rule-making.

Petitioners for rulemaking requesting amendments of parts 30, 31, 32, 33, 34, 35, 36, 39, 40 or part 70 of this chapter concerning the exemption from licensing and regulatory requirements of or authorizing general licenses for any

equipment, device, commodity or other product containing byproduct material, source material or special nuclear material shall submit with the petition a separate document entitled “Petitioner’s Environmental Report,” which shall contain the information specified in § 51.45.

[68 FR 58811, Oct. 10, 2003]

### ENVIRONMENTAL IMPACT STATEMENTS

#### DRAFT ENVIRONMENTAL IMPACT STATEMENTS—GENERAL REQUIREMENTS

#### § 51.70 Draft environmental impact statement—general.

(a) The NRC staff will prepare a draft environmental impact statement as soon as practicable after publication of the notice of intent to prepare an environmental impact statement and completion of the scoping process. To the fullest extent practicable, environmental impact statements will be prepared concurrently or integrated with environmental impact analyses and related surveys and studies required by other Federal law.

(b) The draft environmental impact statement will be concise, clear and analytic, will be written in plain language with appropriate graphics, will state how alternatives considered in it and decisions based on it will or will not achieve the requirements of sections 101 and 102(1) of NEPA and of any other relevant and applicable environmental laws and policies, will identify any methodologies used and sources relied upon, and will be supported by evidence that the necessary environmental analyses have been made. The format provided in section 1(a) of appendix A of this subpart should be used. The NRC staff will independently evaluate and be responsible for the reliability of all information used in the draft environmental impact statement.

(c) The Commission will cooperate with State and local agencies to the fullest extent possible to reduce duplication between NEPA and State and local requirements, in accordance with 40 CFR 1506.2 (b) and (c).

**§51.71 Draft environmental impact statement—contents.**

(a) *Scope.* The draft environmental impact statement will be prepared in accordance with the scope decided upon in the scoping process required by §§51.26 and 51.29. As appropriate and to the extent required by the scope, the draft statement will address the topics in paragraphs (b), (c), (d) and (e) of this section and the matters specified in §§51.45, 51.50, 51.51, 51.52, 51.53, 51.54, 51.61 and 51.62.

(b) *Analysis of major points of view.* To the extent sufficient information is available, the draft environmental impact statement will include consideration of major points of view concerning the environmental impacts of the proposed action and the alternatives, and contain an analysis of significant problems and objections raised by other Federal, State, and local agencies, by any affected Indian Tribes, and by other interested persons.

(c) *Status of compliance.* The draft environmental impact statement will list all Federal permits, licenses, approvals, and other entitlements which must be obtained in implementing the proposed action and will describe the status of compliance with those requirements. If it is uncertain whether a Federal permit, license, approval, or other entitlement is necessary, the draft environmental impact statement will so indicate.

(d) *Analysis.* Unless excepted in this paragraph or §51.75, the draft environmental impact statement will include a preliminary analysis that considers and weighs the environmental effects, including any cumulative effects, of the proposed action; the environmental impacts of alternatives to the proposed action; and alternatives available for reducing or avoiding adverse environmental effects. Additionally, the draft environmental impact statement will include a consideration of the economic, technical, and other benefits and costs of the proposed action and alternatives. The draft environmental impact statement will indicate what other interests and considerations of Federal policy, including factors not related to environmental quality, if applicable, are relevant to the consideration of environmental effects of the

proposed action identified under paragraph (a) of this section. The draft supplemental environmental impact statement prepared at the license renewal stage under §51.95(c) need not discuss the economic or technical benefits and costs of either the proposed action or alternatives except if benefits and costs are either essential for a determination regarding the inclusion of an alternative in the range of alternatives considered or relevant to mitigation. In addition, the supplemental environmental impact statement prepared at the license renewal stage need not discuss other issues not related to the environmental effects of the proposed action and associated alternatives. The draft supplemental environmental impact statement for license renewal prepared under §51.95(c) will rely on conclusions as amplified by the supporting information in the GEIS for issues designated as Category 1 in appendix B to subpart A of this part. The draft supplemental environmental impact statement must contain an analysis of those issues identified as Category 2 in appendix B to subpart A of this part that are open for the proposed action. The analysis for all draft environmental impact statements will, to the fullest extent practicable, quantify the various factors considered. To the extent that there are important qualitative considerations or factors that cannot be quantified, these considerations or factors will be discussed in qualitative terms. Consideration will be given to compliance with environmental quality standards and requirements that have been imposed by Federal, State, regional, and local agencies having responsibility for environmental protection, including applicable zoning and land-use regulations and water pollution limitations or requirements issued or imposed under the Federal Water Pollution Control Act. The environmental impact of the proposed action will be considered in the analysis with respect to matters covered by environmental quality standards and requirements irrespective of whether a certification or license from the appropriate

## Nuclear Regulatory Commission

## § 51.72

authority has been obtained.<sup>3</sup> While satisfaction of Commission standards and criteria pertaining to radiological effects will be necessary to meet the licensing requirements of the Atomic Energy Act, the analysis will, for the purposes of NEPA, consider the radiological effects of the proposed action and alternatives.

(e) *Effect of limited work authorization.* If a limited work authorization was issued either in connection with or subsequent to an early site permit, or in connection with a construction permit or combined license application, then the environmental impact statement for the construction permit or combined license application will not address or consider the sunk costs associated with the limited work authorization.

<sup>3</sup>Compliance with the environmental quality standards and requirements of the Federal Water Pollution Control Act (imposed by EPA or designated permitting states) is not a substitute for, and does not negate the requirement for NRC to weigh all environmental effects of the proposed action, including the degradation, if any, of water quality, and to consider alternatives to the proposed action that are available for reducing adverse effects. Where an environmental assessment of aquatic impact from plant discharges is available from the permitting authority, the NRC will consider the assessment in its determination of the magnitude of environmental impacts for striking an overall cost-benefit balance at the construction permit and operating license and early site permit and combined license stages, and in its determination of whether the adverse environmental impacts of license renewal are so great that preserving the option of license renewal for energy planning decision-makers would be unreasonable at the license renewal stage. When no such assessment of aquatic impacts is available from the permitting authority, NRC will establish on its own, or in conjunction with the permitting authority and other agencies having relevant expertise, the magnitude of potential impacts for striking an overall cost-benefit balance for the facility at the construction permit and operating license and early site permit and combined license stages, and in its determination of whether the adverse environmental impacts of license renewal are so great that preserving the option of license renewal for energy planning decision-makers would be unreasonable at the license renewal stage.

(f) *Preliminary recommendation.* The draft environmental impact statement normally will include a preliminary recommendation by the NRC staff respecting the proposed action. This preliminary recommendation will be based on the information and analysis described in paragraphs (a) through (d) of this section and §§ 51.75, 51.76, 51.80, 51.85, and 51.95, as appropriate, and will be reached after considering the environmental effects of the proposed action and reasonable alternatives,<sup>4</sup> and, except for supplemental environmental impact statements for the operating license renewal stage prepared pursuant to § 51.95(c), after weighing the costs and benefits of the proposed action. In lieu of a recommendation, the NRC staff may indicate in the draft statement that two or more alternatives remain under consideration.

[49 FR 9381, Mar. 12, 1984, as amended at 61 FR 28488, June 5, 1996; 61 FR 66544, Dec. 18, 1996; 72 FR 49514, Aug. 28, 2007; 72 FR 57445, Oct. 9, 2007; 78 FR 37317, June 20, 2013]

### § 51.72 Supplement to draft environmental impact statement.

(a) The NRC staff will prepare a supplement to a draft environmental impact statement for which a notice of availability has been published in the FEDERAL REGISTER as provided in § 51.117, if:

(1) There are substantial changes in the proposed action that are relevant to environmental concerns; or

(2) There are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.

(b) The NRC staff may prepare a supplement to a draft environmental impact statement when, in its opinion, preparation of a supplement will further the purposes of NEPA.

<sup>4</sup>The consideration of reasonable alternatives to a proposed action involving nuclear power reactors (e.g., alternative energy sources) is intended to assist the NRC in meeting its NEPA obligations and does not preclude any State authority from making separate determinations with respect to these alternatives and in no way preempts, displaces, or affects the authority of States or other Federal agencies to address these issues.

(c) The supplement to a draft environmental impact statement will be prepared and noticed in the same manner as the draft environmental impact statement except that a scoping process need not be used.

**§51.73 Request for comments on draft environmental impact statement.**

Each draft environmental impact statement and each supplement to a draft environmental impact statement distributed in accordance with §51.74, and each news release provided pursuant to §51.74(d) will be accompanied by or include a request for comments on the proposed action and on the draft environmental impact statement or any supplement to the draft environmental impact statement and will state where comments should be submitted and the date on which the comment period closes. A minimum comment period of 45 days will be provided. The comment period will be calculated from the date on which the Environmental Protection Agency notice stating that the draft statement or the supplement to the draft statement has been filed with EPA is published in the FEDERAL REGISTER. If no comments are provided within the time specified, it will be presumed, unless the agency or person requests an extension of time, that the agency or person has no comment to make. To the extent practicable, NRC staff will grant reasonable requests for extensions of time of up to fifteen (15) days.

**§51.74 Distribution of draft environmental impact statement and supplement to draft environmental impact statement; news releases.**

(a) A copy of the draft environmental impact statement will be distributed to:

- (1) The Environmental Protection Agency.
- (2) Any other Federal agency which has special expertise or jurisdiction by law with respect to any environmental impact involved or which is authorized to develop and enforce relevant environmental standards.
- (3) The applicant or petitioner for rulemaking and any other party to the proceeding.

(4) Appropriate State and local agencies authorized to develop and enforce relevant environmental standards.

(5) Appropriate State, regional and metropolitan clearinghouses.

(6) Appropriate Indian Tribes when the proposed action may have an environmental impact on a reservation.

(7) Upon written request, any organization or group included in the master list of interested organizations and groups maintained under §51.122.

(8) Upon written request, any other person to the extent available.

(b) Additional copies will be made available in accordance with §51.123.

(c) A supplement to a draft environmental impact statement will be distributed in the same manner as the draft environmental impact statement to which it relates.

(d) News releases stating the availability for comment and place for obtaining or inspecting a draft environmental statement or supplement will be provided to local newspapers and other appropriate media.

(e) A notice of availability will be published in the FEDERAL REGISTER in accordance with §51.117.

**DRAFT ENVIRONMENTAL IMPACT STATEMENTS—PRODUCTION AND UTILIZATION FACILITIES**

**§51.75 Draft environmental impact statement—construction permit, early site permit, or combined license.**

(a) *Construction permit stage.* A draft environmental impact statement relating to issuance of a construction permit for a production or utilization facility will be prepared in accordance with the procedures and measures described in §§51.70, 51.71, 51.72, and 51.73. The contribution of the environmental effects of the uranium fuel cycle activities specified in §51.51 shall be evaluated on the basis of impact values set forth in Table S-3, Table of Uranium Fuel Cycle Environmental Data, which shall be set out in the draft environmental impact statement. With the exception of radon-222 and technetium-99 releases, no further discussion of fuel cycle release values and other numerical data that appear explicitly in the

table shall be required.<sup>5</sup> The impact statement shall take account of dose commitments and health effects from fuel cycle effluents set forth in Table S-3 and shall in addition take account of economic, socioeconomic, and possible cumulative impacts and other fuel cycle impacts as may reasonably appear significant. As stated in § 51.23, the generic impact determinations regarding the continued storage of spent fuel in NUREG-2157 shall be deemed incorporated into the environmental impact statement.

(b) *Early site permit stage.* A draft environmental impact statement relating to issuance of an early site permit for a production or utilization facility will be prepared in accordance with the procedures and measures described in §§ 51.70, 51.71, 51.72, 51.73, and this section. The contribution of the environmental effects of the uranium fuel cycle activities specified in § 51.51 shall be evaluated on the basis of impact values set forth in Table S-3, Table of Uranium Fuel Cycle Environmental Data, which shall be set out in the draft environmental impact statement. With the exception of radon-222 and technetium-99 releases, no further discussion of fuel cycle release values and other numerical data that appear explicitly in the table shall be required.<sup>5</sup> The impact statement shall take account of dose commitments and health effects from fuel cycle effluents set forth in Table S-3 and shall in addition take account of economic, socioeconomic, and possible cumulative impacts and other fuel cycle impacts as may reasonably appear significant. As stated in § 51.23, the generic impact determinations regarding the continued storage of spent fuel in NUREG-2157 shall be deemed incorporated into the environmental impact statement. The draft environmental impact statement must include an evaluation of alternative sites to determine whether there is any obviously superior alter-

native to the site proposed. The draft environmental impact statement must also include an evaluation of the environmental effects of construction and operation of a reactor, or reactors, which have design characteristics that fall within the site characteristics and design parameters for the early site permit application, but only to the extent addressed in the early site permit environmental report or otherwise necessary to determine whether there is any obviously superior alternative to the site proposed. The draft environmental impact statement must not include an assessment of the economic, technical, or other benefits (for example, need for power) and costs of the proposed action or an evaluation of alternative energy sources, unless these matters are addressed in the early site permit environmental report.

(c) *Combined license stage.* A draft environmental impact statement relating to issuance of a combined license that does not reference an early site permit will be prepared in accordance with the procedures and measures described in §§ 51.70, 51.71, 51.72, and 51.73. The contribution of the environmental effects of the uranium fuel cycle activities specified in § 51.51 shall be evaluated on the basis of impact values set forth in Table S-3, Table of Uranium Fuel Cycle Environmental Data, which shall be set out in the draft environmental impact statement. With the exception of radon-222 and technetium-99 releases, no further discussion of fuel cycle release values and other numerical data that appear explicitly in the table shall be required.<sup>5</sup> The impact statement shall take account of dose commitments and health effects from fuel cycle effluents set forth in Table S-3 and shall in addition take account of economic, socioeconomic, and possible cumulative impacts and other fuel cycle impacts as may reasonably appear significant. As stated in § 51.23, the generic impact determinations regarding the continued storage of spent fuel in NUREG-2157 shall be deemed incorporated into the environmental impact statement.

(1) *Combined license application referencing an early site permit.* If the combined license application references an early site permit, then the NRC staff

<sup>5</sup> Values for releases of Rn-222 and Tc-99 are not given in the table. The amount and significance of Rn-222 releases from the fuel cycle and Tc-99 releases from waste management or reprocessing activities shall be considered in the draft environmental impact statement and may be the subject of litigation in individual licensing proceedings.

shall prepare a draft supplement to the early site permit environmental impact statement. The supplement must be prepared in accordance with §51.92(e).

(2) *Combined license application referencing a standard design certification.* If the combined license application references a standard design certification and the site characteristics of the combined license's site fall within the site parameters specified in the design certification environmental assessment, then the draft combined license environmental impact statement shall incorporate by reference the design certification environmental assessment, and summarize the findings and conclusions of the environmental assessment with respect to severe accident mitigation design alternatives.

(3) *Combined license application referencing a manufactured reactor.* If the combined license application proposes to use a manufactured reactor and the site characteristics of the combined license's site fall within the site parameters specified in the manufacturing license environmental assessment, then the draft combined license environmental impact statement shall incorporate by reference the manufacturing license environmental assessment, and summarize the findings and conclusions of the environmental assessment with respect to severe accident mitigation design alternatives. The combined license environmental impact statement report will not address the environmental impacts associated with manufacturing the reactor under the manufacturing license.

[72 FR 49514, Aug. 28, 2007, as amended at 79 FR 56261, Sept. 19, 2014]

**§51.76 Draft environmental impact statement—limited work authorization.**

The NRC will prepare a draft environmental impact statement relating to issuance of a limited work authorization in accordance with the procedures and measures described in §§51.70, 51.71, and 51.73, as further supplemented or modified in the following paragraphs.

(a) *Limited work authorization submitted as part of complete construction permit or combined license application.* If

the application for a limited work authorization is submitted as part of a complete construction permit or combined license application, then the NRC may prepare a partial draft environmental impact statement. The analysis called for by §51.71(d) must be limited to the activities proposed to be conducted under the limited work authorization. Alternatively, the NRC may prepare a complete draft environmental impact statement prepared in accordance with §51.75(a) or (c), as applicable.

(b) *Phased application for limited work authorization under §2.101(a)(9) of this chapter.* If the application for a limited work authorization is submitted in accordance with §2.101(a)(9) of this chapter, then the draft environmental impact statement for part one of the application may be limited to consideration of the activities proposed to be conducted under the limited work authorization, and the proposed redress plan. However, if the environmental report contains the full set of information required to be submitted under §51.50(a) or (c), then a draft environmental impact statement must be prepared in accordance with §51.75(a) or (c), as applicable. Siting issues, including whether there is an obviously superior alternative site, or issues related to operation of the proposed nuclear power plant at the site, including need for power, may not be considered. After part two of the application is docketed, the NRC will prepare a draft supplement to the final environmental impact statement for part two of the application under §51.72. No updating of the information contained in the final environmental impact statement prepared for part one is necessary in preparation of the supplemental environmental impact statement. The draft supplement must consider all environmental impacts associated with the prior issuance of the limited work authorization, but may not address or consider the sunk costs associated with the limited work authorization.

(c) *Limited work authorization submitted as part of an early site permit application.* If the application for a limited work authorization is submitted as part of an application for an early site permit, then the NRC will prepare

an environmental impact statement in accordance with §51.75(b). However, the analysis called for by §51.71(d) must also address the activities proposed to be conducted under the limited work authorization.

(d) *Limited work authorization request submitted by an early site permit holder.* If the application for a limited work authorization is submitted by a holder of an early site permit, then the NRC will prepare a draft supplement to the environmental impact statement for the early site permit. The supplement is limited to consideration of the activities proposed to be conducted under the limited work authorization, the adequacy of the proposed redress plan, and whether there is new and significant information identified with respect to issues related to the impacts of construction of the facility that were resolved in the early site permit proceeding with respect to the environmental impacts of the activities to be conducted under the limited work authorization. No other updating of the information contained in the final environmental impact statement prepared for the early site permit is required.

(e) *Limited work authorization for a site where an environmental impact statement was prepared, but the facility construction was not completed.* If the limited work authorization is for activities to be conducted at a site for which the Commission has previously prepared an environmental impact statement for the construction and operation of a nuclear power plant, and a construction permit was issued but construction of the plant was not completed, then the draft environmental impact statement shall incorporate by reference the earlier environmental impact statement. The draft environmental impact statement must be limited to a consideration of whether there is significant new information with respect to the environmental impacts of construction, relevant to the activities to be conducted under the limited work authority, so that the conclusion of the referenced environmental impact statement on the impacts of construction would, when analyzed in accordance with §51.71, lead to the conclusion that the limited work authorization

should not be issued or should be issued with appropriate conditions.

(f) *Draft environmental impact statement.* A draft environmental impact statement prepared under this section must separately evaluate the environmental impacts and proposed alternatives attributable to the activities proposed to be conducted under the limited work authorization. However, if the "Applicant's Environmental Report—Limited Work Authorization Stage," also contains the information required to be submitted in the environmental report required under §51.50, then the environmental impact statement must address the impacts of construction and operation for the proposed facility (including the environmental impacts attributable to the limited work authorization), and discuss the overall costs and benefits balancing for the underlying proposed action, in accordance with §51.71, and §51.75(a) or (c), as applicable.

[72 FR 57445, Oct. 9, 2007]

#### **§51.77 Distribution of draft environmental impact statement.**

(a) In addition to the distribution authorized by §51.74, a copy of a draft environmental statement for a licensing action for a production or utilization facility, except an action authorizing issuance, amendment or renewal of a license to manufacture a nuclear power reactor pursuant to 10 CFR part 52, appendix M will also be distributed to:

(1) The chief executive of the municipality or county identified in the draft environmental impact statement as the preferred site for the proposed facility or activity.

(2) Upon request, the chief executive of each municipality or county identified in the draft environmental impact statement as an alternative site.

(b) Additional copies will be made available in accordance with §51.123.

[49 FR 9381, Mar. 12, 1984, as amended at 54 FR 15398, Apr. 18, 1989]

## § 51.80

### DRAFT ENVIRONMENTAL IMPACT STATEMENTS—MATERIALS LICENSES

#### **§ 51.80 Draft environmental impact statement—materials license.**

(a) The NRC staff will either prepare a draft environmental impact statement or as provided in § 51.92, a supplement to a final environmental impact statement for each type of action identified in § 51.20(b) (7) through (12). Except as the context may otherwise require, procedures and measures similar to those described in §§ 51.70, 51.71, 51.72 and 51.73 will be followed.

(b)(1) *Independent spent fuel storage installation (ISFSI)*. As stated in § 51.23, the generic impact determinations regarding the continued storage of spent fuel in NUREG-2157 shall be deemed incorporated in the environmental impact statement.

(2) *Monitored retrievable storage installation (MRS)*. As provided in sections 141 (c), (d), and (e) and 148 (a) and (c) of the Nuclear Waste Policy Act of 1982, as amended (NWPA) (96 Stat. 2242, 2243, 42 U.S.C. 10161 (c), (d), (e); 101 Stat. 1330-235, 1330-236, 42 U.S.C. 10168 (a) and (c)), a draft environmental impact statement for the construction of a monitored retrievable storage installation (MRS) will not address the need for the MRS or any alternative to the design criteria for an MRS set forth in section 141(b)(1) of the NWPA (96 Stat. 2242, 42 U.S.C. 10161(b)(1)) but may consider alternative facility designs which are consistent with these design criteria.

[49 FR 34695, Aug. 31, 1984, as amended at 53 FR 31682, Aug. 19, 1988; 79 FR 56262, Sept. 19, 2014]

#### **§ 51.81 Distribution of draft environmental impact statement.**

Copies of the draft environmental impact statement and any supplement to the draft environmental impact statement will be distributed in accordance with the provisions of § 51.74.

### DRAFT ENVIRONMENTAL IMPACT STATEMENTS—RULEMAKING

#### **§ 51.85 Draft environmental impact statement—rulemaking.**

Except as the context may otherwise require, procedures and measures simi-

## 10 CFR Ch. I (1-1-23 Edition)

lar to those described in §§ 51.70, 51.71, 51.72 and 51.73 will be followed in proceedings for rulemaking for which the Commission has determined to prepare an environmental impact statement.

#### **§ 51.86 Distribution of draft environmental impact statement.**

Copies of the draft environmental impact statement and any supplement to the draft environmental impact statement will be distributed in accordance with the provisions of § 51.74.

### LEGISLATIVE ENVIRONMENTAL IMPACT STATEMENTS—PROPOSALS FOR LEGISLATION

#### **§ 51.88 Proposals for legislation.**

The Commission will, as a matter of policy, follow the provisions of 40 CFR 1506.8 regarding the NEPA process for proposals for legislation.

### FINAL ENVIRONMENTAL IMPACT STATEMENTS—GENERAL REQUIREMENTS

#### **§ 51.90 Final environmental impact statement—general.**

After receipt and consideration of comments requested pursuant to §§ 51.73 and 51.117, the NRC staff will prepare a final environmental impact statement in accordance with the requirements in §§ 51.70(b) and 51.71 for a draft environmental impact statement. The format provided in section 1(a) of appendix A of this subpart should be used.

#### **§ 51.91 Final environmental impact statement—contents.**

(a)(1) The final environmental impact statement will include responses to any comments on the draft environmental impact statement or on any supplement to the draft environmental impact statement. Responses to comments may include:

- (i) Modification of alternatives, including the proposed action;
- (ii) Development and evaluation of alternatives not previously given serious consideration;
- (iii) Supplementation or modification of analyses;
- (iv) Factual corrections;
- (v) Explanation of why comments do not warrant further response, citing



sources, authorities or reasons which support this conclusion.

(2) All substantive comments received on the draft environmental impact statement or any supplement to the draft environmental impact statement (or summaries thereof where the response has been exceptionally voluminous) will be attached to the final statement, whether or not each comment is discussed individually in the text of the statement.

(3) If changes in the draft environmental impact statement in response to comments are minor and are confined either to factual corrections or to explanations of why the comments do not warrant further response, the changes may be made by attaching errata sheets to the draft statement. The entire document with a new cover may then be issued as the final environmental impact statement.

(b) The final environmental impact statement will discuss any relevant responsible opposing view not adequately discussed in the draft environmental impact statement or in any supplement to the draft environmental impact statement, and respond to the issues raised.

(c) The final environmental impact statement will state how the alternatives considered in it and decisions based on it will or will not achieve the requirements of sections 101 and 102(1) of NEPA and of any other relevant and applicable environmental laws and policies.

(d) The final environmental impact statement will include a final analysis and a final recommendation on the action to be taken.

**§51.92 Supplement to the final environmental impact statement.**

(a) If the proposed action has not been taken, the NRC staff will prepare a supplement to a final environmental impact statement for which a notice of availability has been published in the FEDERAL REGISTER as provided in §51.118, if:

(1) There are substantial changes in the proposed action that are relevant to environmental concerns; or

(2) There are new and significant circumstances or information relevant to

environmental concerns and bearing on the proposed action or its impacts.

(b) In a proceeding for a combined license application under 10 CFR part 52 referencing an early site permit under part 52, the NRC staff shall prepare a supplement to the final environmental impact statement for the referenced early site permit in accordance with paragraph (e) of this section.

(c) The NRC staff may prepare a supplement to a final environmental impact statement when, in its opinion, preparation of a supplement will further the purposes of NEPA.

(d) The supplement to a final environmental impact statement will be prepared in the same manner as the final environmental impact statement except that a scoping process need not be used.

(e) The supplement to an early site permit final environmental impact statement which is prepared for a combined license application in accordance with §51.75(c)(1) and paragraph (b) of this section must:

(1) Identify the proposed action as the issuance of a combined license for the construction and operation of a nuclear power plant as described in the combined license application at the site described in the early site permit referenced in the combined license application;

(2) Incorporate by reference the final environmental impact statement prepared for the early site permit;

(3) Contain no separate discussion of alternative sites;

(4) Include an analysis of the economic, technical, and other benefits and costs of the proposed action, to the extent that the final environmental impact statement prepared for the early site permit did not include an assessment of these benefits and costs;

(5) Include an analysis of other energy alternatives, to the extent that the final environmental impact statement prepared for the early site permit did not include an assessment of energy alternatives;

(6) Include an analysis of any environmental issue related to the impacts of construction or operation of the facility that was not resolved in the proceeding on the early site permit; and

## § 51.93

(7) Include an analysis of the issues related to the impacts of construction and operation of the facility that were resolved in the early site permit proceeding for which new and significant information has been identified, including, but not limited to, new and significant information demonstrating that the design of the facility falls outside the site characteristics and design parameters specified in the early site permit.

(f)(1) A supplement to a final environmental impact statement will be accompanied by or will include a request for comments as provided in § 51.73 and a notice of availability will be published in the FEDERAL REGISTER as provided in § 51.117 if paragraphs (a) or (b) of this section applies.

(2) If comments are not requested, a notice of availability of a supplement to a final environmental impact statement will be published in the FEDERAL REGISTER as provided in § 51.118.

[72 FR 49515, Aug. 28, 2007]

### **§ 51.93 Distribution of final environmental impact statement and supplement to final environmental impact statement; news releases.**

(a) A copy of the final environmental impact statement will be distributed to:

(1) The Environmental Protection Agency.

(2) The applicant or petitioner for rulemaking and any other party to the proceeding.

(3) Appropriate State, regional and metropolitan clearinghouses.

(4) Each commenter.

(b) Additional copies will be made available in accordance with § 51.123.

(c) If the final environmental impact statement is unusually long or there are so many comments on a draft environmental impact statement or any supplement to a draft environmental impact statement that distribution of the entire final statement to all commenters is impracticable, a summary of the final statement and the substantive comments will be distributed. When the final environmental impact statement has been prepared by adding errata sheets to the draft environmental impact statement as provided in § 51.91(a)(3), only the comments, the

## 10 CFR Ch. I (1–1–23 Edition)

responses to the comments and the changes to the environmental impact statement will be distributed.

(d) A supplement to a final environmental impact statement will be distributed in the same manner as the final environmental impact statement to which it relates.

(e) News releases stating the availability and place for obtaining or inspecting a final environmental impact statement or supplement will be provided to local newspapers and other appropriate media.

(f) A notice of availability will be published in the FEDERAL REGISTER in accordance with § 51.118.

### **§ 51.94 Requirement to consider final environmental impact statement.**

The final environmental impact statement, together with any comments and any supplement, will accompany the application or petition for rulemaking through, and be considered in, the Commission's decisionmaking process. The final environmental impact statement, together with any comments and any supplement, will be made a part of the record of the appropriate adjudicatory or rulemaking proceeding.

FINAL ENVIRONMENTAL IMPACT STATEMENTS—PRODUCTION AND UTILIZATION FACILITIES

### **§ 51.95 Postconstruction environmental impact statements.**

(a) *General.* Any supplement to a final environmental impact statement or any environmental assessment prepared under the provisions of this section may incorporate by reference any information contained in a final environmental document previously prepared by the NRC staff that relates to the same production or utilization facility. Documents that may be referenced include, but are not limited to, the final environmental impact statement; supplements to the final environmental impact statement, including supplements prepared at the operating license stage; NRC staff-prepared final generic environmental impact statements; environmental assessments and records of decisions prepared in connection with the construction permit,

the operating license, the early site permit, or the combined license and any license amendment for that facility. A supplement to a final environmental impact statement will include a request for comments as provided in § 51.73.

(b) *Initial operating license stage.* In connection with the issuance of an operating license for a production or utilization facility, the NRC staff will prepare a supplement to the final environmental impact statement on the construction permit for that facility, which will update the prior environmental review. The supplement will only cover matters that differ from the final environmental impact statement or that reflect significant new information concerning matters discussed in the final environmental impact statement. Unless otherwise determined by the Commission, a supplement on the operation of a nuclear power plant will not include a discussion of need for power, or of alternative energy sources, or of alternative sites, and will only be prepared in connection with the first licensing action authorizing full-power operation. As stated in § 51.23, the generic impact determinations regarding the continued storage of spent fuel in NUREG-2157 shall be deemed incorporated into the environmental impact statement.

(c) *Operating license renewal stage.* In connection with the renewal of an operating license or combined license for a nuclear power plant under 10 CFR parts 52 or 54 of this chapter, the Commission shall prepare an environmental impact statement, which is a supplement to the Commission's NUREG-1437, "Generic Environmental Impact Statement for License Renewal of Nuclear Plants" (June 2013), which is available in the NRC's Public Document Room, 11555 Rockville Pike, Rockville, Maryland 20852.

(1) The supplemental environmental impact statement for the operating license renewal stage shall address those issues as required by § 51.71. In addition, the NRC staff must comply with 40 CFR 1506.6(b)(3) in conducting the additional scoping process as required by § 51.71(a).

(2) The supplemental environmental impact statement for license renewal is

not required to include discussion of need for power or the economic costs and economic benefits of the proposed action or of alternatives to the proposed action except insofar as such benefits and costs are either essential for a determination regarding the inclusion of an alternative in the range of alternatives considered or relevant to mitigation. In addition, the supplemental environmental impact statement prepared at the license renewal stage need not discuss other issues not related to the environmental effects of the proposed action and the alternatives. The analysis of alternatives in the supplemental environmental impact statement should be limited to the environmental impacts of such alternatives and should otherwise be prepared in accordance with § 51.71 and appendix A to subpart A of this part. As stated in § 51.23, the generic impact determinations regarding the continued storage of spent fuel in NUREG-2157 shall be deemed incorporated into the supplemental environmental impact statement.

(3) The supplemental environmental impact statement shall be issued as a final impact statement in accordance with §§ 51.91 and 51.93 after considering any significant new information relevant to the proposed action contained in the supplement or incorporated by reference.

(4) The supplemental environmental impact statement must contain the NRC staff's recommendation regarding the environmental acceptability of the license renewal action. In order to make recommendations and reach a final decision on the proposed action, the NRC staff, adjudicatory officers, and Commission shall integrate the conclusions in the generic environmental impact statement for issues designated as Category 1 with information developed for those Category 2 issues applicable to the plant under § 51.53(c)(3)(ii) and any new and significant information. Given this information, the NRC staff, adjudicatory officers, and Commission shall determine whether or not the adverse environmental impacts of license renewal are so great that preserving the option of license renewal for energy planning decisionmakers would be unreasonable.

(d) *Postoperating license stage.* In connection with the amendment of an operating or combined license authorizing decommissioning activities at a production or utilization facility covered by §51.20, either for unrestricted use or based on continuing use restrictions applicable to the site, or with the issuance, amendment or renewal of a license to store spent fuel at a nuclear power reactor after expiration of the operating or combined license for the nuclear power reactor, the NRC staff will prepare a supplemental environmental impact statement for the post operating or post combined license stage or an environmental assessment, as appropriate, which will update the prior environmental documentation prepared by the NRC for compliance with NEPA under the provisions of this part. The supplement or assessment may incorporate by reference any information contained in the final environmental impact statement—for the operating or combined license stage, as appropriate, or in the records of decision prepared in connection with the early site permit, construction permit, operating license, or combined license for that facility. The supplement will include a request for comments as provided in §51.73. As stated in §51.23, the generic impact determinations regarding the continued storage of spent fuel in NUREG–2157 shall be deemed incorporated into the supplemental environmental impact statement or shall be considered in the environmental assessment, if the impacts of continued storage of spent fuel are applicable to the proposed action.

[61 FR 66545, Dec. 18, 1996, as amended at 72 FR 49516, Aug. 28, 2007; 78 FR 37317, June 20, 2013; 79 FR 56262, Sept. 19, 2014]

FINAL ENVIRONMENTAL IMPACT  
STATEMENTS—MATERIALS LICENSES

**§51.97 Final environmental impact statement—materials license.**

(a) *Independent spent fuel storage installation (ISFSI).* As stated in §51.23, the generic impact determinations regarding the continued storage of spent fuel in NUREG–2157 shall be deemed incorporated into the environmental impact statement.

(b) *Monitored retrievable storage facility (MRS).* As provided in sections 141 (c), (d), and (e) and 148 (a) and (c) of the Nuclear Waste Policy Act of 1982, as amended (NWPA) (96 Stat. 2242, 2243, 42 U.S.C. 10161 (c), (d), (e); 101 Stat. 1330–235, 1330–236, 42 U.S.C. 10168 (a), (c)) a final environmental impact statement for the construction of a monitored retrievable storage installation (MRS) will not address the need for the MRS or any alternative to the design criteria for an MRS set forth in section 141(b)(1) of the NWPA (96 Stat. 2242, 42 U.S.C. 10161(b)(1)) but may consider alternative facility designs which are consistent with these design criteria.

(c) *Uranium enrichment facility.* As provided in section 5(e) of the Solar, Wind, Waste, and Geothermal Power Production Incentives Act of 1990 (104 Stat. 2834 at 2835, 42 U.S.C. 2243), a final environmental impact statement must be prepared before the hearing on the issuance of a license for a uranium enrichment facility is completed.

[49 FR 34695, Aug. 31, 1984, as amended at 53 FR 31682, Aug. 19, 1988; 57 FR 18392, Apr. 30, 1992; 79 FR 56262, Sept. 19, 2014]

FINAL ENVIRONMENTAL IMPACT  
STATEMENTS—RULEMAKING

**§51.99 [Reserved]**

NEPA PROCEDURE AND ADMINISTRATIVE  
ACTION

GENERAL

**§51.100 Timing of Commission action.**

(a)(1) Except as provided in §51.13 and paragraph (b) of this section, no decision on a proposed action, including the issuance of a permit, license, or other form of permission, or amendment to or renewal of a permit, license, or other form of permission, or the issuance of an effective regulation, for which an environmental impact statement is required, will be made and no record of decision will be issued until the later of the following dates:

(i) Ninety (90) days after publication by the Environmental Protection Agency of a FEDERAL REGISTER notice stating that the draft environmental impact statement has been filed with EPA.

## Nuclear Regulatory Commission

## § 51.102

(ii) Thirty (30) days after publication by the Environmental Protection Agency of a FEDERAL REGISTER notice stating that the final environmental impact statement has been filed with EPA.

(2) If a notice of filing of a final environmental impact statement is published by the Environmental Protection Agency within ninety (90) days after a notice of filing of a draft environmental impact statement has been published by EPA, the minimum thirty (30) day period and the minimum ninety (90) day period may run concurrently to the extent they overlap.

(b) In any rulemaking proceeding for the purpose of protecting the public health or safety or the common defense and security, the Commission may make and publish the decision on the final rule at the same time that the Environmental Protection Agency publishes the FEDERAL REGISTER notice of filing of the final environmental impact statement.

### § 51.101 Limitations on actions.

(a) Until a record of decision is issued in connection with a proposed licensing or regulatory action for which an environmental impact statement is required under § 51.20, or until a final finding of no significant impact is issued in connection with a proposed licensing or regulatory action for which an environmental assessment is required under § 51.21:

(1) No action concerning the proposal may be taken by the Commission which would (i) have an adverse environmental impact, or (ii) limit the choice of reasonable alternatives.

(2) Any action concerning the proposal taken by an applicant which would (i) have an adverse environmental impact, or (ii) limit the choice of reasonable alternatives may be grounds for denial of the license. In the case of an application covered by §§ 30.32(f), 40.31(f), 50.10(c), 70.21(f), or §§ 72.16 and 72.34 of this chapter, the provisions of this paragraph will be applied in accordance with §§ 30.33(a)(5), 40.32(e), 50.10 (c) and (e), 70.23(a)(7) or § 72.40(b) of this chapter, as appropriate.

(b) While work on a required program environmental impact statement is in

progress, the Commission will not undertake in the interim any major Federal action covered by the program which may significantly affect the quality of the human environment unless such action:

(1) Is justified independently of the program;

(2) Is itself accompanied by an adequate environmental impact statement; and

(3) Will not prejudice the ultimate decision on the program. Absent any satisfactory explanation to the contrary, interim action which tends to determine subsequent development or limit reasonable alternatives, will be considered prejudicial.

(c) This section does not preclude any applicant for an NRC permit, license, or other form of permission, or amendment to or renewal of an NRC permit, license, or other form of permission, (1) from developing any plans or designs necessary to support an application; or (2) after prior notice and consultation with NRC staff, (i) from performing any physical work necessary to support an application, or (ii) from performing any other physical work relating to the proposed action if the adverse environmental impact of that work is de minimis.

[49 FR 9381, Mar. 12, 1984, as amended at 53 FR 31682, Aug. 19, 1988]

### § 51.102 Requirement to provide a record of decision; preparation.

(a) A Commission decision on any action for which a final environmental impact statement has been prepared shall be accompanied by or include a concise public record of decision.

(b) Except as provided in paragraph (c) of this section, the record of decision will be prepared by the NRC staff director authorized to take the action.

(c) When a hearing is held on the proposed action under the regulations in subpart G of part 2 of this chapter or when the action can only be taken by the Commissioners acting as a collegial body, the initial decision of the presiding officer or the final decision of the Commissioners acting as a collegial body will constitute the record of decision. An initial or final decision

### § 51.103

constituting the record of decision will be distributed as provided in § 51.93.

[49 FR 9381, Mar. 12, 1984, as amended at 77 FR 46600, Aug. 3, 2012; 79 FR 66604, Nov. 10, 2014]

#### § 51.103 Record of decision—general.

(a) The record of decision required by § 51.102 shall be clearly identified and shall:

(1) State the decision.

(2) Identify all alternatives considered by the Commission in reaching the decision, state that these alternatives were included in the range of alternatives discussed in the environmental impact statement, and specify the alternative or alternatives which were considered to be environmentally preferable.

(3) Discuss preferences among alternatives based on relevant factors, including economic and technical considerations where appropriate, the NRC's statutory mission, and any essential considerations of national policy, which were balanced by the Commission in making the decision and state how these considerations entered into the decision.

(4) State whether the Commission has taken all practicable measures within its jurisdiction to avoid or minimize environmental harm from the alternative selected, and if not, to explain why those measures were not adopted. Summarize any license conditions and monitoring programs adopted in connection with mitigation measures.

(5) In making a final decision on a license renewal action pursuant to part 54 of this chapter, the Commission shall determine whether or not the adverse environmental impacts of license renewal are so great that preserving the option of license renewal for energy planning decisionmakers would be unreasonable.

(6) In a construction permit or a combined license proceeding where a limited work authorization under 10 CFR 50.10 was issued, the Commission's decision on the construction permit or combined license application will not address or consider the sunk costs associated with the limited work authorization in determining the proposed action.

### 10 CFR Ch. I (1–1–23 Edition)

(b) The record of decision may be integrated into any other record prepared by the Commission in connection with the action.

(c) The record of decision may incorporate by reference material contained in a final environmental impact statement.

[49 FR 9381, Mar. 12, 1984, as amended at 61 FR 28490, June 5, 1996; 61 FR 66546, Dec. 18, 1996; 61 FR 68543, Dec. 30, 1996; 72 FR 57445, Oct. 9, 2007]

#### § 51.104 NRC proceeding using public hearings; consideration of environmental impact statement.

(a)(1) In any proceeding in which (i) a hearing is held on the proposed action, (ii) a final environmental impact statement has been prepared in connection with the proposed action, and (iii) matters within the scope of NEPA and this subpart are in issue, the NRC staff may not offer the final environmental impact statement in evidence or present the position of the NRC staff on matters within the scope of NEPA and this subpart until the final environmental impact statement is filed with the Environmental Protection Agency, furnished to commenting agencies and made available to the public.

(2) Any party to the proceeding may take a position and offer evidence on the aspects of the proposed action within the scope of NEPA and this subpart in accordance with the provisions of part 2 of this chapter applicable to that proceeding or in accordance with the terms of the notice of hearing.

(3) In the proceeding the presiding officer will decide those matters in controversy among the parties within the scope of NEPA and this subpart.

(b) In any proceeding in which a hearing is held where the NRC staff has determined that no environmental impact statement need be prepared for the proposed action, unless the Commission orders otherwise, any party to the proceeding may take a position and offer evidence on the aspects of the proposed action within the scope of NEPA and this subpart in accordance with the provisions of part 2 of this chapter applicable to that proceeding or in accordance with the terms of the notice of hearing. In the proceeding, the presiding officer will decide any

such matters in controversy among the parties.

(c) In any proceeding in which a limited work authorization is requested, unless the Commission orders otherwise, a party to the proceeding may take a position and offer evidence only on the aspects of the proposed action within the scope of NEPA and this subpart which are within the scope of that party's admitted contention, in accordance with the provisions of part 2 of this chapter applicable to the limited work authorization or in accordance with the terms of any notice of hearing applicable to the limited work authorization. In the proceeding, the presiding officer will decide all matters in controversy among the parties.

[49 FR 9381, Mar. 12, 1984, as amended at 72 FR 57445, Oct. 9, 2007]

#### PRODUCTION AND UTILIZATION FACILITIES

##### **§ 51.105 Public hearings in proceedings for issuance of construction permits or early site permits; limited work authorizations.**

(a) In addition to complying with applicable requirements of § 51.104, in a proceeding for the issuance of a construction permit or early site permit for a nuclear power reactor, testing facility, fuel reprocessing plant or isotopic enrichment plant, the presiding officer will:

(1) Determine whether the requirements of Sections 102(2) (A), (C), and (E) of NEPA and the regulations in this subpart have been met;

(2) Independently consider the final balance among conflicting factors contained in the record of the proceeding with a view to determining the appropriate action to be taken;

(3) Determine, after weighing the environmental, economic, technical, and other benefits against environmental and other costs, and considering reasonable alternatives, whether the construction permit or early site permit should be issued, denied, or appropriately conditioned to protect environmental values;

(4) Determine, in an uncontested proceeding, whether the NEPA review conducted by the NRC staff has been adequate; and

(5) Determine, in a contested proceeding, whether in accordance with the regulations in this subpart, the construction permit or early site permit should be issued as proposed by the NRC's Director, Office of Nuclear Reactor Regulation.

(b) The presiding officer in an early site permit hearing shall not admit contentions proffered by any party concerning the benefits assessment (e.g., need for power) or alternative energy sources if those issues were not addressed by the applicant in the early site permit application.

(c)(1) In addition to complying with the applicable provisions of § 51.104, in any proceeding for the issuance of a construction permit for a nuclear power plant or an early site permit under part 52 of this chapter, where the applicant requests a limited work authorization under § 50.10(d) of this chapter, the presiding officer shall—

(i) Determine whether the requirements of Section 102(2)(A), (C), and (E) of NEPA and the regulations in the subpart have been met, with respect to the activities to be conducted under the limited work authorization;

(ii) Independently consider the balance among conflicting factors with respect to the limited work authorization which is contained in the record of the proceeding, with a view to determining the appropriate action to be taken;

(iii) Determine whether the redress plan will adequately redress the activities performed under the limited work authorization, should limited work activities be terminated by the holder or the limited work authorization be revoked by the NRC, or upon effectiveness of the Commission's final decision denying the associated construction permit or early site permit, as applicable;

(iv) In an uncontested proceeding, determine whether the NEPA review conducted by the NRC staff for the limited work authorization has been adequate; and

(v) In a contested proceeding, determine whether, in accordance with the regulations in this subpart, the limited work authorization should be issued as proposed.

(2) If the limited work authorization is for activities to be conducted at a site for which the Commission has previously prepared an environmental impact statement for the construction and operation of a nuclear power plant, and a construction permit was issued but construction of the plant was never completed, then in making the determinations in paragraph (c)(1) of this section, the presiding officer shall be limited to a consideration whether there is, with respect to construction activities encompassed by the environmental impact statement which are analogous to the activities to be conducted under the limited work authorization, new and significant information on the environmental impacts of those activities, such that the limited work authorization should not be issued as proposed.

(3) The presiding officer's determination in this paragraph shall be made in a partial initial decision to be issued separately from, and in advance of, the presiding officer's decision in paragraph (a) of this section.

[72 FR 49516, Aug. 28, 2007, as amended at 72 FR 57446, Oct. 9, 2007; 73 FR 5724, Jan. 31, 2008; 84 FR 65645, Nov. 29, 2019]

**§ 51.105a Public hearings in proceedings for issuance of manufacturing licenses.**

In addition to complying with applicable requirements of § 51.31(c), in a proceeding for the issuance of a manufacturing license, the presiding officer will determine whether, in accordance with the regulations in this subpart, the manufacturing license should be issued as proposed by the NRC's Director, Office of Nuclear Reactor Regulation.

[73 FR 5724, Jan. 31, 2008, as amended at 84 FR 65645, Nov. 29, 2019]

**§ 51.106 Public hearings in proceedings for issuance of operating licenses.**

(a) Consistent with the requirements of this section and as appropriate, the presiding officer in an operating license hearing shall comply with any applicable requirements of §§ 51.104 and 51.105.

(b) During the course of a hearing on an application for issuance of an oper-

ating license for a nuclear power reactor, or a testing facility, the presiding officer may authorize, pursuant to § 50.57(c) of this chapter, the loading of nuclear fuel in the reactor core and limited operation within the scope of § 50.57(c) of this chapter, upon compliance with the procedures described therein. In any such hearing, where any party opposes such authorization on the basis of matters covered by subpart A of this part, the provisions of §§ 51.104 and 51.105 will apply, as appropriate.

(c) The presiding officer in an operating license hearing shall not admit contentions proffered by any party concerning need for power or alternative energy sources or alternative sites for the facility for which an operating license is requested.

(d) The presiding officer in an operating license hearing shall not raise issues concerning alternative sites for the facility for which an operating license is requested *sua sponte*.

**§ 51.107 Public hearings in proceedings for issuance of combined licenses; limited work authorizations.**

(a) In addition to complying with the applicable requirements of § 51.104, in a proceeding for the issuance of a combined license for a nuclear power reactor under part 52 of this chapter, the presiding officer will:

(1) Determine whether the requirements of Sections 102(2) (A), (C), and (E) of NEPA and the regulations in this subpart have been met;

(2) Independently consider the final balance among conflicting factors contained in the record of the proceeding with a view to determining the appropriate action to be taken;

(3) Determine, after weighing the environmental, economic, technical, and other benefits against environmental and other costs, and considering reasonable alternatives, whether the combined license should be issued, denied, or appropriately conditioned to protect environmental values;

(4) Determine, in an uncontested proceeding, whether the NEPA review conducted by the NRC staff has been adequate; and



(5) Determine, in a contested proceeding, whether in accordance with the regulations in this subpart, the combined license should be issued as proposed by the NRC's Director, Office of Nuclear Reactor Regulation.

(b) If a combined license application references an early site permit, then the presiding officer in the combined license hearing shall not admit any contention proffered by any party on environmental issues which have been accorded finality under § 52.39 of this chapter, unless the contention:

(1) Demonstrates that the nuclear power reactor proposed to be built does not fit within one or more of the site characteristics or design parameters included in the early site permit;

(2) Raises any significant environmental issue that was not resolved in the early site permit proceeding; or

(3) Raises any issue involving the impacts of construction and operation of the facility that was resolved in the early site permit proceeding for which new and significant information has been identified.

(c) If the combined license application references a standard design certification, or proposes to use a manufactured reactor, then the presiding officer in a combined license hearing shall not admit contentions proffered by any party concerning severe accident mitigation design alternatives unless the contention demonstrates that the site characteristics fall outside of the site parameters in the standard design certification or underlying manufacturing license for the manufactured reactor.

(d)(1) In any proceeding for the issuance of a combined license where the applicant requests a limited work authorization under § 50.10(d) of this chapter, the presiding officer, in addition to complying with any applicable provision of § 51.104, shall:

(i) Determine whether the requirements of Section 102(2)(A), (C), and (E) of NEPA and the regulations in this subpart have been met, with respect to the activities to be conducted under the limited work authorization;

(ii) Independently consider the balance among conflicting factors with respect to the limited work authorization which is contained in the record of

the proceeding, with a view to determining the appropriate action to be taken;

(iii) Determine whether the redress plan will adequately redress the activities performed under the limited work authorization, should limited work activities be terminated by the holder or the limited work authorization be revoked by the NRC, or upon effectiveness of the Commission's final decision denying the combined license application;

(iv) In an uncontested proceeding, determine whether the NEPA review conducted by the NRC staff for the limited work authorization has been adequate; and

(v) In a contested proceeding, determine whether, in accordance with the regulations in this subpart, the limited work authorization should be issued as proposed by the Director, Office of Nuclear Reactor Regulation.

(2) If the limited work authorization is for activities to be conducted at a site for which the Commission has previously prepared an environmental impact statement for the construction and operation of a nuclear power plant, and a construction permit was issued but construction of the plant was never completed, then in making the determinations in paragraph (c)(1) of this section, the presiding officer shall be limited to a consideration whether there is, with respect to construction activities encompassed by the environmental impact statement which are analogous to the activities to be conducted under the limited work authorization, new and significant information on the environmental impacts of those activities, so that the limited work authorization should not be issued as proposed by the Director, Office of Nuclear Reactor Regulation.

(3) In making the determination required by this section, the presiding officer may not address or consider the sunk costs associated with the limited work authorization.

(4) The presiding officer's determination in this paragraph shall be made in a partial initial decision to be issued separately from, and in advance of, the

## § 51.108

presiding officer's decision in paragraph (a) of this section on the combined license.

[72 FR 49517, Aug. 28, 2007, as amended at 72 FR 57446, Oct. 9, 2007; 73 FR 5724, Jan. 31, 2008; 84 FR 65645, Nov. 29, 2019]

### **§ 51.108 Public hearings on Commission findings that inspections, tests, analyses, and acceptance criteria of combined licenses are met.**

In any public hearing requested under 10 CFR 52.103(b), the Commission will not admit any contentions on environmental issues, the adequacy of the environmental impact statement for the combined license issued under subpart C of part 52, or the adequacy of any other environmental impact statement or environmental assessment referenced in the combined license application. The Commission will not make any environmental findings in connection with the finding under 10 CFR 52.103(g).

[72 FR 49517, Aug. 28, 2007]

## MATERIALS LICENSES

### **§ 51.109 Public hearings in proceedings for issuance of materials license with respect to a geologic repository.**

(a)(1) In a proceeding for issuance of a construction authorization for a high-level radioactive waste repository at a geologic repository operations area under parts 60 and 63 of this chapter, and in a proceeding for issuance of a license to receive and possess source, special nuclear, and byproduct material at a geologic repository operations area under parts 60 and 63 of this chapter, the NRC staff shall, upon the publication of the notice of hearing in the FEDERAL REGISTER, present its position on whether it is practicable to adopt, without further supplementation, the environmental impact statement (including any supplement thereto) prepared by the Secretary of Energy. If the position of the staff is that supplementation of the environmental impact statement by NRC is required, it shall file its final supplemental environmental impact statement with the Environmental Protection Agency, furnish that statement to commenting agencies, and make it available to the

## 10 CFR Ch. I (1–1–23 Edition)

public, before presenting its position, or as soon thereafter as may be practicable. In discharging its responsibilities under this paragraph, the staff shall be guided by the principles set forth in paragraphs (c) and (d) of this section.

(2) Any other party to the proceeding who contends that it is not practicable to adopt the DOE environmental impact statement, as it may have been supplemented, shall file a contention to that effect within thirty (30) days after the publication of the notice of hearing in the FEDERAL REGISTER. Such contention must be accompanied by one or more affidavits which set forth factual and/or technical bases for the claim that, under the principles set forth in paragraphs (c) and (d) of this section, it is not practicable to adopt the DOE environmental impact statement, as it may have been supplemented. The presiding officer shall resolve disputes concerning adoption of the DOE environmental impact statement by using, to the extent possible, the criteria and procedures that are followed in ruling on motions to reopen under § 2.326 of this chapter.

(b) In any such proceeding, the presiding officer will determine those matters in controversy among the parties within the scope of NEPA and this subpart, specifically including whether, and to what extent, it is practicable to adopt the environmental impact statement prepared by the Secretary of Energy in connection with the issuance of a construction authorization and license for such repository.

(c) The presiding officer will find that it is practicable to adopt any environmental impact statement prepared by the Secretary of Energy in connection with a geologic repository proposed to be constructed under Title I of the Nuclear Waste Policy Act of 1982, as amended, unless:

(1)(i) The action proposed to be taken by the Commission differs from the action proposed in the license application submitted by the Secretary of Energy; and

(ii) The difference may significantly affect the quality of the human environment; or

(2) Significant and substantial new information or new considerations

## Nuclear Regulatory Commission

## § 51.117

render such environmental impact statement inadequate.

(d) To the extent that the presiding officer determines it to be practicable, in accordance with paragraph (c) of this section, to adopt the environmental impact statement prepared by the Secretary of Energy, such adoption shall be deemed to satisfy all responsibilities of the Commission under NEPA and no further consideration under NEPA or this subpart shall be required.

(e) To the extent that it is not practicable, in accordance with paragraph (c) of this section, to adopt the environmental impact statement prepared by the Secretary of Energy, the presiding officer will:

(1) Determine whether the requirements of section 102(2) (A), (C), and (E) of NEPA and the regulations in this subpart have been met;

(2) Independently consider the final balance among conflicting factors contained in the record of the proceeding with a view to determining the appropriate action to be taken;

(3) Determine, after weighing the environmental, economic, technical and other benefits against environmental and other costs, whether the construction authorization or license should be issued, denied, or appropriately conditioned to protect environmental values;

(4) Determine, in an uncontested proceeding, whether the NEPA review conducted by the NRC staff has been adequate; and

(5) Determine, in a contested proceeding, whether in accordance with the regulations in this subpart, the construction authorization or license should be issued as proposed.

(f) In making the determinations described in paragraph (e) of this section, the environmental impact statement will be deemed modified to the extent that findings and conclusions differ from those in the final statement prepared by the Secretary of Energy, as it may have been supplemented. The initial decision will be distributed to any persons not otherwise entitled to receive it who responded to the request in the notice of docketing, as described in § 51.26(c). If the Commission reaches conclusions different from those of the

presiding officer with respect to such matters, the final environmental impact statement will be deemed modified to that extent and the decision will be similarly distributed.

(g) The provisions of this section shall be followed, in place of those set out in § 51.104, in any proceedings for the issuance of a license to receive and possess source, special nuclear, and by-product material at a geologic repository operations area.

[54 FR 27870, July 3, 1989, as amended at 69 FR 2276, Jan. 14, 2004; 77 FR 46600, Aug. 3, 2012]

### RULEMAKING

#### § 51.110 [Reserved]

#### PUBLIC NOTICE OF AND ACCESS TO ENVIRONMENTAL DOCUMENTS

#### § 51.116 Notice of intent.

(a) In accordance with § 51.26, the appropriate NRC staff director will publish in the FEDERAL REGISTER a notice of intent stating that an environmental impact statement will be prepared. The notice will contain the information specified in § 51.27.

(b) Copies of the notice will be sent to appropriate Federal, State, and local agencies, and Indian Tribes, appropriate State, regional, and metropolitan clearinghouses and to interested persons upon request. A public announcement of the notice of intent will also be made.

#### § 51.117 Draft environmental impact statement—notice of availability.

(a) Upon completion of a draft environmental impact statement or any supplement to a draft environmental impact statement, the appropriate NRC staff director will publish a notice of availability of the statement in the FEDERAL REGISTER.

(b) The notice will request comments on the proposed action and on the draft statement or any supplement to the draft statement and will specify where comments should be submitted and when the comment period expires.

(c) The notice will (1) state that copies of the draft statement or any supplement to the draft statement are available for public inspection; (2) state where inspection may be made,

## §51.118

## 10 CFR Ch. I (1–1–23 Edition)

and (3) state that any comments of Federal, State, and local agencies, Indian Tribes or other interested persons will be made available for public inspection when received.

(d) Copies of the notice will be sent to appropriate Federal, State, and local agencies, and Indian Tribes, appropriate State, regional, and metropolitan clearinghouses, and to interested persons upon request.

### §51.118 Final environmental impact statement—notice of availability.

(a) Upon completion of a final environmental impact statement or any supplement to a final environmental impact statement, the appropriate NRC staff director will publish a notice of availability of the statement in the FEDERAL REGISTER. The notice will state that copies of the final statement or any supplement to the final statement are available for public inspection and where inspection may be made. Copies of the notice will be sent to appropriate Federal, State, and local agencies, and Indian Tribes, appropriate State, regional, and metropolitan clearinghouses and to interested persons upon request.

(b) Upon adoption of a final environmental impact statement or any supplement to a final environmental impact statement prepared by the Department of Energy with respect to a geologic repository that is subject to the Nuclear Waste Policy Act of 1982, the appropriate NRC staff director shall follow the procedures set out in paragraph (a) of this section.

[49 FR 9381, Mar. 12, 1984, as amended at 54 FR 27871, July 3, 1989]

### §51.119 Publication of finding of no significant impact; distribution.

(a) As required by §51.35, the appropriate NRC staff director will publish the finding of no significant impact in the FEDERAL REGISTER. The finding of no significant impact will be identified as a draft or final finding, and will contain the information specified in §§51.32 or 51.33, as appropriate. A draft finding of no significant impact will include a request for comments which specifies where comments should be submitted and when the comment period expires.

(b) The finding will state that copies of the finding, the environmental assessment setting forth the basis for the finding and any related environmental documents are available for public inspection and where inspection may be made.

(c) A copy of a final finding will be sent to appropriate Federal, State, and local agencies, and Indian Tribes, appropriate State, regional, and metropolitan clearinghouses, the applicant or petitioner for rulemaking and any other party to the proceeding, and if a draft finding was issued, to each commenter. Additional copies will be made available in accordance with §51.123.

### §51.120 Availability of environmental documents for public inspection.

Copies of environmental reports, draft and final environmental impact statements, environmental assessments, and findings of no significant impact, together with any related comments and environmental documents, will be made available at the NRC Web site, <http://www.nrc.gov>, and/or at the NRC Public Document Room.

[64 FR 48952, Sept. 9, 1999]

### §51.121 Status of NEPA actions.

Individuals or organizations desiring information on the NRC's NEPA process or on the status of specific NEPA actions should address inquiries to:

(a) *Utilization facilities*: ATTN: Document Control Desk, Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-1270, e-mail [RidsNrrOd@nrc.gov](mailto:RidsNrrOd@nrc.gov).

(b) *Production facilities*: ATTN: Document Control Desk, Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-7800, e-mail [RidsNmssOd@nrc.gov](mailto:RidsNmssOd@nrc.gov).

(c) *Materials licenses*: ATTN: Document Control Desk, Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-7800, e-mail [RidsNmssOd@nrc.gov](mailto:RidsNmssOd@nrc.gov).

(d) *Rulemaking*: ATTN: Chief, Regulatory Analysis and Rulemaking Support Branch, Division of Rulemaking,

## Nuclear Regulatory Commission

## § 51.125

Environmental, and Financial Support, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (800) 368-5642.

(e) *General environmental matters:* Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 415-1700.

[53 FR 13399, Apr. 25, 1988, as amended at 60 FR 24552, May 9, 1995; 68 FR 58811, Oct. 10, 2003; 73 FR 5724, Jan. 31, 2008; 77 FR 39907, July 6, 2012; 84 FR 65645, Nov. 29, 2019]

### § 51.122 List of interested organizations and groups.

The NRC Office of the Chief Information Officer will maintain a master list of organizations and groups, including relevant conservation commissions, known to be interested in the Commission's licensing and regulatory activities. The NRC Office of the Chief Information Officer with the assistance of the appropriate NRC staff director will select from this master list those organizations and groups that may have an interest in a specific NRC NEPA action and will promptly notify such organizations and groups of the availability of a draft environmental impact statement or a draft finding of no significant impact.

[49 FR 9381, Mar. 12, 1984, as amended at 52 FR 31612, Aug. 21, 1987; 54 FR 53316, Dec. 28, 1989; 77 FR 39907, July 6, 2012]

### § 51.123 Charges for environmental documents; distribution to public; distribution to governmental agencies.

(a) *Distribution to public.* Upon written request to the Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, e-mail *distribution.resource@nrc.gov*, and to the extent available, single copies of draft environmental impact statements and draft findings of no significant impact will be made available to interested persons without charge. Single copies of final environmental impact statements and final findings of no significant impact will also be provided without charge to the persons listed in §§ 51.93(a) and 51.119(c), respectively. When more than one copy of an environmental impact statement

or a finding of no significant impact is requested or when available NRC copies have been exhausted, the requestor will be advised that the NRC will provide copies at the charges specified in § 9.35 of this chapter.

(b) *Distribution to governmental agencies.* Upon written request to the Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, e-mail *distribution.resource@nrc.gov*, and to the extent available, copies of draft and final environmental impact statements and draft final findings of no significant impact will be made available in the number requested to Federal, State and local agencies, Indian Tribes, and State, regional, and metropolitan clearinghouses. When available NRC copies have been exhausted, the requestor will be advised that the NRC will provide copies at the charges specified in § 9.35 of this chapter.

(c) *Charges.* Charges for the reproduction of environmental documents by the NRC at locations other than the NRC Public Document Room located in Washington, DC vary according to location.

[50 FR 21037, May 22, 1985, as amended at 52 FR 31612, Aug. 21, 1987; 53 FR 43421, Oct. 27, 1988; 61 FR 9902, Mar. 12, 1996; 64 FR 48952, Sept. 9, 1999; 68 FR 58812, Oct. 10, 2003; 80 FR 74980, Dec. 1, 2015]

#### COMMENTING

### § 51.124 Commission duty to comment.

It is the policy of the Commission to comment on draft environmental impact statements prepared by other Federal agencies, consistent with the provisions of 40 CFR 1503.2 and 1503.3.

#### RESPONSIBLE OFFICIAL

### § 51.125 Responsible official.

The Executive Director for Operations shall be responsible for overall review of NRC NEPA compliance, except for matters under the jurisdiction of a presiding officer, administrative judge, administrative law judge, Atomic Safety and Licensing Board, or the Commission acting as a collegial body.

[77 FR 46600, Aug. 3, 2012]

APPENDIX A TO SUBPART A OF PART 51—  
FORMAT FOR PRESENTATION OF MA-  
TERIAL IN ENVIRONMENTAL IMPACT  
STATEMENTS

1. General
2. Cover sheet
3. Summary
4. Purpose of and need for action
5. Alternatives including the proposed action
6. Affected environment
7. Environmental consequences and miti-  
gating actions
8. List of preparers
9. Appendices

1. *General.*

(a) The Commission will use a format for environmental impact statements which will encourage good analysis and clear presentation of the alternatives including the proposed action. The following standard format for environmental impact statements should be followed unless there is a compelling reason to do otherwise:

- (1) Cover sheet\*
- (2) Summary\*
- (3) Table of Contents
- (4) Purpose of and Need for Action\*
- (5) Alternatives including the proposed action\*
- (6) Affected Environment\*
- (7) Environmental Consequences and Mitigating Actions\*
- (8) List of Preparers\*
- (9) List of Agencies, Organizations and Persons to Whom Copies of the Statement are Sent
- (10) Substantive Comments Received and NRC Staff Responses
- (11) Index
- (12) Appendices (if any)\*

If a different format is used, it shall include paragraphs (1), (2), (3), (8), (9), (10), and (11) of this section and shall include the substance of paragraphs (4), (5), (6), (7), and (12) of this section, in any appropriate format.

Additional guidance on the presentation of material under the format headings identified by an asterisk is set out in sections 2.–9. of this appendix.

(b) The techniques of tiering and incorporation by reference described respectively in 40 CFR 1502.20 and 1508.28 and 40 CFR 1502.21<sup>1</sup> of CEQ's NEPA regulations may be used as appropriate to aid in the presentation of issues, eliminate repetition or reduce the size of an environmental impact statement. In appropriate circumstances, draft or final environmental impact statements prepared by other Federal agencies may be adopted in whole or in part in accordance with the pro-

cedures outlined in 40 CFR 1506.3<sup>2</sup> of CEQ's NEPA regulations. In final environmental impact statements, material under the following format headings will normally be presented in less than 150 pages: Purpose of and Need for Action, Alternatives Including the Proposed Action, Affected Environment, and Environmental Consequences and Mitigating Actions. For proposals of unusual scope or complexity, the material presented under these format headings may extend to 300 pages.

2. *Cover sheet.*

The cover sheet will not exceed one page. It will include:

- (a) The name of the NRC office responsible for preparing the statement and a list of any cooperating agencies.
- (b) The title of the proposed action that is the subject of the statement with a list of the states, counties or municipalities where the facility or other subject of the action is located, as appropriate.
- (c) The name, address, and telephone number of the individual in NRC who can supply further information.
- (d) A designation of the statement as a draft or final statement, or a draft or final supplement.
- (e) A one paragraph abstract of the statement.
- (f) For draft environmental impact statements, the date by which comments must be received. This date may be specified in the form of the following or a substantially similar statement:

"Comments should be filed no later than<sup>3</sup> days after the date on which the Environmental Protection Agency notice stating that the draft environmental impact statement has been filed with EPA is published in the FEDERAL REGISTER. Comments received after the expiration of the comment period will be considered if it is practical to do so but assurance of consideration of late comments cannot be given."

3. *Summary.*

Each environmental impact statement will contain a summary which adequately and accurately summarizes the statement. The summary will stress the major issues considered. The summary will discuss the areas of controversy, will identify any remaining issues to be resolved, and will present the major conclusions and recommendations. The summary will normally not exceed 15 pages.

<sup>2</sup> *Adoption*—40 CFR 1506.3.

<sup>3</sup> The number of days in the comment period should be inserted. The minimum comment period is 45 days (see §51.73.)

<sup>1</sup> *Tiering*—40 CFR 1502.20, 40 CFR 1508.28; *Incorporation by reference*—40 CFR 1502.21.

## Nuclear Regulatory Commission

## Pt. 51, Subpt. A, App. A

### 4. *Purpose of and need for action.*

The statement will briefly describe and specify the need for the proposed action. The alternative of no action will be discussed. In the case of nuclear power plant construction or siting, consideration will be given to the potential impact of conservation measures in determining the demand for power and consequent need for additional generating capacity.

### 5. *Alternatives including the proposed action.*

This section is the heart of the environmental impact statement. It will present the environmental impacts of the proposal and the alternatives in comparative form. Where important to the comparative evaluation of alternatives, appropriate mitigating measures of the alternatives will be discussed. All reasonable alternatives will be identified. The range of alternatives discussed will encompass those proposed to be considered by the ultimate decisionmaker. An otherwise reasonable alternative will not be excluded from discussion solely on the ground that it is not within the jurisdiction of the NRC.<sup>4</sup> The discussion of alternatives will take into accounts, without duplicating, the environmental information and analyses included in sections, 4., 6. and 7. of this appendix.

In the draft environmental impact statement, this section will either include a preliminary recommendation on the action to be taken, or identify the alternatives under consideration.

In the final environmental impact statement, this section will include a final recommendation on the action to be taken.

### 6. *Affected environment.*

The environmental impact statement will succinctly describe the environment to be affected by the proposed action. Data and analyses in the statement will be commensurate with the importance of the impact, with less important material summarized, consolidated, or simply referenced. Effort and attention will be concentrated on important issues; useless bulk will be eliminated.

### 7. *Environmental consequences and mitigating actions.*

This section discusses the environmental consequences of alternatives, including the proposed actions and any mitigating actions which may be taken. Alternatives eliminated from detailed study will be identified and a discussion of those alternatives will be confined to a brief statement of the reasons

why the alternatives were eliminated. The level of information for each alternative considered in detail will reflect the depth of analysis required for sound decisionmaking.

The discussion will include any adverse environmental effects which cannot be avoided should the alternative be implemented, the relationship between short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and any irreversible or irretrievable commitments of resources which would be involved in the alternative should it be implemented. This section will include discussions of:

- (a) Direct effects and their significance.
- (b) Indirect effects and their significance.
- (c) Possible conflicts between the alternative and the objectives of Federal, regional, State, and local (and in the case of a reservation, Indian Tribe) land use plans, policies and controls for the area concerned.
- (d) Means to mitigate adverse environmental impacts.

### 8. *List of preparers.*

The environmental impact statement will list the names and qualifications (expertise, experience, professional disciplines), of the persons who were primarily responsible for preparing the environmental impact statement or significant background papers. Persons responsible for making an independent evaluation of information submitted by the applicant or petitioner for rulemaking or others will be included in the list. Where possible, the persons who are responsible for a particular analysis, including analyses in background papers, will be identified.

### 9. *Appendices.*

An appendix to an environmental impact statement will:

- (a) Consist of material prepared in connection with an environmental impact statement (as distinct from material which is not so prepared and which is incorporated by reference (40 CFR 1502.21)).
- (b) Normally consist of material which substantiates any analysis fundamental to the impact statement. Discussion of methodology used may be placed in an appendix.
- (c) Normally be analytic.
- (d) Be relevant to the decision to be made.
- (e) Be circulated with the environmental impact statement or be readily available on request.

### Discussion of Footnotes

#### 1. *Tiering.*

40 CFR 1502.20 states:

"Agencies are encouraged to tier their environmental impact statements to eliminate repetitive discussions of the same issues and to focus on the actual issues ripe for decision at each level of environmental review

<sup>4</sup>With respect to limitations on NRC's NEPA authority and responsibility imposed by the Federal Water Pollution Control Act Amendments of 1972, see §§51.10(c), 51.22(c)(17) and 51.71(d).

(§1508.28). Whenever a broad environmental impact statement has been prepared (such as a program or policy statement) and a subsequent statement or environmental assessment is then prepared on an action included within the entire program or policy (such as a site specific action) the subsequent statement or environmental assessment need only summarize the issues discussed in the broader statement and incorporate discussions from the broader statement by reference and shall concentrate on the issues specific to the subsequent action. The subsequent document shall state where the earlier document is available. Tiering may also be appropriate for different stages of actions. (Sec. 1508.28).”

40 CFR 1508.28 states:

“‘Tiering’ refers to the coverage of general matters in broader environmental impact statements (such as national program or policy statements) with subsequent narrower statements or environmental analyses (such as regional or basinwide program statements or ultimately site-specific statements) incorporating by reference the general discussions and concentrating solely on the issues specific to the statement subsequently prepared. Tiering is appropriate when the sequence of statements or analyses is:

“(a) From a program, plan, or policy environmental impact statement to a program, plan, or policy statement or analysis of lesser scope or to a site-specific statement or analysis.

“(b) From an environmental impact statement on a specific action at an early stage (such as need and site selection) to a supplement (which is preferred) or a subsequent statement or analysis at a later stage (such as environmental mitigation). Tiering in such cases is appropriate when it helps the lead agency to focus on the issues which are ripe for decision and exclude from consideration issues already decided or not yet ripe.”

*Incorporation by reference.* 40 CFR 1502.21 states:

“Agencies shall incorporate material into an environmental impact statement by reference when the effect will be to cut down on bulk without impeding agency and public review of the action. The incorporated material shall be cited in the statement and its content briefly described. No material may be incorporated by reference unless it is reasonably available for inspection by potentially interested persons within the time allowed for comment. Material based on proprietary data which is itself not available for review and comment shall not be incorporated by reference.”

## 2. Adoption.

40 CFR 1506.3 states:

“(a) An agency may adopt a Federal draft or final environmental impact statement or portion thereof provided that the statement or portion thereof meets the standards for an adequate statement under these regulations.

“(b) If the actions covered by the original environmental impact statement and the proposed action are substantially the same, the agency adopting another agency’s statement is not required to recirculate it except as a final statement. Otherwise the adopting agency shall treat the statement as a draft and recirculate it (except as provided in paragraph (c) of this section).

“(c) A cooperating agency may adopt without recirculating the environmental impact statement of a lead agency when, after an independent review of the statement, the cooperating agency concludes that its comments and suggestions have been satisfied.

“(d) When an agency adopts a statement which is not final within the agency that prepared it, or when the action it assesses is the subject of a referral under part 1504, or when the statement’s adequacy is the subject of a judicial action which is not final, the agency shall so specify.”

[49 FR 9381, Mar. 12, 1984, as amended at 61 FR 28490, June 5, 1996; 61 FR 66546, Dec. 18, 1996]

## APPENDIX B TO SUBPART A OF PART 51— ENVIRONMENTAL EFFECT OF RENEWING THE OPERATING LICENSE OF A NUCLEAR POWER PLANT

The Commission has assessed the environmental impacts associated with granting a renewed operating license for a nuclear power plant to a licensee who holds either an operating license or construction permit as of June 30, 1995. Table B-1 summarizes the Commission’s findings on the scope and magnitude of environmental impacts of renewing the operating license for a nuclear power plant as required by section 102(2) of the National Environmental Policy Act of 1969, as amended. Table B-1, subject to an evaluation of those issues identified in Category 2 as requiring further analysis and possible significant new information, represents the analysis of the environmental impacts associated with renewal of any operating license and is to be used in accordance with §51.95(c). On a 10-year cycle, the Commission intends to review the material in this appendix and update it if necessary. A scoping notice must be published in the FEDERAL REGISTER indicating the results of the NRC’s review and inviting public comments and proposals for other areas that should be updated.



TABLE B-1—SUMMARY OF FINDINGS ON NEPA ISSUES FOR LICENSE RENEWAL OF NUCLEAR POWER PLANTS<sup>1</sup>

Issue	Category <sup>2</sup>	Finding <sup>3</sup>
<b>Land Use</b>		
Onsite land use .....	1	SMALL. Changes in onsite land use from continued operations and refurbishment associated with license renewal would be a small fraction of the nuclear power plant site and would involve only land that is controlled by the licensee.
Offsite land use .....	1	SMALL. Offsite land use would not be affected by continued operations and refurbishment associated with license renewal.
Offsite land use in transmission line right-of-ways (ROWs) <sup>4</sup> .	1	SMALL. Use of transmission line ROWs from continued operations and refurbishment associated with license renewal would continue with no change in land use restrictions.
<b>Visual Resources</b>		
Aesthetic impacts .....	1	SMALL. No important changes to the visual appearance of plant structures or transmission lines are expected from continued operations and refurbishment associated with license renewal.
<b>Air Quality</b>		
Air quality impacts (all plants) .....	1	SMALL. Air quality impacts from continued operations and refurbishment associated with license renewal are expected to be small at all plants. Emissions resulting from refurbishment activities at locations in or near air quality nonattainment or maintenance areas would be short-lived and would cease after these refurbishment activities are completed. Operating experience has shown that the scale of refurbishment activities has not resulted in exceedance of the <i>de minimis</i> thresholds for criteria pollutants, and best management practices including fugitive dust controls and the imposition of permit conditions in State and local air emissions permits would ensure conformance with applicable State or Tribal Implementation Plans. Emissions from emergency diesel generators and fire pumps and routine operations of boilers used for space heating would not be a concern, even for plants located in or adjacent to nonattainment areas. Impacts from cooling tower particulate emissions even under the worst-case situations have been small.
Air quality effects of transmission lines <sup>4</sup> .	1	SMALL. Production of ozone and oxides of nitrogen is insignificant and does not contribute measurably to ambient levels of these gases.
<b>Noise</b>		
Noise impacts .....	1	SMALL. Noise levels would remain below regulatory guidelines for offsite receptors during continued operations and refurbishment associated with license renewal.
<b>Geologic Environment</b>		
Geology and soils .....	1	SMALL. The effect of geologic and soil conditions on plant operations and the impact of continued operations and refurbishment activities on geology and soils would be small for all nuclear power plants and would not change appreciably during the license renewal term.
<b>Surface Water Resources</b>		
Surface water use and quality (non-cooling system impacts).	1	SMALL. Impacts are expected to be small if best management practices are employed to control soil erosion and spills. Surface water use associated with continued operations and refurbishment associated with license renewal would not increase significantly or would be reduced if refurbishment occurs during a plant outage.
Altered current patterns at intake and discharge structures.	1	SMALL. Altered current patterns would be limited to the area in the vicinity of the intake and discharge structures. These impacts have been small at operating nuclear power plants.
Altered salinity gradients .....	1	SMALL. Effects on salinity gradients would be limited to the area in the vicinity of the intake and discharge structures. These impacts have been small at operating nuclear power plants.
Altered thermal stratification of lakes	1	SMALL. Effects on thermal stratification would be limited to the area in the vicinity of the intake and discharge structures. These impacts have been small at operating nuclear power plants.
Scouring caused by discharged cooling water.	1	SMALL. Scouring effects would be limited to the area in the vicinity of the intake and discharge structures. These impacts have been small at operating nuclear power plants.

TABLE B–1—SUMMARY OF FINDINGS ON NEPA ISSUES FOR LICENSE RENEWAL OF NUCLEAR POWER PLANTS <sup>1</sup>—Continued

Issue	Category <sup>2</sup>	Finding <sup>3</sup>
Discharge of metals in cooling system effluent.	1	SMALL. Discharges of metals have not been found to be a problem at operating nuclear power plants with cooling-tower-based heat dissipation systems and have been satisfactorily mitigated at other plants. Discharges are monitored and controlled as part of the National Pollutant Discharge Elimination System (NPDES) permit process.
Discharge of biocides, sanitary wastes, and minor chemical spills.	1	SMALL. The effects of these discharges are regulated by Federal and State environmental agencies. Discharges are monitored and controlled as part of the NPDES permit process. These impacts have been small at operating nuclear power plants.
Surface water use conflicts (plants with once-through cooling systems).	1	SMALL. These conflicts have not been found to be a problem at operating nuclear power plants with once-through heat dissipation systems.
Surface water use conflicts (plants with cooling ponds or cooling towers using makeup water from a river).	2	SMALL or MODERATE. Impacts could be of small or moderate significance, depending on makeup water requirements, water availability, and competing water demands.
Effects of dredging on surface water quality.	1	SMALL. Dredging to remove accumulated sediments in the vicinity of intake and discharge structures and to maintain barge shipping has not been found to be a problem for surface water quality. Dredging is performed under permit from the U.S. Army Corps of Engineers, and possibly, from other State or local agencies.
Temperature effects on sediment transport capacity.	1	SMALL. These effects have not been found to be a problem at operating nuclear power plants and are not expected to be a problem.
<b>Groundwater Resources</b>		
Groundwater contamination and use (non-cooling system impacts).	1	SMALL. Extensive dewatering is not anticipated from continued operations and refurbishment associated with license renewal. Industrial practices involving the use of solvents, hydrocarbons, heavy metals, or other chemicals, and/or the use of wastewater ponds or lagoons have the potential to contaminate site groundwater, soil, and subsoil. Contamination is subject to State or Environmental Protection Agency regulated clean-up and monitoring programs. The application of best management practices for handling any materials produced or used during these activities would reduce impacts.
Groundwater use conflicts (plants that withdraw less than 100 gallons per minute [gpm]).	1	SMALL. Plants that withdraw less than 100 gpm are not expected to cause any groundwater use conflicts.
Groundwater use conflicts (plants that withdraw more than 100 gallons per minute [gpm]).	2	SMALL, MODERATE, or LARGE. Plants that withdraw more than 100 gpm could cause groundwater use conflicts with nearby groundwater users.
Groundwater use conflicts (plants with closed-cycle cooling systems that withdraw makeup water from a river).	2	SMALL, MODERATE, or LARGE. Water use conflicts could result from water withdrawals from rivers during low-flow conditions, which may affect aquifer recharge. The significance of impacts would depend on makeup water requirements, water availability, and competing water demands.
Groundwater quality degradation resulting from water withdrawals.	1	SMALL. Groundwater withdrawals at operating nuclear power plants would not contribute significantly to groundwater quality degradation.
Groundwater quality degradation (plants with cooling ponds in salt marshes).	1	SMALL. Sites with closed-cycle cooling ponds could degrade groundwater quality. However, groundwater in salt marshes is naturally brackish and thus, not potable. Consequently, the human use of such groundwater is limited to industrial purposes.
Groundwater quality degradation (plants with cooling ponds at inland sites).	2	SMALL, MODERATE, or LARGE. Inland sites with closed-cycle cooling ponds could degrade groundwater quality. The significance of the impact would depend on cooling pond water quality, site hydrogeologic conditions (including the interaction of surface water and groundwater), and the location, depth, and pump rate of water wells.
Radionuclides released to groundwater.	2	SMALL or MODERATE. Leaks of radioactive liquids from plant components and pipes have occurred at numerous plants. Groundwater protection programs have been established at all operating nuclear power plants to minimize the potential impact from any inadvertent releases. The magnitude of impacts would depend on site-specific characteristics.
<b>Terrestrial Resources</b>		
Effects on terrestrial resources (non-cooling system impacts).	2	SMALL, MODERATE, or LARGE. Impacts resulting from continued operations and refurbishment associated with license renewal may affect terrestrial communities. Application of best management practices would reduce the potential for impacts. The magnitude of impacts would depend on the nature of the activity, the status of the resources that could be affected, and the effectiveness of mitigation.

Nuclear Regulatory Commission

Pt. 51, Subpt. A, App. B

TABLE B-1—SUMMARY OF FINDINGS ON NEPA ISSUES FOR LICENSE RENEWAL OF NUCLEAR POWER PLANTS<sup>1</sup>—Continued

Issue	Category <sup>2</sup>	Finding <sup>3</sup>
Exposure of terrestrial organisms to radionuclides.	1	SMALL. Doses to terrestrial organisms from continued operations and re-furbishment associated with license renewal are expected to be well below exposure guidelines developed to protect these organisms.
Cooling system impacts on terrestrial resources (plants with once-through cooling systems or cooling ponds).	1	SMALL. No adverse effects to terrestrial plants or animals have been reported as a result of increased water temperatures, fogging, humidity, or reduced habitat quality. Due to the low concentrations of contaminants in cooling system effluents, uptake and accumulation of contaminants in the tissues of wildlife exposed to the contaminated water or aquatic food sources are not expected to be significant issues.
Cooling tower impacts on vegetation (plants with cooling towers).	1	SMALL. Impacts from salt drift, icing, fogging, or increased humidity associated with cooling tower operation have the potential to affect adjacent vegetation, but these impacts have been small at operating nuclear power plants and are not expected to change over the license renewal term.
Bird collisions with plant structures and transmission lines <sup>4</sup> .	1	SMALL. Bird collisions with cooling towers and other plant structures and transmission lines occur at rates that are unlikely to affect local or migratory populations and the rates are not expected to change.
Water use conflicts with terrestrial resources (plants with cooling ponds or cooling towers using makeup water from a river).	2	SMALL or MODERATE. Impacts on terrestrial resources in riparian communities affected by water use conflicts could be of moderate significance.
Transmission line right-of-way (ROW) management impacts on terrestrial resources <sup>4</sup> .	1	SMALL. Continued ROW management during the license renewal term is expected to keep terrestrial communities in their current condition. Application of best management practices would reduce the potential for impacts.
Electromagnetic fields on flora and fauna (plants, agricultural crops, honeybees, wildlife, livestock) <sup>4</sup> .	1	SMALL. No significant impacts of electromagnetic fields on terrestrial flora and fauna have been identified. Such effects are not expected to be a problem during the license renewal term.
<b>Aquatic Resources</b>		
Impingement and entrainment of aquatic organisms (plants with once-through cooling systems or cooling ponds).	2	SMALL, MODERATE, or LARGE. The impacts of impingement and entrainment are small at many plants but may be moderate or even large at a few plants with once-through and cooling-pond cooling systems, depending on cooling system withdrawal rates and volumes and the aquatic resources at the site.
Impingement and entrainment of aquatic organisms (plants with cooling towers).	1	SMALL. Impingement and entrainment rates are lower at plants that use closed-cycle cooling with cooling towers because the rates and volumes of water withdrawal needed for makeup are minimized.
Entrainment of phytoplankton and zooplankton (all plants).	1	SMALL. Entrainment of phytoplankton and zooplankton has not been found to be a problem at operating nuclear power plants and is not expected to be a problem during the license renewal term.
Thermal impacts on aquatic organisms (plants with once-through cooling systems or cooling ponds).	2	SMALL, MODERATE, or LARGE. Most of the effects associated with thermal discharges are localized and are not expected to affect overall stability of populations or resources. The magnitude of impacts, however, would depend on site-specific thermal plume characteristics and the nature of aquatic resources in the area.
Thermal impacts on aquatic organisms (plants with cooling towers).	1	SMALL. Thermal effects associated with plants that use cooling towers are expected to be small because of the reduced amount of heated discharge.
Infrequently reported thermal impacts (all plants).	1	SMALL. Continued operations during the license renewal term are expected to have small thermal impacts with respect to the following: Cold shock has been satisfactorily mitigated at operating nuclear plants with once-through cooling systems, has not endangered fish populations or been found to be a problem at operating nuclear power plants with cooling towers or cooling ponds, and is not expected to be a problem. Thermal plumes have not been found to be a problem at operating nuclear power plants and are not expected to be a problem. Thermal discharge may have localized effects but is not expected to affect the larger geographical distribution of aquatic organisms. Premature emergence has been found to be a localized effect at some operating nuclear power plants but has not been a problem and is not expected to be a problem. Stimulation of nuisance organisms has been satisfactorily mitigated at the single nuclear power plant with a once-through cooling system where previously it was a problem. It has not been found to be a problem at operating nuclear power plants with cooling towers or cooling ponds and is not expected to be a problem.

TABLE B–1—SUMMARY OF FINDINGS ON NEPA ISSUES FOR LICENSE RENEWAL OF NUCLEAR POWER PLANTS<sup>1</sup>—Continued

Issue	Category <sup>2</sup>	Finding <sup>3</sup>
Effects of cooling water discharge on dissolved oxygen, gas supersaturation, and eutrophication.	1	SMALL. Gas supersaturation was a concern at a small number of operating nuclear power plants with once-through cooling systems but has been mitigated. Low dissolved oxygen was a concern at one nuclear power plant with a once-through cooling system but has been mitigated. Eutrophication (nutrient loading) and resulting effects on chemical and biological oxygen demands have not been found to be a problem at operating nuclear power plants.
Effects of non-radiological contaminants on aquatic organisms.	1	SMALL. Best management practices and discharge limitations of NPDES permits are expected to minimize the potential for impacts to aquatic resources during continued operations and refurbishment associated with license renewal. Accumulation of metal contaminants has been a concern at a few nuclear power plants but has been satisfactorily mitigated by replacing copper alloy condenser tubes with those of another metal.
Exposure of aquatic organisms to radionuclides.	1	SMALL. Doses to aquatic organisms are expected to be well below exposure guidelines developed to protect these aquatic organisms.
Effects of dredging on aquatic organisms.	1	SMALL. Dredging at nuclear power plants is expected to occur infrequently, would be of relatively short duration, and would affect relatively small areas. Dredging is performed under permit from the U.S. Army Corps of Engineers, and possibly, from other State or local agencies.
Water use conflicts with aquatic resources (plants with cooling ponds or cooling towers using makeup water from a river).	2	SMALL or MODERATE. Impacts on aquatic resources in stream communities affected by water use conflicts could be of moderate significance in some situations.
Effects on aquatic resources (non-cooling system impacts).	1	SMALL. Licensee application of appropriate mitigation measures is expected to result in no more than small changes to aquatic communities from their current condition.
Impacts of transmission line right-of-way (ROW) management on aquatic resources <sup>4</sup> .	1	SMALL. Licensee application of best management practices to ROW maintenance is expected to result in no more than small impacts to aquatic resources.
Losses from predation, parasitism, and disease among organisms exposed to sublethal stresses.	1	SMALL. These types of losses have not been found to be a problem at operating nuclear power plants and are not expected to be a problem during the license renewal term.
<b>Special Status Species and Habitats</b>		
Threatened, endangered, and protected species and essential fish habitat.	2	The magnitude of impacts on threatened, endangered, and protected species, critical habitat, and essential fish habitat would depend on the occurrence of listed species and habitats and the effects of power plant systems on them. Consultation with appropriate agencies would be needed to determine whether special status species or habitats are present and whether they would be adversely affected by continued operations and refurbishment associated with license renewal.
<b>Historic and Cultural Resources</b>		
Historic and cultural resources <sup>4</sup> .....	2	Continued operations and refurbishment associated with license renewal are expected to have no more than small impacts on historic and cultural resources located onsite and in the transmission line ROW because most impacts could be mitigated by avoiding those resources. The National Historic Preservation Act (NHPA) requires the Federal agency to consult with the State Historic Preservation Officer (SHPO) and appropriate Native American Tribes to determine the potential effects on historic properties and mitigation, if necessary.
<b>Socioeconomics</b>		
Employment and income, recreation and tourism.	1	SMALL. Although most nuclear plants have large numbers of employees with higher than average wages and salaries, employment, income, recreation, and tourism impacts from continued operations and refurbishment associated with license renewal are expected to be small.
Tax revenues .....	1	SMALL. Nuclear plants provide tax revenue to local jurisdictions in the form of property tax payments, payments in lieu of tax (PILOT), or tax payments on energy production. The amount of tax revenue paid during the license renewal term as a result of continued operations and refurbishment associated with license renewal is not expected to change.

**Nuclear Regulatory Commission**

**Pt. 51, Subpt. A, App. B**

**TABLE B-1—SUMMARY OF FINDINGS ON NEPA ISSUES FOR LICENSE RENEWAL OF NUCLEAR POWER PLANTS<sup>1</sup>—Continued**

Issue	Category <sup>2</sup>	Finding <sup>3</sup>
Community services and education ..	1	SMALL. Changes resulting from continued operations and refurbishment associated with license renewal to local community and educational services would be small. With little or no change in employment at the licensee's plant, value of the power plant, payments on energy production, and PILOT payments expected during the license renewal term, community and educational services would not be affected by continued power plant operations.
Population and housing .....	1	SMALL. Changes resulting from continued operations and refurbishment associated with license renewal to regional population and housing availability and value would be small. With little or no change in employment at the licensee's plant expected during the license renewal term, population and housing availability and values would not be affected by continued power plant operations.
Transportation .....	1	SMALL. Changes resulting from continued operations and refurbishment associated with license renewal to traffic volumes would be small.
<b>Human Health</b>		
Radiation exposures to the public .....	1	SMALL. Radiation doses to the public from continued operations and refurbishment associated with license renewal are expected to continue at current levels, and would be well below regulatory limits.
Radiation exposures to plant workers	1	SMALL. Occupational doses from continued operations and refurbishment associated with license renewal are expected to be within the range of doses experienced during the current license term, and would continue to be well below regulatory limits.
Human health impact from chemicals	1	SMALL. Chemical hazards to plant workers resulting from continued operations and refurbishment associated with license renewal are expected to be minimized by the licensee implementing good industrial hygiene practices as required by permits and Federal and State regulations. Chemical releases to the environment and the potential for impacts to the public are expected to be minimized by adherence to discharge limitations of NPDES and other permits.
Microbiological hazards to the public (plants with cooling ponds or canals or cooling towers that discharge to a river).	2	SMALL, MODERATE, or LARGE. These organisms are not expected to be a problem at most operating plants except possibly at plants using cooling ponds, lakes, or canals, or that discharge into rivers. Impacts would depend on site-specific characteristics.
Microbiological hazards to plant workers.	1	SMALL. Occupational health impacts are expected to be controlled by continued application of accepted industrial hygiene practices to minimize worker exposures as required by permits and Federal and State regulations.
Chronic effects of electromagnetic fields (EMFs) <sup>4 6</sup> .	N/A <sup>5</sup>	Uncertain impact. Studies of 60-Hz EMFs have not uncovered consistent evidence linking harmful effects with field exposures. EMFs are unlike other agents that have a toxic effect (e.g., toxic chemicals and ionizing radiation) in that dramatic acute effects cannot be forced and longer-term effects, if real, are subtle. Because the state of the science is currently inadequate, no generic conclusion on human health impacts is possible.
Physical occupational hazards .....	1	SMALL. Occupational safety and health hazards are generic to all types of electrical generating stations, including nuclear power plants, and are of small significance if the workers adhere to safety standards and use protective equipment as required by Federal and State regulations.
Electric shock hazards <sup>4</sup> .....	2	SMALL, MODERATE, or LARGE. Electrical shock potential is of small significance for transmission lines that are operated in adherence with the National Electrical Safety Code (NESC). Without a review of conformance with NESC criteria of each nuclear power plant's in-scope transmission lines, it is not possible to determine the significance of the electrical shock potential.
<b>Postulated Accidents</b>		
Design-basis accidents .....	1	SMALL. The NRC staff has concluded that the environmental impacts of design-basis accidents are of small significance for all plants.
Severe accidents .....	2	SMALL. The probability-weighted consequences of atmospheric releases, fallout onto open bodies of water, releases to groundwater, and societal and economic impacts from severe accidents are small for all plants. However, alternatives to mitigate severe accidents must be considered for all plants that have not considered such alternatives.

TABLE B–1—SUMMARY OF FINDINGS ON NEPA ISSUES FOR LICENSE RENEWAL OF NUCLEAR POWER PLANTS <sup>1</sup>—Continued

Issue	Category <sup>2</sup>	Finding <sup>3</sup>
<b>Environmental Justice</b>		
Minority and low-income populations	2	Impacts to minority and low-income populations and subsistence consumption resulting from continued operations and refurbishment associated with license renewal will be addressed in plant-specific reviews. See NRC Policy Statement on the Treatment of Environmental Justice Matters in NRC Regulatory and Licensing Actions (69 FR 52040; August 24, 2004).
<b>Waste Management</b>		
Low-level waste storage and disposal.	1	SMALL. The comprehensive regulatory controls that are in place and the low public doses being achieved at reactors ensure that the radiological impacts to the environment would remain small during the license renewal term.
Onsite storage of spent nuclear fuel	1	During the license renewal term, SMALL. The expected increase in the volume of spent nuclear fuel from an additional 20 years of operation can be safely accommodated onsite during the license renewal term with small environmental impacts through dry or pool storage at all plants. For the period after the licensed life for reactor operations, the impacts of onsite storage of spent nuclear fuel during the continued storage period are discussed in NUREG–2157 and as stated in § 51.23(b), shall be deemed incorporated into this issue.
Offsite radiological impacts of spent nuclear fuel and high-level waste disposal.	1	For the high-level waste and spent-fuel disposal component of the fuel cycle, the EPA established a dose limit of 0.15 mSv (15 millirem) per year for the first 10,000 years and 1.0 mSv (100 millirem) per year between 10,000 years and 1 million years for offsite releases of radionuclides at the proposed repository at Yucca Mountain, Nevada. The Commission concludes that the impacts would not be sufficiently large to require the NEPA conclusion, for any plant, that the option of extended operation under 10 CFR part 54 should be eliminated. Accordingly, while the Commission has not assigned a single level of significance for the impacts of spent fuel and high level waste disposal, this issue is considered Category 1.
Mixed-waste storage and disposal ....	1	SMALL. The comprehensive regulatory controls and the facilities and procedures that are in place ensure proper handling and storage, as well as negligible doses and exposure to toxic materials for the public and the environment at all plants. License renewal would not increase the small, continuing risk to human health and the environment posed by mixed waste at all plants. The radiological and nonradiological environmental impacts of long-term disposal of mixed waste from any individual plant at licensed sites are small.
Nonradioactive waste storage and disposal.	1	SMALL. No changes to systems that generate nonradioactive waste are anticipated during the license renewal term. Facilities and procedures are in place to ensure continued proper handling, storage, and disposal, as well as negligible exposure to toxic materials for the public and the environment at all plants.
<b>Cumulative Impacts</b>		
Cumulative impacts .....	2	Cumulative impacts of continued operations and refurbishment associated with license renewal must be considered on a plant-specific basis. Impacts would depend on regional resource characteristics, the resource-specific impacts of license renewal, and the cumulative significance of other factors affecting the resource.
<b>Uranium Fuel Cycle</b>		
Offsite radiological impacts—individual impacts from other than the disposal of spent fuel and high-level waste.	1	SMALL. The impacts to the public from radiological exposures have been considered by the Commission in Table S–3 of this part. Based on information in the GEIS, impacts to individuals from radioactive gaseous and liquid releases, including radon-222 and technetium-99, would remain at or below the NRC's regulatory limits.
Offsite radiological impacts—collective impacts from other than the disposal of spent fuel and high-level waste.	1	There are no regulatory limits applicable to collective doses to the general public from fuel-cycle facilities. The practice of estimating health effects on the basis of collective doses may not be meaningful. All fuel-cycle facilities are designed and operated to meet the applicable regulatory limits and standards. The Commission concludes that the collective impacts are acceptable.

TABLE B-1—SUMMARY OF FINDINGS ON NEPA ISSUES FOR LICENSE RENEWAL OF NUCLEAR POWER PLANTS<sup>1</sup>—Continued

Issue	Category <sup>2</sup>	Finding <sup>3</sup>
Nonradiological impacts of the uranium fuel cycle.	1	The Commission concludes that the impacts would not be sufficiently large to require the NEPA conclusion, for any plant, that the option of extended operation under 10 CFR part 54 should be eliminated. Accordingly, while the Commission has not assigned a single level of significance for the collective impacts of the uranium fuel cycle, this issue is considered Category 1.
Transportation .....	1	SMALL. The nonradiological impacts of the uranium fuel cycle resulting from the renewal of an operating license for any plant would be small. SMALL. The impacts of transporting materials to and from uranium-fuel-cycle facilities on workers, the public, and the environment are expected to be small.
<b>Termination of Nuclear Power Plant Operations and Decommissioning</b>		
Termination of plant operations and decommissioning.	1	SMALL. License renewal is expected to have a negligible effect on the impacts of terminating operations and decommissioning on all resources.

<sup>1</sup> Data supporting this table are contained in NUREG-1437, Revision 1, "Generic Environmental Impact Statement for License Renewal of Nuclear Plants" (June 2013).

<sup>2</sup> The numerical entries in this column are based on the following category definitions:

Category 1: For the issue, the analysis reported in the Generic Environmental Impact Statement has shown:

(1) The environmental impacts associated with the issue have been determined to apply either to all plants or, for some issues, to plants having a specific type of cooling system or other specified plant or site characteristic;

(2) A single significance level (*i.e.*, small, moderate, or large) has been assigned to the impacts (except for Offsite radiological impacts—collective impacts from other than the disposal of spent fuel and high-level waste); and

(3) Mitigation of adverse impacts associated with the issue has been considered in the analysis, and it has been determined that additional plant-specific mitigation measures are not likely to be sufficiently beneficial to warrant implementation.

The generic analysis of the issue may be adopted in each plant-specific review.

Category 2: For the issue, the analysis reported in the Generic Environmental Impact Statement has shown that one or more of the criteria of Category 1 cannot be met, and therefore additional plant-specific review is required.

<sup>3</sup> The impact findings in this column are based on the definitions of three significance levels. Unless the significance level is identified as beneficial, the impact is adverse, or in the case of "small," may be negligible. The definitions of significance follow:

SMALL—For the issue, environmental effects are not detectable or are so minor that they will neither destabilize nor noticeably alter any important attribute of the resource. For the purposes of assessing radiological impacts, the Commission has concluded that those impacts that do not exceed permissible levels in the Commission's regulations are considered small as the term is used in this table.

MODERATE—For the issue, environmental effects are sufficient to alter noticeably, but not to destabilize, important attributes of the resource.

LARGE—For the issue, environmental effects are clearly noticeable and are sufficient to destabilize important attributes of the resource.

For issues where probability is a key consideration (*i.e.*, accident consequences), probability was a factor in determining significance.

<sup>4</sup> This issue applies only to the in-scope portion of electric power transmission lines, which are defined as transmission lines that connect the nuclear power plant to the substation where electricity is fed into the regional power distribution system and transmission lines that supply power to the nuclear plant from the grid.

<sup>5</sup> NA (not applicable). The categorization and impact finding definitions do not apply to these issues.

<sup>6</sup> If, in the future, the Commission finds that, contrary to current indications, a consensus has been reached by appropriate Federal health agencies that there are adverse health effects from electromagnetic fields, the Commission will require applicants to submit plant-specific reviews of these health effects as part of their license renewal applications. Until such time, applicants for license renewal are not required to submit information on this issue.

[61 FR 66546, Dec. 18, 1996, as amended at 62 FR 59276, Nov. 3, 1997; 64 FR 48507, Sept. 3, 1999; 66 FR 39278, July 30, 2001; 78 FR 37317, June 20, 2013; 79 FR 56262, Sept. 19, 2014]

## Subpart B [Reserved]

## PART 52—LICENSES, CERTIFICATIONS, AND APPROVALS FOR NUCLEAR POWER PLANTS

### GENERAL PROVISIONS

Sec.

52.0 Scope; applicability of 10 CFR Chapter I provisions.

52.1 Definitions.

52.2 Interpretations.

52.3 Written communications.

52.4 Deliberate misconduct.

52.5 Employee protection.

52.6 Completeness and accuracy of information.

52.7 Specific exemptions.

52.8 Combining licenses; elimination of repetition.

52.9 Jurisdictional limits.

52.10 Attacks and destructive acts.

52.11 Information collection requirements: OMB approval.

### Subpart A—Early Site Permits

52.12 Scope of subpart.

52.13 Relationship to other subparts.

52.15 Filing of applications.

52.16 Contents of applications; general information.