

must be assessed in site-specific licensing actions, the primary costs accrue to the NRC and to licensees and license applicants. Licensees and license applicants ultimately shoulder the majority of costs incurred to the NRC in the course of licensing actions through the NRC's license-fee program. Costs also accrue through the NRC's adjudicatory activities, which affect the NRC, licensees, license applicants, and petitioners or intervenors. The DGEIS contains an estimate that it could cost over \$24 million to address continued storage in site-specific proceedings.

XIII. Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission certifies that this rule would not, if promulgated, have a significant economic impact on a substantial number of small entities. The proposed rule would modify the generic determination on the consideration of environmental impacts of continued storage of spent nuclear fuel beyond the end of the licensed life for reactor operations. This generic determination provides that no discussion of any environmental impact of spent nuclear fuel storage in reactor facility storage pools or ISFSIs for the period following the term of the reactor operating license or amendment or initial ISFSI license or amendment for which application is made is required in any environmental report, environmental impact statement, environmental assessment, or other analysis prepared in connection with certain actions. The proposed rule would affect only the licensing of nuclear power plants or ISFSIs. Entities seeking or holding NRC licenses for these facilities do not fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act or the size standards established by the NRC at 10 CFR 2.810.

XIV. Backfitting and Issue Finality

The NRC has determined that the backfit rules (§§ 50.109, 70.76, 72.62, or 76.76) and the issue finality provisions in 10 CFR part 52 do not apply to this proposed rule because this amendment does not involve any provisions that will either impose backfits as defined in 10 CFR chapter I, or represent non-compliance with the issue finality of provisions in 10 CFR part 52. Therefore, a backfit analysis is not required for this proposed rule, and the NRC did not prepare a backfit analysis for this proposed rule.

List of Subjects in 10 CFR Part 51

Administrative practice and procedure, Environmental impact statement, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 553; the NRC is proposing to adopt the following amendments to 10 CFR part 51.

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

■ 1. The authority citation for part 51 continues to read as follows:

Authority: Atomic Energy Act sec. 161, 1701 (42 U.S.C. 2201, 2297f); Energy Reorganization Act secs. 201, 202, 211 (42 U.S.C. 5841, 5842, 5851); Government Paperwork Elimination Act sec. 1704 (44 U.S.C. 3504 note). Subpart A also issued under National Environmental Policy Act secs. 102, 104, 105 (42 U.S.C. 4332, 4334, 4335); Pub. L. 95–604, Title II, 92 Stat. 3033–3041; Atomic Energy Act sec. 193 (42 U.S.C. 2243). 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)).

■ 2. In § 51.23, revise the section heading and paragraphs (a) and (b) to read as follows:

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

(a) The Commission has developed a generic environmental impact statement (NUREG–2157) analyzing the environmental impacts of storage of spent nuclear fuel beyond the licensed life for operation of a reactor. The Commission has concluded the following:

(1) The analysis in NUREG–2157 generically addresses the environmental impacts of storage of spent nuclear fuel beyond the licensed life for operation of a reactor; and

(2) The analysis in NUREG–2157 supports the Commission's determinations that it is feasible to:

(i) Safely store spent nuclear fuel following the licensed life for operation of a reactor and

(ii) have a mined geologic repository within 60 years following the licensed life for operation of a reactor.

(b) As provided in §§ 51.30(b), 51.53, 51.61, 51.80(b), 51.95, and 51.97(a), and within the scope of the generic determinations in paragraph (a) of this section, no discussion of environmental impacts of spent nuclear fuel storage in reactor facility storage pool or an independent spent fuel storage installations (ISFSI) for the period following the term of the reactor operating license or amendment, reactor combined license or amendment, or ISFSI license, renewal, or amendment for which application is made, is required in any environmental report, environmental impact statement, environmental assessment, or other analysis prepared in connection with the issuance or amendment of an operating license for a nuclear power reactor under parts 50 and 54 of this chapter, or issuance or amendment of a combined license for a nuclear power reactor under parts 52 and 54 of this chapter, or the issuance of a license for storage of spent nuclear fuel at an ISFSI, or any amendment thereto.

* * * * *

■ 3. Section 51.61 is revised to read as follows:

§ 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 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. Unless otherwise required by the Commission, in accordance with the generic determination in § 51.23(a) and the provisions in § 51.23(b), no discussion of the environmental impact of the storage of spent fuel at an ISFSI beyond the term of the license or amendment applied for is required in an

environmental report submitted by an applicant for an initial license for storage of spent fuel in an ISFSI, or any amendment or renewal thereto.
 ■ 4. In § 51.80, paragraph (b)(1) is revised to read as follows:

§ 51.80 Draft environmental impact statement—materials license.

(b)(1) *Independent spent fuel storage installation (ISFSI)*. Unless otherwise determined by the Commission and in accordance with the generic determination in § 51.23(a) and the provisions of § 51.23(b), a draft environmental impact statement on the issuance of an initial license for storage of spent fuel at an ISFSI or any amendment thereto, will address

environmental impacts of spent fuel only for the term of the license, amendment, or renewal applied for.

* * * * *

■ 5. In § 51.97, paragraph (a) is revised to read as follows:

§ 51.97 Final environmental impact statement—materials license.

(a) *Independent spent fuel storage installation (ISFSI)*. Unless otherwise determined by the Commission, and in accordance with the generic determination in § 51.23(a) and the provisions of § 51.23(b), a final environmental impact statement on the issuance of an initial license for the storage of spent fuel at an ISFSI or any amendment or renewal thereto, will

address environmental impacts of spent fuel storage only for the term of the license or amendment applied for.

* * * * *

■ 6. In appendix B to subpart A of part 51, footnote 7 is being removed from the table and the entries for “Onsite storage of spent nuclear fuel” and “Offsite radiological impacts of spent nuclear fuel and high-level waste disposal” under the “Waste Management” section of Table B–1 are revised to read as follows:

Appendix B to Subpart A of Part 51—Environmental Effect of Renewing the Operating License of a Nuclear Power Plant

* * * * *

TABLE B–1—SUMMARY OF FINDINGS ON NEPA ISSUES FOR LICENSE RENEWAL OF NUCLEAR POWER PLANTS¹

Issue	Category ²	Finding ³
*	*	*
Waste Management		
*	*	*
Onsite storage of spent nuclear fuel.	1	SMALL. The expected increase in the volume of spent fuel from an additional 20 years of operation can be safely accommodated onsite with small environmental effects through dry or pool storage at all plants, if a permanent repository or monitored retrievable storage is not available.
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 15 millirem (0.15 mSv) per year for the first 10,000 years and 100 millirem (1.0 mSv) 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.
*	*	*

¹ Data supporting this table are contained in NUREG–1437, Revision 1, “Generic Environmental Impact Statement for License Renewal of Nuclear Plants” (June 2013).

² 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 l); 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.

³ 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.

Dated at Rockville, Maryland, this 30th day of August, 2013.

For the Nuclear Regulatory Commission.
Kenneth R. Hart,
Acting Secretary of the Commission.

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