



U.S. Nuclear Regulatory Commission

Office of Nuclear Material Safety and Safeguards

SFM Division Instruction Change Notice

Division Instruction No.: **SFM – 25, Rev. 0**

Division Instruction Title: **Review of an Application for a License for a Consolidated Interim Storage Facility for Spent Fuel and Greater Than Class C Waste**

Effective Date: **June 2, 2016**
Primary Contact: **Spent Fuel Licensing Branch**

Summary of Changes:

1. Initial Issuance.

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SFM Division Instruction
SFM – 25, Rev. 0

**Review of an Application for a License for
a Consolidated Interim Storage Facility for Spent Fuel and
Greater Than Class C Waste**

1. **OBJECTIVE**

This Division Instruction (DI) describes the process the U.S. Nuclear Regulatory Commission (NRC) will use to effectively conduct and manage the review of a consolidated interim storage (CIS)¹ license application under Title 10 of the Code of Federal Regulations (10 CFR) Part 72, "Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater than Class C Waste," that includes storage of:

- 1) spent fuel,
- 2) high-level radioactive waste, and/or
- 3) greater than Class C (GTCC) waste.

2. **GUIDANCE SECTION**

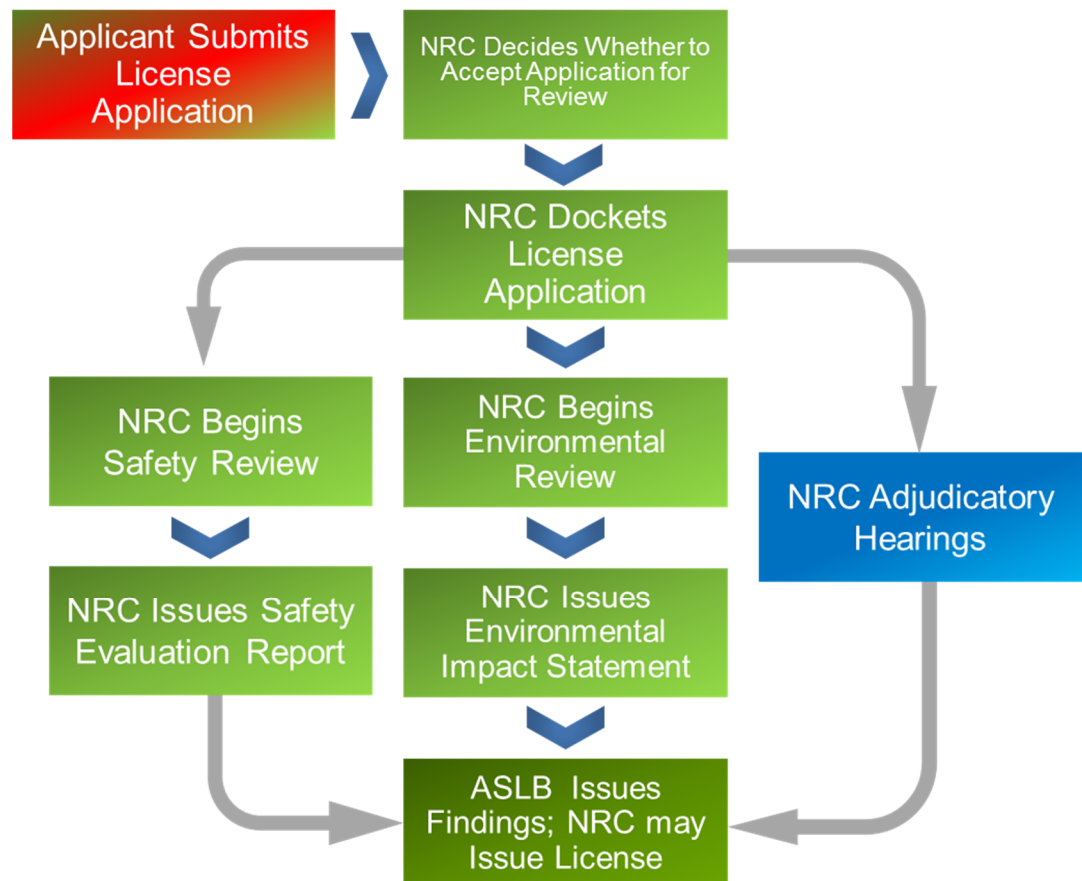
2.1 Objectives for the CIS license application review include:

- a) *The Application* - The applicant will provide a complete and accurate application consistent with the requirements of 10 CFR part 72, subpart B, "License, Application, Form, and Contents."
- b) *Reasonable Assurance* – The NRC review will determine whether there is reasonable assurance of adequate protection of public health and safety and common defense and security based on a review of the CIS application.
- c) *Include Information by Reference, if appropriate* – To ensure timely and effective use of NRC resources to complete the associated review, the CIS application needs to take maximum advantage of information previously reviewed and approved by the NRC.
 - (1) The applicant may incorporate by reference information contained in previous applications, statements, or reports filed with the Commission, provided that the references are clear and specific. The applicant should clearly outline the licensing basis for the spent fuel storage systems proposed for storage at the CIS.

¹ A CIS facility is essentially the same as what the 10 CFR Part 72 regulations identify as a specific license for an away from reactor independent spent fuel storage installation (i.e., ISFSI).

- (2) The application needs to include any document or analysis referenced in the application along with a clear description of, or pointer to, the section(s) of the document or analysis and what credit is taken to meet NRC requirements.
- (3) The applicant needs to provide and confirm in the application that the design limits of each proposed dry cask storage system bound the site and design parameters of the proposed CIS facility.
- d) *Prompt Issue Resolution* – NRC reviewers and the NRC management team need to identify and resolve review issues in a timely manner.
- e) *Resource Constraints* - NRC management needs to identify and resolve resource constraints in a timely and effective manner.
- f) *Schedule* – NRC management needs to maintain effective coordination among internal NRC partners to ensure meeting schedule time frames to the maximum extent possible.

2.2 The picture below depicts the overall licensing process for an interim storage facility.



2.3 Regulatory Guidance

The staff will review the licensing action request in accordance with applicable regulations and NRC guidance including:

2.3.1 Safety Review

- a) 10 CFR Part 72
- b) NUREG-1567, “Standard Review Plan for Spent Fuel Dry Storage Facilities”
- c) NUREG-1927, Revision 1, “Standard Review Plan for Renewal of Spent Fuel Dry Cask Storage System Licenses and Certificates of Compliance”

2.3.2 Environmental Review

- a) 10 CFR Part 51, “Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions,” and
- b) NUREG-1748, “Environmental Review Guidance for Licensing Actions Associated with NMSS Programs.”

2.3.3 Security Review

- a) 10 CFR Part 72
- b) 10 CFR Part 73, “Physical Protection of Plants and Materials”

2.4 Pre-Application Meetings

2.4.1 The NRC recommends a sufficient number of pre-application public meetings to communicate NRC requirements and enhance NRC understanding of the applicant’s licensing action request.

2.4.2 For pre-application meetings:

- a) NRC will create a docket number and cost accountability code (CAC) number in order to collect the appropriate NRC fees.
- b) NRC will perform a review of pre-application meeting information to determine whether the docketed material submitted as “proprietary information” meets the requirements in 10 CFR 2.390, “Public Inspections, Exemptions, Requests for Withholding.”

2.5 Receipt of Application

- 2.5.1 After receiving the application (if a pre-application meeting did not occur), a docket number will be assigned by NRC to the facility and a CAC number will be created for the review. The staff uses the docket number during the review of the application and for subsequent licensing action requests and other correspondence related to the facility.
- 2.5.2 NRC will perform a review of the license application to determine whether the docketed material submitted as “proprietary information” meets the requirements in 10 CFR 2.390. The NRC only considers docketed material as part of the application.

2.6 Acceptance Review

- 2.6.1 Determine Sufficiency of Information - Initially, the NRC will determine whether or not the application contains sufficient information to begin a detailed technical review using the applicable NRC guidelines. In summary, possible outcomes of the acceptance review may be as follows:
 - a) *Acceptable for Review* - If the NRC finds the application acceptable for review, the NRC sends the applicant an acceptance letter stating the acceptability of the submittal with a brief description of the main milestones associated with the review process (i.e., estimated month and year of the first request for additional information [RAI]).
 - b) *Requests for Supplemental Information (RSIs)* – If the staff identifies information it needs in order to be able to start reviewing the application, the NRC sends an RSI to the applicant describing the information needed before the detailed technical review may commence. The staff expects that the applicant has such information available “on the shelf.” If the applicant does not have this information available and/or the applicant needs additional time (e.g., more than 28 calendar days) to develop the information requested through a RSI, the staff may not accept the application for review and will notify the NRC’s decision to the applicant. The staff makes this decision to effectively manage its resources as well as provide reviewer continuity (e.g., long delays may require assigning reviewers to other actions and not be available when applicants are ready to submit the information needed by the staff).

- c) *Observations* – Observations are technical questions (identified by NRC during the acceptance review) that do not require resolution before accepting the application for review, but may require NRC to issue a RAI during the detailed technical review. The NRC may issue a RSI letter to the applicant, which may contain observations. The applicant may respond to the observations in its response to the RSI letter to potentially avoid the need for questions during the detailed technical review.
- d) *Not Accepted for Review* - If NRC finds significant deficiencies that will impede starting the review of the application, the NRC will send a letter to the applicant stating that the application is not acceptable for review and identify the significant deficiencies of the application.

2.6.2 Hearing Opportunity - NRC acceptance determination related to the application for review will be publically noticed along with a notice for opportunity for members of the public to request a hearing.

2.7 Schedule

2.7.1 Division of Spent Fuel Management (DSFM) will maintain the official project plan. The staff should use internal guidance when developing the schedule for reviewing incoming licensing action requests.

2.7.2 Factors affecting schedules can include, but are not limited to:

- a) quality of incoming application;
- b) complexity of consultation processes with federal, tribal, and state agencies;
- c) number and complexity of Draft Environmental Impact Statement (EIS) comments received;
- d) adjudicatory hearings;
- e) availability of funding and associated resources, and
- f) number of cooperating agencies for an EIS.

2.7.3 Assuming a high-quality application with a clearly defined licensing basis, no admitted contentions, and sufficient resources, the NRC estimates that it may be able to make a decision regarding the application within 3 years of accepting the application for review. The staff may establish a more aggressive schedule for CIS reviews to allow time for unanticipated delays.

2.8 Technical Review

2.8.1 Requests for Additional Information

- a) The review team should follow the Division's guidance when developing RAIs.
- b) Technical Reviewers will provide draft Safety Evaluation Reports (SER) sections and a regulatory basis for each RAI to their Branch Chiefs along with the RAIs for concurrence. The draft SER sections will show areas that the staff will complete once the applicant submits the RAI responses.
- c) Branch Chiefs will ensure that RAIs have a regulatory basis, are necessary to resolve open items in the pertinent SER, and converge towards resolution prior to concurrence and forwarding to the Project Manager (PM).
- d) The PM may modify RAIs in consultation with the pertinent Technical Reviewer for clarity.
- e) The PM will issue the final RAIs in a publicly available letter to the applicant, unless he/she determines that specific sections contain proprietary or security-related information, which the PM will send separately. The letter(s) will contain the date by which a response to the RAI is expected.
- f) Upon receipt of the response to RAIs, the PM will review the associated schedule (if responses are late) and make any appropriate adjustments, seek approval from Branch Chiefs, if needed, and provide the approved schedule to the Technical Reviewers.

2.8.2 Safety Evaluation Report

- a) The SER documents the NRC's detailed technical review of the license application and the Safety Analysis Report (SAR) provided by the applicant. The SER serves as the basis for the final NRC licensing decision. 10 CFR part 72, subpart B, includes the requirements related to the license application form and contents. This regulation includes, for example, requirements for technical information contents of the SAR in 10 CFR 72.24. Regulatory Guide 3.48, "Standard Format and Content for the Safety Analysis Report for an Independent Spent Fuel Storage Installation," Revision 1, August 1989, includes guidance on content of the SAR. The NRC will follow pertinent agency guidance to perform the technical review and prepare the SER.

- b) The Branch Chief of the Spent Fuel Licensing Branch, with concurrence from the technical Branch Chiefs, will issue the final SER to the applicant by formal letter. The letter and SER will be publically available in the **Agencywide Documents Access and Management System (ADAMS)**, unless it is determined specific sections contain proprietary or security-related information.

2.8.3 Environmental Review

- a) The NRC will conduct an environmental review of the applicant's site-specific application in accordance with the regulations in 10 CFR Part 51, which implements the National Environmental Policy Act of 1969 (NEPA). The NRC will prepare an EIS for the issuance of a Part 72 license for a CIS facility in accordance with 10 CFR 51.20(b)(9).
- b) The NRC's environmental review will include the reviews required under the Endangered Species Act of 1973 and the National Historic Preservation Act of 1966.
- c) NRC will use the guidance provided in NUREG-1748 to conduct the EIS for the CIS application.

2.9 Adjudicatory Hearings

- 2.9.1 Once the NRC accepts an application for review and docket it, the NRC will publish a Notice of Opportunity for Hearing in the Federal Register, which will allow interested stakeholders to request a hearing before the NRC's Atomic Safety and Licensing Board (ASLB) Panel (ASLBP). In accordance with 10 CFR 72.46, an adjudicatory hearing is not mandatory for an away from reactor site ISFSI application.
- 2.9.2 The provisions of 10 CFR 2.309 specify the requirements, timing, and criteria for hearing requests. Individuals seeking to participate in the hearing ("petitioners") will have 60 days to file a hearing request. In order to participate in a hearing, petitioners must demonstrate "standing" and have at least one "contention" admitted. The ASLB will make a decision on whether to grant standing to any petitioners or admit any contentions within 45 days of the conclusion of the initial pre-hearing conference.
- 2.9.3 If the ASLB determines that any petitioners demonstrate standing and admits their contentions, then a hearing will occur before an ASLBP. For an away from reactor site ISFSI license, the adjudicatory hearing typically follows the procedures in 10 CFR Part 2, Subpart L.
- 2.9.4 In accordance with the procedures in 10 CFR Part 2, Subpart L, after the completion of the hearing, the ASLB will issue its findings and an initial decision regarding the licensing of the proposed away from reactor site ISFSI. In accordance with 10 CFR 2.340(k), if the ASLB's initial decision

directs NRC staff to issue a license; and NRC staff has made the required findings in its SER on matters not within the scope of the Board's initial decision, then NRC staff can issue the site-specific ISFSI license within 10 days of the initial decision.

3. RESPONSIBILITIES AND AUTHORITIES

3.1 Licensing Assistant

- a) Provides support for fee-billing activities, maintains docket, review and coordination for disposition of licensing action requests

3.2 Project Manager

- a) Serves as the liaison between the DSFM, the applicant, and other organizations working on the review of the licensing action request
- b) Coordinates the activities related to the review of the incoming licensing action
- c) Develops the schedule for completing the assigned licensing action request in coordination with the technical review branches
- d) Ensures that the Office of General Counsel reviews legal issues associated with the licensing action request

3.3 Technical Reviewers assigned to review the licensing action

- a) Identify safety, security, or environmental issues in a timely manner to management with recommended resolutions
- b) Perform the technical reviews of the licensing action request in accordance with established schedules
- c) Develop the requests for supplemental information, requests for additional information, safety evaluation report sections, license conditions, and any other licensing documentation, as needed

3.4 Licensing Branch Chief

- a) Assigns project managers
- b) Provides guidance and supervision during the review
- c) Reviews and approves overall licensing action request schedules
- d) Serves as the liaison between the DSFM and the public

3.5 Technical Branch Chiefs (Other than the Licensing Branch Chief)

- a) Assigns Technical Reviewers
- b) Provides guidance and supervision to technical reviewers during the review
- c) Identifies and resolve issues in a timely manner
- d) Reviews and approves proposed technical review schedules
- e) Ensures technical completeness, accuracy, and consistency within assigned technical responsibilities
- f) Ensures resources are available, timely and effective

3.6 Director, DSFM, or designee

- a) Develops and implements the regulatory, licensing, and inspection policies
- b) Assists in timely resolution of issues
- c) Ensures resources are available, timely and effective
- d) Serves as the lead in spent fuel storage and transportation activities with other agencies, stakeholders, and the public

Appendix A - Change History

Division Instruction SFM – 25, Rev. 0

SFM - 25 Change History		
Date	Brief Description of Changes	Revision
6/2/16	Initial Issuance	0