

Mr. Pat Gwin
Office of Environmental Services
Cherokee Nation
115 West North Street
Tahlequah, OK 74465

October 25, 1996

Dear Mr. Gwin:

To coordinate the efforts of the several Cooperating Agencies, there will be a meeting in Tulsa, Oklahoma, at the offices of the U.S. Army Corps of Engineers (ACE) on November 5-6, 1996. An agenda for the meeting is enclosed (Enclosure 1). As you can see, the goal of the meeting is to develop a written statement of activities by each agency during the conduct of environmental impact statement (EIS) for the Sequoyah Fuels Corporation site. To facilitate the exchange of information, we request that each agency present its expectations of the EIS process, its capabilities, and its plans and limitations on participation in the process.

Also, enclosed for your information is a copy of 10 CFR Part 51, the U.S. Nuclear Regulatory Commission's regulation implementing the National Environmental Policy Act (Enclosure 2), and a copy of the Act itself (Enclosure 3).

The ACE offices are located at 1645 S 101 E Avenue, Tulsa, Oklahoma, just northwest of the intersection of I-44 and US 169 (see map, Enclosure 4). There are a number of hotels/motels in the area, including the Quality Inn on Skelly Drive and the Hampton Inn on 79th E Avenue.

If you have any questions, please contact Jim Shepherd of my staff at (301) 415-6712.

Sincerely,

[ORIGINAL SIGNED BY:]

Michael F. Weber, Chief
Low-Level Waste and Decommissioning
Projects Branch
Division of Waste Management
Office of Nuclear Material Safety
and Safeguards

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Identical letters were sent to: Mr. Michael Jansky, Mr. Michael Hebert, Dr. Loren Mason
Mr. H. A. Caves, Mr. Mike Broderick, Ms. Jamie Schlottmann-Norvell, and Ms. Kathy Peter

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Authority: Sec. 161, 68 Stat. 948, as amended, sec. 1701, 106 Stat. 2951, 2952, 2953, (42 U.S.C. 2201, 2297f); secs. 201, as amended, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842).

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

Section 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.

Section 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.

Section 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.

Section 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.

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, an Atomic Safety and Licensing Appeal 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:

Executive Director for Operations;

Director, Office of Nuclear Reactor Regulation;

Director, Office of Nuclear Material Safety and Safeguards;

Director, Office of Nuclear Regulatory Research;

Director, Office of Governmental and 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]

Section 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.

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

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

Section 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

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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 1_ / 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 2_ / into receiving waters rests by statute with the Environmental Protection Agency.

1_ / 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.

2_ / 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.

(d) Commission actions initiating or relating to administrative or judicial civil or criminal enforcement actions or proceedings are subject to section 102(2) of NEPA. These actions include issuance of notices, 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 any other matters covered by Appendix C to part 2 of this chapter.

[49 FR 9381, Mar. 12, 1984, as amended at 54 FR 43578, Oct. 26, 1989]

Section 51.11 Relationship to other subparts. [Reserved]

Section 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.

Section 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.

Section 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 Section 51.22, and 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 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:

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(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.

Section 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, Sections 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) Pursuant to subpart G of part 2 of this chapter, the presiding officer, the Atomic Safety and Licensing Appeal 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.

Section 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 Section 2.790, "Public Inspections, Exemptions, Requests for Withholding," of part 2, "Rules of Practice," of this chapter.
- (b) Any proprietary information which a person seeks to have withheld from public disclosure shall be submitted in accordance with Section 2.790 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.

Section 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 of 1980 (42 U.S.C. 3501 et seq.). 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 Sections 51.16, 51.41, 51.45, 51.50, 51.51, 51.52, 51.53, 51.54, 51.55, 51.60, 51.61, 51.62, 51.66, 51.68, and 51.69.

[49 FR 24513, June 14, 1984]

Preliminary Procedures

Classification Of Licensing And Regulatory Actions

Section 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 pursuant to part 50 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 pursuant to part 50 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) [Reserved]

(6) Issuance of a license to manufacture pursuant to Appendix M of part 52 of this chapter.

(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 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 Section 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]

Section 51.21 Criteria for and identification of licensing and regulatory actions requiring environmental assessments.

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

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

(a) Licensing and regulatory actions eligible for categorical exclusion shall meet the following criterion: The proposed 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 environ-

mental 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 0, 1, 2, 4, 7, 8, 9, 10, 11, 14, 19, 21, 25, 55, 75, 95, 110, 140, 150, 170, or 171 of this chapter, and actions on petitions for rulemaking relating to these amendments.

(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, 36, 39, 40, 50, 51, 60, 61, 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 other forms of permission or for amendments to or renewals of licenses or construction permits or other forms of permission; (ii) recordkeeping requirements; or (iii) reporting requirements; and (iv) 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 pursuant to part 50 of this chapter which changes 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 which changes an inspection or a surveillance requirement, provided that (i) the amendment 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 (iii) there is no significant increase in individual or cumulative occupational radiation exposure.

(10) Issuance of an amendment to a permit or license pursuant to Parts 30, 31, 32, 33, 34, 35, 36, 39, 40, 50, 60, 61, 70 or part 72 of this chapter which (i) changes surety, insurance and/or indemnity requirements, or (ii) changes recordkeeping, reporting, or administrative procedures or requirements.

(11) Issuance of amendments to licenses for fuel cycle plants and radioactive waste disposal sites and amendments to materials licenses identified in Section 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 pursuant to Parts 50, 60, 61, 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 pursuant to Parts 50, 70, 72, and 73 of this chapter, provided that the amendment or approval does not involve any significant construction impacts. These amendments and approv-

als 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 35.14 and 35.100.

(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.
- (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 (Category 14).
- (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 pursuant to Parts 30, 40, 50 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.
- (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 of this chapter shall not require an environmental impact statement, an environmental assessment, or any environmental review under sub-

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paragraph (E) or (F) of section 102(2) of NEPA.

[49 FR 9381, Mar. 12, 1984, as amended at 51 FR 9766, Mar. 21, 1986; 51 FR 33231, Sept. 18, 1986; 52 FR 8241, Mar. 17, 1987; 54 FR 27870, July 3, 1989; 58 FR 7737, Feb. 9, 1993; 59 FR 48959, Sept. 23, 1994]

Section 51.23 Temporary storage of spent fuel after cessation of reactor operation -- generic determination of no significant environmental impact.

(a) The Commission has made a generic determination that, if necessary, spent fuel generated in any reactor can be stored safely and without significant environmental impacts for at least 30 years beyond the licensed life for operation (which may include the term of a revised or renewed license) of that reactor at its spent fuel storage basin or at either onsite or offsite independent spent fuel storage installations. Further, the Commission believes there is reasonable assurance that at least one mined geologic repository will be available within the first quarter of the twenty-first century, and sufficient repository capacity will be available within 30 years beyond the licensed life for operation of any reactor to dispose of the commercial high-level waste and spent fuel originating in such reactor and generated up to that time.

(b) Accordingly, as provided in Sections 51.30(b), 51.53, 51.61, 51.80(b), 51.95 and 51.97(a), and within the scope of the generic determination in paragraph (a) of this section, no discussion of any environmental impact of spent fuel storage in reactor facility storage pools or independent spent fuel storage installations (ISFSI) 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 the issuance or amendment of an operating license for a nuclear reactor or in connection with the issuance of an initial license for storage of spent fuel at an ISFSI, or any amendment thereto.

(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 a license for an ISFSI in a licensing proceeding.

[49 FR 34694, Aug. 31, 1984, as amended at 55 FR 38474, Sept. 18, 1990]

Determinations To Prepare Impact Statements, Environmental Assessments Or Findings Of No Significant Impact, And Related Procedures

Section 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 Sections 51.20, 51.21 and 51.22 of this subpart whether the proposed action is of the type listed in Section 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.

Section 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 Section 51.27, and will be published in the Federal Register as provided in Section 51.116, and an appropriate scoping process (see Sections 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 Section 60.22 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 Section 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 procedures set out in paragraph (a) of this section shall be followed.

[49 FR 9381, Mar. 12, 1984, as amended at 54 FR 27870, July 3, 1989]

Section 51.27 Notice of intent.

(a) The notice of intent required by Section 51.26 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.

Scoping

Section 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 10 CFR 2.714 and 2.715. 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.

Section 51.29 Scoping -- 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 Section 51.116, and shall be used to:
- (1) Define the proposed action which is to be the subject of the statement. The provisions of 40 CFR 1502.4 will be used for this purpose.
 - (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.

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- (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.

Section 51.30 Environmental assessment.

(a) An environmental assessment 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) Unless otherwise determined by the Commission, an environmental assessment will not include discussion of any aspect of the storage of spent fuel within the scope of the generic determination in Section 51.23(a) and in accordance with the provisions of Section 51.23(b).

(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)).

[49 FR 9381, Mar. 12, 1984, as amended at 49 FR 34694, Aug. 31, 1984; 53 FR 31681, Aug. 19, 1988]

Section 51.31 Determinations based on environmental assessment.

Upon completion of an environmental assessment, 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 Section 51.33, a determination to prepare a draft finding of no significant impact may be made.

Finding Of No Significant Impact

Section 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.

Section 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 Section 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 Sections 51.35 and 51.119.

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

Section 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 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, the Atomic Safety and Licensing Appeal Board, or the Commission acting as a collegial body, as appropriate, will issue the final finding of no significant impact.

Section 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 Section 51.119.

(b) Except as provided in Section 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

Section 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 Section 51.29 in a manner appropriate to their relative significance;

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(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: Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 492 - 1270.

(2) Production facilities: Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 492 - 3352.

(3) Materials licenses: Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 492 - 3352.

(4) Rulemaking: Director, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 492 - 3700.

(5) General Environmental Matters: Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 492 - 1700.

[49 FR 9381, Mar. 12, 1984, as amended at 53 FR 13399, Apr. 25, 1988]

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

Environmental Reports -- General Requirements

Section 51.45 Environmental report.

(a) General. As required by Sections 51.50, 51.53, 51.54, 51.60, 51.61, 51.62 or Section 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, and the number of copies specified in Sections 51.55, 51.66 or Section 51.69. 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 shall include an analysis which considers and balances the environmental effects of the proposed action and the alternatives available for reducing or avoiding adverse environ-

mental effects, as well as the environmental, economic, technical and other benefits of the proposed action. The analysis 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.

Environmental Reports -- Production And Utilization Facilities

Section 51.50 Environmental report -- construction permit stage.

Each applicant for a permit to construct a production or utilization facility covered by Section 51.20 shall submit with its application the number of copies, as specified in Section 51.55, of a separate document, entitled "Applicant's Environmental Report -- Construction Permit Stage," which shall contain the information specified in Sections 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 Section 50.36b of this chapter.

Section 51.51 Uranium fuel cycle environmental data -- Table S - 3.

(a) Every environmental report prepared for the construction permit 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 1_/_.

[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
Natural Resource Use		
Land (acres):		
Temporarily committed 2_/_	100	

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Table S-3-Table of Uranium Cycle Environmental Data 1_/_ 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
Undisturbed area	79	
Disturbed area	22	Equivalent to a 110 MWe coal-fired
Permanently committed ..	13	
Overburden moved		

power plant.

(millions of MT)	2.8	Equivalent to 95 MWe coal-fired	power plant.
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.	
Effluents -- Chemical			
(MT) Gases (including			
entrainment):3_ /			
SO sub x	4,400		
NO sub x **4	1,190	Equivalent to emissions from 45	MWe
coal-fired plant for a year.			
Hydrocarbons	14		
CO	29.6		
Particulates	1,154		
Other gases:			
F	67	Principally from UF sub 6	
		production, enrichment, and reprocessing. Concentration within	
		range of state standards -- below level that has effects on human	
		health.	
HCl	014		
Liquids:			
SO**=sub4	9.9	From enrichment, fuel fabrication,	
NO**-sub3		25.8 and reprocessing steps. Components	
Fluoride.....	12.9	that constitute a potential for	
Ca**+ +	5.4	adverse environmental effect are	
Cl**.....	8.5	present in dilute concentrations	
Na**+.....	12.1	and receive additional dilution by	
NH sub 3.....	10.0	receiving bodies of water to	
Fe.....	.4	levels below permissible	
		standards. The constituents that	
		require dilution and the flow of	
		dilution water are: NH sub 3 --	
			600 cfs., NO
			sub 3 -- 20
			cfs.,
			Fluoride--70
			cfs.
Tailings solutions			
(Thousands of MT)	240	From mills only--no significant	

effluents to environment.

Solids 91,000 Principally from mills -- no
effluents to

significant

environment.

Effluents -- Radiological (curies)

Gases (including entrainment):

Rn-222 Presently under reconsideration by
the Commission.

Ra-226 02

Th-230 02

Uranium034

Tritium (thousands) . 18.1

C-14 24

Kr-85 (thousands) ... 400

Ru-10614 Principally from fuel reprocessing

plants.

I-129 1.3

I-13183

Tc-99 Presently under consideration by
Commission.

the

Fission products and
transuranics203

Liquids:

Uranium and daughters 2.1 Principally from milling --
tailings liquor and
therefore, no effect on

returned to ground -- no
environment.

included
effluents;

Ra-2260034 From UF sub 6 production.

Th-2300015

Th-23401 From fuel fabrication plants --
10 percent of 10 CFR

concentration
20 for total processing 26 annual

20

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TABLE S-3--Table of Uranium Cycle Environmental Data 1_ / 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 requirement or reference	Total	Maximum effect per annual reactor year of model 1,000 MWe LWR	fuel
--	-------	---	------

Fission and activation products	5.9x10		
--	--------	--	--

**_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_ /1.1x	10	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			
Occupational exposure (person-rem)	22.6	From reprocessing and	waste management.	

1_ / 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 Section 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.

2_ / 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.

3_ / Estimated effluents based upon combustion of equivalent coal for power generation.

4_ / 1.2 percent from natural gas use and process.

[49 FR 9381, Mar. 12, 1984; 49 FR 10922, Mar. 23, 1984]

Section 51.52 Environmental effects of transportation of fuel and waste -- Table S - 4.

Every environmental report prepared for the construction permit 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 in 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 having 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 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 1_ /

Normal Conditions of Transport" omitted.

1_ / 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 NUREG - 75/038 April 1975. Both documents are available for inspection and copying at the Commission's Public Document Room, 2120 L Street NW., Washington, DC and may be obtained from National Technical Information Service, Springfield, VA 22161. 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).

2_ / 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.

3_ / 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.

4_ / 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]

Section 51.53 Supplement to environmental report.

(a) Operating license stage. Each applicant for a license or for renewal of a license to operate a production or utilization facility covered by Section 51.20 shall submit with its application the number of copies, as specified in Section 51.55, of a separate document, entitled "Supplement to Applicant's Environmental Report -- Operating License Stage," which will update "Applicant's Environmental Report -- Construction Permit Stage." Unless the applicant requests the renewal of an operating license or 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 Sections 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. Unless otherwise required by the Commission, no discussion of need for power or alternative energy sources or alternative sites for the facility or of any aspect of the storage of spent fuel for the facility within the scope of the generic determination in Section 51.23(a) and in accordance with Section 51.23(b) is required in this report. The

"Supplement to Applicant's Environment Report -- Operating License Stage" may incorporate by reference any information contained in the "Applicant's Environmental Report -- Construction Permit Stage," final environmental impact statement or record of decision previously prepared in connection with the construction permit.

(b) Post operating license stage. Each applicant for a license amendment authorizing the decommissioning of a production or utilization facility covered by Section 51.20 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 the number of copies, as specified in Section 51.55, of 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. Unless otherwise required by the Commission, in accordance with the generic determination in Section 51.23(a) and the provisions in Section 51.23(b), the applicant shall only address the environmental impact of spent fuel storage for the term of the license applied for. 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," "Supplement to Applicant's Environmental Report -- Operating License Stage," final environmental impact statement, supplement to final environmental impact statement of records of decision previously prepared in connection with the construction permit or operating license.

[49 FR 34694, Aug. 31, 1984, as amended at 53 FR 24052, June 27, 1988]

Section 51.54 Environmental report -- manufacturing license.

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, pursuant to appendix M of part 52 of this chapter, shall submit with its application, as specified in Section 50.4, a separate document, entitled "Applicant's Environmental Report -- Manufacturing License," or "Supplement to Applicant's Environmental Report -- Manufacturing License." The environmental report shall address the environmental matters specified in appendix M of part 52 of this chapter, and shall contain the information specified in Section 51.45, as appropriate.

[51 FR 40311, Nov. 6, 1986, as amended at 54 FR 15398, Apr. 18, 1989]

Section 51.55 Environmental report -- number of copies; distribution.

(a) Each applicant for a license to construct and operate a production or utilization facility covered by paragraphs (b)(1), (b)(2), (b)(3) or (b)(4) of Section 51.20 and each applicant for a license amendment authorizing the decommissioning of a production or utilization facility covered by Section 51.20, 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 to the Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards, as appropriate, forty-one (41) copies of an environmental report, or any supplement to an environmental report. The applicant shall retain an additional 109 copies of the environmental report or any supplement to the environmental report for 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 Nuclear Reactor Regulation or the Director 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, pursuant to appendix M 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 Section 50.4. The applicant shall retain an additional 109 copies of the environmental report or any supplement to the environmental report for 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 Nuclear Reactor Regulation.

Environmental Reports -- Materials Licenses

Section 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)(6) of this section, shall submit with its application to the Director of Nuclear Material Safety and Safeguards the number of copies, as specified in Section 51.66, of 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 Section 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 radioactive 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) Termination of a license for the possession and use of source material for uranium milling.

(4) 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.

(5) 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.

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

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 the Director of Nuclear Material Safety and Safeguards the number of copies, as specified in Section 51.66 of 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 Section 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 Section 51.23(a) and the provisions in Section 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 thereto.

[53 FR 31681, Aug. 19, 1988]

Section 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 the Director of Nuclear Material Safety and Safeguards the number of copies, as specified in Section 51.66 of 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 in the NRC Public Document Room at 2120 L Street NW., Washington, DC and in any public document room established by the Commission near the proposed land disposal site.

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

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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]

Section 51.66 Environmental report -- number of copies; distribution.

(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 (6) of Section 51.60; or by Section 51.61 or Section 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 number of copies specified. The applicant shall retain additional copies of the environmental report or any supplement to the environmental report in the number of copies specified for 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.

(b)

Environmental Report

Type of licensing action	Number of copies	
	to be submitted with application	to be retained by applicant for subsequent distribution
Licensing actions requiring environmental impact statements pursuant to Section 51.20(b).	25 copies.....	125 copies.
Licensing actions requiring environmental assessments pursuant to Section 51.21.	15 copies.....	None

[49 FR 9381, Mar. 12, 1984, as amended at 52 FR 8241, Mar. 17, 1987; 58 FR 7737, Feb. 9, 1993]

Section 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 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 the Nuclear Waste Policy Act of 1982, as amended. (See Section 60.22 of this chapter as to 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 Section 60.22 of this chapter as to 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]

Environmental Reports -- Rulemaking

Section 51.68 Environmental report -- rulemaking.

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 the number of

copies, as specified in Section 51.69, of a separate document entitled "Petitioner's Environmental Report," which shall contain the information specified in Section 51.45.

[49 FR 9381, Mar. 12, 1984, as amended at 52 FR 8241, Mar. 17, 1987; 58 FR 7737, Feb. 9, 1993]

Section 51.69 Environmental report -- number of copies.

Petitioners for rulemaking covered by Section 51.68 shall submit fifty (50) copies of an environmental report or any supplement to an environmental report.

Environmental Impact Statements

Draft Environmental Impact Statements -- General Requirements

Section 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).

Section 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 Sections 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 Sections 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. The draft environmental impact statement will include a preliminary analysis which considers and balances the environmental and other effects of the proposed action and the alternatives available for reducing or avoiding adverse environmental and other effects, as well as the environmental, economic, technical and other benefits of the proposed action. The analysis 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. The analysis will indicate what other interests and considerations of Federal policy, including factors not related to

environmental quality, are thought to offset any adverse environmental effects of the proposed action identified pursuant to paragraph (a) of this section. Due consideration will be given to compliance with environmental quality standards and requirements which 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 promulgated or imposed pursuant to 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 such standards and requirements irrespective of whether a certification or license from the appropriate authority has been obtained.³ / 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.

3 / 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 which are available for reducing adverse effects. Where an environmental assessment of aquatic impact from plant discharges is available from the permitting authority then the NRC will consider the assessment in its determination of the magnitude of environmental impacts for striking an overall cost-benefit balance. When no such assessment of aquatic impacts is available from the permitting authority, then 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.

(e) 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 Sections 51.75, 51.76, 51.80 and 51.85, as appropriate, and will be reached after weighing the costs and benefits of the proposed action and considering reasonable alternatives. In lieu of a preliminary recommendation, the NRC staff may indicate in the draft statement that two or more alternatives remain under consideration.

Section 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 Section 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.

(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.

Section 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 Section 51.74, and each news release provided pursuant to Section 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.

Section 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 Section 51.122.
 - (8) Upon written request, any other person to the extent available.
- (b) Additional copies will be made available in accordance with Section 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 Section 51.117.

Draft Environmental Impact Statements -- Production And Utilization Facilities

Section 51.75 Draft environmental impact statement -- construction permit.

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 Sections 51.70, 51.71, 51.72 and 51.73. The contribution of the environmental effects of the uranium fuel cycle activities specified in Section 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.⁴ / 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 such other fuel cycle impacts as may reasonably appear significant.

⁴ / 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.

Section 51.76 Draft environmental impact statement -- manufacturing license.

A draft environmental impact statement relating to issuance of a license to manufacture a nuclear power reactor will address the environmental matters specified in appendix M of part 52 of this chapter. The draft environmental impact statement will include a request for comments as provided in Section 51.73.

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

Section 51.77

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Section 51.77 Distribution of draft environmental impact statement.

(a) In addition to the distribution authorized by Section 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 Section 51.123.

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

Draft Environmental Impact Statements -- Materials Licenses

Section 51.80 Draft environmental impact statement -- materials license.

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

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

(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 (NWSA) (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 NWSA (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]

Section 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 Section 51.74.

Draft Environmental Impact Statements -- Rulemaking

Section 51.85 Draft environmental impact statement -- rulemaking.

Except as the context may otherwise require, procedures and measures similar to those described in Sections 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.

Section 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 Section 51.74.

Legislative Environmental Impact Statements -- Proposals For Legislation

Section 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

Section 51.90 Final environmental impact statement -- general.

After receipt and consideration of comments requested pursuant to Sections 51.73 and 51.117, the NRC staff will prepare a final environmental impact statement in accordance with the requirements in Sections 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.

Section 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.

Section 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 Section 51.118, 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 final environmental impact statement when, in its opinion, preparation of a supplement will further the purposes of NEPA.

(c) 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.

(d)(1) A supplement to a final environmental impact statement will be accompanied by or will include a request for comments as provided in Section 51.73 and a notice of availability will be published in the Federal Register as provided in Section 51.117 if the conditions described in paragraph (a) of this section apply.

- (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 Section 51.118.

Section 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 Section 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 Section 51.91(a)(3), only the comments, the 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 Section 51.118.

Section 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

Section 51.95 Supplement to final environmental impact statement.

(a) 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 may incorporate by reference any information contained in the final environmental impact statement or in the record of decision prepared in connection with the construction permit for that facility. The supplement will include a request for comments as provided in Section 51.73. The supplement will only cover matters which differ from, or which 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 reactor will not include discussion of need for power or alternative energy sources or alternative sites or of any aspect of the storage of spent fuel for the nuclear power reactor within the scope of the generic determination in Section 51.23(a) and in accordance with Section 51.23(b), and will only be prepared in connection with the first licensing action authorizing full power operation.

(b) Post operating license stage. In connection with the amendment of an operating license to authorize the decommissioning of a production or utilization facility covered by Section 51.20 or with the issuance, amendment or renewal of a license to store spent fuel at a nuclear power reactor after expiration of the operating license for the nuclear power reactor, the NRC staff will prepare a supplemental environmental im-

statement for the post operating license stage or an environmental assessment, as appropriate, which will update the prior environmental review. The supplement or assessment may incorporate by reference any information contained in the final environmental impact statement, the supplement to the final environmental impact statement -- operating license stage, or in the records of decision prepared in connection with the construction permit or the operating license for that facility. The supplement will include a request for comments as provided in Section 51.73. Unless otherwise required by the Commission, in accordance with the generic determination in Section 51.23(a) and the provisions of Section 51.23(b), a supplemental environmental impact statement for the post operating license stage or an environmental assessment, as appropriate, will address the environmental impacts of spent fuel storage only for the term of the license, license amendment or license renewal applied for.

[49 FR 34695, Aug. 31, 1984, as amended at 53 FR 24052, June 27, 1988]

Final Environmental Impact Statements -- Materials Licenses

Section 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 Section 51.23(a) and the provisions of Section 51.23(b), a final environmental impact statement on the issuance of an initial license for the storage of spent fuel at an independent spent fuel storage installation (ISFSI) or any amendment thereto, will address environmental impacts of spent fuel storage only for the term of the license or amendment applied for.

(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 (NWSA) (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 NWSA (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]

Final Environmental Impact Statements -- Rulemaking

Section 51.99 [Reserved]

NEPA Procedure and Administrative Action

General

Section 51.100 Timing of Commission action.

(a)(1) Except as provided in Section 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.

(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 envi-

Section 51.101

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ronmental 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.

Section 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 Section 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 Section 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 Sections 30.32(f), 40.31(f), 50.10(c), 70.21(f), or Sections 72.16 and 72.34 of this chapter, the provisions of this paragraph will be applied in accordance with Sections 30.33(a)(5), 40.32(e), 50.10 (c) and (e), 70.23(a)(7) or Section 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]

Section 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 Atomic Safety and Licensing Appeal Board or the final decision of the Commissioners acting as a collegial body will constitute the record of decision. An initial or final decision constituting the record of decision will be distributed as provided in Section 51.93.

Section 51.103 Record of decision -- general.

(a) The record of decision required by Section 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 alter-

natives 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, 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.

(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.

Section 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.

Production And Utilization Facilities

Section 51.105 Public hearings in proceedings for issuance of construction permits or licenses to manufacture.

(a) In addition to complying with applicable requirements of Section 51.104, in a proceeding for the issuance of a construction permit for a nuclear power reactor, testing facility, fuel reprocessing plant or isotopic enrichment plant, or for the issuance of a license to manufacture, 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, and considering reasonable alternatives, whether the construction permit or license to manufacture 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 license to manufacture should be issued as proposed.

Section 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 Sections 51.104 and 51.105.

(b) During the course of a hearing on an application for issuance of an operating license for a nuclear power reactor, or a testing facility, the presiding officer may authorize, pursuant to Section 50.57(c) of this chapter, the loading of nuclear fuel in the reactor core and limited operation within the scope of Section 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 Sections 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.

Materials Licenses

Section 51.108 [Reserved]

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

(a)(1) In a proceeding for the issuance of a license to receive and possess source, special nuclear, and byproduct material at a geologic repository operations area, 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 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 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 Section 2.734 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 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), 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 Section 51.26(c). If the Commission or the Atomic Safety and Licensing Appeal Board 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 Section 51.104, in any proceedings for the issuance of a license to receive and possess source, special nuclear, and byproduct material at a geologic repository operations area.

[54 FR 27870, July 3, 1989]

Rulemaking

Section 51.110 [Reserved]

Public Notice of and Access to Environmental Documents

Section 51.116 Notice of intent.

(a) In accordance with Section 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 Section 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.

Section 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

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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, 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.

Section 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]

Section 51.119 Publication of finding of no significant impact; distribution.

(a) As required by Section 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 Sections 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 Section 51.123.

Section 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 placed in the NRC's Public Document Room at 2120 L Street NW., Washington, DC, and in any public document room established by the Commission in the vicinity of the site of the proposed facility or licensed activity where a file of documents pertaining to such proposed facility or activity is maintained.

[49 FR 9381, Mar. 12, 1984, as amended at 53 FR 43421, Oct. 27, 1988]

Section 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: Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 492 - 1270.

(b) Production facilities: Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 492 - 3352.

(c) Materials licenses: Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 492 - 3352.

(d) Rulemaking: Director, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 492 - 3700.

(e) General Environmental Matters: Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 492 - 1700.

[53 FR 13399, Apr. 25, 1988]

Section 51.122 List of interested organizations and groups.

The NRC Office of Information Resources Management 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 Information Resources Management 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. 12, 1987; 54 FR 53316, Dec. 28, 1989]

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

(a) Distribution to public. Upon written request to the Director, Division of Information Support Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555, 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 Sections 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 Section 9.14 of this chapter.

(b) Distribution to governmental agencies. Upon written request to the Director, Division of Information Support Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555, 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 Section 9.14 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]

Commenting

Section 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

Section 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, Atomic Safety and Licensing Appeal Board, or the Commission acting as a collegial body.

Appendix A to Subpart A -- Format for Presentation of Material 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 mitigating 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 5 / 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 procedures outlined in 40 CFR 1506.3 6 / 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.

5 / Tiering -- 40 CFR 1502.20, 40 CFR 1508.28; Incorporation by reference -- 40 CFR 1502.21.

6 / Adoption -- 40 CFR 1506.3.

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 7 / 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."

7 / The number of days in the comment period should be inserted. The minimum comment period is 45 days (see Section 51.73.)

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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.

4. Purpose of and need for action.

The statement will briefly describe and specify the purpose of the need for the proposed action. The alternative of no action will be discussed. In the case of nuclear power plants, 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. 8 / 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.

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

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

5. 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 (Section 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."

6. 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."

*** END OF DOCUMENT ***

APPENDIX 24

NATIONAL ENVIRONMENTAL POLICY ACT OF 1969, AS AMENDED

[83 Stat. 852]

[PUBLIC LAW 91-190]

[S. 1075]

[JANUARY 1, 1970]

AN ACT

To establish a national policy for the environment, to provide for the establishment of a Council on Environmental Quality, and for other purposes.

83 Stat. 852.
National
Environmental
Policy Act of
1969.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Environmental Policy Act of 1969".

PURPOSE

SEC. 2. The purposes of this Act are: To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality.

Policies and
goals.

TITLE I

DECLARATION OF NATIONAL ENVIRONMENTAL POLICY

SEC. 101. (a) The Congress, recognizing the profound impact of man's activity in the interrelations of all components of the natural environment, particularly the profound influences of population growth, high-density urbanization, industrial expansion, resource exploitation, and new and expanding technological advances and recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of man, declares that it is the continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.

(b) In order to carry out the policy set forth in this Act, it is the continuing responsibility of the Federal Government to use all practicable means, consistent with other essential considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may—

(1) fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

(2) assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings;

(3) attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

(4) preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity and variety of individual choice;

(5) achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

(6) enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

(c) The Congress recognizes that each person should enjoy a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.

Administration.

SEC. 102. The Congress authorizes and 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 this Act, and (2) all agencies of the Federal Government shall—

(A) utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment;

(B) identify and develop methods and procedures, in consultation with the Council on Environmental Quality established by title II of this Act, which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations;

(C) include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment; a detailed statement by the responsible official on—

(i) the environmental impact of the proposed action,

(ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,

(iii) alternatives to the proposed action,

(iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and

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

Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality and to the public as provided by section 552 of title 5, United States Code, and shall accompany the proposal through the existing agency review processes;

(D) Any detailed statement required under subparagraph (C) after January 1, 1970, for any major Federal action funded under a program of grants to States shall not be deemed to be legally insufficient solely by reason of having been prepared by a State agency or official, if:

(i) the State agency or official has statewide jurisdiction and has the responsibility for such action,

(ii) the responsible Federal official furnishes guidance and participates in such preparation,

(iii) the responsible Federal official independently evaluates such statement prior to its approval and adoption, and

(iv) after January 1, 1976, the responsible Federal official provides early notification to, and solicits the views of, any other State or any Federal land management entity of any alternative, thereto which may have significant impacts

Copies of statements, etc.: availability

82 Stat. 54.

upon such State or affected Federal land management entity and, if there is any disagreement on such impacts, prepares a written assessment of such impacts and views for incorporation into such detailed statement.

The procedures in this subparagraph shall not relieve the Federal official of his responsibilities for the scope, objectivity, and content of the entire statement or of any other responsibility under this Act; and further, this subparagraph does not affect the legal sufficiency of statements prepared by State agencies with less than statewide jurisdiction.¹

(E) study, develop, and describe appropriate alternatives to recommend courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources;

(F) recognize the worldwide and long-range character of environmental problems and, where consistent with the foreign policy of the United States, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of mankind's world environment;

(G) make available to States, counties, municipalities, institutions, and individuals, advice and information useful in restoring, maintaining, and enhancing the quality of the environment;

(H) initiate and utilize ecological information in the planning and development of resource-oriented projects; and

(I) assist the Council on Environmental Quality established by title II of this Act.

SEC. 103. All agencies of the Federal Government shall review their present statutory authority, administrative regulations, and current policies and procedures for the purpose of determining whether there are any deficiencies or inconsistencies therein which prohibit full compliance with the purposes and provisions of this Act and shall propose to the President not later than July 1, 1971, such measures as may be necessary to bring their authority and policies into conformity with the intent, purposes, and procedures set forth in this Act.

Review.

SEC. 104. Nothing in Section 102 or 103 shall in any way affect the specific statutory obligations of any Federal agency (1) to comply with criteria or standards of environmental quality, (2) to coordinate or consult with any other Federal or State agency, or (3) to act, or refrain from acting contingent upon the recommendations or certification of any other Federal or State agency.

SEC. 105. The policies and goals set forth in this Act are supplementary to those set forth in existing authorization of Federal agencies.

TITLE II

COUNCIL ON ENVIRONMENTAL QUALITY

SEC. 201. The President shall transmit to the Congress annually beginning July 1, 1970, an Environmental Quality Report (hereinafter referred to as the "report") which shall set forth (1) the status and condition of the major natural manmade, or altered environmental classes of the Nation, including, but not limited to, the air, the aquatic, including marine, estuarine, and fresh water, and the terrestrial environment, including, but not limited to, the forest, dryland, wetland, range, urban, suburban, and rural environment; (2) current and foreseeable trends in the quality, management and utilization of such environments and the effects of those trends on the social, economic, and other requirements of the Nation; (3) the adequacy of available natural resources for fulfilling human and economic requirements of the Nation in the light of expected population pressures; (4) a review of the programs and activities (including regulatory activities) of the Federal Government, the State and local governments, and nongovernmental entities or individuals, with particular reference to their effect on the environment and on the conservation, development and utilization of natural resources; and (5) a program for remedying the deficiencies of existing programs and activities, together with recommendations for legislation.

Report to Congress.

¹Public Law 94-83 (89 Stat. 424) (1975) amended sec. 102 (2) by redesignating subparagraphs (D), (E), (F), (G), and (H) as subparagraphs (E), (F), (G), (H), and (I), respectively; and added a new subparagraph (D).

Council on
Environmental
Quality.

Voluntary and
uncompensated
services.

80 Stat. 416.
Duties and
functions.

34 F. R. 8693.

SEC. 202. There is created in the Executive Office of the President a council on Environmental Quality (hereinafter referred to as the "Council"). The Council shall be composed of three members who shall be appointed by the President to serve at his pleasure, by and with the advice and consent of the Senate. The President shall designate one of the members of the Council to serve as Chairman. Each member shall be a person who, as a result of his training, experience, and attainments, is exceptionally well qualified to analyze and interpret environmental trends and information of all kinds; to appraise programs and activities of the Federal Government in the light of the policy set forth in title I of this Act; to be conscious of and responsive to the scientific, economic, social, esthetic, and cultural needs and interests of the Nation; and to formulate and recommend national policies to promote the improvement of the quality of the environment.

SEC. 203. (a)² The Council may employ such officers and employees as may be necessary to carry out its functions under this Act. In addition, the Council may employ and fix the compensation of such experts and consultants as may be necessary for the carrying out of its functions under this Act, in accordance with section 3109 of title 5, United States Code (but without regard to the last sentence thereof).

(b) Notwithstanding section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)), the Council may accept and employ voluntary and uncompensated services in furtherance of the purposes of the Council.³

SEC. 204. It shall be the duty and function of the Council—

(1) to assist and advise the President in the preparation of the Environmental Quality Report required by section 201;

(2) to gather timely and authoritative information concerning the conditions and trends in the quality of the environment both current and prospective, to analyze and interpret such information for the purpose of determining whether such conditions and trends are interfering, or are likely to interfere, with the achievement of the policy set forth in title I of this Act, and to compile and submit to the President studies relating to such conditions and trends;

(3) to review and appraise the various programs and activities of the Federal Government in the light of the policy set forth in title I of this Act for the purpose of determining the extent to which such programs and activities are contributing to the achievement of such policy, and to make recommendations to the President with respect thereto;

(4) to develop and recommend to the President national policies to foster and promote the improvement of environmental quality to meet the conservation, social, economic, health, and other requirements and goals of the Nation;

(5) to conduct investigations, studies, surveys, research, and analyses relating to ecological systems and environmental quality;

(6) to document and define changes in the natural environment, including the plant and animal systems, and to accumulate necessary data and other information for a continuing analysis of these changes or trends and an interpretation of their underlying causes;

(7) to report at least once each year to the President on the state and condition of the environment; and

(8) to make and furnish such studies, reports thereon, and recommendations with respect to matters of policy and legislation as the President may request.

SEC. 205. In exercising its powers, functions, and duties under this Act, the Council shall—

(1) consult with the Citizens' Advisory Committee on Environmental Quality established by Executive Order numbered 11472, dated May 29, 1969, and with such representatives of science, industry, agriculture, labor, conservation organizations, State and local governments and other groups, as it deems advisable; and

(2) utilize, to the fullest extent possible, the services, facilities, and information (including statistical information) of public and private agencies and organizations, and individuals, in order that duplication of effort and expense may be avoided, thus assuring that the Council's activities will not unnecessarily overlap or

²Public Law 94-52 (89 Stat. 258) (1975), sec. 2 added (a) immediately after "Sec. 203.

³Public Law 94-52 (89 Stat. 258) (1975), sec. 2 added a new subsec. (b).

A.24.5

conflict with similar activities authorized by law and performed by established agencies.

SEC. 206. Members of the Council shall serve full time and the Chairman of the Council shall be compensated at the rate provided for Level II of the Executive Schedule Pay Rates (5 U.S.C. 5313). The other members of the Council shall be compensated at the rate provided for Level IV or the Executive Schedule Pay Rates (5 U.S.C. 5315).

Tenure and
compensation.
80 Stat. 460,
461.
81 Stat. 638.

"ACCEPTANCE OF TRAVEL REIMBURSEMENT

SEC. 207.⁴ The Council may accept reimbursements from any private nonprofit organization or from any department, agency, or instrumentality of the Federal Government, any State, or local government, for the reasonable travel expenses incurred by an officer or employee of the Council in connection with his attendance at any conference, seminar, or similar meeting conducted for the benefit of the Council.⁵

42 U.S.C. 4346a.

"EXPENDITURES OR INTERNATIONAL TRAVEL

"SEC. 208. The Council may make expenditures in support of its international activities, including expenditures for: (1) international travel; (2) activities in implementation of international agreements; and (3) the support of international exchange programs in the United States and in foreign countries."⁵

42 U.S.C. 4346b.

SEC. 209.⁴ There are authorized to be appropriated to carry out the provisions of this Act not to exceed \$300,000 for fiscal year 1970, \$700,000 for fiscal year 1971, and \$1,000,000 for each fiscal year thereafter.

Appropriations.

Approved January 1, 1970.

⁴Public Law 94-52 (89 Stat. 258) (1975), sec. 3 redesignated sec. 207 as sec. 209.

⁵Public Law 94-52 (89 Stat. 258) (1975), sec. 3 added new subsections 207 and 208.

Following is the text of Title 10, Part 51 of the Code of Federal Regulations (10 CFR 51). This Part addresses how the US Nuclear Regulatory Commission implements the requirements of the National Environmental Policy Act. This regulation is extensive and covers all areas of NRC responsibility. The sections immediately pertinent to the Sequoyah Fuels environmental impact statement process are highlighted in the index. I request that you read these sections in preparation for the Cooperating Agency meeting on 5-6 November, and bring any questions you have to that meeting.

ENCLOSURE 2

AGENDA
SEQUOYAH EIS COOPERATING AGENCY[†] MEETING
5-6 November, 1996, USACE, Tulsa, OK

PURPOSE: DEFINE COOPERATING AGENCY ACTIVITIES DURING THE DEVELOPMENT OF AN EIS FOR THE SFC SITE

Tues, 5 Nov, 96

1:30-1:45p	Introductions	ALL
1:45-2:15p	The NEPA process as implemented in 10CFR51	NRC
2:15-3:00p	DEIS Plan, schedule and data needs	NRC
3:00-3:15	BREAK	
3:15-4:30p	Cooperating Agency capabilities, interests, limitations	Coop Agencies
4:30-5:00p	Discussion of items of interest	ALL

Weds, 6 Nov, 96

8:00- 9:30a	Cooperating Agency identify activities in EIS	Coop Agencies
9:30-11:00a	Addendum to DEIS plan defining Cooperating Agency activities	ALL
11:00a	ADJOURN	

†. Cooperating Agencies: U.S. EPA Region Six, U.S. Army Corps of Engineers,
U.S. Geologic Survey, Cherokee Nation, State of Oklahoma



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

October 25, 1996

Ms. Kathy Peter
U.S. Geological Survey
202 NW 66th Bldg 7
Oklahoma City, OK 73116

Dear Ms. Peter:

To coordinate the efforts of the several Cooperating Agencies, there will be a meeting in Tulsa, Oklahoma, at the offices of the U.S. Army Corps of Engineers (ACE) on November 5-6, 1996. An agenda for the meeting is enclosed (Enclosure 1). As you can see, the goal of the meeting is to develop a written statement of activities by each agency during the conduct of environmental impact statement (EIS) for the Sequoyah Fuels Corporation site. To facilitate the exchange of information, we request that each agency present its expectations of the EIS process, its capabilities, and its plans and limitations on participation in the process.

Also, enclosed for your information is a copy of 10 CFR Part 51, the U.S. Nuclear Regulatory Commission's regulation implementing the National Environmental Policy Act (Enclosure 2), and a copy of the Act itself (Enclosure 3).

The ACE offices are located at 1645 S 101 E Avenue, Tulsa, Oklahoma, just northwest of the intersection of I-44 and US 169 (see map, Enclosure 4). There are a number of hotels/motels in the area, including the Quality Inn on Skelly Drive and the Hampton Inn on 79th E Avenue.

If you have any questions, please contact Jim Shepherd of my staff at (301) 415-6712.

Sincerely,

Michael F. Weber
Michael F. Weber, Chief
Low-Level Waste and Decommissioning
Projects Branch
Division of Waste Management
Office of Nuclear Material Safety
and Safeguards

Docket No. 40-8027
License No. SUB-1010

Enclosures: As stated



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

October 25, 1996

Ms. Jamie Schlottmann-Norvell
U.S. Geological Survey
202 NW 66th Bldg 7
Oklahoma City, OK 73116

Dear Ms. Norvell:

To coordinate the efforts of the several Cooperating Agencies, there will be a meeting in Tulsa, Oklahoma, at the offices of the U.S. Army Corps of Engineers (ACE) on November 5-6, 1996. An agenda for the meeting is enclosed (Enclosure 1). As you can see, the goal of the meeting is to develop a written statement of activities by each agency during the conduct of environmental impact statement (EIS) for the Sequoyah Fuels Corporation site. To facilitate the exchange of information, we request that each agency present its expectations of the EIS process, its capabilities, and its plans and limitations on participation in the process.

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If you have any questions, please contact Jim Shepherd of my staff at (301) 415-6712.

Sincerely,

A handwritten signature in blue ink, which appears to read "Michael F. Weber", is written over the typed name.

Michael F. Weber, Chief
Low-Level Waste and Decommissioning
Projects Branch
Division of Waste Management
Office of Nuclear Material Safety
and Safeguards

Docket No. 40-8027
License No. SUB-1010

Enclosures: As stated



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

October 25, 1996

Mr. Mike Broderick
Waste Management Division
Oklahoma Department
of Environmental Quality
1000 NE 10th Street
Oklahoma City, OK 73117-1212

Dear Mr. Broderick:

To coordinate the efforts of the several Cooperating Agencies, there will be a meeting in Tulsa, Oklahoma, at the offices of the U.S. Army Corps of Engineers (ACE) on November 5-6, 1996. An agenda for the meeting is enclosed (Enclosure 1). As you can see, the goal of the meeting is to develop a written statement of activities by each agency during the conduct of environmental impact statement (EIS) for the Sequoyah Fuels Corporation site. To facilitate the exchange of information, we request that each agency present its expectations of the EIS process, its capabilities, and its plans and limitations on participation in the process.

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Sincerely,

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Michael F. Weber, Chief
Low-Level Waste and Decommissioning
Projects Branch
Division of Waste Management
Office of Nuclear Material Safety
and Safeguards

Docket No. 40-8027
License No. SUB-1010

Enclosures: As stated



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

October 25, 1996

Mr. H. A. Caves
Waste Management Division
Oklahoma Department
of Environmental Quality
1000 NE 10th Street
Oklahoma City, OK 73117-1212

Dear Mr. Caves:

To coordinate the efforts of the several Cooperating Agencies, there will be a meeting in Tulsa, Oklahoma, at the offices of the U.S. Army Corps of Engineers (ACE) on November 5-6, 1996. An agenda for the meeting is enclosed (Enclosure 1). As you can see, the goal of the meeting is to develop a written statement of activities by each agency during the conduct of environmental impact statement (EIS) for the Sequoyah Fuels Corporation site. To facilitate the exchange of information, we request that each agency present its expectations of the EIS process, its capabilities, and its plans and limitations on participation in the process.

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Sincerely,

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Michael F. Weber, Chief
Low-Level Waste and Decommissioning
Projects Branch
Division of Waste Management
Office of Nuclear Material Safety
and Safeguards

Docket No. 40-8027
License No. SUB-1010

Enclosures: As stated



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

October 25, 1996

Dr. Loren Mason
District Environmental Manager
U.S. Army Corps of Engineers
P.O. Box 61
Tulsa OK 74121-0061

Dear Dr. Mason:

*Remember to
list agency*

To coordinate the efforts of the several Cooperating Agencies, there will be a meeting in Tulsa, Oklahoma, at the offices of the U.S. Army Corps of Engineers (ACE) on November 5-6, 1996. An agenda for the meeting is enclosed (Enclosure 1). As you can see, the goal of the meeting is to develop a written statement of activities by each agency during the conduct of environmental impact statement (EIS) for the Sequoyah Fuels Corporation site. To facilitate the exchange of information, we request that each agency present its expectations of the EIS process, its capabilities, and its plans and limitations on participation in the process.

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Michael F. Weber, Chief
Low-Level Waste and Decommissioning
Projects Branch
Division of Waste Management
Office of Nuclear Material Safety
and Safeguards

Docket No. 40-8027
License No. SUB-1010

Enclosures: As stated



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

October 25, 1996

Mr. Michael Hebert
U.S. EPA Region VI
1445 Ross Avenue
MC 6EH-CX
Dallas, TX 75202-2733

Dear Mr. Hebert:

To coordinate the efforts of the several Cooperating Agencies, there will be a meeting in Tulsa, Oklahoma, at the offices of the U.S. Army Corps of Engineers (ACE) on November 5-6, 1996. An agenda for the meeting is enclosed (Enclosure 1). As you can see, the goal of the meeting is to develop a written statement of activities by each agency during the conduct of environmental impact statement (EIS) for the Sequoyah Fuels Corporation site. To facilitate the exchange of information, we request that each agency present its expectations of the EIS process, its capabilities, and its plans and limitations on participation in the process.

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Michael F. Weber, Chief
Low-Level Waste and Decommissioning
Projects Branch
Division of Waste Management
Office of Nuclear Material Safety
and Safeguards

Docket No. 40-8027
License No. SUB-1010

Enclosures: As stated



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

October 25, 1996

Mr. Pat Gwin
Office of Environmental Services
Cherokee Nation
115 West North Street
Tahlequah, OK 74465

Dear Mr. Gwin:

To coordinate the efforts of the several Cooperating Agencies, there will be a meeting in Tulsa, Oklahoma, at the offices of the U.S. Army Corps of Engineers (ACE) on November 5-6, 1996. An agenda for the meeting is enclosed (Enclosure 1). As you can see, the goal of the meeting is to develop a written statement of activities by each agency during the conduct of environmental impact statement (EIS) for the Sequoyah Fuels Corporation site. To facilitate the exchange of information, we request that each agency present its expectations of the EIS process, its capabilities, and its plans and limitations on participation in the process.

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The ACE offices are located at 1645 S 101 E Avenue, Tulsa, Oklahoma, just northwest of the intersection of I-44 and US 169 (see map, Enclosure 4). There are a number of hotels/motels in the area, including the Quality Inn on Skelly Drive and the Hampton Inn on 79th E Avenue.

If you have any questions, please contact Jim Shepherd of my staff at (301) 415-6712.

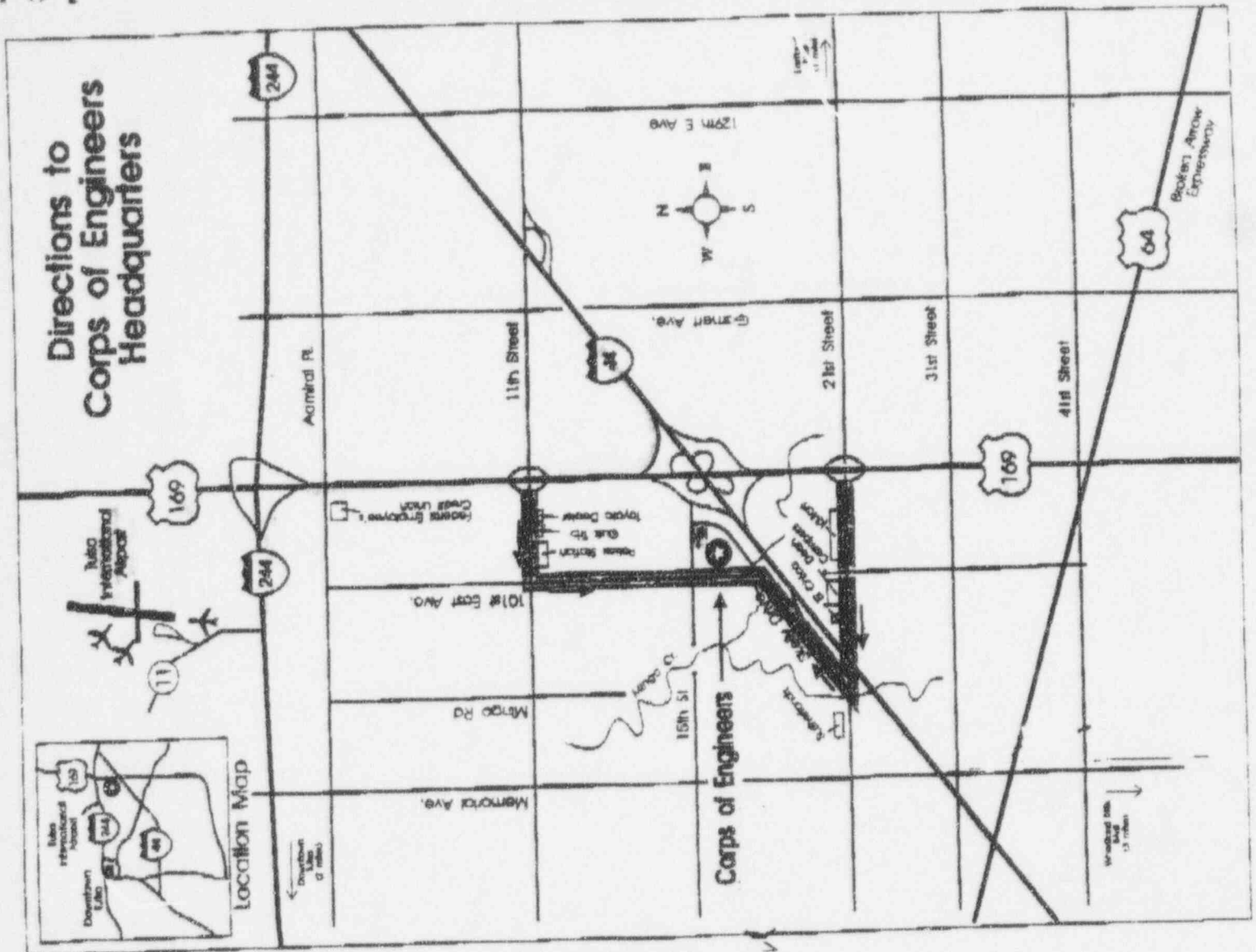
Sincerely,

A handwritten signature in cursive script, appearing to read "Michael F. Weber", is written over the typed name.

Michael F. Weber, Chief
Low-Level Waste and Decommissioning
Projects Branch
Division of Waste Management
Office of Nuclear Material Safety
and Safeguards

Docket No. 40-8027
License No. SUB-1010

Enclosures: As stated



Enclosure 4