

## Nuclear Regulatory Commission

## § 51.88

a request for comments as provided in § 51.73.

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

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

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

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

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

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

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

#### DRAFT ENVIRONMENTAL IMPACT STATEMENTS—MATERIALS LICENSES

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

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

(b)(1) *Independent spent fuel storage installation (ISFSI)*. Unless otherwise determined by the Commission and in accordance with the generic determination in § 51.23(a) and the provisions of § 51.23(b), a draft environmental impact statement on the issuance of an initial license for storage of spent fuel at an 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 (NWPA) (96 Stat. 2242, 2243, 42 U.S.C. 10161 (c), (d), (e); 101 Stat. 1330–235, 1330–236, 42 U.S.C. 10168 (a) and (c)), a draft environmental impact statement for the construction of a monitored retrievable storage installation (MRS) will not address the need for the MRS or any alternative to the design criteria for an MRS set forth in section 141(b)(1) of the NWPA (96 Stat. 2242, 42 U.S.C. 10161(b)(1)) but may consider alternative facility designs which are consistent with these design criteria.

[49 FR 34695, Aug. 31, 1984, as amended at 53 FR 31682, Aug. 19, 1988]

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

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

#### DRAFT ENVIRONMENTAL IMPACT STATEMENTS—RULEMAKING

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

Except as the context may otherwise require, procedures and measures similar to those described in §§ 51.70, 51.71, 51.72 and 51.73 will be followed in proceedings for rulemaking for which the Commission has determined to prepare an environmental impact statement.

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

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

#### LEGISLATIVE ENVIRONMENTAL IMPACT STATEMENTS—PROPOSALS FOR LEGISLATION

### § 51.88 Proposals for legislation.

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

## § 51.90

### FINAL ENVIRONMENTAL IMPACT STATEMENTS—GENERAL REQUIREMENTS

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

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

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

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

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

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

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

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

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

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

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

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

- (1) There are substantial changes in the proposed action that are relevant to environmental concerns; or
- (2) There are 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 § 51.73 and a notice of availability will be published in the FEDERAL REGISTER as provided in § 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