

Nuclear Regulatory Commission

§ 51.100

that facility. The supplement will include a request for comments as provided in §51.73. Unless otherwise required by the Commission in accordance with the generic determination in §51.23(a) and the provisions of §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.

[61 FR 66545, Dec. 18, 1996]

FINAL ENVIRONMENTAL IMPACT STATEMENTS—MATERIALS LICENSES

§ 51.97 Final environmental impact statement—materials license.

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

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

issuance of a license for a uranium enrichment facility is completed.

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

FINAL ENVIRONMENTAL IMPACT STATEMENTS—RULEMAKING

§ 51.99 [Reserved]

NEPA PROCEDURE AND ADMINISTRATIVE ACTION

GENERAL

§ 51.100 Timing of Commission action.

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

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

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

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

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