

6. Monitoring

Issue: *In situ* leach uranium extraction facility licensees are not subject to long-term surveillance costs.

Comment: A commenter stated that including long-term surveillance costs in financial surety requirements, as addressed in the draft standard review plan, is inappropriate.

Response: NRC staff agrees with the commenter. Reference to long-term surveillance costs has been removed from NUREG-1569.

7. Comments Related to NRC Responsibilities Under the National Environmental Policy Act

Issue: The NRC is requesting non-radiological information that is outside its area of regulatory authority.

Comment: Many commenters expressed concern that the NRC was requesting information that is not necessary to fulfill the agency mission of protecting the public health and safety and the environment from the effects of radiation. The areas of concern included information on water quality, air quality, and historical and cultural information.

Response: As a federal agency, the NRC is subject to the NEPA. NEPA requires the NRC to consider impacts to the human environment as a part of its decision making process for licensing actions. The regulations governing NRC implementation of NEPA requirements are in 10 CFR part 51, Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions. Guidance to the NRC staff on conducting environmental reviews is also provided in NUREG-1748

“Environmental Review Guidance for Licensing Actions Associated with NMSS Programs.” In fulfilling its requirements under NEPA, the NRC routinely prepares an environmental impact assessment when evaluating applications for new materials licenses or amendments to such licenses. Areas of potential environmental impact that are investigated include water availability and quality, air quality, historical and cultural resources, ecology, aesthetic resources, and socioeconomic effects. In preparing its environmental impact assessment under NEPA, it is necessary for the NRC to establish background conditions for the affected area. This may require collection of data over a larger geographic area than the licensed area, as well as collection of data in technical and sociological areas that are beyond the traditional scope of radiation safety assessments. The commenters noted that detailed environmental impact

assessments may not be necessary for all licensing actions, such as license amendment requests that may be minor in scope or short in duration. The text of the review plan has been modified to clarify those situations where NRC has traditionally performed a detailed environmental impact assessment, but the NRC necessarily reserves the right to determine the nature of the assessment on a site-specific basis in accordance with the requirements of 10 CFR part 51.

Issue: The standard review plan inappropriately examines corporate financial information in evaluating the socioeconomic effects in cost-benefit analyses.

Comment: A number of commenters noted that the standard review plan examines detailed internal corporate financial data as part of the review of cost-benefit analyses for a licensing action. The commenters expressed concern that this information was proprietary and beyond the scope of information necessary for an evaluation of the socioeconomic impact of a facility.

Response: The commenters correctly noted that some of the information identified in the draft standard review plan was beyond the scope of information typically required for cost-benefit analyses. The text of the standard review plan has been revised to eliminate requests for proprietary corporate financial information and to clarify the purpose and use of the financial information that is addressed in the standard review plan.

Issue: Commenters questioned whether the standard review plan applies to facilities planned for private land as well as those on public land.

Comment: Several commenters expressed uncertainty as to whether the review methods and acceptance criteria developed in the standard review plan were also applicable to *in situ* leach facilities wholly located on private lands.

Response: The NRC must consider the environmental impacts of activities on both private and public lands to meet its responsibilities under NEPA, particularly with regard to assessment of direct, indirect, and cumulative impacts of proposed actions. The specific information to be provided by a licensee, and the level of the NRC staff review, will be determined on a site-specific basis considering the nature of the proposed action. The standard review plan is general guidance to the staff on the type of information that is commonly acceptable for evaluating the environmental impact of a proposed licensing action. Consistent with the

NRC risk-informed, performance-based licensing philosophy, licensees may use compliance demonstration methods different from those presented in the standard review plan so long as the staff can determine whether public health and safety and the environment are protected. The standard review plan text has been revised for clarity, but it has not been changed to reflect different approaches for facilities operating on private and public lands.

Issue: Licensees should not be required to choose the alternative that has the least impact on the environment.

Comment: Several commenters expressed concern that the standard review plan requires a licensee or applicant to select the alternative that has the least impact on the environment, or requires that the NRC use license conditions to mitigate adverse environmental impacts that are deemed outside the scope of NRC responsibilities.

Response: The NRC agrees that while NEPA requires the agency to identify a preferred alternative, it does not require that the alternative with the least impact on the environment be selected. However, if an environmental impact statement (EIS) is necessary for a proposed action, NEPA requires that all reasonable alternatives be evaluated and that the environmentally preferable alternative be identified in the final EIS. NUREG-1569 does not require the applicant or licensee to select the most environmentally benign alternative. As guidance to the NRC staff, the standard review plan asks the reviewers to determine whether the choice of a particular uranium recovery method has been adequately justified and whether different techniques and processes were evaluated as part of this justification. The standard review plan also directs the staff to evaluate the bases and rationales used by an applicant in evaluating and ranking alternatives.

As stated in Council on Environmental Quality regulations (40 CFR 1502.16), in preparing an EIS, federal agencies are to identify all reasonable mitigation measures that can offset the environmental impacts of a proposed action, even if they are outside the jurisdiction of the lead agency. These mitigation measures are intended to avoid, minimize, rectify, reduce, or compensate for significant impacts of a proposed action. If an environmental assessment identifies potentially significant impacts that can be reduced to less-than-significant levels by mitigation, an agency may issue a mitigated finding of no significant impact (FONSI). In the case of a