

## Response to Comments - Chapter 9 - Environmental Protection

Comment No.	Source	Comment	Disposition
9.1	NEI	Draft SRP Chapter 9 can be significantly simplified by directing the reviewer to solely evaluate environmental protection measures. Information on preparation of an EA FONSI, or EIS should be deleted.	Disagree. The only way for a reviewer to determine if a licensing action requires an EIS, EA or categorical exclusion is to review the submission (letter or environmental report) as well as the environmental protection measures.
9.2	NEI	While 10 CFR 51.60 (b)(1)(i) generally requires preparation of an Environmental Report for the possession and use of special nuclear material, the NRC Branch chief may elect to invoke the categorical exclusion provision of 10 CFR 51.22(c)(xiii). This provision excuses facilities that manufacture or process special nuclear material from the requirement to submit an Environmental Report.	Disagree. This is a misinterpretation of the regulations. First, the citation should be 51.22(c) (14)(xiii). Second, the referenced section of the regulations does not apply to fuel cycle facilities. Fuel facilities are specially called out in 51.22(c)(11) where categorical exclusions are listed specifically for fuel facilities. Third, all sections contained in 51.22(c) list licensing actions for which the NRC is excused from completing an environmental assessment (EA) or environmental impact statement (EIS). This regulation does not free licensees from the requirement of 10 CFR 51.60 to submit an environmental report (ER).

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9.3	NEI	NEI believes that staff assessment of an ER (if required) lies outside the scope of SRP Chapter 9.	Disagree. The SRP, as stated previously, is for both the licensee and NRC staff use. It is essential that the environmental reviewer consider the information in both the license application and environmental report when doing the environmental review in order to find that the proposed action does not significantly impact the public health and safety or harm the environment.
9.4	NEI	A separate document should be prepared that guides the staff in assessing an ER and using it in NEPA implementation.	Agree. A separate document (the Environmental SRP) is being prepared by the newly formed Environmental Review Team. Text in this SRP chapter will be modified to reference the new guidance. The information currently described in this SRP is necessary in order for a reviewer to determine if further information is needed from the applicant, or if a categorical exclusion applies.
9.5	NEI	"The reviewer should not be expected to again evaluate the applicant's ISA (and ISA commitments) for such evaluation was performed as a Chapter 3 task."	Disagree. Chapter 9 does not direct the reviewer to fully evaluate and approve the ISA. The reviewer is directed to review the sections of the ISA and the ISA summary which are relevant to environmental protection (see Section 9.5.2). This review is coordinated with the ISA Chapter primary reviewer.

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9.6	NEI	"Draft Chapter 9 does not correctly implement the NRC-OSHA MOU."	Disagree. Chapter 9 does not implement the NRC-OSHA MOU, but provides guidance on Part 51, the implementing regulations for NEPA for the NRC. Since Part 51 requires the NRC to evaluate ALL types of impacts ( 10 CFR 51.22 states that in order for an applicant to justify categorical exclusion "no significant change in the types or significant increase in the amounts of <b>any</b> effluents that may be released offsite" must be demonstrated), the NRC staff will need information related to non-radiological materials and effluents.

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9.7	NEI	Chapter 9 is too prescriptive in its Acceptance Criteria. Examples: requiring the applicant to provide detailed description of monitoring measures, to identify all effluent discharge locations, to specify sample collection and analysis methods and frequencies, to outline lab QA/QC programs.	Disagree. Chapter 9 provides guidance to applicants and licensees to implement the requirements related to public doses, effluent monitoring, and environmental protection spelled out in 10 CFR Part 20. Part 20 requirements are applicable for normal operations and apply regardless of the outcome of an applicant's ISA. The comment is incorrect in stating that the effluent monitoring or other environmental measurement parameters should be based on the applicant's ISA results or summary. In addition, the acceptance criteria outlined in Chapter 9 cite criteria contained in Regulatory Guides 4.16 and 4.15. These are the regulatory guides which are currently applied to all fuel facility licensees.

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9.8	NEI	Chapter 9 is too prescriptive in its Acceptance Criteria. Example: Prescribing the minimum detectable concentration to be 5%, or the action level to be 10% of 10 CFR 20 App B value	<p>The NEI paraphrase of an acceptance criteria is incomplete. The remaining portion of the criteria which NEI did not cite states that a higher MDC is acceptable if the effluents being measured are known to be higher than 5% of the Part 20 limit. This allows licensees to propose other justified criteria and is therefore <u>not</u> overly prescriptive. 9.4.4.4(a)(7) in the July 16, 1999 draft SRP is as follows:</p> <p>“The minimum detectable concentration (MDC) for sample analyses is not more than 5 percent of the concentration limits listed in Table 2 of Appendix B to 10 CFR Part 20. If the actual concentrations of radionuclides in samples are known to be higher than 5 percent of the 10 CFR Part 20 limits, the analysis methods need only be adequate enough to measure the actual concentration. However, in such cases, the MDC is low enough to accommodate fluctuations in the concentrations of the effluent and the uncertainty of the MDC.”</p>

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9.9	NEI	Chapter 9 is too prescriptive in its Acceptance Criteria. Example: requirements for continuous air sampling in areas where SNM is not handled or processed 9.4.2.2 (a)(2).	Disagree. See answer to comment 9-7. Again a portion of the acceptance criteria was not cited by NEI. The SRP criteria states: "Effluents are sampled unless the applicant has established, by periodic sampling or other means, that radioactivity in the effluent is insignificant and will remain so. In such cases, the effluent is sampled at least quarterly to confirm that effluents are not significant."

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9.10	NEI	Chapter 9 is too prescriptive in its Acceptance Criteria. Example: requirement to participate in round-robin programs to ensure accuracy in environmental measurements. 9.4.2.2(b)(4)	<p>Agree in Part: Again, the comment paraphrased the criterion incorrectly. The SRP criteria is as follows: "Monitoring procedures employ acceptable analytical methods and instrumentation to be used. The applicant commits to a program of instrument maintenance and calibration appropriate to the instrumentation, as well as participation in round-robin measurement comparisons <i>if the applicant proposes use of its own analytical laboratory for analysis of environmental samples.</i>" Emphasis added.</p> <p>To reduce confusion the SRP chapter will be revised to include a statement similar to: "If the applicant proposes to use its own analytical laboratory for the analysis of environmental samples, the applicant commits to provide third-party verification of the laboratory's methods such as may be obtained by participation in a round-robin measurement program."</p>

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9.11	NEI	There is no need for the applicant to address 'Minimization of Contamination' in both Ch9 and Ch10.	Disagree. Waste minimization is an issue which bears consideration during all phases of licensing. A Decommissioning Funding Plan is required concurrent with the initial license application. In order to fully review the DFP, the waste minimization commitments should also be considered.
9.12	NEI	The Waste Minimization provision referenced in 9.4.2.1(4) is stated incorrectly.	Agree. Text will be edited to reference 10 CFR 20.1406 for "new" facilities. However, existing facilities requesting a license amendment to include a new process or an expansion of existing operations must provide for waste minimization.
9.13	NEI	The content of Ch9 should parallel that of other SRP Chapters.	Agree. Section 9.5 and 9.6 will be edited to parallel other SRP chapters.
9.14	NEI	The substance of Ch9 should be recast in terms of license commitments as opposed to the details of how environmental protection measures will be implemented.	Disagree. NRC is not interested in generalized commitments only, but reviewers need some detail concerning how the applicant will meet the commitments.
9.15	NEI	Specific comments which implement the general comments.	The specific comments on simplification and reorganization of this chapter will be considered during the revisions to this chapter.