

Fiscal Year 2013 Rulemaking Activities Report

Introduction

This report contains summaries of the U.S. Nuclear Regulatory Commission’s (NRC’s) rulemaking actions published in the *Federal Register* during fiscal year (FY) 2013. The summaries are grouped by action and are of documents (1) containing regulatory text, (2) imposing requirements with general applicability and legal effect, (3) concerning a rulemaking proceeding, or (4) announcing an enhanced public participation initiative related to a rulemaking. Also included are descriptions of agency actions on petitions for rulemaking.

NRC FY2013 Rulemaking Actions

The following table tallies the number and type of rulemaking actions published in the *Federal Register* in FY 2013.

Rulemaking Action	Total Number Published
Advance Notice of Proposed Rulemaking	1
Proposed Rule	5
Supplemental Proposed Rule	1
Final Rule	9
Direct Final Rule	3
Correcting Amendment	4
Petition for Rulemaking	14
Preliminary and Draft Rule Language	1
Draft and Final Regulatory Basis	7
Draft and Final Guidance	8
Policy Statement	2
Memorandum of Understanding	1
Other Rulemaking-Related Documents	5
Total	61

Table of Contents

- I. [Advance Notice of Proposed Rulemaking](#)
- II. [Proposed Rule](#)
- III. [Supplemental Proposed Rule](#)
- IV. [Final Rule](#)
- V. [Direct Final Rule](#)
- VI. [Correcting Amendment](#)
- VII. [Petition for Rulemaking](#)
 - [a. Notice of Acceptance and Docketing](#)
 - [b. Consideration in the Rulemaking Process](#)
 - [c. Partial Consideration in the Rulemaking Process](#)
 - [d. Denial](#)
 - [e. Withdrawal by Petitioner](#)
- VIII. [Preliminary and Draft Rule Language](#) (Proposed and Final)
- IX. [Draft and Final Regulatory Basis](#)

- X. [Draft and Final Guidance](#) (in support of current rulemakings)
- XI. [Policy Statement](#)
- XII. [Memorandum of Understanding](#)
- XIII. [Other Rulemaking-Related Documents](#)

I. Advance Notice of Proposed Rulemaking

Potential Changes to Interlocutory Appeals Process for Adjudicatory Decisions: Advance Notice of Proposed Rulemaking; Request for Comment; 10 CFR Part 2 (RIN 3150-AJ24; NRC-2013-0050)

On April 5, 2013, the NRC published an Advance Notice of Proposed Rulemaking in the *Federal Register* ([78 FR 20498](#)) to begin the process of potentially amending its regulations to change the interlocutory appeals process for certain adjudicatory decisions. The NRC was considering four options pertaining to the interlocutory review of rulings on requests for hearings or petitions to intervene under § 2.311 of Title 10 of the *Code of Federal Regulations* (10 CFR). The NRC sought public comment on the four options. The comment period closed on July 5, 2013.

II. Proposed Rule

Revision of Fee Schedules; Fee Recovery for Fiscal Year 2013: Proposed Rule; 10 CFR Parts 170 and 171 (RIN 3150-AJ19; NRC-2012-0211)

On March 7, 2013, the NRC published a proposed rule in the *Federal Register* ([78 FR 14880](#)) to amend the licensing, inspection, and annual fees charged to its applicants and licensees. The proposed amendments were necessary to implement the Omnibus Budget Reconciliation Act of 1990, as amended (OBRA-90), which requires the NRC to recover through fees approximately 90 percent of its budget authority in fiscal year (FY) 2013, not including amounts appropriated for Waste Incidental to Reprocessing, and amounts appropriated for generic homeland security activities. The NRC was operating under a Continuing Resolution (CR) which expired on March 27, 2013. Based on the FY 2013 budget submitted to the Congress, the NRC proposed fees in this rulemaking based on the FY 2013 budget which was estimated to be \$1,053.2 million. After accounting for billing adjustments, the total amount to be billed as fees is approximately \$924.8 million. These fees were subject to changes pending congressional action which could have included sequestration, full-year CR or issuance of an FY 2013 appropriation which differed for the FY 2013 budget submitted to the Congress which could have resulted in higher or lower fees than those proposed in the rulemaking. The comment period on the proposed rule closed on April 8, 2013.

Revision to the Petition for Rulemaking Process: Proposed Rule; 10 CFR Part 2 (RIN 3150-AI30; NRC-2009-0044)

On May 3, 2013, the NRC published a proposed rule in the *Federal Register* ([78 FR 25886](#)) to amend its regulations to streamline its process for addressing petitions for rulemaking (PRMs). The proposed amendments are intended to improve transparency and make the PRM process more efficient and effective. The comment period on the proposed rule closed on July 17, 2013.

Revisions to Transportation Safety Requirements and Harmonization With International Atomic Energy Agency Transportation Requirements: Proposed Rule; 10 CFR Part 71 (RIN 3150-AI11; NRC-2008-0198; NRC -2013-0082)

On May 16, 2013, the NRC, in consultation with the U.S. Department of Transportation (DOT) published a proposed rule in the *Federal Register* ([78 FR 28988](#)) to amend its regulations for

the packaging and transportation of radioactive material. The amendments would make the NRC's regulations conform to revisions to the International Atomic Energy Agency's regulations for the international transportation of radioactive material and maintain consistency with DOT regulations. The parallel DOT proposed rulemaking was published in the *Federal Register* on August 12, 2011 ([76 FR 50332](#)). The comment period on the proposed rule closed on July 30, 2013, and the comment period on the information collections aspect of the proposed rule closed on June 17, 2013.

In the same issue of the *Federal Register*, the NRC published a document ([78 FR 29016](#)) requesting public comment on draft regulatory guide DG-7009, "Establishing Quality Assurance Programs for Packaging Used in Transport of Radioactive Material." This draft regulatory guide describes a proposed method that the NRC staff considers acceptable for use in complying with the aforementioned proposed rule. The comment period on DG-7009 closed on July 30, 2013.

Approval of American Society of Mechanical Engineers' Code Cases: Proposed Rule; 10 CFR Part 50 (RIN 3150-A172; NRC-2009-0359)

On June 24, 2013, the NRC published a proposed rule in the *Federal Register* ([78 FR 37886](#)) to amend its regulations to incorporate by reference the latest revisions of three regulatory guides (RG) approving new and revised Code Cases published by the American Society of Mechanical Engineers (ASME). This proposed action would allow nuclear power plant licensees, and applicants for construction permits, operating licenses, combined licenses, standard design certifications, standard design approvals and manufacturing licenses, to use the Code Cases listed in these RGs as alternatives to engineering standards for the construction, inservice inspection, and inservice testing of nuclear power plant components. This rulemaking also includes consideration of a petition for rulemaking (PRM), PRM-50-89, submitted by Mr. Raymond West.

In the same issue of the *Federal Register* ([78 FR 37721](#)), the NRC published another document issuing the three draft RGs for comment: (1) DG-1230, "Design, Fabrication and Materials Code Case Acceptability, ASME Section III"; (2) DG-1231, "Inservice Inspection Code Case Acceptability, ASME Section XI, Division 1"; and (3) DG-1232, "Operation and Maintenance Code Case, Acceptability, ASME OM Code." The comment period closed on September 9, 2013.

Waste Confidence—Continued Storage of Spent Nuclear Fuel: Proposed Rule and Draft Generic Environmental Impact Statement; 10 CFR Part 51 (RIN 3150-AJ20; NRC-2012-0246)

On September 13, 2013, the NRC published a proposed rule in the *Federal Register* ([78 FR 56776](#)) to revise its generic determination on the environmental impacts of the continued storage of spent nuclear fuel beyond a reactor's licensed life for operation and prior to ultimate disposal. The NRC prepared a draft environmental impact statement (DGEIS), NUREG-2157, "Waste Confidence Generic Environmental Impact Statement" ([78 FR 56621](#)), to support the proposed rule. The public comment period on the proposed rule and the DGEIS closed on November 27, 2013.

III. Supplemental Proposed Rule

Enhanced Weapons, Firearms Background Checks, and Security Event Notifications: Supplemental Proposed Rule; 10 CFR Part 73 (RIN 3150-AI49; NRC-2011-0018)

On January 10, 2013, the NRC published a supplemental proposed rule in the *Federal Register* ([78 FR 2214](#)) proposing regulations that would implement authority under Section 161A of the Atomic Energy Act of 1954, as amended (AEA), and revise existing regulations governing security event notifications. The NRC is proposing to further revise its regulations that address its authority under Section 161A to include as a class of designated facilities at-reactor, independent spent fuel storage installations. The comment period specific to the proposed rule closed on February 25, 2013. The comment period specific to the information collection burdens of this supplemental proposed rule closed on February 11, 2013.

IV. Final Rule

Addition of South Sudan to the Restricted Destinations List: Final Rule; 10 CFR Part 110 (RIN 3150-AJ21; NRC-2012-0278)

On February 6, 2013, the NRC published a final rule in the *Federal Register* ([78 FR 8360](#)), effective February 6, 2013, amending its export and import regulations by adding South Sudan to the list of restricted destinations. The amendment was necessary to conform the NRC's regulations with U.S. Government foreign policy.

Physical Protection of Byproduct Material: Final Rule and Guidance; 10 CFR Parts 20, 30, 32, 33, 34, 35, 36, 37, 39, 51, 71, and 73 (RIN 3150-AI12; NRC-2008-0120 (Rule) and NRC-2010-0194 (Guidance))

On March 19, 2013, the NRC published a final rule in the *Federal Register* ([78 FR 16922](#)), effective May 20, 2013, amending its regulations to establish security requirements for the use and transport of category 1 and category 2 quantities of radioactive material. Category 1 and category 2 thresholds are based on the quantities established by the International Atomic Energy Agency in its Code of Conduct on the Safety and Security of Radioactive Sources, which the NRC endorses. The objective of this final rule was to provide reasonable assurance of preventing the theft or diversion of category 1 and category 2 quantities of radioactive material. The rule also considered a petition for rulemaking (PRM), PRM-71-13, submitted by the State of Washington that requested that the NRC adopt the use of global positioning satellite tracking as a national requirement for vehicles transporting highly radioactive mobile or portable radioactive devices. The NRC also issued an implementation guidance document associated with this final rule in this document.

Physical Protection of Irradiated Reactor Fuel in Transit: Final Rule; 10 CFR Part 73 (RIN 3150-AI64; NRC-2009-0163)

On May 20, 2013, the NRC published a final rule in the *Federal Register* ([78 FR 29520](#)) amending its security regulations for the transport of irradiated reactor fuel. This rulemaking established generically applicable security requirements similar to the requirements currently imposed by NRC Order EA-02-109, "Issuance of Order for Interim Safeguards and Security Compensatory Measures for the Transportation of Spent Nuclear Fuel Greater than 100 Grams." The rulemaking also established performance standards and objectives for the protection of spent nuclear fuel shipments from theft, diversion, or radiological sabotage. Additionally, this rulemaking addressed, in part, a 1999 petition for rulemaking (PRM) from the State of Nevada (PRM-73-10) that requested the NRC to strengthen the regulations governing

the security of spent nuclear fuel shipments against malevolent acts. The rule was effective on August 19, 2013.

Distribution of Source Material to Exempt Persons and to General Licensees and Revision of General License and Exemptions: Final Rule; 10 CFR Parts 30, 40, 70, 170, and 171 (RIN 3150-AH15; NRC-2009-0084)

On May 29, 2013, the NRC published a final rule in the *Federal Register* ([78 FR 32310](#)) amending its regulations to require that the initial distribution of source material to exempt persons or to general licensees be explicitly authorized by a specific license, which includes new reporting requirements. The rule is intended to provide the NRC with timely information on the types and quantities of source material distributed for use either under exemption or by general licensees. In addition, the rule modified the existing possession and use requirements of the general license for small quantities of source material to better align the requirements with current health and safety standards. Finally, the rule revised, clarified, or deleted certain source material exemptions from licensing to make the exemptions more risk informed. The rule affects manufacturers and distributors of certain products and materials containing source material and certain persons using source material under general license and under exemptions from licensing. The rule was effective on August 27, 2013.

Miscellaneous Corrections: Final Rule; 10 CFR Parts 1, 2, 40, 50, 51, 52, 70, 73, and 100 (RIN 3150-AJ23; NRC-2013-0019)

On June 7, 2013, the NRC published a final rule in the *Federal Register* ([78 FR 34245](#)) amending its regulations to make miscellaneous corrections. The changes included updating the name of its human capital office, correcting and adding missing cross-references, correcting grammatical errors, revising language for clarity and consistency, and specifying metric units. The rule was effective on July 8, 2013.

Revisions to Environmental Review for Renewal of Nuclear Power Plant Operating Licenses: Final Rule; 10 CFR Part 51 (RIN 3150-AI42; NRC-2008-0608)

On June 20, 2013, the NRC published a final rule in the *Federal Register* ([78 FR 37281](#)) amending its environmental protection regulations by updating the Commission's 1996 findings on the environmental effect of renewing the operating license of a nuclear power plant. The final rule redefined the number and scope of the environmental impact issues that must be addressed by the NRC during license renewal environmental reviews. The final rule also incorporated lessons learned and knowledge gained from license renewal environmental reviews conducted by the NRC since 1996. The rule will be effective on June 20, 2014.

In the same issue of the *Federal Register*, the NRC published two additional documents issuing (1) Revision 1 to Regulatory Guide 4.2, Supplement 1, "Preparation of Environmental Reports for Nuclear Power Plant License Renewal Applications" ([78 FR 35746](#)); and (2) NUREG-1437, "Generic Environmental Impact Statement for License Renewal of Nuclear Plants," and NUREG-1555, Supplement 1, "Standard Review Plans for Environmental Reviews for Nuclear Power Plants, Supplement 1: Operating License Renewal" ([78 FR 37325](#)). Each guidance document was effective on June 20, 2013.

List of Approved Spent Fuel Storage Casks; MAGNASTOR® System: Final Rule; 10 CFR Part 72 (RIN 3150-AJ22; NRC-2012-0308)

On June 25, 2013, the NRC published a final rule in the *Federal Register* ([78 FR 37927](#)) amending its spent fuel storage regulations by revising the NAC International, Inc. Modular Advanced Generation Nuclear All-purpose Storage (MAGNASTOR®) Cask System listing within the "List of Approved Spent Fuel Storage Casks" to include Amendment No. 3 to Certificate of

Compliance No. 1031. For more information on Amendment No. 3, see the final rule. The final rule was effective on July 25, 2013.

Revision of Fee Schedules: Fee Recovery for Fiscal Year 2013; 10 CFR Parts 170 and 171 (RIN 3150-AJ19; NRC 2012-0211)

On July 1, 2013, the NRC published a final rule in the *Federal Register* ([78 FR 39462](#)) amending the licensing, inspection, and annual fees charged to its applicants and licensees. The amendments were necessary to implement the Omnibus Budget Reconciliation Act of 1990, as amended, which requires the NRC to recover through fees approximately 90 percent of its budget authority in fiscal year (FY) 2013, not including amounts appropriated for Waste Incidental to Reprocessing and amounts appropriated for generic homeland security activities. Based on the Consolidated and Further Continuing Appropriations Act of 2013, signed by President Obama on March 26, 2013, the NRC's required fee recovery amount for the FY 2013 budget was \$ 985.6 million. After accounting for billing adjustments, the total amount to be billed as fees to licensees is \$859.6 million. The final rule was effective on August 30, 2013.

Inflation Adjustments to the Price-Anderson Act Financial Protection Regulations: Final Rule; 10 CFR Part 140 (RIN 3150-AJ25; NRC-2013-0072)

On July 12, 2013, the NRC published a final rule in the *Federal Register* ([78 FR 41835](#)) amending its regulations to adjustment the maximum total and annual standard deferred premiums as specified in the Price-Anderson Act for inflation. The final rule was effective on September 10, 2013.

V. Direct Final Rule

List of Approved Spent Fuel Storage Casks: MAGNASTOR® System: 10 CFR Part 72 (RIN 3150-AJ22; NRC-2012-0308)

On March 18, 2013, the NRC published a direct final rule in the *Federal Register* ([78 FR 16601](#)) amending its spent fuel storage cask regulations by revising the NAC International, Inc. MAGNASTOR® System listing within the "List of Approved Spent Fuel Storage Casks" to include Amendment No. 3 to Certificate of Compliance No. 1031. The companion proposed rule was also published on March 18, 2013 ([78 FR 16619](#)).

List of Approved Spent Fuel Storage Casks: MAGNASTOR® System: Direct Final Rule; Withdrawal; 10 CFR Part 72 (RIN 3150-AJ22; NRC-2012-0308)

On May 29, 2013, the NRC published a document in the *Federal Register* ([78 FR 32077](#)) withdrawing a direct final rule ([78 FR 16601](#)) that would have revised its spent fuel storage regulations to include Amendment No. 3 to Certificate of Compliance No. 1031, NAC International, Inc. Modular Advanced Generation Nuclear All-purpose Storage (MAGNASTOR®) System listing within the "List of Approved Spent Fuel Storage Casks." The NRC took this action, because it received a significant adverse comment from the vendor of MAGNASTOR® in response to a companion proposed rule ([78 FR 16619](#)) which was concurrently published with the direct final rule. The withdrawal of this direct final rule was effective on May 29, 2013.

Facility Security Clearance and Safeguarding of National Security Information and Restricted Data: Direct Final Rule; 10 CFR Part 95 (RIN 3150-AJ07; NRC-2011-0268)

On August 7, 2013, the NRC published a direct final rule in the *Federal Register* ([78 FR 48037](#)) updating its regulations to standardize the frequency of required security education training for employees of NRC licensees possessing security clearances so that such training will be conducted annually, consistent with the objectives of Executive Order 13526, Classified

National Security Information. The rule allowed licensees flexibility in determining the means and methods for providing training. This action established uniformity in the frequency of licensee security education and training programs and enhanced the protection of classified information. A companion proposed rule was published in the same issue of the *Federal Register* ([78 FR 48076](#)). This direct final rule was effective on October 21, 2013.

VI. Correcting Amendment

Technical Corrections; Correction: Final Rule; Correcting Amendment; 10 CFR Part 171 (RIN 3150-AJ16; NRC-2012-0092)

On December 5, 2012, the NRC published a correcting amendment in the *Federal Register* ([77 FR 72200](#)) correcting a final rule that was published in the *Federal Register* on July 6, 2012 ([77 FR 39899](#)), and effective on August 6, 2012. This final rule amended the NRC's regulations to make technical corrections, including updating the street address for the Region I office, correcting authority citations and typographical and spelling errors, and making other edits and conforming changes. This correcting amendment was necessary to correct the statutory authority that was cited in one of the authority citations in the final rule. The correction was effective on December 5, 2012.

List of Approved Spent Fuel Storage Casks: HI-STORM 100, Amendment No. 8: Corrections; Final Rule; Correcting Amendments; 10 CFR Part 72 (RIN 3150-AJ05; NRC-2011-0221)

On April 16, 2013, the NRC published a correcting amendment in the *Federal Register* ([78 FR 22411](#)) correcting a direct final rule published on February 17, 2012 ([77 FR 9515](#)). The direct final rule amended the NRC's spent fuel storage regulations by revising the Holtec International, Inc. HI-STORM 100 Cask System listing within the "List of Approved Spent Fuel Storage Casks" to include Amendment No. 8 to Certificate of Compliance (CoC) No. 1014. The direct final rule was effective on May 2, 2012 ([77 FR 24585](#); [April 25, 2012](#)). The correcting amendment was to provide notification that the NRC revised the "List of Approved Spent Fuel Storage Casks" to include notification that Amendment No. 8 to CoC No. 1014 was corrected on November 16, 2012. The NRC made non-substantive corrections to the technical specifications and the NRC's Safety Evaluation Report for the Holtec HI-STORM 100 Cask System. The correcting amendment was effective on May 16, 2013.

Revisions to Environmental Review for Renewal of Nuclear Power Plant Operating Licenses: Final Rule; Correcting Amendment; 10 CFR Part 51 (RIN 3150-AI42; NRC-2008-0608)

On July 31, 2013, the NRC published a correcting amendment in the *Federal Register* ([78 FR 46255](#)) correcting a final rule that was published in the *Federal Register* on June 20, 2013 ([78 FR 37281](#)), and effective on July 22, 2013. The final rule amended the NRC's environmental protection regulations by updating the Commission's 1996 findings on the environmental effect of renewing the operating license of a nuclear power plant. Compliance with the provisions of the rule is required by June 20, 2014. This correcting amendment was to clarify and correct the revisions made to the statutory authority that was cited in the authority citation of the final rule. The correcting amendment was effective on July 31, 2013.

Revision of Fee Schedules; Fee Recovery for Fiscal Year 2013: Correcting Amendment; 10 CFR Part 170 (RIN 3150-AJ19; NRC-2012-0211)

On September 9, 2013, the NRC published a correcting amendment in the *Federal Register* ([78 FR 54959](#)) correcting a final rule published on July 1, 2013 ([78 FR 39461](#)) that amended the

licensing, inspection, and annual fees charged to its applicants and licensees. The final rule inadvertently removed from a fee category description the word “one,” which is necessary to indicate the number of government-to-government consents included in this fee category. The correcting amendment was effective on September 9, 2013.

VII. Petition for Rulemaking

a. Notice of Acceptance and Docketing

Rescinding Spent Fuel Pool Exclusion Regulations: Petition for Rulemaking; Notice of Receipt; 10 CFR Part 51 (PRM-51-29; NRC-2012-0215)

On December 19, 2012, the NRC published a document in the *Federal Register* ([77 FR 75065](#)) noticing receipt of a PRM submitted by the Commonwealth of Massachusetts (the petitioner) requesting the NRC rescind its regulations excluding consideration of spent fuel pool storage impacts from license renewal environmental review. The petition was filed on June 2, 2011, with the NRC's Atomic Safety Licensing Board (ASLB) in conjunction with a request for a waiver of the NRC's spent fuel pool exclusion regulations. The petitioner requested that, if the ASLB rejected the Commonwealth's waiver petition, the NRC initiate a rulemaking. On November 28, 2011, the ASLB denied the Commonwealth's waiver petition, and on March 8, 2012, in a Commission Memorandum and Order, the PRM was referred to NRC staff. The NRC did not request public comment on this petition.

Rescinding Spent Fuel Pool Exclusion Regulations: Petition for Rulemaking; Notice of Receipt; Supplemental Information; 10 CFR Part 51 (PRM-51-29; NRC-2012-0215)

On December 31, 2012, the NRC published a document in the *Federal Register* ([77 FR 76952](#)) providing supplemental information to a notice of receipt that appeared in the *Federal Register* on December 19, 2012 ([77 FR 75065](#)). The December 19, 2013, notice of receipt informed the public of a PRM submitted by the Commonwealth of Massachusetts requesting that the NRC institute a rulemaking to rescind the regulations excluding consideration of spent fuel pool storage impacts from license renewal environmental reviews. This action provided the public with supplemental information on how to access documents referenced in the Commonwealth of Massachusetts' petition.

Spent Fuel Cask Certificate of Compliance Format and Content: Petition for Rulemaking; Receipt and Request for Comment; 10 CFR Part 72 (PRM-72-7; NRC-2012-0266)

On February 5, 2013, the NRC published a notice of receipt and request for comment for a petition for rulemaking (PRM) in the *Federal Register* ([78 FR 8050](#)). The PRM was filed by Anthony Pietrangelo (the petitioner) on behalf of the Nuclear Energy Institute on October 3, 2012. The PRM was docketed by the NRC on October 18, 2012, and assigned Docket No. PRM-72-7. The petitioner requests that the NRC add a new rule that governs the format and content of spent fuel storage cask Certificates of Compliance (CoCs), extend the backfit rule to CoCs, and make other improvements. The public comment period closed on April 22, 2013.

Personnel Access Authorization Requirements for Nuclear Power Plants: Petition for Rulemaking; Notice of Receipt and Request for Comments; 10 CFR Part 73 (PRM-73-16; NRC-2013-0024)

On April 22, 2013, the NRC published a notice of receipt and request for comment for a PRM in the *Federal Register* ([78 FR 23684](#)). The PRM was filed by Ellen C. Ginsberg on behalf of the Nuclear Energy Institute (the petitioner) on January 25, 2013. The PRM was docketed by the NRC on February 4, 2013, and assigned Docket No. PRM-73-16. The petitioner requests that

the NRC amend its regulations to limit the scope of third-party review of licensee decisions denying or revoking an employee's unescorted access at their facility. The petitioner seeks to ensure that such decisions cannot be overturned by any third party. The petitioner also requests an expedited review of this petition based on pending arbitration cases that will be affected by NRC action on this petition. The NRC determined that the petition should be expedited due to the aforementioned pending arbitration cases, and therefore limited the public comment period to 45 days. The public comment period closed on June 6, 2013.

Submitting Complete and Accurate Information: Petition for Rulemaking; Notice of Acceptance, Docketing, and Request for Comments; 10 CFR Part 50 (PRM-50-107; NRC-2013-0077)

On June 10, 2013, the NRC published a notice of acceptance, docketing, and request for comment for a PRM in the *Federal Register* ([78 FR 34604](#)). The PRM was filed by Mr. James Lieberman (the petitioner) on April 15, 2013. The petitioner requests that the NRC expand its "regulatory framework to make it a legal obligation for those non-licensees who seek NRC regulatory approvals be held to the same legal standards for the submittal of complete and accurate information as would a licensee or an applicant for a license." The public comment period closed on August 26, 2013.

CampCo Petition to Allow Commercial Distribution of Tritium Markers: Petition for Rulemaking; Notice of Receipt and Request for Comment; 10 CFR Part 32 (PRM-32-8; NRC-2013-0078)

On July 11, 2013, the NRC published a notice of receipt and request for comment for a PRM in the *Federal Register* ([78 FR 41720](#)). The PRM was filed by CampCo (the petitioner) on December 2, 2011, and supplemented on September 18, 2012. The PRM was assigned Docket No. PRM-32-8. The petitioner requests that the NRC amend its regulations to allow the commercial distribution of tritium markers for use under exemption from licensing requirements. The public comment period closed on September 24, 2013.

b. Consideration in the Rulemaking Process

Long-Term Cooling and Unattended Water Makeup of Spent Fuel Pools: Petition for Rulemaking; Consideration in the Rulemaking Process; 10 CFR Part 50 (PRM-50-96; NRC-2011-0069)

On December 18, 2012, the NRC published a document in the *Federal Register* ([77 FR 74788](#)) stating that the NRC will consider the issues raised in a PRM submitted by Thomas Popik (the petitioner) on behalf of the Foundation for Resilient Societies in the NRC's rulemaking process. The petitioner requested that the NRC amend its regulations to require facilities licensed by the NRC to assure long-term cooling and unattended water makeup of spent fuel pools. The NRC determined that its current regulations do not require power reactor licensees to undertake mitigating efforts for prolonged grid failure scenarios that could be caused by geomagnetically-induced current resulting from an extreme solar storm. The NRC will review and analyze the underlying technical and policy issues relevant to the PRM through a phased rulemaking process. If this review results in the development of a regulatory basis sufficient for a proposed rule, then a proposed rule will be prepared for publication and public comment. If a regulatory basis sufficient for a proposed rule is not feasible, then a supplemental notice explaining this result will be published. The docket for PRM-50-96 was closed on December 18, 2012.

Additional Synthetic Drug Testing: Petition for Rulemaking Submitted by Mr. Thomas King; Consideration in the Rulemaking Process; 10 CFR Part 26 (PRM-26-8; NRC-2012-0290)

On April 15, 2013, the NRC published a document in the *Federal Register* ([78 FR 22209](#)) informing the public that the NRC will consider the issues raised in PRM-26-8, submitted by Mr. Thomas King (the petitioner), in the rulemaking process. The petitioner requested that the NRC amend its Fitness for Duty program regulations to amend drug testing requirements to test for additional synthetic drugs currently not included in the regulations. The NRC determined that the issues raised in the PRM are appropriate for consideration and will consider them in the ongoing part 26 of Title 10 of the *Code of Federal Regulations*, Drug and Alcohol Testing; Technical Issues and Editorial Changes rulemaking (RIN 3150-AJ15; Docket ID NRC-2012-0079). The docket for PRM-26-8 was closed on April 15, 2013.

Petition for Rulemaking Submitted by the Natural Resources Defense Council, Inc.: Consideration in the Rulemaking Process; 10 CFR Part 50 (PRM-50-100; NRC-2011-0189)

On July 23, 2013, the NRC published a document in the *Federal Register* ([78 FR 44034](#)) that informed the public that it will consider the issues raised in a PRM submitted by the Natural Resources Defense Council (the petitioner) in the NRC's rulemaking process. The petitioner requested that the NRC amend its regulations to require each operating and new reactor licensee to improve spent nuclear fuel safety. The NRC determined that the issues raised in the PRM are appropriate for consideration and will consider them in the ongoing "Station Blackout Mitigation Strategies" rulemaking (RIN 3150-AJ08; NRC-2011-0299). The docket for PRM-50-100 was closed on July 23, 2013.

c. Partial Consideration in the Rulemaking Process

Petition for Rulemaking Submitted by C-10 Research and Education Foundation, Inc.: Petition for Rulemaking; Partial Consideration in the Rulemaking Process; 10 CFR Part 72 (PRM-72-6; NRC-2008-0649)

On October 16, 2012, the NRC published a document in the *Federal Register* ([77 FR 63254](#)) that informed the public that it will partially consider the issues raised in a PRM. The PRM, dated November 24, 2008, was filed by Sandra Gavutis, Executive Director for C-10 Research and Education Foundation, Inc. (the petitioner). The PRM was docketed by the NRC and assigned Docket No. PRM-72-6. The petitioner requested that the NRC amend its regulations concerning dry cask safety, security, transferability, and longevity. The petitioner made 12 requests. The NRC is denying nine of the petitioner's requests, but will consider one request in the rulemaking process. Action on two requests is being reserved for future rulemaking determinations, as these requests are currently under consideration by the NRC. The NRC will publish another *Federal Register* notice to inform the public of the Commission's decision for these two requests. The docket for this PRM will remain open until action is taken on the two remaining requests.

d. Denial

Installation of Radiation Alarms for Rooms Housing Neutron Sources: Petition for Rulemaking; Denial; 10 CFR Part 73 (PRM-73-15; NRC-2011-0251)

On April 11, 2013, the NRC published a denial of a PRM in the *Federal Register* ([78 FR 21567](#)) submitted by George Hamawy (the petitioner). The petitioner requested that the NRC amend its regulations to require the installation of radiation alarms for rooms housing neutron sources. The NRC received four comments, which all opposed the petition. The NRC determined that (1) no new information was provided by the petitioner that calls into question the established

thresholds (category 2) that warrant additional security measures or the performance based approach (non-prescriptive) for ensuring source security, and (2) the existing NRC regulations provide the basis for reasonable assurance that the common defense and security and public health and safety are adequately protected. The docket for PRM-73-15 was closed on April 11, 2013.

Nuclear Proliferation Assessment in Licensing Process for Enrichment or Reprocessing Facilities: Petition for Rulemaking; Denial; 10 CFR Part 70 (PRM-70-9; NRC-2010-0372)

On June 6, 2013, the NRC published a denial of a PRM in the *Federal Register* ([78 FR 33995](#)) submitted by the American Physical Society (APS or the petitioner). The petitioner requested that the NRC amend its regulations to require that each applicant for an enrichment or reprocessing facility license include an assessment of the proliferation risks that construction and operation of the proposed facility might pose. The NRC disagreed that an applicant seeking an ENR facility license should be required to conduct a nuclear proliferation assessment. The petitioner did not show that the NRC's comprehensive licensing framework fails to adequately address proliferation risks associated with the licensing of an ENR facility. Additionally, the petitioner did not show that ENR applicants have a particular insight on proliferation issues or have access to the intelligence resources, capabilities and information that would enable them to prepare a meaningful proliferation assessment that would assist the NRC in making an informed licensing decision. The docket for PRM-70-9 was closed on June 6, 2013.

In-Core Thermocouples at Different Elevations and Radial Positions in Reactor Core: Petition for Rulemaking; Denial; 10 CFR Parts 50 and 52 (PRM-50-105; NRC-2012-0056)

On September 12, 2013, the NRC published a denial of a PRM in the *Federal Register* ([78 FR 56174](#)) submitted by Mark Leyse (the petitioner). The petitioner requested that the NRC require all holders of operating licenses for nuclear power plants (NPPs) to operate NPPs with in-core thermocouples at different elevations and radial positions throughout the reactor core to enable the operators to accurately measure a large range of in-core temperatures in NPP steady-state and transient conditions. The NRC has denied the PRM because: there are no protection or plant control functions that utilize inputs from core exit thermocouples (CETs); there is no operational necessity for more accurate measurement of temperatures throughout the core; the petition provided inadequate justification of why precise knowledge of core temperature at various elevations and radial positions would enhance safety or change operator action; and the NRC believes that, despite the known limitations of CETs, CETs are sufficient to allow NPP operators to take timely and effective action in the event of an accident. The docket for PRM-50-105 was closed on September 12, 2013.

Compatibility of Generally Licensed and Exempt Devices: Petition for Rulemaking; Denial; 10 CFR Part 32 (PRM-32-7; NRC-2012-0127)

On September 16, 2013, the NRC published a denial of a PRM in the *Federal Register* ([78 FR 56839](#)) submitted by Mr. Sean Chapel (the petitioner) on behalf of the Association of Devise Distributors and Manufacturers. The petitioner requested that the NRC create a new regulation for exempt devices similar to the NRC's regulations for generally licensed devices. The petitioner also requested that the NRC change the Agreement State compatibility designation of the regulations applicable to generally licensed devices that are specified in § 31.6 of Title 10 of the *Code of Federal Regulations* from "C" to "B." The NRC denied the PRM because the petitioner failed to present any significant new information or arguments that would support the requested changes, nor did the petitioner demonstrate a need for a new provision for exempt devices. The docket for PRM-32-7 was closed on September 16, 2013.

e. Withdrawal by Petitioner

None.

VIII. Preliminary and Draft Rule Language¹

Low-Level Waste Disposal: Regulatory Basis and Preliminary Rule Language; Second Request for Comment; 10 CFR Part 61 (RIN 3150-AI92; NRC-2011-0012)

On December 7, 2012, the NRC published a document in the *Federal Register* ([77 FR 72997](#)) requesting comment on the preliminary rule language for a rulemaking that would amend the regulations that govern low-level radioactive waste (LLRW) disposal facilities to require new and revised site-specific analyses and to permit the development of criteria for waste acceptance based on the results of these analyses. These amendments would ensure safe disposal of LLRW and increase the use of site-specific information to protect public health and safety. Also in this document, the NRC noted availability of a revised regulatory basis to support this rulemaking. The public comment period on the preliminary rule language closed on January 7, 2013.

IX. Draft and Final Regulatory Basis

Non-Power Reactor License Renewal: Final Regulatory Basis; Availability of Rulemaking Documents; 10 CFR Part 50 (RIN 3150-AI96; NRC-2011-0087)

On October 2, 2012, the NRC published a document in the *Federal Register* ([77 FR 60039](#)) making available the final regulatory basis for a rulemaking to streamline non-power reactor license renewal. The final regulatory basis incorporates input from the public, licensees, certificate holders, and other stakeholders provided during a public comment period that ended July 31, 2012. This regulatory basis supports proceeding with rulemaking to streamline and enhance the Research and Test Reactor License Renewal Process. This contemplated rulemaking also recommends conforming changes to address technical issues in existing non-power reactor regulations. The final regulatory basis for this proposed rulemaking describes the agency's overall objectives, conceptual approaches, potential solutions, integration with agency strategic goals, and related technical and regulatory clarity issues.

Low-Level Waste Disposal: Regulatory Basis and Preliminary Rule Language; Second Request for Comment; 10 CFR Part 61 (RIN 3150-AI92; NRC-2011-0012)

[See entry for action in Section VIII.](#)

Onsite Emergency Response Capabilities: Draft Regulatory Basis; 10 CFR Parts 50 and 52 (RIN 3150-AJ11; NRC-2012-0031)

¹ **Preliminary Rule Language** means rule language which is *not* part of an official recommendation to the NRC decisionmaker with rulemaking authority that the NRC issue a proposed or final rule...Preliminary rule language is developed by working level staff but does not constitute the NRC's official rulemaking proposal, even though it may be made available to the public.

Draft Rule Language means rule language that is part of a recommendation to the NRC rulemaking decisionmaker that the NRC issue a proposed or final rule.

On January 8, 2013, the NRC published a document in the *Federal Register* ([78 FR 1154](#)) issuing for public comment a draft regulatory basis to support the potential amendment of its regulations concerning nuclear power plant licensees' onsite emergency response capabilities. The issuance of this draft regulatory basis document is one of the actions stemming from the NRC's lessons-learned efforts associated with the March 2011 Fukushima Dai-ichi Nuclear Power Plant in Japan. The public comment period closed on February 22, 2013.

Low-Level Waste Disposal: Regulatory Basis and Preliminary Rule Language; Second Request for Comment; Correction; 10 CFR Part 61 (RIN 3150-AI92; NRC-2011-0012)

On January 8, 2013, the NRC published a document in the *Federal Register* ([78 FR 1155](#)) correcting a document published on December 7, 2012, entitled, "Low-Level Waste Disposal" that announced the availability of a regulatory basis document and requested comment on preliminary rule language. This action was necessary to correct the title and number used to access the regulatory basis document in ADAMS.

Station Blackout Mitigation Strategies: Draft Regulatory Basis and Draft Rule Concepts; Request for Comment; 10 CFR Parts 50 and 52 (RIN 3150-AJ08; NRC-2011-0299)

On April 10, 2013, the NRC published a draft regulatory basis document in the *Federal Register* ([78 FR 21275](#)), to support the potential amendment of its regulations concerning nuclear power plant licensees' station blackout mitigation strategies. The issuance of the document is one of the actions stemming from the NRC's lessons-learned efforts associated with the March 2011 Fukushima Dai-ichi nuclear power plant accident in Japan. The comment period closed on May 28, 2013.

Revisions to Fitness for Duty Programs' Drug Testing Requirements: Regulatory Basis; 10 CFR Part 26 (RIN 3150-AI67; NRC-2009-0225)

On July 1, 2013, the NRC published a document in the *Federal Register* ([78 FR 39190](#)) making available a regulatory basis for the ongoing proposed rulemaking effort to amend its regulations regarding drug testing requirements in NRC licensees' fitness for duty programs. In this regulatory basis the NRC recommends the development of a proposed rule to enhance the ability of NRC licensees to detect and deter drug use and the alignment of the NRC's regulations with select drug testing provisions in the U.S. Department of Health and Human Services' "Mandatory Guidelines for Federal Workplace Drug Testing Programs," issued in 2008. The NRC did not solicit public comment on the materials identified in the regulatory basis.

Station Blackout Mitigation Strategies: Regulatory Basis for Rulemaking; 10 CFR Parts 50 and 52 (RIN 3150-AJ08; NRC-2011-0299)

On July 23, 2013, the NRC published a document in the *Federal Register* ([78 FR 44035](#)) issuing a regulatory basis to support the potential amendment of its regulations concerning nuclear power plant licensees' and applicants' station blackout mitigation strategies. The issuance of the regulatory basis document is one of the actions stemming from the NRC's lessons-learned efforts associated with the March 2011 Fukushima Dai-ichi Nuclear Power Plant accident in Japan. The NRC did not solicit public comments on the regulatory basis.

X. Draft and Final Guidance Documents

Shielding and Radiation Protection Review Effort and Licensing Conditions for Dry Storage Applications: Draft Interim Staff Guidance; Request For Public Comment; 10 CFR Part 72 (NRC-2013-0051)

On March 29, 2013, the NRC published a notice in the *Federal Register* ([78 FR 19148](#)) requesting comments on Draft Spent Fuel Storage and Transportation Interim Staff Guidance No. 26A (SFST-ISG-26A), Revision 0, “Shielding and Radiation Protection Review Effort and Licensing Conditions for 10 CFR [Title 10 of the *Code of Federal Regulations*] Part 72 Applications.” Draft SFST-ISG-26A provides guidance to NRC staff when reviewing the shielding and radiation protection portions of applications for certificates of compliance, specific licenses, and amendments submitted in accordance with 10 CFR Part 72. The public comment period closed on May 13, 2013.

Revisions to Transportation Safety Requirements and Harmonization With International Atomic Energy Agency Transportation Requirements; Establishing Quality Assurance Programs for Packaging Used in Transport of Radioactive Material: Proposed Rule; 10 CFR Part 71 (RIN 3150-AI11; NRC-2008-0198; NRC-2013-0082)

[See the entry for the associated proposed rule.](#)

Approval of American Society of Mechanical Engineers’ Code Cases: Proposed Rule; 10 CFR Part 50 (RIN 3150-AI72; NRC-2009-0359)

[See the entry for the associated proposed rule.](#)

Waste Confidence—Continued Storage of Spent Nuclear Fuel: Proposed Rule and Draft Generic Environmental Impact Statement; 10 CFR Part 51 (RIN 3150-AJ20; NRC-2012-0246)

[See the entry for the associated proposed rule.](#)

Decommissioning Planning During Operations: Regulatory Guide Issuance; 10 CFR Parts 20, 30, 40, 50, 70, and 72 (RIN 3150-AI55; NRC-2011-0286)

On January 4, 2013, the NRC published a document in the *Federal Register* ([78 FR 663](#)) issuing a new regulatory guide (RG) 4.22, “Decommissioning Planning during Operations.” The guide describes a method that the NRC staff considers acceptable for use by holders of licenses when complying with the NRC’s Decommissioning Planning Rule (DPR) ([76 FR 35512](#); June 17, 2011). The DPR went into effect on December 17, 2012, and is intended to minimize the likelihood of new “legacy sites,” which are NRC-licensed facilities with insufficient resources to complete decommissioning activities and termination of a license at the end of operations.

Physical Protection of Byproduct Material; Final Rule and Guidance: 10 CFR Parts 20, 30, 32, 33, 34, 35, 36, 37, 39, 51, 71, and 73 (RIN 3150-AI12; NRC-2008-0120 (Rule) and NRC-2010-0194 (Guidance))

[See the entry for the associated final rule.](#)

Physical Protection of Shipments of Irradiated Reactor Fuel: NUREG; Issuance; 10 CFR Part 73 (RIN 3150-AI64; NRC-2010-0340; NRC-2009-0163)

On May 28, 2013, the NRC published Revision 2 of NUREG-0561, “Physical Protection of Shipments of Irradiated Reactor Fuel,” in the *Federal Register* ([78 FR 31821](#)). The revised NUREG sets forth means, methods, and procedures that the NRC staff considers acceptable for satisfying the requirements for the physical protection of spent nuclear fuel (SNF) during transportation by road, rail, and water; and for satisfying the requirements for background investigations of individuals granted unescorted access to SNF during transportation. The NUREG is related to a final rule published in the *Federal Register* on May 20, 2013 ([78 FR 29519](#)).

Distribution of Source Material to Exempt Persons and to General Licensees and Revision of General License and Exemptions: NUREG; Issuance; 10 CFR Parts 30,40,70,170, and 171 (RIN 3150-AH15; NRC-2011-0003)

On June 5, 2013, the NRC published interim staff guidance for implementation of the final rule, Distribution of Source Material to Exempt Persons and to General Licensees and Revision of General License and Exemptions in the *Federal Register* ([78 FR 33691](#)). The Distribution of Source Material Rule amended the NRC's regulations to require that the initial distribution of source material to exempt persons or to general licensees be explicitly authorized by a specific license. The Distribution of Source Material Rule also modified the existing possession and use requirements of the general license for smaller quantities of source material and revised, clarified, or deleted certain source material exemptions from licensing. The interim staff guidance became effective on August 27, 2013.

XI. Policy Statements

NRC Enforcement Policy: Policy Revision; Issuance and Request for Comments (NRC-2013-0014)

On January 28, 2013, the NRC published a notice in the *Federal Register* ([78 FR 5838](#)) issuing a revision to its Enforcement Policy that incorporated changes made by the Commission, made other changes proposed and evaluated by the staff, and made other minor edits. The revision was effective on January 28, 2013. The notice also requested comments on the Enforcement Policy revision; NRC staff will consider any submitted comments before the next Enforcement Policy revision. The public comment period closed on February 27, 2013.

Interim Enforcement Policy for Permanent Implant Brachytherapy Medical Event Reporting: Policy Statement; Revision (NRC-2013-0114)

On July 9, 2013, the NRC published a notice in the *Federal Register* ([78 FR 41125](#)) issuing an interim Enforcement Policy that allows the staff to exercise enforcement discretion for certain violations of regulations for reporting medical events occurring under an NRC licensee's permanent implant brachytherapy program. This interim policy affects NRC licensees that are authorized to perform permanent implant brachytherapy. This policy revision was effective on July 9, 2013.

XII. Memorandum of Understanding

Memorandum of Understanding Between the U.S. Nuclear Regulatory Commission and the Bureau of Land Management: Notice of Availability (NRC-2013-0061)

On April 1, 2013, the NRC published a Memorandum of Understanding (MOU) in the *Federal Register* ([78 FR 19540](#)) entered into by the NRC and the Bureau of Land Management (BLM) of the U.S. Department of the Interior on February 12, 2013. The MOU sets forth the cooperative working relationship between the NRC and the BLM, primarily for the purpose of enhancing each agency's compliance with the National Environmental Policy Act and Section 106 of the National Historic Preservation Act.

XIII. Other Rulemaking-Related Publications

Retrospective Review Under Executive Order 13579: Plan for Retrospective Analysis of Existing Rules; Request for Comment; 10 CFR Chapter 1 (NRC-2011-0246)

On November 23, 2012, the NRC published a document in the *Federal Register* ([77 FR 70123](#)) making available its draft Plan for the retrospective analysis of its existing regulations. The draft Plan describes the processes and activities that the NRC uses to determine whether any of its regulations should be modified, streamlined, expanded, or repealed. This action is part of the NRC's voluntary implementation of Executive Order 13579, "Regulation and Independent Regulatory Agencies," issued by the President on July 11, 2011. The NRC requested public comment on the draft Plan. The public comment period closed on February 6, 2013.

Unified Agenda of Federal Regulatory and Deregulatory Actions: Semiannual Regulatory Agenda; 10 CFR Ch. 1

On January 8, 2013, the NRC published the Semiannual Regulatory Agenda (the Agenda) in the *Federal Register* ([78 FR 1704](#)) in accordance with PL 96-354, "The Regulatory Flexibility Act," and Executive Order 12866, "Regulatory Planning and Review." The Agenda is a compilation of all rules on which the NRC has recently completed action or has proposed or is considering action. This issuance updated any action occurring on rules since publication of the last semiannual agenda on February 13, 2012 ([77 FR 8078](#)).

Retrievability, Cladding Integrity and Safe Handling of Spent Fuel at an Independent Spent Fuel Storage Installation and During Transportation: Request for Comments for Potential Rulemaking; 10 CFR Parts 71 and 72 (NRC-2013-0004)

On January 17, 2013, the NRC published a document in the *Federal Register* ([78 FR 3853](#)) requesting comments on integration of storage and transport regulations. Currently, the regulations for packaging and transport of spent fuel are separate from requirements for storage of spent nuclear fuel. Because of this separation, there is no requirement that loaded storage casks also meet transportation requirements. The integration of the regulations could enable a more predictable transition from storage to transport by potentially minimizing future handling and uncertainty regarding transport. The NRC staff is reviewing the potential policy issues and requirements related to retrievability, cladding integrity, and safe handling of spent fuel as the lead issue for evaluating compatibility of storage and transportation regulations. As part of this evaluation, the NRC requested public comments. The public comment period closed on March 18, 2013.

Advance Notification to Native American Tribes of Transportation of Certain Shipments of Nuclear Waste: Final Rule; Implementation; 10 CFR Parts 71 and 73 (RIN 3150-AG41; NRC-1999-0005)

On June 14, 2013, the NRC published in the final rule category in the *Federal Register* ([78 FR 35746](#)) a document providing a link on the NRC's public Web site to a list of Tribal contacts and an interactive map of Tribal boundaries of participating Federally-recognized Tribes. NRC licensees are currently required to provide advance notice to participating Federally-recognized Tribal governments regarding shipments of irradiated reactor fuel and certain nuclear wastes that pass within or across their reservations. Agreement State licensees will be required to provide advance notifications for certain shipments of radioactive material at the time the applicable Agreement State implements its requirements. The list will be published annually in the *Federal Register*. The rule was effective on June 14, 2013.

Physical Protection of Irradiated Reactor Fuel in Transit: Orders; Rescission; 10 CFR Part 73 (RIN 3150-AI64; NRC-2009-0163)

On August 19, 2013, the NRC published a document in the *Federal Register* ([78 FR 50313](#)) rescinding EA-02-109, “Issuance of Order for Interim Safeguards and Security Compensatory Measures for the Transportation of Spent Nuclear Fuel [SNF] greater than 100 Grams,” dated October 10, 2002, and subsequent similar security orders issued to licensees shipping SNF during the period of October 2003 through December 2010. These orders are collectively referred to as the “SNF Transportation Orders.” The SNF Transportation Orders were rescinded because the NRC published a final rule, “Physical Protection of Irradiated Fuel in Transit,” on May 20, 2013 ([78 FR 29520](#)), amending its regulations to incorporate the security requirements in the SNF Transportation Orders and lessons learned from implementation of the SNF Transportation Orders. This rescission was effective on August 19, 2013.