

Response to Public Comments on Draft Regulatory Guide (DG)-3042
“Standard Format and Content for a License Application for an Independent Spent Fuel Storage Installation or a Monitored Retrievable Storage Facility ”
Revision 2 of Regulatory Guide (RG) 3.50

On December 6, 2013, the NRC published a notice in the *Federal Register* (78 FR 73566) that Draft Regulatory Guide, DG-3042 (Proposed Revision 2 of RG 3.50), was available for public comment. The public comment period ended on January 24, 2014. The NRC received comments from the organizations listed below. The NRC has combined the comments and NRC staff responses in the following table.

Comments were received from the following:

Karen Jackson
 ADAMS Accession No. ML13351A372

Rod McCullum, Nuclear Energy Insitute
 ADAMS Accession No. ML14027A325

Commenter	Section of DG-3042	Specific Comments	NRC Resolution
[Karen Jackson]	[General Comment]	“I Am Opposed To Any New Or Renewal License Application For Independent Spent Storage Installation Or A Monitored Retrievable Storage Facility When Not In Our Current Lifetime Can These Fuel Spent Rods Be Safe For The American public. The Nuclear Plants Are Not Insuring For Disasters Like Earthquakes In Yucca Mountain And Virginia "Slightly Damaged." The Fact That That Fault Is Imminent To The Fatality Of Millions Give Pause To The Renewal At This time maybe In A 120 years. Renewable Energy Is Safer Without The Gamble To Cost Of Lives.”	The comment is outside the scope of the draft regulatory guide.
[Rod McCullum]	[10 CFR Part 72]	“The subject <i>Federal Register</i> Notice issued for public comment a proposed Revision 2 to the NRC's Regulatory Guide 3.50 dated September 1989. This proposed revision seeks to bring NRC's guidance up to date with the current format and content requirements in 10 CFR Part 72, which has been revised several times since Revision 1 was issued. The revision also updates the guidance on electronic submissions of applications and makes editorial	On July 18, 2014, the NRC issued a <i>Federal Register</i> notice (79 FR 41935) informing the public that the NRC will consider in its rulemaking process the issues raised in PRM-72-7. The NRC may consider further revision of RG 3.50 in that process.

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		<p>changes to improve clarity. The Nuclear Energy Institute (NEI)' appreciates the opportunity to provide comments on this document on behalf of the nuclear industry. The proposed revision to Regulatory Guide 3.50 reflects a positive step towards regulatory clarity by bringing NRC's regulatory guidance up to date. However, we believe that this update should be implemented as part of a more holistic approach to achieving this objective. Specifically, we recommend that this proposed update be considered in conjunction with NRC's response to the changes proposed to 10 CFR Part 72 by NEI's October 2012 Petition for rulemaking - PRM 72-7. We make this recommendation because proposed DG-3042 provides guidance for the implementation of, among other regulations, 10 CFR 72.44 <i>License Conditions</i>. PRM 72-7 proposes the addition of criteria to 10 CFR 72.44 that would fundamentally improve this regulation by assuring that technical specifications for site specific licenses will be standardized at an appropriate level of detail (consistent with what PRM 72-7 also proposes for generic Certificates of Compliance). The changes called for by PRM 72-7 are foundational to establishing a stable, predictable and risk informed regulatory framework for dry cask storage. No update to guidance within this framework can be considered complete without addressing the changes called for by PRM 72-7. NRC should therefore move expeditiously on its consideration of PRM 72-7 before completing this update. If implemented as part of a holistic approach, we believe that the proposed update can be a valuable improvement to the dry cask storage regulatory framework. In the enclosure to this letter we offer detailed comments to further improve its utility. Several of these comments further address a more holistic approach by recommending that NRC assure that related guidance referenced in this update is also up to date.”</p>	

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Rod McCullum	A.Introduction	Regulatory Guide 3.62 has not been updated since 1989. It does not reflect the SAR format and content in the SRP the NRC uses to review specific license applications. The SAR sections in the application should follow the format and content in the SRP (NUREG-1567 as augmented by ISG-15)	The NRC disagrees with the comment. A standard review plan is guidance to the NRC staff, not applicants. Applicants are free to use the guidance in NUREG-1567. RG 3.62 is being updated and will be consistent with the format in NUREG-1567. NRC expects to complete the revised RG 3.62 in mid 2015
Rod McCullum	B.Discussion Reason for Revision	The reason for revision should also include a reference to NUREG-1567/ISG-15 for the format and content of the SAR in lieu of RG 3.62	The NRC disagrees with the comment. Other than identifying an SAR as one of the documents to be submitted with a license application, as required in 10 CFR 72.24, this RG is not being revised because of any format changes based on NUREG-1567.
Rod McCullum	C. Standard Format and Content 1. Contents of the License Application	In the bulleted list for “SAR” and “Proposed technical specification”, RG 3.62 should be replaced with NUREG-1567/ISG-15 due to RG 3.62 being out of date.	The NRC disagrees with the comment. A standard review plan is guidance to the NRC staff, not applicants. Applicants are free to use the guidance in NUREG-1567. RG 3.62 is being updated and will be consistent with the format in NUREG-1567. NRC expects to complete the revised RG 3.62 in mid 2015.
Rod McCullum	C.Standard Format and Content 2. Format and Style	In third paragraph, suggest adding “page numbers or” in front of “section numbers.”	The NRC agrees with the intent of the comment. The NRC believes that the commenter meant to suggest that the NRC add “section numbers or” in front of “page numbers” because the phrase “page numbers” is in the referenced paragraph but “section numbers” is not. The NRC made this change for ease of reference to the documents listed in the appendix.
Rod McCullum	C.Standard Format and Content 2. Format and Style	In the fifth paragraph, suggest including a recommendation for a glossary to be included in the application.	TheNRC agrees with the comment. Sentence has been added. A glossary of acronyms abbreviations and special terms can avoid confusion and ensure that terms are used

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			consistently throughout the document.
Rod McCullum	C. Standard Format and Content 2. Format and Style	<p>a) In the eighth paragraph, it is not clear what the regulatory basis is for requesting that the application title page include identification of "key individuals responsible for the preparation of the license application." The personnel used to prepare a license application often move on to other responsibilities or could be employees of a contractor employed by the applicant, making such a list inaccurate soon after the application is submitted. A single point of contact for the applicant (e.g., the licensing manager) identified in the cover letter for the application is sufficient.</p> <p>b) Also in the eighth paragraph, 10 CFR 72.16(b) does not require the oath and affirmation to be in any specific location in the application. This level of specificity is not appropriate for the RG.</p> <p>c) The last sentence in the section pertaining to rejection of applications is unnecessary. It is not guidance for preparing a license application and should be deleted.</p>	<p>a. and b. The NRC agrees with both comments. The paragraph has been revised to state:</p> <p>If the applicant is acting as an agent or representative of another person in filing the application, the application should include the identification of the agents or representatives and the information required by 10 CFR 72.22(d)(4) with respect to such agents and principals.</p> <p>The application should also include the oath or affirmation as required by 10 CFR 72.16(b). A table of contents should also be included.</p> <p>c. The NRC disagrees with the comment. Knowing that failure to provide all of the required information is grounds for rejection of the application is appropriate guidance to applicants.</p>
Rod McCullum	C. Standard Format and Content 3. Submissions and Revisions	<p>The discussion in the last sentence of the third paragraph under "Procedures for Updating or Revising Pages" should be deleted. An applicant is not a licensee and does not have the authority granted by 10CFR 72.48 unless and until a license is granted by the NRC. Changes to the application, including the SAR, are submitted to the NRC for review before a license is granted.</p> <p>In lieu of this sentence, we suggest adding guidance recommending that if an applicant is incorporating a certified cask design into the specific license application by reference per 10 CFR 72.46(e), the applicant should specify the CoC amendment and FSAR revision for the</p>	<p>The NRC agrees with removing the following sentence for the reasons stated by the commenter: "Applicants should distinguish between changes made under the change authority in 10 CFR 72.48 (c)(1) and amendment to the license or Certificate of Compliance as required by 72.48 (c)(2)."</p> <p>The NRC agrees with adding the following guidance: "If incorporating a certified storage cask design for use in a specific license, the applicant should specify the certificate number and amendment., and reference the FSAR</p>

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		cask design that is being incorporated.	revision that pertains to the certified storage cask design.” Since each certificate amendment is a standalone approval, specifying the certificate number, amendment and FSAR incorporating changes by this amendment will facilitate staff’s review of the license application.
Rod McCullum	C.Standard Format and Content	The paragraphs for "Protection of Proprietary Information" and "General and Financial Information" need to be indented.	The NRC agrees with the comment. The formatting has been changed.
Rod McCullum	C.Standard Format and Content 4.Further Information	The guidance for "Safety Analysis Report" and "Proposed and Content Technical Specifications" should refer to NUREG-1567/ISG- 15 for SAR format and content because RG 3.62 is out of date.	The NRC disagrees with the comment. A standard review plan is guidance to the NRC staff, not applicants. Applicants are free to use the guidance in NUREG-1567. RG 3.62 is being updated and will be consistent with the format in NUREG-1567. NRC expects to complete the revised RG 3.62 in mid 2015.
Rod McCullum	C.Standard Format and Content 4. Further Information	The guidance for Physical Protection Plan," Safeguards and Content Contingency Plan," "Personnel Training Program," and "Decommissioning Plan and Decommissioning Funding Plan" should include guidance for applicants intending to license an ISFSI co-located on a reactor site to augment their Part 50 programs to meet these requirements.	The NRC disagrees with the comment. Currently staff has no plans to issue guidance in these areas.
Rod McCullum	References	a) Should this section be designated as Section "E"? b) It is not clear that RG 5.55 is relevant to this guidance for ISFSI license applications. c) NUREG-1536, NUREG-1567, and ISG-15 should be added as references.	a. The NRC disagrees with the comment. Current NRC practice for RGS and NUREGS is to leave the References Section as an independent, non-lettered section. b. The NRC agrees, but no changes are warranted. In the RG, staff indicates that RG 5.55 was not developed for an ISFSI, but that it may contain information an

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			<p>applicant might find useful when developing safeguards contingency plans for ISFSIs and MRS facilities.</p> <p>c. NUREG-1536, NUREG-1567 and ISG-15 are not referenced in this RG since they are guidance to the NRC staff, not applicants or the public.</p>