

NUCLEAR REGULATORY COMMISSION

[NRC-2015-0106]

**Standard Review Plan for Renewal of Specific Licenses and Certificates of Compliance
for Dry Storage of Spent Nuclear Fuel**

AGENCY: Nuclear Regulatory Commission.

ACTION: NUREG; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing NUREG-1927, Revision 1, "Standard Review Plan for Renewal of Specific Licenses and Certificates of Compliance for Dry Storage of Spent Nuclear Fuel." The NUREG provides guidance to the NRC staff for the safety review of renewal applications for specific licenses of independent spent fuel storage installations (ISFSIs) and certificates of compliance of spent fuel dry storage systems.

ADDRESSES: Please refer to Docket ID **NRC-2015-0106** when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this document using any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2015-0106**. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; e-mail: Carol.Gallagher@nrc.gov. For technical questions, contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **NRC's Agencywide Documents Access and Management System (ADAMS):**
You may obtain publicly available documents online in the ADAMS Public Documents collection

at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “[ADAMS Public Documents](#)” and then select “[Begin Web-based ADAMS Search](#).” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

- **NRC’s PDR:** You may examine and purchase copies of public documents at the NRC’s PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Kristina Banovac, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-7116, e-mail: Kristina.Banovac@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Discussion

The NRC staff is issuing NUREG-1927, Revision 1 (ADAMS Accession No. ML16179A148), to provide greater detail and clarity for the various elements of the staff’s safety review of renewal applications for specific ISFSI licenses and certificates of compliance of spent fuel dry storage systems.

Through the development of NUREG-1927, Revision 1, the staff engaged with stakeholders in public meetings to obtain input on potential changes to the guidance. The staff developed the draft NUREG-1927, Revision 1, which addressed the staff’s recent review experience with spent fuel storage renewal reviews and the valuable input received from

stakeholders. The draft NUREG-1927, Revision 1, was published for public comment on July 7, 2015 (80 FR 38780). The staff considered public comments received on the draft guidance in preparing the final NUREG-1927, Revision 1. The public comments are located in ADAMS under Accession No. ML15356A560. The staff also prepared responses to the public comments (ADAMS Accession No. ML16125A534).

II. Backfitting and Issue Finality Provisions

NUREG-1927, Revision 1, provides guidance to the NRC staff for the safety review of renewal applications for specific ISFSI licenses and certificates of compliance of spent fuel dry storage systems. This revision to NUREG-1927 does not present a new staff position, but only clarifies and expands upon information previously provided. Issuance of this NUREG would not constitute backfitting as defined in the backfitting provisions in section 72.62 of title 10 of the *Code of Federal Regulations* (10 CFR), which are applicable to specific ISFSI licensees. Issuance of the NUREG would also not constitute backfitting under 10 CFR 50.109, or otherwise be inconsistent with the issue finality provisions in 10 CFR part 52, which are applicable to general ISFSI licensees using the certificates of compliance. The NRC's position is based upon the following considerations.

1. The NUREG positions do not constitute backfitting, inasmuch as the NUREG is internal guidance directed at the NRC staff with respect to their regulatory responsibilities.

The NUREG provides guidance to the staff on how to review an application for the NRC's regulatory approval in the form of licensing. Changes in internal staff guidance are not matters for which ISFSI applicants or general ISFSI licensees using certificates of compliance are protected under the backfitting provisions in 10 CFR 72.62 and 10 CFR 50.109, or the issue finality provisions of 10 CFR part 52.

2. The NRC staff has no intention to impose the NUREG positions on existing licensees and regulatory approvals, either now or in the future.

The staff does not intend to impose or apply the positions described in the NUREG to existing (already issued) licenses and regulatory approvals. Therefore, the issuance of this NUREG--even if considered guidance which is within the purview of the issue finality provisions in part 52--need not be evaluated as if it were a backfit or as being inconsistent with issue finality provisions. If, in the future, the staff seeks to impose a position in the NUREG on holders of already issued licenses in a manner which does not provide issue finality as described in the applicable issue finality provision, then the staff must make the showing as set forth in the backfitting provisions in 10 CFR 72.62 and 10 CFR 50.109, or address the criteria for avoiding issue finality as described in the applicable issue finality provision in 10 CFR part 52.

3. Backfitting and issue finality do not--with limited exceptions not applicable here--protect current or future applicants.

Applicants and potential applicants are not, with certain exceptions, protected by the backfitting provisions in 10 CFR 72.62 or 10 CFR 50.109, or any issue finality provisions under part 52. This is because neither of the backfitting provisions in parts 72 and 50, nor the issue finality provisions under part 52--with certain exclusions discussed below--were intended to apply to every NRC action which substantially changes the expectations of current and future applicants. The exceptions to the general principle are applicable whenever an applicant references a part 52 license (e.g., an early site permit) and/or NRC regulatory approval (e.g., a design certification rule) with specified issue finality provisions. However, the matters address in this NUREG are not subject matters or issues for which issue finality protection is provided.

III. Congressional Review Act

This NUREG is a rule as defined in the Congressional Review Act (5 U.S.C. §§ 801-808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

Dated at Rockville, Maryland, this 28 day of June 2016.

For the Nuclear Regulatory Commission.

/RA/

Anthony H. Hsia, Deputy Director,
Division of Spent Fuel Management,
Office of Nuclear Material Safety
and Safeguards.