

NUCLEAR REGULATORY COMMISSION

10 CFR Part 51

[NRC-2018-0300]

RIN 3150-AK54

Categorical Exclusions From Environmental Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending its regulations for categorical exclusions for licensing, regulatory, and administrative actions that do not significantly affect the quality of the human environment. This final rule eliminates the need to prepare environmental assessments for such NRC actions. The final rule will not change any requirements for applicants or licensees.

DATES: This final rule is effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].**

ADDRESSES: Please refer to Docket ID NRC-2018-0300 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- **Federal Rulemaking Website:** Electronically at <https://www.regulations.gov> and search for Docket ID NRC-2018-0300. Address questions about NRC dockets to Helen Chang; telephone: 301-415-3228; email: Helen.Chang@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 <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “Begin ADAMS Public Search.” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1-800-397-4209, at 301-415-4737, or by email to PDR.Resource@nrc.gov. For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the “Availability of Documents” section.

- **NRC’s PDR:** The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1-800-397-4209 or 301-415-4737, between 8 a.m. and 4 p.m. eastern time, Monday through Friday, except Federal holidays.

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SUPPLEMENTARY INFORMATION:

This rulemaking is separate from NRC’s comprehensive review and reform of its regulations in accordance with Executive Order (E.O.) 14300, “Ordering the Reform of the Nuclear Regulatory Commission” (90 FR 22587; May 29, 2025). The rulemakings associated with that effort will comprehensively reexamine NRC requirements. While there could be additional revisions as a result of these future rulemakings, the NRC is

moving forward with publication of this final rule at this time because it is a deregulatory action of high interest for stakeholders that was in progress before the issuance of E.O. 14300.

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I. Background

The National Environmental Policy Act of 1969, as amended, (NEPA) requires Federal agencies to undertake an assessment of the environmental effects of certain of

their proposed Federal actions prior to deciding whether to approve or disapprove the proposed actions. The Fiscal Responsibility Act of 2023 (FRA) amended NEPA to, among other things, expressly incorporate categorical exclusions, previously a matter of longstanding Council on Environmental Quality and agency practice, into the NEPA environmental review process. The NRC's NEPA implementing regulations are contained in part 51 of title 10 of the *Code of Federal Regulations* (10 CFR), “Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions.”

A. General Overview of Categorical Exclusions

NEPA establishes three levels of environmental review for Federal proposed actions: categorical exclusions, environmental assessments (EAs), and environmental impact statements (EISs). If a Federal agency believes that the environmental impacts of a proposed action are not likely to be significant, or if the significance of the impacts are unknown, the agency may prepare an EA. An EA is a concise document that provides sufficient evidence and analysis for determining whether to make a finding of no significant impact (FONSI) or to prepare an EIS. If a Federal agency believes that the environmental impacts of a proposed action may be significant (for example, because an EA did not result in a FONSI), the agency will prepare an EIS. An EIS is a detailed written statement of the environmental impacts of a proposed action and alternatives to the proposed action.

As defined by NEPA, a categorical exclusion is a category of actions that a Federal agency has determined normally does not significantly affect the quality of the human environment within the meaning of section 102(2)(C) of NEPA. Under the NRC's NEPA implementing regulations, see 10 CFR 51.14(a), 51.22(a), if the NRC finds that actions in a given category have no significant effect on the human environment, either individually or cumulatively then the NRC may establish a categorical exclusion for that

category of actions. Once it has established a categorical exclusion, the NRC is not required to prepare an EA or EIS for any action that falls within the scope of the categorical exclusion unless the NRC finds, for any particular action, special circumstances, see 10 CFR 51.22(b), that would preclude use of the categorical exclusion. Categorical exclusions facilitate efficient and effective reviews in accordance with Congress's intent. The determination that special circumstances are not present does not require the preparation of any specific or additional documentation beyond the documentation normally prepared indicating that the categorical exclusion is being invoked for the proposed action.

On March 12, 1984 (49 FR 9352), the NRC published 10 CFR part 51, including § 51.22, "Criterion for categorical exclusion: identification of licensing and regulatory actions eligible for categorical exclusion or otherwise not requiring environmental review." The regulation included the NRC's first list of 18 categorical exclusions in § 51.22(c). Since 1984, the NRC has made 18 amendments to the categorical exclusions in § 51.22(c). The NRC's categorical exclusions include administrative, organizational, and procedural amendments to certain types of NRC regulations, licenses, and certificates; minor changes related to application filing procedures; certain personnel and procurement activities; and activities for which environmental review by the NRC is excluded by statute. The NRC last amended its categorical exclusion regulations on April 29, 2010 (75 FR 20248).

The NRC published an advance notice of proposed rulemaking (ANPR) on May 7, 2021 (86 FR 24514), after a review of the NRC's environmental programs and organization identified potential opportunities to enhance the NRC's environmental review process for more efficient and effective reviews. In the ANPR the staff raised the possibility of reorganizing the existing categorical exclusions and adding new categorical exclusions. The NRC received more than 2,300 comment submittals on the ANPR; most

were identical comments on topics that the NRC determined were out of scope. The NRC evaluated approximately 20 unique comment submittals and considered them during the development of the proposed rule. Some of the comments supported reorganizing the list of categorical exclusions to eliminate redundancy and add clarity. Additionally, some comments supported revisions to eliminate distinctions in categorical exclusions between license amendments, exemptions, rulemaking, and other forms of NRC actions to ensure that categorical exclusions are based on the activities that would be authorized rather than the administrative and legal differences between the different forms of NRC approvals.

The NRC received comments that did not support some of the categories considered in the ANPR. Based on these comments, the NRC modified some of the changes under consideration; for example, the NRC did not pursue categorical exclusions for the four following categories of actions considered in the ANPR: (1) the issuance of exemptions to low-level waste disposal sites for the storage and disposal of special nuclear material regulated by Agreement States; (2) approvals for alternative waste disposal procedures for reactor and materials licenses in accordance with 10 CFR 20.2002, "Method for obtaining approval of proposed disposal procedures"; (3) the NRC's concurrence, under the Atomic Energy Act of 1954, as amended (AEA), section 274c., on termination by an Agreement State of licenses for AEA section 11e.(2) byproduct material where all decommissioning activities have been completed; and (4) approvals of long-term surveillance plans for decommissioned uranium mills.

In addition, based on a comment received on the ANPR, the NRC evaluated categorical exclusions by other Federal agencies for potential adoption by the NRC. This evaluation did not identify any categorical exclusions for incorporation in the proposed rule. Comments submitted on the ANPR can be found on <https://www.regulations.gov> by searching for "Docket ID NRC-2018-0300."

B. July 2024 Proposed Rule

The NRC published a proposed rule in the *Federal Register* on July 2, 2024 (89 FR 54727). The proposed rule identified the NRC's proposed changes to its list of categorical exclusions to clarify the scope of existing categories, to improve consistency in their application, and to add new categories of actions that have no significant effect on the human environment. The proposed amendments would ensure resources are directed to activities that have the potential to significantly affect the environment.

The amendments do not impose any new requirements on NRC applicants or licensees but ensure that NRC actions (including decisions on licensing requests) are completed in a more consistent, efficient, and effective manner and result in cost savings to the NRC and applicants and licensees, when applicable. The amendments eliminate the NRC's preparation of EA/FONSI's for many routine actions and actions that have no significant effect on the human environment (e.g., licensee requests for approval of minor administrative, procedural, or organizational changes).

The NRC held a public meeting on July 31, 2024, to provide an overview of these changes and to help facilitate comments on the proposed rule. The NRC received nine comment submittals on the proposed rule, resulting in approximately 37 unique comments that the staff considered in the development of the final rule.

C. Changes from Proposed Rule

In the proposed rule, the NRC explained that it was considering defining the phrase "previously disturbed areas" and requested input from the public on a possible definition. That definition was based on the definition of "previously disturbed or developed" in the Department of Energy's NEPA implementing regulations in 10 CFR 1021.410(g)(1). In the final rule, the NRC included the definition of previously disturbed areas with revisions to enable its application to a broader range of NRC actions than DOE's definition is used for, to focus on important habitats and habitat to important

species of concern, to provide clarity about the extent of previous disturbances to address comments received about historical and cultural resources, and for plain language. The NRC is defining the phrase “previously disturbed areas” to refer to areas that have been changed by development of the facility and remain altered by human activity such that they do not support important habitat or habitat to important species and no longer have the potential to yield historic and cultural resources. This includes the lateral and vertical extent of alteration from natural cover to a managed state. Important habitat includes wetlands, large contiguous tracts of habitat, scrub shrub habitat, and critical habitat as defined under the Endangered Species Act. Important species include State-listed species and species listed under the Endangered Species Act.

The focus on important habitats and important species is based on previous NRC environmental reviews. NRC staff reviewed previous environmental reviews to determine when ground disturbance has resulted in a significance level of MODERATE (the effect is sufficient to alter noticeably, but not destabilize, important attributes of the resource) or greater. NRC environmental reviews indicate that MODERATE or greater impacts occurred when there were significant impacts to habitat for State- or Endangered Species Act-listed species or to habitats that are considered particularly important for other reasons, such as wetlands, large contiguous tracts of habitat, and scrub shrub habitats, which may be sensitive to disturbance or important to preserve (e.g., because there are no or few other large contiguous tracts of habitat remaining in the area). No further substantial changes were made between the proposed rule and this final rule.

II. Discussion of Changes

A. What Action is the NRC Taking?

The NRC is changing its list of categorical exclusions to enhance the efficiency of its environmental reviews by clarifying the scope of existing categories, to improve consistency in their application, and adding new categories of actions that have no significant effect on the human environment. For example, the NRC is eliminating distinctions in categorical exclusions between license amendments, exemptions, rulemaking, and other forms of NRC actions to ensure that categorical exclusions are based on the activities that would be authorized (e.g., certain maintenance activities) rather than on the different forms of the NRC approvals. The amendments will ensure resources are directed to activities that have the potential to significantly affect the environment. In addition, the NRC is updating references to paragraphs of NEPA that were renumbered by recent amendments in the FRA; the NRC finds for good cause pursuant to the Administrative Procedure Act at 5 U.S.C. 553(b)(B) that an opportunity for comment on these updates is unnecessary because they are mere technical amendments to correct existing references to statutory requirements.

B. How are Categorical Exclusions Established and Applied?

If the NRC finds that actions in a given category have no significant effect on the human environment, either individually or cumulatively, *see* 10 CFR 51.14(a), 51.22(a), then the NRC may establish a categorical exclusion for that category of action. Once established, categorical exclusions are an efficient level of the NEPA environmental review process for actions that do not require an environmental assessment or environmental impact statement. The NRC establishes and revises categorical exclusions pursuant to a rulemaking, for defined classes of actions that the NRC determines are supported by a record showing that the actions do not have significant environmental impacts, individually or cumulatively, *see* 10 CFR 51.14(a), 51.22(a). Once it has established a categorical exclusion, the NRC is not required to prepare an EA or EIS for any action that falls within the scope of the categorical exclusion unless

the NRC finds, for any particular action, that there are special circumstances that indicate the action may have a significant effect on the human environment. If such special circumstances are present or are likely to be present, the NRC may prepare an EA (which may result in a FONSI) or, if necessary, an EIS. See 10 CFR 51.20(b)(14), 51.22(b). If special circumstances are not present, the categorical exclusion may be applied, and the NRC will have satisfied its NEPA obligation for that proposed action.

Under 10 CFR 51.22, the determination of whether special circumstances are present is a matter of agency discretion. The determination that special circumstances are not present does not require the preparation of any specific or additional documentation beyond the documentation normally prepared to indicate that the proposed action falls under a categorical exclusion.

C. Who Will This Action Affect?

The amendments will not impose any new requirements on NRC applicants or licensees but will ensure that NRC actions (including decisions on licensing requests) are completed in a more consistent, efficient, and effective manner and will result in cost savings to the NRC and applicants and licensees. The amendments will eliminate the NRC's preparation of EA/FONSIs for actions that the NRC knows from staff expertise or experience have no significant effect on the human environment (e.g., licensee requests for approval of minor administrative, procedural, or organizational changes).

D. Why is the NRC Taking This Action Now?

This rule is based upon a review of NRC regulatory actions that identified potential revisions to the NRC's categorical exclusions that could ensure resources are directed to activities that have the potential to significantly affect the environment.

E. How Did the NRC Determine Which Categorical Exclusions to Modify or Add?

The NRC reviewed and analyzed past actions, including their supporting NEPA documentation, to develop initial candidates for potential changes to categorical

exclusion regulations. The NRC considered available information and agency experience to determine whether the candidates for categorical exclusion and revisions to the existing categorical exclusions could be substantiated. The NRC then solicited input from internal stakeholders and from the public.

The NRC ultimately used two methods to substantiate the proposed changes. The methods used in the NRC's proposal are based on (1) data from implementing comparable past actions and the expert judgment of the NRC staff who conducted the past actions, and (2) professional opinions and information from other NRC staff. Based on its review of all the information collected, the NRC determined that actions covered by the changes will not individually or cumulatively have significant effects on the human environment. See 10 CFR 51.14(a), 51.22(a).

F. What are the Revisions to Address Inefficiencies and Inconsistencies?

The NRC is reorganizing the list of categorical exclusions to eliminate redundancy, add clarity, and improve consistency and efficiency. The former regulations contained 25 separate paragraphs, several of which contained multiple categorical exclusions. The NRC identified several actions where staff have cited different, potentially overlapping, categorical exclusions for similar or even identical actions. The reorganization eliminates distinctions in categorical exclusions among license amendments, exemptions, rulemaking, and other forms of NRC actions to ensure that categorical exclusions are based on the activities that will be authorized rather than the administrative and legal differences among the different forms of NRC approvals. The reorganization removes the overlapping actions and consolidates similar actions into one categorical exclusion.

The reorganization lists the categorical exclusions in paragraphs (a) through (d), based on threshold criteria used to more clearly and consistently identify the categories of actions being excluded.

The NRC is removing the “no significant hazards consideration” criterion. The “no significant hazards consideration” criterion is a procedural standard from § 50.92, “Issuance of amendment,” that governs whether an opportunity for a hearing must be provided before a license amendment action is taken by the NRC for a production and utilization facility under part 50 (51 FR 7746; March 6, 1986). It is not related to NEPA and not applicable to exemptions that do not include license amendments or actions related to materials licenses (e.g., 10 CFR part 30, “Rules of General Applicability to Domestic Licensing of Byproduct Material,” or 10 CFR part 40, “Domestic Licensing of Source Material,” licenses).

In addition, the “no significant construction impact” criterion is revised in the new § 51.22(b) and (d) to “provide that any ground disturbance is limited to previously disturbed areas.” The purpose of this change is to provide clarification. The regulatory history indicates that the “no significant construction impact” criterion was intended to preclude actions that would result in ground disturbing activities in undisturbed areas, which would have the potential to alter, modify, or destroy important attributes of environmental resource areas (e.g., land use, terrestrial ecology, historic and cultural resources). Based on experience with the use of these categorical exclusions, the NRC’s view is that it will be clearer to explicitly state the relevant consideration in the regulations. The “any ground disturbance is limited to previously disturbed areas” criterion can be demonstrated by determining that the proposed action will not consist of ground disturbing activities at all or documentation (e.g., surveys) confirming that there

are no important habitats, important species, or historic and cultural resources in the areas where ground disturbance will occur.

G. What is the Basis for the New Categorical Exclusions?

The NRC is adding the following categorical exclusions.

Issuance of amendments to § 72.214 for new, amended, revised, or renewed certificates of compliance for cask designs used for spent fuel storage. The codification of certificates of compliance for cask designs is accomplished by rulemaking to amend 10 CFR part 72. The NRC conducts a safety review for each rulemaking action to issue, amend, or renew a certificate of compliance. As background, on July 18, 1990 (55 FR 29181), the NRC issued an amendment to 10 CFR part 72 to provide for the storage of spent fuel under a general license in cask designs approved by the NRC. The potential environmental impact of using NRC-approved storage casks was initially analyzed in the EA for the 1990 final rule. Currently, the NRC prepares EAs for new, amended, revised, and renewed certificates of compliance for cask designs used for spent fuel storage. Between the 2010 rulemaking and 2021 the NRC completed approximately 125 EAs for amendments to § 72.214 for new, amended, revised, or renewed certificates of compliance for cask designs, all resulting in FONSI. No amendments to § 72.214 resulted in the need to prepare an EIS. Accordingly, the NRC determined that certificate of compliance cask design changes do not result in any radiological or non-radiological environmental impacts that differ substantially from the environmental impacts evaluated in the EA and FONSI supporting the 1990 final rule. Therefore, the NRC concluded that codifying certificates of compliance for cask designs do not individually or cumulatively affect the human environment, see 10 CFR 51.14(a), 51.22(a). This categorical exclusion is § 51.22(a)(12).

Actions under § 50.55a, "Codes and standards." Section 50.55a establishes minimum quality standards for the design, fabrication, erection, construction, testing, and

inspection of certain systems, structures, and components of boiling and pressurized water-cooled nuclear power plants. Under § 50.55a, the NRC can authorize proposed alternatives to these standards (§ 50.55a(z)), grant relief from or impose augments to requirements for in service inspection and testing of components due to impracticality (§ 50.55a(f)(6)(i) and (g)(6)(i)), or approve the early use of later code editions for inservice inspection and testing of components (§ 50.55a(f)(4)(iv) and (g)(4)(iv)). Categorically excluding these actions will provide clarity and surety for future actions of this type. For the following reasons, these approvals under § 50.55a do not individually or cumulatively have a significant effect on the human environment, which makes these actions eligible for categorical exclusion. Approvals under § 50.55a do not authorize new ground disturbance or the installation of new systems, structures, or components; rather, they relate to requirements for the design, construction, and maintenance of systems, structures and components authorized for use by other actions (i.e., licensing). These approvals also do not increase the probability or consequences of accidents, do not result in changes to the types or amounts of effluents released offsite, do not result in an increase to occupational or public dose, and do not result in other radiological or nonradiological environmental impacts. Therefore, the NRC concludes that actions under § 50.55a do not individually or cumulatively affect the human environment. This categorical exclusion is § 51.22(a)(16).

Changes to requirements for fire protection, emergency planning, physical security, cybersecurity, or quality assurance. Between the 2010 rulemaking and 2021, the NRC completed approximately 51 EAs/FONSIs associated with the approval of exemptions or license amendments related to fire protection, emergency planning, or physical security requirements. The EAs concluded that these license amendments or exemptions will not significantly increase the probability or consequences of accidents and do not result in significant changes to the types or amounts of effluents released

offsite, increases to occupational or public dose, or any other radiological or non-radiological environmental impacts. Although some of these actions include ground disturbing activities, such as construction of security fences, because the ground disturbing activities were limited to previously disturbed areas (as defined in this rule), none of the actions resulted in significant environmental effects under NEPA. Therefore, the NRC concluded that these changes to requirements for fire protection, emergency planning, or physical security do not individually or cumulatively have a significant effect on the human environment, provided that any associated ground disturbance is limited to previously disturbed areas.

Quality assurance programs are intended to provide adequate confidence that a structure, system, or component will perform satisfactorily in service. Elements of a quality assurance program include procedures, recordkeeping, inspections, corrective actions, and audits. Cybersecurity programs protect computer and digital communication systems and networks against cyber-attacks. These programs ensure that actions associated with structures, systems, and components will satisfy stated performance criteria. Changes to quality assurance programs or cybersecurity programs could affect activities that occur inside buildings. These changes do not significantly increase the probability or consequences of accidents and do not result in significant changes to the types or amounts of effluents released offsite, increases to occupational or public dose, or any other radiological or non-radiological impacts and do not involve ground disturbance in undisturbed areas. Therefore, changes to requirements for quality assurance or cybersecurity do not have the potential to individually or cumulatively affect the human environment. These actions will be categorically excluded by § 51.22(d)(4).

Changes to extend implementation dates for activities previously found to not have a significant environmental impact. These revisions will categorically exclude actions authorizing licensees to delay implementation of certain new NRC requirements.

This categorical exclusion only applies to implementation date delays for activities previously found to have no significant environmental impact and where the delay will result in no significant increase in the potential for or consequences from radiological accidents, no ground disturbance in undisturbed areas, no changes in effluents released offsite, and no additional doses to individuals. The categorical exclusion does not apply to authorizations for other date extensions, such as license term extensions. Between the 2010 rulemaking and 2021, the NRC completed approximately 44 EAs to extend implementation dates, all resulting in FONSIs. Therefore, the NRC determined that implementation date extensions do not have the potential to individually or cumulatively have a significant effect on the human environment. These actions will be categorically excluded by § 51.22(d)(6).

In addition, and as discussed in more detail below relating to a reorganization of categorical exclusions, the NRC is establishing a new categorical exclusion for actions that are administrative, procedural, or solely financial in nature and has identified the following two examples of actions that are included in this category that will be specifically stated in the rule for the first time:

Termination of licenses that were issued but for which no construction activities have begun or where all decommissioning activities have been completed and approved and license termination is a final administrative step. First, the termination of licenses that were issued but for which no construction has begun removes authorization for activities that could affect the environment. Second, when all site decommissioning activities have been approved and completed, license termination is an NRC administrative action. To be eligible for license termination, facilities must complete necessary dismantlement and decontamination activities and have met radiological criteria in 10 CFR part 20, "Standards for Protection Against Radiation," for site release and demonstrated that public health and safety and the environment will be protected.

Therefore, the action of terminating a license after all site decommissioning activities have been approved and completed is administrative in nature and does not have the potential to individually or cumulatively have a significant effect on the human environment. The NRC has historically cited various other categorical exclusions or prepared an EA for these activities. The inclusion of this example in § 51.22(a)(1)(xiii) will provide clarity and consistency for future license terminations. This categorical exclusion will not include the NRC's concurrence on termination of an Agreement State license for AEA § 11e.(2) byproduct material. It will also not include partial site releases or license termination plans.

Actions on or changes to requirements for decommissioning funding.

Decommissioning funding actions only relate to changes in the management of funds allowed for managing decommissioning activities. They do not authorize new land-disturbing activities that could affect land use, soils and geology, water resources, ecological resources, historic and cultural resources, air quality, traffic and transportation, socioeconomics, or accidents. Categorically excluding decommissioning funding actions will provide clarity and surety for future actions and eliminate inconsistencies in the decommissioning funding approval process. Licensees will continue to comply with all appropriate NRC regulations related to occupational and public radiation exposure and therefore decommissioning funding actions will not result in an increase to occupational or public doses. Finally, licensees are required to maintain adequate funding for radiological decommissioning and to provide information regarding this funding to the NRC. Between 2010 and 2021 the NRC completed approximately 30 EAs for decommissioning funding actions, all resulting in FONSI. Therefore, the NRC determined that decommissioning funding actions are strictly financial in nature and do not have the potential to individually or cumulatively have a significant effect on the

human environment. These actions are listed in § 51.22(a)(1)(xii) as examples of actions that are administrative, procedural, or solely financial in nature.

H. What is the Basis for the Revisions to Existing Categorical Exclusions?

The NRC is reorganizing the list of categorical exclusions to eliminate redundancy, add clarity, and improve consistency. The reorganization will eliminate distinctions in categorical exclusions among license amendments, exemptions, rulemaking, and other forms of NRC actions, to ensure that categorical exclusions are based on the activities that will be authorized rather than the administrative and legal differences among the different forms of NRC approvals. The reorganization will consolidate similar actions into one categorical exclusion. In some instances, the revisions will expand or clarify language used in the existing categorical exclusions (e.g., focusing on ground disturbance rather than on whether there will be a “significant construction impact”). In these cases, the rulemaking analyzes these newly included actions for suitability for categorical exclusion but does not revisit the suitability of the existing categorical exclusion. The NRC also made a small number of editorial revisions. This section provides the basis for the revisions.

The new categorical exclusion in § 51.22(a)(1) applies to all NRC actions that are administrative, procedural, or solely financial in nature including exemptions and orders pertaining to these actions. The list of activities in §§ 51.22(a)(1)(i) through (xi) consolidates all existing categorical exclusions that fit into the new category, but the list is not exclusive; rather it provides examples of actions that are included in the category for clarity. The actions included in § 51.22(a)(1) are limited to those that are administrative, procedural, or solely financial in nature. The NRC notes that actions that are “solely financial in nature” do not include, for example, grants or contracts that enable activities that could have environmental effects where NRC “exercise[s] sufficient control and responsibility over the subsequent use of such financial assistance or the

effect of the action,” NEPA § 111(10)(B)(iii). Instead, this refers to activities that relate only to sources or means of funding or verifying that adequate funding is available for approved activities. Actions that are solely financial in nature affect the financial arrangements of the licensees, but do not have environmental impacts. Accordingly, the NRC concluded that these actions will not individually or cumulatively have a significant effect on the human environment.

The new § 51.22(a)(8) will expand the categorical exclusion for issuance, amendment, or renewal of operators' licenses under 10 CFR part 55, “Operators’ Licenses” to include all forms of related NRC actions, including exemptions and orders. Part 55 of 10 CFR prohibits persons from performing the functions of an operator or a senior operator at a licensed facility unless authorized to do so by a license issued by the Commission. Although issuance or denial of an operator’s license may have an economic effect on the individual applicant, the action of the Commission in issuing, amending, or renewing an operator’s license in accordance with the procedures of 10 CFR part 55 does not have a significant environmental effect. The environmental impact of the operation of a licensed facility by a licensed operator is considered in the EIS or EA prepared in connection with the licensing action authorizing operation of the facility. The formal action of certifying an operator does not authorize facility operation. Accordingly, the NRC finds that issuance, amendment, or renewal of operators’ licenses under 10 CFR part 55 comprises a category of actions that do not individually or cumulatively have a significant effect on the human environment, see 10 CFR 51.14(a), 51.22(a). For the same reasons, the NRC concluded that neither exemptions nor orders relating to these requirements will have significant effects on the human environment.

The new § 51.22(a)(10) will expand an existing categorical exclusion to include all forms of related NRC actions, including exemptions and orders, but not rulemakings. Specifically, it will expand the categorical exclusions for issuance, amendment, or

renewal of materials licenses issued under 10 CFR parts 30, 31, 32, 33, 34, 35, 36, 39, 40, or 70 authorizing the types of activities listed in the former § 51.22(c)(14). It has been the NRC's experience that additional NRC actions such as exemptions and orders involve insignificant amounts of source, byproduct, or special nuclear material in quantities and form similar to those categorically excluded in § 51.22(c)(14) and, therefore, have no significant individual or cumulative environmental impact. For the same reasons, the NRC concluded that neither exemptions nor orders relating to these requirements will not individually or cumulatively have significant effects on the human environment.

The new § 51.22(b) and (d) include a criterion stating that the actions will not result in disturbances to previously undisturbed areas. This wording replaces the previous wording of "no significant construction impact." The purpose of this new wording is to clarify that ground disturbance in areas that are already disturbed can be a factor in determining whether an action will have potential impacts. Actions that involve ground disturbance in areas not already disturbed will be reviewed for potential environmental impacts. The new § 51.22(b) is otherwise substantively unchanged from the former § 51.22(c)(6).

The new § 51.22(d)(1) through (3), and (5) will expand the following categorical exclusions to include rulemaking, orders, and license amendments, provided the actions will not disturb previously undisturbed areas, will not result in a significant change in the types or amounts of effluents released offsite, will not significantly increase public or occupational radiation exposure, and will not increase the potential for or consequences from radiological accidents:

- Changes to inspection or surveillance requirements (new § 51.22(d)(1)): this will also be expanded to apply to facilities other than reactors (i.e., will eliminate reference to 10 CFR part 50 or 52). Expanding this categorical exclusion to include

facilities other than reactors improves the consistency of the categorical exclusion. The NRC expects that the application of this categorical exclusion to non-reactor facilities will not be materially different from the former application to reactor facilities because the activities are substantially similar at all NRC licensed facilities;

- Changes to equipment servicing or maintenance requirements (new § 51.22(d)(2));
- Changes to safeguards plans or material control and accounting inventory requirements, including modifications to systems used for security and/or materials accountability (new § 51.22(d)(3)); and
- Changes to scheduling requirements (new § 51.22(d)(5)).

In addition to exemptions, the NRC conveys its regulatory decisions using other forms, such as rulemaking, orders, and license amendments. The NRC previously found that requests for exemptions from requirements for inspection and surveillance, equipment servicing and maintenance, safeguards plans and material control and accounting, and scheduling requirements will not lead to significant environmental impacts on the human environment. Similarly, the NRC concluded that changes to these requirements resulting from rulemakings, orders, and license amendments, assuming the changes meet the criteria in the new § 51.22(d), will not have significant individual or cumulative effects on the human environment.

The new § 51.22(d)(7) will expand an existing categorical exclusion, former § 51.22(c)(11), to include exemptions, orders, and rulemaking. Specifically, former § 51.22(c)(11) is a categorical exclusion for amendments to licenses for fuel cycle plants and radioactive waste disposal sites and amendments to materials licenses identified in § 51.60(b)(1) that are administrative, organizational, or procedural in nature, or that result in a change in process operations or equipment, provided that there is no significant change in the types or significant increase in the amounts of any effluents released

offsite, no significant increase in individual or cumulative public or occupational radiation exposure, no significant construction impact, and no significant increase in the potential for or consequences from radiological accidents. In the NRC's experience, these actions also do not result in any significant adverse impacts to the environment. Implementation of these minor and routine types of changes do not substantially alter the previously evaluated environmental impacts associated with the licensed activity, considering the potential for ground disturbance, types and amounts of effluents released by the operation, occupational exposure to employees, or potential accidents. The actions that will be categorically excluded do not affect the scope or nature of the licensed activity. Therefore, the issuance of exemptions and orders relating to these matters in and of themselves will not cause any significant individual or cumulative environmental effects.

The new § 51.22(d)(7) relating to authorizations that result in changes in process operations or equipment under certain licenses, will be subject to the criterion in § 51.22(d) stating that the actions will not result in disturbances to previously undisturbed ground. This wording replaces the limitation in the former categorical exclusion (at § 51.22(c)(11)) to activities that involve "no significant construction impact." The purpose of this new wording is to clarify that ground disturbance is a factor in determining whether an action will have potential impacts. The NRC has found that ground disturbance actions in undisturbed areas could have potential impacts that should be evaluated in an environmental assessment. These environmental assessments can vary, as some undisturbed areas can be environmentally sensitive to even small actions.

The new § 51.22(d)(8), relating to certain authorizations under 10 CFR part 50 or 52, will expand the existing categorical exclusion in the former § 51.22(c)(9) to include rulemakings and orders. Specifically, it will expand the existing categorical exclusion for the issuance of an amendment to a permit or license for a reactor under 10 CFR part 50 or 52 that changes a requirement or issuance of an exemption from a requirement with

respect to installation or use of a facility component. The rule will also expand this categorical exclusion to include installation or use of a facility component outside the restricted area under certain circumstances.

The new § 51.22(d)(8) will be subject to the criterion in § 51.22(d) stating that the actions will not result in disturbances to previously undisturbed areas. This criterion will replace the restriction of the former categorical exclusion (at § 51.22(c)(9)) to facility components located within the restricted area. Restricting this categorical exclusion to components in the restricted area ensured that ground disturbance was limited to previously disturbed areas, which was part of the basis for the former categorical exclusion. Thus, this revision will continue to ensure that the categorical exclusion does not apply to activities that include ground disturbance in areas not already disturbed. As a result, this categorical exclusion will apply whether a facility component is located inside or outside the restricted area but only so long as installation or use of the component will not disturb previously undisturbed areas (and meets the other criteria in § 51.22(d)).

I. Why is the NRC Removing Categorical Exclusions?

The NRC evaluated all categorical exclusions to determine if any are no longer necessary or have proven to no longer meet the criteria for categorical exclusion. The NRC determined that two categorical exclusions are no longer necessary because they are obsolete. The remaining categorical exclusions continue to be valid. The NRC is removing the former § 51.22(c)(17), "Issuance of an amendment to a permit or license under 10 CFR part 30, 40, 50, 52, or 70, which removes any limiting condition of operation or monitoring requirement based on or applicable to any matter subject to the provisions of the Federal Water Pollution Control Act." The NRC concluded its activity to amend applicable NRC licenses and permits to remove limiting conditions of operation or monitoring requirements pertaining to nonradiological discharge pollutants under the

Federal Water Pollution Control Act and no longer includes such conditions in NRC permits and licenses (49 FR 9380; March 12, 1984). Therefore, the NRC has determined that this categorical exclusion is no longer necessary.

The NRC is also removing former § 51.22(c)(18), “Issuance of amendments or orders authorizing licensees of production or utilization facilities to resume operation, provided the basis for the authorization rests solely on a determination or redetermination by the Commission that applicable emergency planning requirements are met.” This categorical exclusion was established in 1984 (49 FR 9352; March 12, 1984) to support the implementation of a 1980 emergency planning rule (45 FR 55402; August 19, 1980). That emergency planning rule has been fully implemented; therefore, the NRC has determined that this categorical exclusion is no longer applicable and should be removed.

J. Why is the NRC Defining the Term Previously Disturbed Areas?

The NRC is defining the phrase “previously disturbed areas” to refer to areas that have been changed by development of the facility and remain altered by human activity such that they do not support important habitat or habitat to important species and no longer have the potential to yield historic and cultural resources. This includes the lateral and vertical extent of alteration from natural cover to a managed state. This definition is based on the definition of “previously disturbed or developed” in the Department of Energy’s (DOE’s) NEPA implementing regulations in 10 CFR 1021. The definition includes modifications to enable its application to a broader range of NRC actions than DOE’s definition is used for, for plain language, and to provide clarity about the extent of previous disturbances to address comments received about historical and cultural resources. Important habitats include wetlands, large contiguous tracts of habitat, scrub shrub habitat, and critical habitat as defined under the Endangered Species Act.

Important species include State-listed species and species listed under the Endangered Species Act.

The NRC's reassessment of the previous language of "no significant construction impact" concluded that the new wording "any ground disturbance is limited to previously disturbed areas" clarifies that ground disturbance can be a factor in determining whether an action would have potential impacts. The criterion "any ground disturbance is limited to previously disturbed areas" is appropriate in a categorical exclusion because it clearly and explicitly states the relevant consideration in the regulations.

III. Opportunities for Public Participation

The NRC published an advance notice of proposed rulemaking (ANPR) in the *Federal Register* on May 7, 2021 (86 FR 24514). The NRC held a meeting on June 16, 2021, to help facilitate comments on the ANPR. The ANPR identified potential new categorical exclusions, areas where existing categories could be clarified, and inconsistencies among existing excluded categories. Comments received as a result of the ANPR can be found at <https://www.regulations.gov>, under Docket ID NRC-2018-0300.

The NRC published a proposed rule in the *Federal Register* on July 2, 2024 (89 FR 54727). The NRC held a public meeting on July 31, 2024, where the NRC provided background on the proposed changes. Comments received on the proposed rule can be found at <https://www.regulations.gov>, under Docket ID NRC-2018-0300.

IV. Public Comment Analysis

The public comment period for the proposed rule closed on September 16, 2024. In the proposed rule, the NRC requested comments regarding the proposed requirements. The NRC received nine comment submittals which included 37 unique

comments. The public comment submissions are available from the Federal e-Rulemaking website at <https://www.regulations.gov> under Docket ID NRC-2018-0300.

This analysis addresses the three specific questions included in the request for comment on the proposed rule. This analysis also addresses general comments, which have been binned into four categories based on their relevance to particular topics.

A. Comments and NRC Responses to Specific Questions on the Proposed Rule

In Section IV of the Supplementary Information for the proposed rule, the NRC solicited comments on three specific questions. In the next paragraphs, these questions are restated, comments received from stakeholders are summarized, and the NRC's responses to the public comments are presented.

Question 1: The categorical exclusions in proposed § 51.22(b) (related to confirmatory research and review and approval of transportation routes under §73.3) and (d) (addressing nine different types of actions) will require the application of threshold criteria to determine whether the actions listed in those sections may be categorically excluded. The threshold criteria used in current § 51.22 include “no significant construction impact.” The NRC is proposing to substitute the phrase “any ground disturbance is limited to previously disturbed areas” for “no significant construction impact.” The purpose of this change is to prevent the categorical exclusion of actions that would disturb previously undisturbed land, which have the potential to affect historic or cultural resources, and actions that would disturb areas that are in or have been allowed to return to a natural state, which have the potential to affect functioning ecologies. The NRC requested input on the proposed phrase “any ground disturbance is limited to previously disturbed areas.”

Comments Summary: Commenters indicated that changing the rule language from “no significant construction impact” to the new criterion of “any ground disturbance is limited to previously disturbed areas” may be overly restrictive or reduce agency

efficiency. One commenter indicated that the proposed language change represents a shift from a more performance-based standard, which evaluated the actual environmental impact of the project, to one that focuses more on the history of the land's disturbance. That commenter stated that the language "no significant construction impact" should not be removed strictly due to interpretation concerns and that projects in undisturbed areas may have minimal or no environmental impacts and should still qualify for a categorical exclusion. Another commenter indicated that the rule should include language that permits use of context-specific, performance-based language rather than prescriptively limiting all potential ground disturbance to "previously disturbed areas."

One commenter suggested that the NRC should retain the flexibility to apply categorical exclusions to actions that may involve limited ground-disturbing or other physical activities on undisturbed or undeveloped sites, provided those activities do not destabilize or noticeably alter any important attribute of the relevant environmental resources.

Several commenters indicated a preference for including both the previous language of "no significant construction impact" in addition to the proposed language of "any ground disturbance is limited to previously disturbed areas" in the rule language because such inclusion can ensure that low-risk, low-impact projects are not unnecessarily delayed while safeguarding against potential harm to both previously disturbed and undisturbed lands, allowing for a more nuanced assessment of categorical exclusions and project impacts.

One commenter suggested using the new criterion "any ground disturbance is limited to previously disturbed areas" with "or the effects of any ground disturbances are not detectable or so minor that they will neither destabilize nor noticeably alter any important attribute of an environmental resource."

Response: The NRC disagrees with these comments. The purpose for this change is to provide clarification. This new wording clarifies that ground disturbance is a factor in determining whether an action would have potential impacts. The regulatory history indicates that the “no significant construction” impact criterion was intended to preclude actions that would result in ground disturbing activities in undisturbed areas because the actions would have the potential to alter, modify, or destroy important attributes of environmental resource areas (*e.g.*, land use, terrestrial ecology, historic and cultural resources). The NRC believes this change would explicitly state the relevant consideration in the regulations.

In contrast, the NRC has found that ground disturbance actions in previously undisturbed areas could have potential impacts that should be evaluated in an environmental assessment. These environmental assessments can vary, as some undisturbed areas can be environmentally sensitive to even small actions. The extent of construction impacts on undisturbed areas needs to be assessed through either an environmental assessment or an environmental impact statement. Although the assessments may in many cases be brief, because these potential impacts require individual assessment, ground disturbance actions in undisturbed areas are not appropriate for a categorical exclusion.

The use of a “performance-based approach” or use of a noticeability criteria is not appropriate for categorical exclusions because the NRC’s regulations require that categories for exclusion have no significant environmental impact.

The NRC has defined SMALL in environmental impact statements to indicate environmental effects that are not detectable or are so minor that they will neither destabilize nor noticeably alter any important attribute of a resource. The NRC has proposed to use a performance-based approach to address the NRC licensing of the building and operation of new nuclear reactors in the United States by codifying the

findings of the Generic Environmental Impact Statement for Licensing of New Nuclear Reactors, Draft NUREG-2249. This approach reflects minimization of potential environmental impacts by the applicant when choosing a plant design and site prior to submitting an application. The performance-based values and assumptions in the Generic Environmental Impact Statement (GEIS) describe the bounding environmental conditions for the generic analysis to confidently conclude that environmental impacts would be SMALL for any location within the United States. Applicants and NRC staff may rely on the generic analysis for each Category 1 issue provided that the relevant values and assumptions are met and there is no new and significant information that changes the conclusions in the GEIS.¹ A minimization of potential environmental impacts or an impact finding of SMALL in the GEIS does not necessarily mean that a specific action would not individually or cumulatively have a significant effect on the human environment. Therefore, the NRC cannot generically substitute those conclusions to support a categorical exclusion criterion without assessing the specific actions to be excluded. In contrast, excluding ground disturbance of previously undisturbed areas allows the NRC to generically conclude that impacts to certain environmental resource areas will not occur. Combined with other threshold criteria and knowledge and experience of the listed categories of actions, this allows the NRC to conclude that the listed actions will not result in significant effects on the human environment.

Finally, the previously disturbed areas criterion provides a clear and objective standard that will more readily and transparently allow applicants, the NRC staff, and members of the public to determine whether a proposed action meets the categorical exclusion. In contrast, the version of the “no significant construction impacts” standard

¹ Category 1 issues are those issues determined to be common, or generic, to all nuclear reactors, as discussed in NUREG-1437. The NRC staff determined that the vast majority of Category 1 issues were of SMALL significance level.

proposed by commenters would require a subjective, EA-like evaluation of the significance of the construction impacts before the categorical exclusion could be applied. No changes to the rule language were made as a result of these comments.

Question 2: The NRC is considering defining the phrase “previously disturbed areas” to refer to areas that have been changed such that its functioning ecological processes have been and remain altered by human activity. The phrase encompasses areas that have been transformed from natural cover to non-native species or a managed state, including, but not limited to, utility and electric power transmission corridors and rights-of-way, and other areas where active utilities and currently used roads are readily available. The NRC requested input on the proposed definition.

Comments Summary: Commenters noted that the NRC's proposed definition is identical to DOE's definition of "previously disturbed or developed" land in 10 CFR 1021. Commenters did not object to the NRC's proposed definition, or its consideration of the concept, of “previously disturbed areas” applying to certain categorical exclusions. Additionally, commenters stated that the "previously disturbed area" criterion could be beneficial insofar as it serves as a rebuttable presumption that, when a proposed action affects only a previously disturbed area, that action can be categorically excluded from environmental review. This assumes that the NRC determines that any other applicable criteria in § 51.22 (e.g., no significant increase in individual or cumulative public or occupational radiation exposure) are met and no special circumstances are present. This could simplify the analysis of whether a particular categorical exclusion applies to a proposed action, thereby enhancing efficiency. However, one comment asserted that the proposed “limited to previously disturbed areas” criterion may be more restrictive than the current “no significant construction impact” criterion.

Response: The NRC disagrees with the comment expressing concern that the new criterion may be more restrictive. The previous language of “no significant construction

impact” was intended to reflect that ground disturbance can be a factor in determining whether an action would have potential impacts. The NRC considers this revision to more clearly capture this intent and anticipates that the additional clarification may result in application of the affected categorical exclusions to actions that may not previously have been considered to qualify (e.g., an action that includes construction but is limited to previously disturbed areas). The criterion “any ground disturbance is limited to previously disturbed areas” is appropriate in a categorical exclusion because it clearly and explicitly states the relevant consideration in the regulations. Based in part on these comments, and as discussed under Section II.J of this document, the NRC is defining the phrase “previously disturbed areas,” but has revised the definition from that presented in the draft rule FRN to reflect a plain writing approach. The NRC is defining the phrase “previously disturbed areas” to refer to areas that have been changed by development of the facility and remain altered by human activity such that they do not support important habitat or habitat to important species and no longer have the potential to yield historic and cultural resources. This includes the lateral and vertical extent of alteration from natural cover to a managed state.

Question 3: As discussed in Section II.F, of this document, the NRC is proposing to remove the “no significant hazards consideration” determination in §§ 51.22(c)(9) and (c)(25)(i) and (v), which is related to a process for issuance of license amendments for nuclear power reactor and testing facility licenses, but is not related to environmental impacts and not relevant to materials licenses. The “no significant hazards consideration” is a procedural standard that governs whether an opportunity for a hearing must be provided before an action is taken by the NRC. The NRC requested input on the removal of the “no significant hazards consideration” determination in §§ 51.22(c)(9) and (c)(25)(i) and (v).

Comments Summary: Several commenters support the removal of the “no significant hazards consideration.”

Response: The NRC agrees with these comments, which support the proposed change in the rule. No changes to the rule language were made as a result of these comments.

B. General Comments and NRC Responses on the Proposed Rule

The NRC received additional public comments on the proposed rule. The NRC separated these comments into five categories based on their relevance to particular topics.

1. Comments on the Broader Use of Categorical Exclusions

Comments Summary: Commenters recommended that the final categorical exclusion rule should allow the use of mitigated categorical exclusions, analogous to the NRC allowing the use of a mitigated finding of no significant impact. Commenters stated that “[m]itigated CATEXs would allow the NRC to promulgate a broader scope of CATEXs for new reactors.”

Commenters indicated that the NRC staff should continue to consider how performance-based regulations can be applied to the promulgation of categorical exclusions and identify opportunities to develop additional categorical exclusions beyond those contained in the current § 51.22 and the proposed rule in accordance with the FRA and the Accelerating Deployment of Versatile Advanced Nuclear for Clean Energy Act of 2024 (ADVANCE Act). Commenters recognized that the NRC’s proposed rule is intended to clarify the scope of existing categories, improve the consistency of their application, and add some limited new categories of actions that have no significant impact on the human environment.

Commenters suggested several broad areas, such as new nuclear power plant licensing, where additional categorical exclusions might be appropriate.

Response: The NRC disagrees with these comments. To support this rulemaking, the NRC conducted a broad review of NRC actions, including prior NEPA reviews resulting in FONSI's since the NRC's last categorical exclusion rulemaking. The proposed rule included categorical exclusions for each category of actions the NRC's review identified as eligible. The comments do not provide sufficient new information to support additional categorical exclusions.

With respect to the use of mitigated categorical exclusions, the NRC agrees that mitigation can be relevant in determining whether an action or category of actions have no significant effect on the human environment either individually or cumulatively, and thus whether the NRC can establish a categorical exclusion. As traditionally used in environmental assessments, "mitigation" refers to enforceable measures that ensure the impacts of the proposed action will not be significant, allowing the agency to reach a FONSI. In this final rule, the threshold criteria in new paragraphs § 51.22(b)–(d) could be viewed as acknowledging aspects of a proposed action that ensure environmental impacts will not be significant without specifying that particular mitigation measures be used to achieve that outcome. For example, a licensee could make design or location choices for a facility modification to ensure there will be no significant increase in effluents that may be released offsite to qualify for a categorical exclusion. The NRC recognizes that there may be additional actions that could qualify for categorical exclusion with appropriate threshold criteria or by specifying the inclusion of specific mitigation measures, however, the NRC has not identified such additional categorical exclusions at this time.

In addition, for any particular action, there may be extraordinary circumstances (special circumstances in the NRC's regulations) that could result in an action having a significant effect on the human environment and thus preclude the use of a categorical exclusion. The NRC recognizes that mitigation to avoid significant effects on the human

environment can factor into the NRC's determination of whether special circumstances are indeed present.

With respect to developing additional categorical exclusions beyond those contained in the current § 51.22 and the proposed rule, in accordance with the FRA and the ADVANCE Act, NRC will continue to evaluate opportunities for establishing or adopting additional use of categorical exclusions beyond those that are part of this rulemaking. This rulemaking was in development before the FRA and the ADVANCE Act were enacted. For instance, the FRA NEPA amendments codified a process through which an agency can adopt a categorical exclusion issued by another agency. Furthermore, that rulemaking plan will revise the NRC's NEPA implementing regulations to reflect NEPA's revised definition of categorical exclusion. In the development of a proposed rule, NRC staff will explore whether the change in definition results in any additional categories of actions being eligible for categorical exclusion. Promulgating a broader scope of new categorical exclusions for new reactors was outside the scope of this final rule. No changes to the rule language were made as a result of these comments.

2. Comments on Government-to-Government Consultations

Comments Summary: A federally recognized Indian Tribe indicated that the NRC has a responsibility to conduct government-to-government consultations with Tribes concerning the proposed revisions to the categorical exclusions.

A commenter recommends that the proposed categorical exclusions rulemaking should include a provision allowing affected Tribal governments and interested parties the ability to challenge a categorical exclusion with or without the presence of new and significant information.

Response: The NRC agrees in part and disagrees in part with these comments. The NRC recognizes the Federal Trust Relationship and is committed to a government-

to-government relationship with federally recognized Indian Tribes. On August 14, 2024, the NRC issued a State and Tribal Communication (STC) letter STC-24-047 informing all federally recognized Tribes of the opportunity to request formal consultation on the proposed rule in accordance with its Tribal Policy Statement.

The NRC disagrees that this rulemaking should include a provision allowing these entities to challenge the application of a categorical exclusion. The NRC has found that the kinds of actions in this rulemaking covered by the NRC's categorical exclusions have no significant effect on the human environment. The NRC has made this determination based on an in-depth review of past NRC regulatory actions, professional opinions and information from NRC staff, and input from stakeholders and the public received in a variety of ways throughout the rulemaking process, including through an ANPR, public meetings, and written comments.

Accordingly, the NRC did not revise the rule in response to these comments.

3. Comments Concerning Cultural and Historical Resources

Comments Summary: A federally recognized Indian Tribe also added that while categorical exclusions add to agency flexibility to undertake necessary actions, it undermines Tribal Sovereignty, ignores Traditional Cultural Landscapes, and works to ignore cultural concerns.

A commenter indicated that the NRC is required to provide additional information relating to proposed rule criterion and justification that ensures NRC actions will not result in disturbances or inadvertent discoveries within previously undisturbed areas consistent with Federal law and trust responsibility.

Response: The NRC agrees that this final rule will add to the agency's flexibility to undertake necessary actions. However, the NRC disagrees that this final rule undermines Tribal Sovereignty, ignores Traditional Cultural Landscapes, and works to ignore cultural concerns. To establish a categorical exclusion, the NRC determines

whether a proposed activity is one that, on the basis of knowledge or experience, does not individually or cumulatively have a significant effect on the environment, see 10 CFR 51.14(a), 51.22(a), including historic and cultural resources. In determining if one or more categorical exclusions applies to a proposed action, the NRC considers if special circumstances are present, in which a normally excluded action may have a significant environmental effect and therefore requires preparation of an EA or EIS. Furthermore, the categorical exclusions in the new §§ 51.22(b) and (d) are limited to ground disturbance on previously disturbed areas, where there is no potential to affect cultural or historic resources. If ground disturbance is not restricted to previously disturbed areas, as defined in the final rule, then the categorical exclusion would not apply. No changes were made to the rule as a result of these comments.

4. Comments of General Concern

Comment Summary: A commenter indicated that the term “no significant impacts” is arbitrary, that impacts from nuclear and fossil fuel projects can be delayed or hidden for years and recommends that categorical exclusions should not be allowed for nuclear or fossil fuel projects.

Response: The NRC disagrees with this comment. The comment does not provide substantive information related to the potential environmental effects of the category of actions to which a categorical exclusion can apply. If the NRC finds that actions in a given category does not individually or cumulatively have a significant effect on the human environment, then the NRC may establish a categorical exclusion for that category of actions. See 10 CFR 51.14(a), 51.22(a). The NRC conducted an in-depth review of the NRC activities that identified several recurring categories of regulatory actions that are not addressed in § 51.22 and have no significant effect on the human environment, either individually or cumulatively, see 10 CFR 51.14(a), 51.22(a). These categories of actions were considered in developing this rule.

The NRC strives to be open and transparent and provide stakeholders the opportunity to express their opinions on matters related to the NRC's regulatory functions. The NRC published an ANPR in May of 2021, seeking stakeholder input on identified potential changes to categorical exclusions to inform the rulemaking. A public meeting associated with the ANPR was held on June 16, 2021, to facilitate comments. On July 2, 2024, the NRC published the proposed Categorical Exclusions from Environmental Review rule in the *Federal Register* (89 FR 54727). The notice contained a solicitation for comments on the proposed rule language. A public meeting was held on July 31, 2024, to discuss the proposed rule and to answer questions to facilitate meaningful comments on the proposed rule. No changes to the rule language were made as a result of these comments.

Comment Summary: A commenter expressed the opinion that categorical exclusions should be very limited in scope and applied only to life threatening or contamination events with critical effects to the human population or physical environmental/natural world. A commenter believes the proposed rule must clearly state why particular exemptions may leave environmental, public health, safety, and cultural effects unevaluated.

Response: The NRC disagrees with this comment. Emergency conditions are not a factor in determining whether an action is eligible for a categorical exclusion; categorical exclusions are a type of environmental document the agency prepares before an action is implemented, not an exemption from NEPA. In addition, the NRC's regulations on the use of categorical exclusions include consideration of whether special circumstances (also known as extraordinary circumstances) are present and, if so, whether those special circumstances merit preparation of an EA or EIS. With respect to limiting the scope of categorical exclusions, the NRC's categorical exclusions are inherently "limited in scope" in that they only apply to actions that do not have significant effects based on

the NRC's expertise and experience in evaluating the environmental effects of its actions. The rule does not "leave public health and safety unevaluated." Categorical exclusions are developed and implemented for specific categories of actions that the NRC has previously determined will not individually or cumulatively have a significant effect on the human environment, see 10 CFR 51.14(a), 51.22(a), including public health and safety and cultural effects. The categorical exclusion specifically does not include actions involving ground disturbance in previously undisturbed areas. No changes to the rule language were made as a result of these comments.

5. General Comments in Support of the Rulemaking

Comment Summary: Commenters supported the reorganization of categories in § 51.22, noting that the changes are consistent with NRC's Principles of Good Regulation, and with NEPA.

Response: The NRC acknowledges the comments. The comments are general in nature and in support of the rulemaking. No changes to the rule language were made as a result of these comments.

Comment Summary: The comment supports the NRC's proposed new categorical exclusions, noting that the rule provided a reasoned basis for each new categorical exclusion. Namely, none of the specified actions increases the probability or consequences of accidents; results in significant changes to the types or amounts of effluents released offsite, increases to occupational or public dose, or any other radiological or non-radiological impacts.

Response: The NRC acknowledges the comments. The comments are general in nature and in support of the rulemaking. No changes to the rule language were made as a result of these comments.

V. Discussion of Amendments by Section

The following paragraphs describe the specific changes in this final rule.

Section 51.4 Definitions

The NRC is revising § 51.4 to add the definition of “previously disturbed areas.”

Section 51.21 Criteria for and Identification of Licensing and Regulatory Actions Requiring Environmental Assessments

The NRC is revising § 51.21 to update the references for those categorical exclusions and other actions identified as not requiring further environmental review.

Section 51.22 Criterion for Categorical Exclusion; Identification of Licensing and Regulatory Actions Eligible for Categorical Exclusion or Otherwise Not Requiring Further Environmental Review

The NRC is revising the section heading to more accurately reflect the section. The rule also adds introductory text, redesignates paragraph (d) as paragraph (e), adds a new paragraph (d), and revises paragraphs (a) through (c) to add, clarify, and eliminate categorical exclusions.

Section 51.25 Determination To Prepare Environmental Impact Statement or Environmental Assessment; Eligibility for Categorical Exclusion

The NRC is amending section § 51.25 to update the reference for the location of categorical exclusions to § 51.22 (a) through (d). Subparagraphs (E) and (F) of section 102(2) of NEPA referred to in § 51.22 (d) are now designated as subparagraphs (H) and (I).

Appendix A to Subpart A of 10 CFR Part 51 Format for Presentation of Material in Environmental Impact Statements

This rule would revise footnote 4 to remove the reference to § 51.22(c)(17).

VI. Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities.

VII. Regulatory Analysis

The NRC has prepared a regulatory analysis to quantify the costs and benefits of this final rule, as well as to examine the qualitative factors to be considered in the NRC's rulemaking decision. The conclusion from the analysis is that this final rule results in a benefit to the NRC of \$815,600 using a 7-percent discount rate. The regulatory analysis indicates the final rule is cost-beneficial and provides non-quantified benefits in the area of regulatory clarity. The NRC did not receive any public comments on the draft regulatory analysis. The regulatory analysis is available as indicated in the "Availability of Documents" section of this document.

VIII. Backfitting and Issue Finality

This rule revises the requirements for information under 10 CFR Part 51 provided by applicants and petitioners for rulemaking. Applicants and petitioners are not, with certain exceptions, within the scope of either the backfitting rules (§§ 50.109, 70.76, 72.62, or 76.76) or any issue finality provisions in 10 CFR part 52. The backfitting and issue finality regulations include language delineating when those provisions begin; in general, they begin after the issuance of a license, permit, or other approval (e.g.,

§ 50.109(a)(1)(iii) and § 52.98(a)). Neither the backfitting provisions nor the issue finality provisions, with certain exceptions, are intended to apply to NRC actions that substantially change the expectations of current and future applicants. These applicants cannot reasonably expect that future requirements will not change.

This rule eliminates the NRC's requirement to prepare environmental assessments or environmental impact statements for certain categories of actions. Although the rule does not alter requirements for applicants or petitioners for rulemaking to provide environmental reports under §§ 51.40-51.68, it may reduce the information an applicant or petitioner for rulemaking would be obligated to provide in an environmental report. Reductions in the information required to be included in applications and petitions for rulemaking constitutes a voluntary reduction in requirements and therefore is not a backfit under the backfitting rules (§§ 50.109, 70.76, 72.62, or 76.76) nor a violation of any issue finality provisions in 10 CFR part 52.

Therefore, this rule does not constitute backfitting under the backfitting rules (10 CFR 50.109, 70.76, 72.62, or 76.76) nor affect the issue finality of an approval issued under 10 CFR Part 52. Accordingly, the NRC did not prepare a backfit or forward fit analysis for this rule.

IX. Cumulative Effects of Regulation

Cumulative Effects of Regulation (CER) consists of the challenges applicants and licensees may face in addressing the implementation of new regulatory positions, programs, and requirements (e.g., rulemaking, guidance, generic letters, backfits, inspections). The CER may manifest in several ways, including the total burden imposed on applicants and licensees by the NRC from simultaneous or consecutive regulatory actions that can adversely affect the applicant's or licensee's capability to implement

those requirements, while continuing to operate or construct its facility in a safe and secure manner.

The goals of the NRC's CER effort were met throughout the development of this final rule. The NRC engaged external stakeholders at public meetings and by soliciting public comments on the proposed rule and associated draft guidance document. The proposed rule (89 FR 54727) was issued on July 2, 2024, for public comment. A public meeting was held on July 31, 2024, to discuss the proposed rule. The feedback from the public meeting informed the development of the NRC's final rule.

X. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111-274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, "Plain Language in Government Writing," published June 10, 1998 (63 FR 31885).

XI. Paperwork Reduction Act Statement

This rule does not contain any new or amended collections of information subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). Existing collections of information were approved by the Office of Management and Budget, approval number 3150-0021.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to a collection of information unless the document requesting or requiring the collection displays a currently valid OMB control number.

XII. Executive Orders

Executive Order (E.O.) 12866

The Office of Information and Regulatory Affairs (OIRA) has determined that this final rule is a significant regulatory action under E.O. 12866, "Regulatory Planning and Review." Accordingly, the NRC submitted this final rule to OIRA for review. The NRC is required to conduct an economic analysis in accordance with section 6(a)(3)(B) of E.O. 12866. More can be found in Section VII of this document, "Regulatory Analysis."

Review Under E.O.s 14154, 14192, 14215, and 14300

The NRC has examined this final rule and has determined that it is consistent with the policies and directives outlined in E.O. 14154, "Unleashing American Energy," E.O. 14192, "Unleashing Prosperity Through Deregulation," E.O. 14215 "Ensuring Accountability for All Agencies," and E.O. 14300, "Ordering the Reform of the Nuclear Regulatory Commission." This final rule is considered an E.O. 14192 deregulatory action. Details on the estimated costs of this final rule can be found in Section VII of this document.

Review Under E.O. 14270

Executive Order 14270, "Zero-Based Regulatory Budgeting to Unleash American Energy," requires the NRC to insert a conditional sunset date into all new or amended NRC regulations provided the regulations are (1) promulgated under the Atomic Energy Act of 1954, as amended (AEA), the Energy Reorganization Act of 1974, as amended

(ERA), and the Nuclear Waste Policy Act of 1982, as amended (NWPAA); (2) not statutorily required; and (3) not part of the NRC's permitting regime. The NRC determined that the regulatory changes adopted in this rule are for processes that are required by statute and are part of the NRC's regulatory permitting scheme authorized by the AEA, ERA, or NWPAA. Therefore, the NRC views this rulemaking to be outside the scope of Executive Order 14270 and did not insert conditional sunset dates for the regulatory changes in this final rule.

XIII. Congressional Review Act

This final rule is a rule as defined in the Congressional Review Act (5 U.S.C. 801 808). However, the Office of Management and Budget has found that it does not meet the criteria at 5 U.S.C. 804(2).

XIV. Compatibility of Agreement State Regulations

Under the "Agreement State Program Policy Statement" approved by the Commission on October 2, 2017, and published in the *Federal Register* (82 FR 48535; October 18, 2017), this rule is classified as compatibility "NRC." Category NRC consists of program elements over which the NRC cannot discontinue its regulatory authority pursuant to the Atomic Energy Act of 1954 (AEA), as amended, or provisions of title 10 of the *Code of Federal Regulations*.

Under the Policy Statement, a program element means any component or function of a radiation control regulatory program, including regulations and other legally binding requirements imposed on regulated persons, which contributes to the implementation of that program. The NRC maintains regulatory authority over program elements classified as category NRC and the Agreement States must not adopt these NRC program elements. However, an Agreement State may inform its licensees of these NRC

requirements through a mechanism under the State's administrative procedure laws, as long as the State adopts these provisions solely for the purposes of notification, and does not exercise any regulatory authority as a result.

XV. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995, Public Law 104-113, requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. The NRC is amending § 51.22, the NRC's list of categories of actions that the NRC has determined to have no significant individual or cumulative effect on the human environment. This action does not constitute the establishment of a standard that contains generally applicable requirements.

XVI. Availability of Guidance

There is no licensee or applicant implementation or compliance required by this rulemaking. The NRC staff plans to update guidance documents that contain references to § 51.22 (e.g., standard review plans). The NRC will publish notice in the *Federal Register* announcing the availability of the revised guidance documents. The final guidance documents will be available on the NRC website and at <https://www.regulations.gov> by searching on Docket ID NRC-2018-0300.

XVII. Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

DOCUMENT	ADAMS ACCESSION NO. / WEB LINK / FEDERAL REGISTER CITATION
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Regulatory Analysis for the Final Rule: Categorical Exclusions from Further Environmental Review, March 2026	ML26064A136
Proposed Rule—Categorical Exclusions from Environmental Review, July 2, 2024	89 FR 54727
SRM-SECY-22-0100, “Staff Requirements—SECY-22-0100—Proposed Rule: Categorical Exclusions From Environmental Review (3150-AK54; NRC-2018-0300),” June 10, 2024	ML24162A116
SECY-22-0100, Proposed Rule: Categorical Exclusions From Environmental Review (3150-AK54; NRC-2018-0300), November 14, 2022	ML22136A315
Advance Notice of Proposed Rulemaking—Categorical Exclusions From Environmental Review, May 7, 2021	86 FR 24514
SECY-20-0065, “Rulemaking Plan—Categorical Exclusions From Environmental Review,” July 20, 2020	ML20021A160 (paper) ML20021A158 (package)
NUREG-2249, “Generic Environmental Impact Statement for Licensing of New Nuclear Reactors,” September 2024	ML24176A220
State and Tribal Communication (STC) Letter, STC-24-047, “Invitation to Request Consultation on Proposed Rule ‘Categorical Exclusions From Environmental Review,’” August 14, 2024	ML24222A633
July 31, 2024, Public Meeting Summary— Public Meeting to Discuss the Categorical Exclusions from Environmental Review Proposed Rulemaking	ML24218A084
Rulemaking Plan—SECY-24-0046, “Implementation of the Fiscal Responsibility Act of 2023 National Environmental Policy Act Amendments,” May 30, 2024	ML24078A006 (plan) ML24078A013 (package)
Public Law (Pub. L.) 118-67, Accelerating Deployment of Versatile, Advanced Nuclear for Clean Energy of 2024 (ADVANCE Act of 2024)	https://www.congress.gov/118/plaws/publ67/PLAW-118publ67.pdf
Memo to Commission from M. Doane, EDO, RE: Response to Staff requirements—SECY-20-0032—“Rulemaking Plan on Risk-Informed, Technology-Inclusive Regulatory Framework for Advanced Reactors,” November 2, 2020	ML20288A251
Agreement State Program Policy Statement, October 18, 2017	82 FR 48535
Final Rule—Categorical Exclusions from Environmental Review, April 29, 2010	75 FR 20248
Final Rule—Storage of Spent Fuel in NRC-Approved Storage Casks at Power Reactor Sites, July 18, 1990	55 FR 29181
Final Rule—Final Procedures and Standards on No Significant Hazards Considerations, March 6, 1986	51 FR 7744; 51 FR 7746
Final Rule—Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions and Related Conforming Amendments, March 12, 1984	49 FR 9352; 49 FR 9380

Final Rule—Emergency Planning, August 19, 1980	45 FR 55402
Presidential Memorandum, “Plain Language in Government Writing,” June 10, 1998	63 FR 31885
NRC’s Principles of Good Regulation	ML14135A076
National Environmental Policy Act of 1969	https://www.govinfo.gov/content/pkg/CO-MPS-10352/pdf/COMPS-10352.pdf
Public Comments	
Comment (001) from the Fort Independence Indian Reservation THPO on PR-51—Categorical Exclusions from Environmental Review	ML24201A077
Comment (002) from Anonymous on PR-51—Categorical Exclusions from Environmental Review	ML24218A194
Comment (003) from Stephen Monarque on PR-51—Categorical Exclusions from Environmental Review Comment	ML24225A081
Comment (004) from the Yocha Dehe Wintun Nation on PR-51—Categorical Exclusions from Environmental Review	ML24256A208
Comment (005) from Nicholas McMurray on behalf of ClearPath on PR-51—Categorical Exclusions from Environmental Review	ML24262A251
Comment (006) from Spencer Toohill on behalf of the Breakthrough Institute on PR-51—Categorical Exclusions from Environmental Review	ML24262A253
Comment (007) from the Nuclear Energy Tribal Working Group on PR-51—Categorical Exclusions from Environmental Review	ML24262A252
Comment (008) from Martin J. O’Neill on Behalf of the Nuclear Energy Institute on PR-51—Categorical Exclusions from Environmental Review	ML24264A112
Comment (009) from Peter Hastings on Behalf of Kairos Power, LLC on PR-51—Categorical Exclusions from Environmental Review	ML24267A035
Executive Orders	
Executive Order 12866, “Regulatory Planning and Review,” October 4, 1993	58 FR 51735
Executive Order 14154, “Unleashing American Energy,” January 29, 2025	90 FR 8353
Executive Order 14192, “Unleashing Prosperity Through Deregulation,” February 6, 2025	90 FR 9065
Executive Order 14215, “Ensuring Accountability for All Agencies,” February 24, 2025	90 FR 10447
Executive Order 14270, “Zero-Based Regulatory Budgeting to Unleash American Energy,” April 15, 2025	90 FR 15643
Executive Order 14300, “Ordering the Reform of the Nuclear Regulatory Commission,” May 29, 2025	90 FR 22587

The NRC may post materials related to this document, including public comments, on the Federal rulemaking website at <https://www.regulations.gov> under

Docket ID NRC- NRC-2018-0300. In addition, the Federal rulemaking website allows members of the public to receive alerts when changes or additions occur in a docket folder. To subscribe: 1) navigate to the docket folder (NRC-2018-0300); 2) click the “Subscribe” button; and 3) enter an email address and click on the “Subscribe” button.

List of Subjects In 10 CFR Part 51

Administrative practice and procedure, Environmental impact statements, Hazardous waste, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is amending 10 CFR part 51 as follows:

PART 51 – ENVIRONMENTAL PROTECTION REGULATIONS FOR DOMESTIC LICENSING AND RELATED REGULATORY FUNCTIONS

1. The authority citation for part 51 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 161, 193 (42 U.S.C. 2201, 2243); Energy Reorganization Act of 1974, secs. 201, 202 (42 U.S.C. 5841, 5842); National Environmental Policy Act of 1969 (42 U.S.C. 4332, 4334, 4335); Nuclear Waste Policy Act of 1982, secs. 144(f), 121, 135, 141, 148 (42 U.S.C. 10134(f), 10141, 10155, 10161, 10168); 44 U.S.C. 3504 note.

2. Amend § 51.4 by adding the definition for “Previously disturbed areas” in alphabetical order, to read as follows:

§ 51.4 Definitions.

* * * * *

Previously disturbed areas means areas that have been changed by development of the facility and remain altered by human activity such that they do not support important habitat or habitat to important species and no longer have the potential to yield historic and cultural resources. This includes the lateral and vertical extent of alteration from natural cover to a managed state.

3. Revise and republish § 51.21 to read as follows:

§ 51.21 Criteria for and identification of licensing and regulatory actions requiring environmental assessments.

All licensing and regulatory actions subject to this subpart require an environmental assessment except those identified in § 51.20(b) as requiring an environmental impact statement, those covered by categorical exclusions identified in § 51.22(a) through (d), and those identified in § 51.22(e) as other actions not requiring environmental review. As provided in § 51.22, the Commission may, in special circumstances, prepare an environmental assessment on an action that could be covered by a categorical exclusion.

4. Revise and republish § 51.22 to read as follows:

§ 51.22 Categorical exclusions.

Licensing, regulatory, and administrative actions eligible for categorical exclusion must belong to a category of actions that the Commission, by rule or regulation, has declared to be a categorical exclusion, after first finding that the actions within the category do not individually or cumulatively have a significant effect on the human environment. Except in special circumstances, as determined by the Commission upon its own initiative or upon request of any interested person, an environmental assessment or an environmental impact statement is not required for any action within a category of

actions included in the list of categorical exclusions set out in paragraphs (a) through (d) of this section. Special circumstances include the circumstance where the proposed action involves unresolved conflicts concerning alternative uses of available resources within the meaning of section 102(2)(H) of NEPA.

(a) The following categories of NRC actions are excluded from the requirement to prepare an environmental assessment or environmental impact statement:

(1) Actions that are administrative, procedural, or solely financial in nature, including, for example:

(i) Issuance of or changes to procedures for filing and reviewing applications;

(ii) Issuance of or changes to recordkeeping or reporting requirements;

(iii) Issuance of or changes to surety, insurance, or indemnity requirements;

(iv) Issuance of or changes to administrative procedures or requirements;

(v) Actions on petitions for rulemaking, but not including rulemakings in response to a petition for rulemaking;

(vi) Amendments to the regulations in this chapter that are corrective or of a minor or nonpolicy nature and do not substantially modify existing regulations;

(vii) Issuance of or changes to guidance for the implementation of regulations in this chapter and other informational and procedural documents that do not impose any legal requirements;

(viii) Changes to a person or organization's name, position, or title;

(ix) Revisions that are editorial, corrective, or otherwise minor, including the updating of NRC-approved references, or changes to formatting of a document;

(x) Changes to contact information;

(xi) Personnel or managerial actions;

(xii) Actions on or changes to requirements for decommissioning funding under parts 30, 40, 50, 70, or 72 of this chapter; or

- (xiii) Termination of licenses that were issued but for which no construction activities have begun or where all decommissioning activities have been completed and approved and license termination is a final administrative step.
- (2) Issuance of or changes to education, training, experience, qualification, or other employment suitability requirements.
- (3) Amendments to parts 1, 2, 4, 5, 7, 8, 9, 10, 11, 12, 13, 15, 16, 19, 21, 25, 26, 55, 75, 95, 110, 140, 150, 160, 170, or 171 of this chapter.
- (4) Procurement of general equipment and supplies, and procurement of technical assistance and personal services relating to the safe operation and protection of commercial reactors, other facilities, and materials subject to NRC licensing and regulation.
- (5) Entrance into or amendment, suspension, or termination of all or part of an agreement with a State under section 274 of the Atomic Energy Act of 1954, as amended, providing for assumption by the State and discontinuance by the Commission of certain regulatory authority of the Commission.
- (6) Approvals of direct or indirect transfers of any license issued by the NRC (any associated amendments of a license required to reflect the approval of a direct or indirect transfer of an NRC license are included in paragraph (a)(1) of this section).
- (7) The import of nuclear facilities and materials under part 110 of this chapter, but not including the import of spent power reactor fuel.
- (8) Approvals of or changes to operators' licenses under part 55 of this chapter.
- (9) Approvals of package designs for packages to be used for the transportation of licensed materials.
- (10) Actions under parts 30, 31, 32, 33, 34, 35, 36, 39, 40, or 70 of this chapter authorizing the following:

- (i) Distribution of radioactive material and devices or products containing radioactive material to general licensees and to persons exempt from licensing;
- (ii) Distribution of radiopharmaceuticals, generators, reagent kits and/or sealed sources to persons licensed under 10 CFR 35.18;
- (iii) Nuclear pharmacies;
- (iv) Use of radioactive materials for medical and veterinary purposes;
- (v) Use of radioactive materials for research and development and for educational purposes;
- (vi) Industrial radiography;
- (vii) Irradiators;
- (viii) Use of sealed sources and use of gauging devices, analytical instruments and other devices containing sealed sources;
- (ix) Use of uranium as shielding material in containers or devices;
- (x) Possession of radioactive material incident to performing services such as installation, maintenance, leak tests and calibration;
- (xi) Use of sealed sources and/or radioactive tracers in well-logging procedures;
- (xii) Acceptance of packaged radioactive wastes from others for transfer to licensed land burial facilities provided the interim storage period for any package does not exceed 180 days and the total possession limit for all packages held in interim storage at the same time does not exceed 50 curies;
- (xiii) Manufacturing or processing of source, byproduct, or special nuclear materials for distribution to other licensees, except processing of source material for extraction of rare earth and other metals;
- (xiv) Nuclear laundries;
- (xv) Possession, manufacturing, processing, shipment, testing, or other use of depleted uranium military munitions; or

(xvi) Any use of source, byproduct, or special nuclear material not listed above which involves quantities and forms of source, byproduct, or special nuclear material similar to those listed in paragraphs (a)(10)(i) through (xv) of this section.

(11) Standard design approvals under part 52 of this chapter.

(12) Issuance of amendments to 10 CFR 72.214 for new, amended, revised, or renewed certificates of compliance for cask designs used for spent fuel storage.

(13) Issuance, amendment, modification, or renewal of a certificate of compliance of gaseous diffusion enrichment plants under part 76 of this chapter.

(14) The decommissioning of sites where licensed operations have been limited to the use of—

(i) Small quantities of short-lived radioactive materials;

(ii) Radioactive materials in sealed sources, provided there is no evidence of leakage of radioactive material from these sealed sources; or

(iii) Radioactive materials in such a manner that a decommissioning plan is not required by 10 CFR 30.36(g)(1), 10 CFR 40.42(g)(1), or 10 CFR 70.38(g)(1), and the NRC has determined that the facility meets the radiological criteria for unrestricted use in 10 CFR 20.1402 without further remediation or analysis.

(15) The Commission finding for a combined license under 10 CFR 52.103(g).

(16) Actions under 10 CFR 50.55a.

(b) The following categories of NRC actions are excluded from the requirement to prepare an environmental assessment or environmental impact statement, provided that any ground disturbance is limited to previously disturbed areas:

(1) Procurement of confirmatory research.

(2) Review and approval of transportation routes under 10 CFR 73.37.

(c) The following categories of NRC actions are excluded from the requirement to prepare an environmental assessment or environmental impact statement except to the

extent they include activities directly affecting the environment, such as the construction of facilities; a major disturbance brought about by blasting, drilling, excavating or other means; field work, except that which only involves noninvasive or non-harmful techniques such as taking water or soil samples or collecting non-protected species of flora and fauna; or the release of radioactive material:

(1) Grants to institutions of higher education in the United States, to fund scholarships, fellowships, and stipends for the study of science, engineering, or another field of study that the NRC determines is in a critical skill area related to its regulatory mission, to support faculty and curricular development in such fields, and to support other domestic educational, technical assistance, or training programs (including those of trade schools) in such fields.

(2) [Reserved]

(d) The following categories of NRC actions are excluded from the requirement to prepare an environmental assessment or environmental impact statement provided that any ground disturbance is limited to previously disturbed areas and there is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite, no significant increase in individual or cumulative public or occupational radiation exposure, and no significant increase in the potential for or consequences from radiological accidents.

(1) Changes to inspection or surveillance requirements.

(2) Changes to equipment servicing or maintenance requirements.

(3) Changes to safeguard plans or materials control and accounting inventory requirements, including modifications to systems used for security and/or materials accountability.

(4) Changes to requirements for fire protection, emergency planning, physical security, cybersecurity, or quality assurance.

- (5) Changes to scheduling requirements.
- (6) Changes to extend implementation dates for activities previously found to not have a significant environmental impact.
- (7) Actions that result in a change in process operations or equipment under licenses for fuel cycle facilities or radioactive waste disposal sites, or under the materials licenses identified in § 51.60(b)(1).
- (8) Authorizations under, or changes to requirements in 10 CFR part 50 or 52 with respect to installation or use of a facility component.
- (e) In accordance with section 121 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10141), the promulgation of technical requirements and criteria that the Commission will apply in approving or disapproving applications under part 60 or 63 of this chapter shall not require an environmental impact statement, an environmental assessment, or any further environmental review under subparagraph (H) or (I) of section 102(2) of NEPA.

5. Revise and republish § 51.25 to read as follows:

§ 51.25 Determination to prepare environmental impact statement or environmental assessment; eligibility for categorical exclusion.

Before taking a proposed action subject to the provisions of this subpart, the appropriate NRC director will determine on the basis of the criteria and classifications of types of actions in §§ 51.20, 51.21 and 51.22 whether the proposed action is of the type listed in § 51.22(a) through (d) as a categorical exclusion or whether an environmental impact statement or an environmental assessment should be prepared. An environmental assessment is not necessary if it is determined that an environmental impact statement will be prepared.

6. In appendix A to subpart A of part 51, revise footnote 4 to read as follows:

**Appendix A to Subpart A - Format for Presentation of Material in Environmental
Impact Statements**

* * * * *

⁴ With respect to limitations on NRC's NEPA authority and responsibility imposed by the Federal Water Pollution Control Act Amendments of 1972, see §§ 51.10(c) and 51.71(d).

Dated: March 25, 2025.

For the Nuclear Regulatory Commission.

Tomas Herrera,
Acting Secretary of the Commission.