

January 27, 2000

FOR: The Commissioners
FROM: William D. Travers /RA/
Executive Director for Operations
SUBJECT: PROPOSED RULE: INTERIM STORAGE FOR GREATER THAN CLASS C WASTE

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PURPOSE:

To request Commission approval to publish a proposed rule, in the Federal Register, that would amend [10 CFR Parts 72, 150, and 171](#). The proposed amendments would allow licensing for interim storage of reactor-related greater than class C (GTCC) waste in a manner that is consistent with licensing the interim storage of spent fuel and would maintain Federal jurisdiction over the interim storage of reactor-related GTCC waste either on or off the reactor site. These proposed amendments provide an option which would simplify and clarify the licensing process and reduce the potential burden on licensees, the U.S. Nuclear Regulatory Commission ([NRC](#)), and Agreement States, with no adverse effect on public health and safety or the environment.

BACKGROUND:

The proposed amendments respond to a petition for rulemaking submitted by Portland General Electric Company (PRM-72-2). If adopted in final form, the proposed amendments would grant the petition in part and deny the petition in part by amending NRC's regulations governing the interim storage of reactor-related GTCC waste. The NRC received six favorable comments in support of the petition. The staff developed a draft rulemaking plan that was provided to the Commission and to the Agreement States ([SECY-97-056](#), dated March 5, 1997). The Office of the General Counsel submitted additional views to the Commission.

DISCUSSION:

Current NRC regulations are not clear on the acceptability of storing GTCC waste co-located at an Independent Spent Fuel Storage Installation (ISFSI) or a Monitored Retrievable Storage Installation (MRS). This situation has created confusion and uncertainty among decommissioning reactor licensees and may create inefficiency and inconsistency in the way the NRC handles GTCC waste-licensing matters.

Under existing regulations, storage of GTCC waste at an ISFSI (or an MRS) after termination of a reactor licensed under [10 CFR Part 50](#) "Domestic Licensing of Production and Utilization Facilities," could lead to a situation in which the NRC regulates the spent fuel at an ISFSI while an Agreement State regulates GTCC waste at the same location. The NRC has exclusive regulatory authority over a reactor licensee's storage of spent fuel and of GTCC waste during operations. Under current regulations, since GTCC waste is a type of low-level waste (LLW), Agreement States have licensing authority for any GTCC waste possessed by a utility when the Part 50 license is terminated. Thus, a reactor licensee would have to apply for and receive an Agreement State license to store the GTCC waste in order for the NRC to terminate the Part 50 license.

The Low-Level Radioactive Waste Policy Amendments Act of 1985 gave the Federal Government [U.S. Department of Energy ([DOE](#) [EXIT](#))] the primary responsibility for developing a national strategy for disposal of GTCC waste. The Act gave the NRC the licensing responsibility for a disposal facility for GTCC waste. GTCC waste is not generally acceptable for near-surface disposal at licensed low-level radioactive waste disposal facilities. There currently are no other routine disposal options for GTCC waste.

In developing storage criteria, the NRC must be cognizant of potential DOE disposal criteria to preclude unnecessarily allowing a storage option that is unacceptable for disposal. Because the DOE has not yet identified such criteria or technical regulations for a disposal package, the NRC is concerned that storage of GTCC waste and spent fuel in the same container may be unacceptable for placement in the geologic repository. Therefore, a specific issue is whether to allow GTCC waste to be commingled within a spent fuel storage cask. Allowing commingling could be a safe and economical use of spent fuel storage cask space. However, incompatibility with potential DOE disposal criteria could be reduced by precluding this option now.

Therefore, the staff is recommending that the NRC submit a letter to the DOE, at the time the proposed rule is published in the Federal Register, requesting specific guidance on the advisability of allowing GTCC waste and spent fuel to be commingled in a single container.

Currently, utilities store all types of radioactive materials under their Part 50 licenses, including material that, when finally disposed of, would be classified as GTCC waste. The GTCC waste is typically stored within the reactor vessel, in the spent fuel

pool, or in a radioactive material storage area, pending development of a suitable permanent disposal facility.

Under current regulations, a reactor licensee seeking decommissioned status would need to apply for and be granted a specific 10 CFR Part 30 and/or a 10 CFR Part 70 license, to store GTCC waste, prior to termination of its Part 50 license. At present, Part 72 only provides for licensing the storage of spent fuel at an ISFSI and storage of spent fuel and solid high-level radioactive waste at an MRS. Nonetheless, a reactor licensee could elect to store GTCC waste in a facility co-located at an ISFSI site using a license(s) issued under Parts 30 and/or 70.

The proposed rule would not eliminate the current availability of storing GTCC waste under the authority of a Part 30 or 70 license. Neither Parts 30 nor 70 include explicit criteria for storage of GTCC waste. Therefore, a licensing process conducted under these regulations would be more complicated and resource intensive because the licensee would need to develop new proposed storage criteria and the NRC would then need to review and approve these criteria within the licensing process. The licensing process will be simpler with less regulatory burden if all the radioactive waste to be stored at an ISFSI or MRS is stored under the authority of one Part 72 license. Part 72 was developed specifically for storage of spent fuel at an ISFSI and spent fuel and high-level waste at an MRS. The general storage criteria of Part 72 will be applied to GTCC waste storage. Also, using Part 72 to store reactor-related GTCC waste would eliminate the need for multiple licenses for the storage of spent fuel and GTCC waste.

The proposed changes to Parts 72, 150, and 171 are necessary to allow the storage of NRC-licensed reactor-related GTCC waste under a specific Part 72 license within an ISFSI or an MRS and to require that the licensing responsibility for this waste remain under Federal jurisdiction. Because GTCC waste at reactor facilities is under Federal jurisdiction during the operating life of the plant and the ultimate disposal of such GTCC waste is also under Federal jurisdiction, the period between termination of a reactor license and ultimate disposal should also remain under Federal jurisdiction. The existing regulatory scheme, that allows for Federal-State-Federal jurisdiction over the generation, interim storage, and disposal of GTCC waste, is an inefficient approach in that the NRC and an Agreement State would both spend scarce resources licensing and inspecting an ISFSI that stores both spent fuel and GTCC waste. Therefore, for efficiency and consistency of licensing, Part 72 should be modified to also allow storage of GTCC waste within these facilities under NRC's jurisdiction.

AGREEMENT STATE ISSUES:

This rulemaking would change NRC's current interpretation and policy regarding the regulation of a specific kind of LLW after termination of a Part 50 license. Under current procedures, after termination of the license, licensing the storage of all LLW, including GTCC waste, is the responsibility of an Agreement State if the storage facility is located in an Agreement State. Under this proposal, licensing the storage of reactor-related GTCC waste would be reserved to the NRC, regardless of location. The Federal Register notice specifically discusses this point and asks for Agreement State comments.

COORDINATION:

The Office of the General Counsel has no legal objection to the proposed rulemaking. The Office of the Chief Financial Officer has reviewed this Commission Paper for resource implications and has no objections. The Office of the Chief Information Officer has reviewed the proposed rule for information technology and information management implications and concurs in it. However, the rule suggests changes in information collection requirements that must be submitted to the Office of Management and Budget (OMB) no later than the date the proposed rule is forwarded to the Federal Register for publication.

RECOMMENDATIONS:

That the Commission:

1. Approve for publication, in the Federal Register, the proposed amendments to Parts 72, 150, and 171 on interim storage of GTCC waste (Attachment 1).
2. Approve a letter to the DOE requesting specific guidance on the advisability of commingling GTCC waste and spent fuel in the same cask (Attachment 2).
3. Note:
 - a. That the proposed amendments will be published in the Federal Register, allowing 75 days for public comment.
 - b. That the Chief Counsel for Advocacy of the Small Business Administration will be informed of the certification and the reasons for it, as required by the Regulatory Flexibility Act, 5 U.S.C. 605(b).
 - c. That a draft Regulatory Analysis has been prepared for this rulemaking (Attachment 3).
 - d. That a draft Environmental Assessment has been prepared for this rulemaking (Attachment 4).
 - e. That appropriate Congressional committees will be informed of this action.

- f. That a press release will be issued by the Office of Public Affairs when the proposed rulemaking is filed with the Office of the Federal Register.
- g. OMB review is required and a clearance package will be forwarded to OMB no later than the date the proposed rule is submitted to the Office of the Federal Register for publication.
- h. That resources to complete and implement this rulemaking are included in the current budget.

/RA/

William D. Travers
Executive Director for Operations

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CONTACTS: Mark Haisfield, IMNS/NMSS
301-415-6196

Francis Young, SFPO/NMSS
301-415-3207

Attachments:  1. [Federal Register notice](#)
2. [Letter to DOE](#)
3. [Draft Regulatory Analysis](#)
4. [Draft Environmental Assessment](#)

ATTACHMENT 2

Mr. Ivan Itkin, Director
Office of Civilian Radioactive Waste Management
U.S. Department of Energy
1000 Independence Avenue, NW
Washington, DC 20585

SUBJECT: REQUEST FOR COMMENT ON A PROPOSED RULE TO STORE REACTOR-RELATED GTCC WASTE UNDER A 10 CFR PART 72 LICENSE

Dear Mr. Itkin:

The U.S. Nuclear Regulatory Commission (NRC) has published a proposed rule in the Federal Register (see enclosure) that would allow the storage of reactor-related greater than class C (GTCC) waste under the provisions of 10 CFR Part 72 "Licensing Requirements for the Independent Storage of Spent Nuclear Fuel and High-Level Radioactive Waste." Part 72 allows for the interim storage of spent fuel within an Independent Spent Fuel Storage Installation (ISFSI) or spent fuel and high-level waste within a Monitored Retrievable Storage installation (MRS). This rulemaking, if implemented, would also allow the interim storage of reactor-related GTCC waste within an ISFSI or an MRS.

In the development of the proposed rule, the NRC has identified a potential policy issue associated with the U.S. Department of Energy's (DOE's) responsibility for the disposal of GTCC waste. Because the DOE has not yet identified criteria or technical regulations for a disposal package for spent fuel or GTCC waste, the NRC is concerned that the commingling of spent fuel and GTCC waste (i.e., stored within the same cask) may be unacceptable for permanent disposal in the geologic repository. Therefore, the proposed rule would not allow commingling of GTCC waste with spent fuel in a single container.

The NRC desires to formulate regulations that reduce both radiological exposure and costs associated with repackaging the spent fuel and GTCC waste into two separate containers. Therefore, DOE information on disposal policies will be helpful in developing storage criteria for 10 CFR Part 72 (i.e., precluding a storage option that will be unacceptable for permanent disposal).

Specifically, the NRC is looking for DOE's position on commingling of spent fuel and GTCC waste in the same container for disposal at the geologic repository. In addition, the NRC would also appreciate DOE's response on the subject to commingling spent fuel and GTCC waste during interim storage in an ISFSI or spent fuel, high-level waste, and GTCC waste in an MRS.

I appreciate your assistance in this matter. Please provide your response to this letter and any comments on the proposed rule to my Rulemakings and Adjudications staff by the close of the comment period specified in the enclosure. Please contact Mr. Mark Haisfield of the Office of Nuclear Material Safety and Safeguards at (301) 415-6196, if you or your staff has any questions.

Sincerely,

Annette L. Vietti-Cook
Secretary

Docket No.: PRM-72-2

Enclosure: "Federal Register Notice of Proposed Rulemaking on Storing GTCC Waste"

cc: Ms. Wendy R. Dixon, EIS Project Manager
Yucca Mountain Site Characterization Office
U.S. Department of Energy
P.O. Box 30307, Mail Stop 010
North Las Vegas, Nevada 89036-0307

ATTACHMENT 3

Regulatory Analysis for Rulemaking on Interim Storage for Greater than Class C Waste

- 1. STATEMENT OF THE PROBLEM AND OBJECTIVES
 - BACKGROUND
 - DISCUSSION
- 2. IDENTIFICATION AND ANALYSIS OF ALTERNATIVE APPROACHES
- 3. ESTIMATE AND EVALUATION OF VALUES AND IMPACTS
- 4. DECISION RATIONALE
- 5. IMPLEMENTATION

1. STATEMENT OF THE PROBLEM AND OBJECTIVES

BACKGROUND

The Nuclear Regulatory Commission received a petition for rulemaking dated November 2, 1995, submitted by Portland General Electric Company. The petition was docketed as PRM-72-2 and published in the Federal Register, with a 75-day comment period, on February 1, 1996 (61 FR 3619).

The petitioner requested that the NRC amend 10 CFR Part 72 to add the authority to store radioactive waste that exceeds the concentration limits of radionuclides established for Class C waste in 10 CFR 61.55⁽¹⁾

. This material is commonly referred to as "greater than class C" waste or GTCC waste. GTCC waste is generally unsuitable for near-surface disposal as low-level waste (LLW), even though it is legally defined as LLW. 10 CFR 61.55(a)(2)(iv) requires that this type of waste must be disposed of in a geologic repository unless approved for an alternative disposal method on a case-specific basis by the NRC.

The petitioner is an NRC-licensed utility responsible for the Trojan Nuclear Plant (Trojan). In the petition, the petitioner anticipated that during decommissioning of Trojan it would need to dispose of GTCC waste. The Trojan decommissioning plan specifies the transfer of spent reactor fuel, currently being stored in the spent fuel pool, to an onsite Independent Spent Fuel Storage Installation (ISFSI) licensed under 10 CFR Part 72. The petitioner requested that GTCC waste also be stored at the ISFSI pending its transfer to a permanent disposal facility. The petitioner suggested that, because the need to provide interim storage for GTCC waste is not specific to Trojan but is generic, the regulations in 10 CFR Part 72 should be amended to explicitly provide for the isolation and storage of GTCC waste in a licensed ISFSI.

The petitioner believes that storage of GTCC waste under 10 CFR Part 72 will ensure safe interim storage. This storage would provide identical public health and safety and environmental protection as required for spent fuel located at an ISFSI. For example, Subpart F of 10 CFR Part 72 (General Design Criteria) establishes design, fabrication, construction, testing, quality standards, maintenance, and performance requirements for structures, systems, and components important to safety.

The specific changes proposed in the petition would explicitly include interim storage of GTCC waste within the Purpose, Scope, and Definitions sections of 10 CFR Part 72 in order to treat GTCC waste in a similar manner to spent nuclear fuel. The revised definitions would only apply to the interim storage of GTCC waste under the authority of 10 CFR Part 72.

The notice of receipt of the petition for rulemaking invited interested persons to submit written comments concerning the petition. The NRC received six comment letters. Five comment letters were received from nuclear facilities and one from the Nuclear Energy Institute. The Nuclear Energy Institute provided another letter on this subject directly to the NRC Chairman on February 2, 1999, and the NRC responded on March 25, 1999. The comments were reviewed and considered in the

development of NRC's decision on this petition. These comments are available in the NRC Public Document Room.

All six commenters supported the petition. Two of the commenters (Sacramento Municipal Utility District and Yankee Atomic Electric Company) are currently decommissioning their reactors.

As a result of the petition and the comment letters, the NRC developed a draft rulemaking plan to further consider the development of a rule that would meet the intent of the petition. In SECY-97-056, dated March 5, 1997, the NRC staff provided a draft rulemaking plan to the Commission outlining a rule that would modify 10 CFR Part 72 to allow storage of material, which when disposed of would be classified as GTCC waste, under the authority of 10 CFR Part 72 using criteria in this part. As discussed in this draft rulemaking plan, licensees are authorized to store GTCC waste pursuant to the regulations in 10 CFR Part 30 and/or Part 70. Therefore, the draft rulemaking plan discussed an additional option to store GTCC waste under 10 CFR Part 72 while maintaining the option to store this waste using the authority of 10 CFR Parts 30 and 70. This plan was sent to the Agreement States for their comments on April 18, 1997. Four States provided comments -- Illinois, New York, Texas, and Utah.

The draft rulemaking plan did not require that the licensing jurisdiction for GTCC waste remain with NRC, but did suggest that Agreement States could voluntarily relinquish their licensing authority for GTCC waste stored at an ISFSI. The draft rulemaking plan requested Agreement State input relative to their likelihood of relinquishing authority for licensing when an ISFSI or a Monitored Retrievable Storage Installation (MRS) is involved in storing GTCC waste. Three of the four state commenters indicated that they would not voluntarily relinquish their authority.

DISCUSSION

Current NRC regulations are not clear on the acceptability of storing reactor-related GTCC waste co-located at an ISFSI or an MRS. Co-location is the storage of spent fuel and other radioactive material in their respective separate containers. This situation has created confusion and uncertainty on the part of decommissioning reactor licensees and may create inefficiency and inconsistency in the way the NRC handles GTCC waste licensing matters.

Currently, 10 CFR Part 50 licensees (Domestic Licensing of Production and Utilization Facilities) are authorized to store all types of reactor-related radioactive materials, including material that, when disposed of, would be classified as GTCC waste. The GTCC waste portion is currently being stored either within the reactor vessel, in the spent fuel pool, or in a radioactive material storage area, pending development of a suitable permanent disposal facility. Reactor-related GTCC waste is typically in a solid form (i.e., mostly activated metals) such as reactor vessel internals, nozzles, and in-core instrumentation. A small amount of GTCC waste may also be in the form of a sealed source that was used during the operation of the reactor. GTCC waste may consist of either byproduct material or special nuclear material. The authority to license the possession and storage of GTCC waste is contained within 10 CFR Part 30 for byproduct material and in 10 CFR Part 70 for special nuclear material. Under 10 CFR 50.52, the Commission may combine multiple licensing activities of an applicant that would otherwise be licensed individually in single licenses. Thus, the 10 CFR Part 50 license authorizing operation of production and utilization facilities currently includes, within it, the authorization to possess byproduct and special nuclear material that would otherwise need to be separately licensed under 10 CFR Parts 30 or 70.

Under current regulations, while a 10 CFR Part 50 license is in effect, a reactor licensee can store spent fuel generated at the reactor site under either a general license pursuant to 10 CFR 72.210 or a specific license pursuant to 10 CFR Part 72. In addition, the reactor licensee who has a 10 CFR Part 50 license, can store GTCC waste generated at the reactor site under the 10 CFR Parts 30 and 70 authority included in the 10 CFR Part 50 license.

Under current regulations, when the 10 CFR Part 50 license terminates, a reactor licensee can continue to store spent fuel generated at the reactor site under a specific license pursuant to 10 CFR Part 72. However, a general license under 10 CFR 72.210 would terminate because the 10 CFR Part 50 license has terminated, and the reactor licensee would need to apply for a specific license under 10 CFR Part 72 in order to continue to store spent fuel at the reactor site. Furthermore, the 10 CFR Parts 30 and 70 licenses included in the 10 CFR Part 50 licenses are also terminated when the 10 CFR Part 50 license terminates and the reactor licensee can only store GTCC waste by applying for a specific NRC license under 10 CFR Parts 30 and/or 70, or an equivalent Agreement State license if the facility is located in an Agreement State.

Under the proposed regulations, when a 10 CFR Part 50 license is terminated, the reactor licensee will only apply for an NRC license, but will have the option to store GTCC waste under either 10 CFR Part 72 or under 10 CFR Parts 30 and 70. This proposed regulation maintains Federal jurisdiction for GTCC waste under either approach (10 CFR Part 72 or 10 CFR Parts 30 and 70).

The proposed changes in this rulemaking would allow a 10 CFR Part 72 specific licensee to co-locate reactor-related GTCC waste within an ISFSI or an MRS. Applicants for a specific license would be required to provide a Safety Analysis Report (SAR) which would describe how the GTCC waste would be stored. The SAR would describe how structures, systems, and components that are important to safety are properly designed to allow the storage of GTCC waste within an ISFSI or MRS. The applicant shall ensure that the co-location of this radioactive material does not have an adverse effect on the safe storage of spent fuel and the operation of the ISFSI. Based on an acceptable review of the SAR, the NRC would issue a 10 CFR Part 72 specific license. Current 10 CFR Part 72 specific license holders would be required to submit an application to amend their 10 CFR Part 72 license, if they desire to store GTCC waste at their ISFSI.

Under existing regulations, storage of GTCC waste at an ISFSI after termination of the reactor licensee's 10 CFR Part 50 license could lead to (1) NRC regulating the spent fuel at an ISFSI and (2) Agreement States regulating GTCC waste at the

same location. The NRC has exclusive regulatory authority over a reactor licensee's storage of all radioactive material both spent fuel and of GTCC waste during the term of the 10 CFR Part 50 license. Once the 10 CFR Part 50 license is terminated an Agreement State would have authority for any GTCC waste stored by the utility.

The NRC believes that decommissioning activities at commercial nuclear power plants will generate relatively small volumes of GTCC waste relative to the amount of spent fuel that exists at these sites. GTCC waste exceeds the concentration limits of radionuclides established for Class C in §§ 61.55(a)(3)(ii), 61.55(a)(4)(iii), or 61.55(a)(5)(ii). GTCC waste is not generally acceptable for near-surface disposal at licensed low-level radioactive waste disposal facilities. There currently are no routine disposal options for GTCC waste. Because GTCC waste is unlikely to be disposed of at a LLW disposal site regulated under 10 CFR Part 61, the GTCC waste must be stored in the interim.

In general, reactor-related GTCC wastes can be grouped into two categories. The first is activated metals, irradiated metal components from nuclear reactors such as core shrouds, support plates, and core barrels. The second is process wastes such as filters and resins resulting from the operation and decommissioning of reactors. In addition, there may be a small amount of GTCC waste generated from other activities associated with the reactor's operation (e.g., reactor start-up sources).

The Low-Level Radioactive Waste Policy Amendments Act of 1985 gave the Federal Government (U.S. Department of Energy (DOE)) the primary responsibility for developing a national strategy for disposal of GTCC waste. The Act also gave the NRC the licensing responsibility for a disposal facility for GTCC waste. Until a disposal facility is licensed, there is a need for interim storage of GTCC waste.

In the development of the proposed rule, the NRC has identified a potential policy issue associated with DOE's responsibility for the disposal of GTCC waste. Because DOE has not yet identified criteria or technical regulations for a disposal package for spent fuel or GTCC waste, the NRC is concerned that the commingling of spent fuel and GTCC waste (i.e., the two types of waste stored within the same cask) may be unacceptable for permanent disposal in the geologic repository. In such a case, the spent fuel and GTCC waste would need to be removed from the storage container before the spent fuel is placed in the geologic repository.

The NRC desires to formulate regulations which both reduce radiological exposure and costs associated with repackaging the spent fuel and GTCC waste into two separate containers. Therefore, information from DOE on disposal policies will be helpful in developing storage criteria for 10 CFR Part 72 (and enable the NRC to preclude a storage option that would be unacceptable for permanent disposal). Allowing commingling may be a technically safe and economical use of spent fuel storage cask space. The NRC staff has already reviewed and concluded, on a case-by-case basis, that certain specific components associated with, and integral to, spent fuel (e.g., burnable poison rod assemblies, control rod assemblies, and thimble plugs) can be safely stored in the same cask with spent fuel. For current and future reviews, the NRC has developed guidance for the storage of these specific components. The position in the proposed rule is to preclude commingling of other reactor-related GTCC waste not integral to the spent fuel assemblies and to preclude storage of liquid GTCC waste.

Therefore, as discussed in the Federal Register notice, NRC is specifically requesting additional input from the public and DOE to develop a more effective rulemaking with respect to commingling of GTCC waste and spent fuel (in an ISFSI) or spent fuel, high-level waste, and GTCC waste (in an MRS).

2. IDENTIFICATION AND ANALYSIS OF ALTERNATIVE APPROACHES

There are three alternatives the NRC considered to resolve the petition from the Portland General Electric Company. All three are protective of public health and safety, but differ in implementation and resources. For the reasons discussed, the NRC is proposing to implement alternative three.

ALTERNATIVE 1: Deny the petition. The first option is to clarify that NRC's existing regulations allow storage of GTCC waste co-located at the licensee's ISFSI under a 10 CFR Part 30 or Part 70 license conferred as part of their 10 CFR Part 50 license. However, upon termination of the 10 CFR Part 50 license it would be necessary to apply for a specific 10 CFR Part 30 or Part 70 license (or under equivalent Agreement State 10 CFR Part 30 or Part 70 regulations) if GTCC waste is to remain at the ISFSI. Under this option, the petition would be denied because no changes to NRC's regulations are necessary to meet the specific requirements of the petitioner. The NRC could issue an Information Notice or issue a clarifying rule change to 10 CFR Part 72 that makes it clear that GTCC waste can be stored at an ISFSI under a 10 CFR Part 50 license during reactor operations, or under a 10 CFR Part 30 or Part 70 license either during operations or after the Part 50 license is terminated.

However, the applicable regulations do not provide any explicit criteria for this unique waste type. Therefore, the licensee, in their license application, would need to propose site-specific criteria and the NRC would need to review each license application on a case-by-case basis or the NRC could develop generic criteria.

This alternative is the least resource intensive in the short term (i.e., no rulemaking would be undertaken), but the NRC believes there are several disadvantages. First, since each licensee would propose site-specific criteria, the licensing process could be more complicated for the licensee (need to develop appropriate criteria) and for the NRC to review and approve this criteria on a case-by-case basis. This could also result in numerous regulatory proposals throughout the country. Second, these site-specific criteria could be raised as issues during potential hearings on the 10 CFR Part 72 license. And third, after termination of the 10 CFR Part 50 license, licensees would need multiple licenses to store GTCC waste in the same location as spent fuel.

Although this alternative saves resources in the short term, the NRC believes that denying the petition would impose an

unnecessary regulatory burden on reactor licensees and would require more NRC resources in the long-term than developing a rulemaking as discussed in alternatives two and three.

ALTERNATIVE 2: Change the regulations in 10 CFR Parts 72 and 171 to allow interim storage of NRC-licensed reactor-related GTCC waste within an ISFSI or MRS licensed by the NRC, or the appropriate Agreement State, using criteria in 10 CFR Part 72. The alternative deals only with GTCC waste used or generated by a commercial power reactor licensed under 10 CFR Part 50 (i.e., not a research reactor) and does not include any other sources of GTCC waste. Storage and licensing requirements would be fully contained in 10 CFR Part 72. Interim storage of GTCC waste would be permitted under a 10 CFR Part 72 specific license. This alternative would meet the request of the petitioner. Under this alternative, the NRC would change the compatibility level of 10 CFR Part 72 to allow Agreement States to license reactor-related GTCC waste in a manner similar to the NRC. In a non-Agreement State only one license would be needed for storage of spent fuel and GTCC waste under 10 CFR Part 72. Within an Agreement State, after termination of the 10 CFR Part 50 license, the licensee would need a license from the NRC for spent fuel and a license from the Agreement State for GTCC waste. However, having two agencies responsible for licensing and inspecting the same facility is not the most efficient use of resources. This disadvantage is further elaborated on in the discussion of alternative three which reserves all reactor-related GTCC waste licensing to the NRC.

The NRC believes that this alternative does provide a more efficient means (relative to alternative one) of implementing storage of GTCC waste co-located at an ISFSI or an MRS than what is currently permitted by the regulations. That is, revising the regulations to allow storage of GTCC waste under 10 CFR Part 72 does not preclude storing it under 10 CFR Part 30 or Part 70. 10 CFR Part 72 was developed specifically for an ISFSI and an MRS. The licensing process will be clearer and more straightforward by having all related licensing under one part. Criteria in 10 CFR Part 72 would be used for the GTCC waste. Although the GTCC waste would meet requirements in 10 CFR Part 72, the individual waste types are different than spent fuel. The GTCC waste is in a solid form (i.e., mostly activated metals) such as reactor internals, nozzles, and in-core instrumentation. Specific criteria will be added to 10 CFR Part 72 to preclude storage of liquid GTCC waste within an ISFSI or an MRS. If necessary, liquid GTCC waste could be stored under a 10 CFR Part 30 and/or 70 license with appropriate conditions.

ALTERNATIVE 3: Change the regulations in 10 CFR Parts 72, 150, and 171 to allow interim storage of NRC-licensed reactor-related GTCC waste within an ISFSI or MRS licensed only by the NRC. This alternative is the same as alternative two except that licensing the storage of reactor-related GTCC waste would be reserved to the NRC. Therefore, an additional change is being proposed for 10 CFR Part 150. Licensing would be reserved to the NRC regardless of whether the GTCC waste was licensed under 10 CFR Part 30, 70, or 72.

Because GTCC waste is initially under Federal jurisdiction while the reactor facility is operated and the ultimate disposal of GTCC waste is also under Federal jurisdiction, the NRC believes that the interim period between termination of a reactor license and ultimate disposal should also remain under Federal jurisdiction. GTCC waste will likely end up in a geologic repository with spent fuel. Spent fuel can be stored in an ISFSI or a MRS pending ultimate disposal. Therefore, for efficiency and consistency of licensing, the NRC believes that 10 CFR Part 72 should be modified to also allow storage of GTCC waste within these facilities under NRC's jurisdiction. The existing regulatory scheme, which would allow for Federal-State-Federal jurisdiction over the generation, interim storage, and disposal of GTCC, waste is an inefficient approach. It is inefficient for NRC and an Agreement State to both spend scarce resources to license and inspect an ISFSI that stores both spent fuel and GTCC waste. This alternative will allow the licensee to obtain only one 10 CFR Part 72 license for storage of spent fuel and GTCC waste.

3. ESTIMATE AND EVALUATION OF VALUES AND IMPACTS

The NRC has not quantitatively evaluated the cost savings of alternative three. Alternative three has the advantages of providing the most consistent licensing while also being the least costly option in the long term. The NRC estimates that about one staff year will be needed to develop this rulemaking. There are currently 31 ISFSIs either operating or under development. The NRC spends an estimated 20 staff years evaluating specific licenses and amendments under 10 CFR Part 72. The incremental resources to include the review of GTCC waste within a license application or amendment is estimated to be 120 hours (0.06 staff years). To review a separate 10 CFR Part 30 or Part 70 license, with unknown criteria, could take significantly longer. If a significant number of ISFSIs apply for a 10 CFR Part 72 license to store GTCC waste, the savings to NRC would easily out way the resources to complete this rulemaking. The savings to licensees is not estimated, but given that the six commenters all supported this petition, the NRC believes that the benefit to licensees is also significant.

4. DECISION RATIONALE

The NRC is proposing to amend 10 CFR Parts 72, 150, and 171. The NRC believes that the proposed rule would have the following benefits: (1) allowing licensees the option of storing GTCC waste under 10 CFR Part 72, while not precluding licensees from developing their own criteria as allowed under existing regulations; (2) providing that for reactor-related GTCC waste the licensing will be with the Federal government from generation through disposal; (3) allowing reactor licensees to have only one 10 CFR Part 72 license for both their spent fuel and GTCC waste; and (4) minimizing the use of total NRC, Agreement State, and licensee resources by having only one agency license and inspect ISFSIs.

In summary, the NRC believes that the proposed rule change would allow a more cost effective means of storing this waste with no significant impact to public health and safety.

5. IMPLEMENTATION

Draft Environmental Assessment and Finding of No Significant Environmental Impact

Proposed Rule: Interim Storage for Greater than Class C Waste

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- [ENVIRONMENTAL IMPACTS](#)

BACKGROUND

The Nuclear Regulatory Commission received a petition for rulemaking dated November 2, 1995, submitted by Portland General Electric Company. The petition was docketed as PRM-72-2 and published in the Federal Register, with a 75-day comment period, on February 1, 1996 (61 FR 3619).

The petitioner requested that the NRC amend 10 CFR Part 72 to add the authority to store radioactive waste that exceeds the concentration limits of radionuclides established for Class C waste in 10 CFR 61.55⁽²⁾

. This material is commonly referred to as "greater than class C" waste or GTCC waste. GTCC waste is generally unsuitable for near-surface disposal as low-level waste (LLW), even though it is legally defined as LLW. 10 CFR 61.55(a)(2)(iv) requires that this type of waste must be disposed of in a geologic repository unless approved for an alternative disposal method on a case-specific basis by the NRC.

The petitioner is an NRC-licensed utility responsible for the Trojan Nuclear Plant (TNP). In the petition, the petitioner anticipated that during decommissioning of TNP it would need to dispose of GTCC waste. The TNP decommissioning plan specifies the transfer of spent reactor fuel, currently being stored in the spent fuel pool, to an onsite Independent Spent Fuel Storage Installation (ISFSI) licensed under 10 CFR Part 72. The petitioner requested that GTCC waste also be stored at the ISFSI pending its transfer to a permanent disposal facility. The petitioner suggested that, because the need to provide interim storage for GTCC waste is not specific to TNP but is generic, the regulations in 10 CFR Part 72 should be amended to explicitly provide for the isolation and storage of GTCC waste in a licensed ISFSI.

The petitioner believes that storage of GTCC waste under 10 CFR Part 72 will ensure safe interim storage. This storage would provide identical public health and safety and environmental protection as required for spent fuel located at an ISFSI. For example, Subpart F of 10 CFR Part 72 (General Design Criteria) establishes design, fabrication, construction, testing, quality standards, maintenance, and performance requirements for structures, systems, and components important to safety.

The specific changes proposed in the petition would explicitly include interim storage of GTCC waste within the Purpose, Scope, and Definitions sections of 10 CFR Part 72 in order to treat GTCC waste in a similar manner to spent nuclear fuel. The revised definitions would only apply to the interim storage of GTCC waste under the authority of 10 CFR Part 72.

The notice of receipt of the petition for rulemaking invited interested persons to submit written comments concerning the petition. The NRC received six comment letters. Five comment letters were received from nuclear facilities and one from the Nuclear Energy Institute. The Nuclear Energy Institute provided another letter on this subject directly to the NRC Chairman on February 2, 1999, and the NRC responded on March 25, 1999. The comments were reviewed and considered in the development of NRC's decision on this petition. These comments are available in the NRC Public Document Room.

All six commenters supported the petition. Two of the commenters (Sacramento Municipal Utility District and Yankee Atomic Electric Company) are currently decommissioning their reactors.

As a result of the petition and the comment letters, the NRC developed a draft rulemaking plan to further consider the development of a rule that would meet the intent of the petition. In SECY-97-056, dated March 5, 1997, the NRC staff provided a draft rulemaking plan to the Commission outlining a rule that would modify 10 CFR Part 72 to allow storage of material, which when disposed of would be classified as GTCC waste, under the authority of 10 CFR Part 72 using the performance criteria of this part. As discussed in this draft rulemaking plan, licensees are authorized to store GTCC waste pursuant to the regulations in 10 CFR Part 30 and/or Part 70. Therefore, the draft rulemaking plan discussed an additional option to store GTCC waste under 10 CFR Part 72 while maintaining the option to store this waste using the authority of 10 CFR Parts 30 and 70. This plan was sent to the Agreement States for their comments on April 18, 1997. Four States provided comments -- Illinois, New York, Texas, and Utah.

The draft rulemaking plan did not require that the licensing jurisdiction for GTCC waste remain with NRC, but did suggest that Agreement States could voluntarily relinquish their licensing authority for GTCC waste stored at an ISFSI. The draft rulemaking plan requested Agreement State input relative to their likelihood of relinquishing authority for licensing when an ISFSI or a

Monitored Retrievable Storage Installation (MRS) is involved in storing GTCC waste. Three of the four state commenters indicated that they would not voluntarily relinquish their authority.

DISCUSSION

Current NRC regulations are not clear on the acceptability of storing reactor-related GTCC waste co-located at an ISFSI or an MRS. Co-location is the storage of spent fuel and other radioactive material in their respective separate containers. This situation has created confusion and uncertainty on the part of decommissioning reactor licensees and may create inefficiency and inconsistency in the way the NRC handles GTCC waste licensing matters.

Currently, 10 CFR Part 50 licensees (Domestic Licensing of Production and Utilization Facilities) are authorized to store all types of reactor-related radioactive materials, including material that, when disposed of, would be classified as GTCC waste. The GTCC waste portion is currently being stored either within the reactor vessel, in the spent fuel pool, or in a radioactive material storage area, pending development of a suitable permanent disposal facility. Reactor-related GTCC waste is typically in a solid form (i.e., mostly activated metals) such as reactor vessel internals, nozzles, and in-core instrumentation. A small amount of GTCC waste may also be in the form of a sealed source that was used during the operation of the reactor. GTCC waste may consist of either byproduct material or special nuclear material. The authority to license the possession and storage of GTCC waste is contained within 10 CFR Part 30 for byproduct material and in 10 CFR Part 70 for special nuclear material. Under 10 CFR 50.52, the Commission may combine multiple licensing activities of an applicant that would otherwise be licensed individually in single licenses. Thus, the 10 CFR Part 50 license authorizing operation of production and utilization facilities currently includes, within it, the authorization to possess byproduct and special nuclear material that would otherwise need to be separately licensed under 10 CFR Parts 30 or 70.

Under current regulations, while a 10 CFR Part 50 license is in effect, a reactor licensee can store spent fuel generated at the reactor site under either a general license pursuant to 10 CFR 72.210 or a specific license pursuant to 10 CFR Part 72. In addition, the reactor licensee who has a 10 CFR Part 50 license, can store GTCC waste generated at the reactor site under the 10 CFR Parts 30 and 70 authority included in the 10 CFR Part 50 license.

Under current regulations, when the 10 CFR Part 50 license terminates, a reactor licensee can continue to store spent fuel generated at the reactor site under a specific license pursuant to 10 CFR Part 72. However, a general license under 10 CFR 72.210 would terminate because the 10 CFR Part 50 license has terminated, and the reactor licensee would need to apply for a specific license under 10 CFR Part 72 in order to continue to store spent fuel at the reactor site. Furthermore, the 10 CFR Parts 30 and 70 licenses included in the 10 CFR Part 50 licenses are also terminated when the 10 CFR Part 50 license terminates and the reactor licensee can only store GTCC waste by applying for a specific NRC license under 10 CFR Parts 30 and/or 70, or an equivalent Agreement State license if the facility is located in an Agreement State.

Under the proposed regulations, when a 10 CFR Part 50 license is terminated, the reactor licensee will only apply for an NRC license, but will have the option to store GTCC waste under either 10 CFR Part 72 or under 10 CFR Parts 30 and 70. This proposed regulation maintains Federal jurisdiction for GTCC waste under either approach (10 CFR Part 72 or 10 CFR Parts 30 and 70).

The proposed changes in this rulemaking would allow a 10 CFR Part 72 specific licensee to co-locate reactor-related GTCC waste within an ISFSI or an MRS. Applicants for a specific license would be required to provide a Safety Analysis Report (SAR) which would describe how the GTCC waste would be stored. The SAR would describe how structures, systems, and components that are important to safety are properly designed to allow the storage of GTCC waste within an ISFSI or MRS. The applicant shall ensure that the co-location of this radioactive material does not have an adverse effect on the safe storage of spent fuel and the operation of the ISFSI. Based on an acceptable review of the SAR, the NRC would issue a 10 CFR Part 72 specific license. Current 10 CFR Part 72 specific license holders would be required to submit an application to amend their 10 CFR Part 72 license, if they desire to store GTCC waste at their ISFSI.

Under existing regulations, storage of GTCC waste at an ISFSI after termination of the reactor licensee's 10 CFR Part 50 license could lead to (1) NRC regulating the spent fuel at an ISFSI and (2) Agreement States regulating GTCC waste at the same location. The NRC has exclusive regulatory authority over a reactor licensee's storage of all radioactive material both spent fuel and of GTCC waste during the term of the 10 CFR Part 50 license. Once the 10 CFR Part 50 license is terminated an Agreement State would have authority for any GTCC waste stored by the utility.

The NRC believes that decommissioning activities at commercial nuclear power plants will generate relatively small volumes of GTCC waste relative to the amount of spent fuel that exists at these sites. GTCC waste exceeds the concentration limits of radionuclides established for Class C in §§ 61.55(a)(3)(ii), 61.55(a)(4)(iii), or 61.55(a)(5)(ii). GTCC waste is not generally acceptable for near-surface disposal at licensed low-level radioactive waste disposal facilities. There currently are no routine disposal options for GTCC waste. Because GTCC waste is unlikely to be disposed of at a LLW disposal site regulated under 10 CFR Part 61, the GTCC waste must be stored in the interim.

In general, reactor-related GTCC wastes can be grouped into two categories. The first is activated metals, irradiated metal components from nuclear reactors such as core shrouds, support plates, and core barrels. The second is process wastes such as filters and resins resulting from the operation and decommissioning of reactors. In addition, there may be a small amount of GTCC waste generated from other activities associated with the reactor's operation (e.g., reactor start-up sources).

The Low-Level Radioactive Waste Policy Amendments Act of 1985 gave the Federal Government (U.S. Department of Energy (DOE)) the primary responsibility for developing a national strategy for disposal of GTCC waste. The Act also gave the NRC the

licensing responsibility for a disposal facility for GTCC waste. Until a disposal facility is licensed, there is a need for interim storage of GTCC waste.

In the development of the proposed rule, the NRC has identified a potential policy issue associated with DOE's responsibility for the disposal of GTCC waste. Because DOE has not yet identified criteria or technical regulations for a disposal package for spent fuel or GTCC waste, the NRC is concerned that the commingling of spent fuel and GTCC waste (i.e., the two types of waste stored within the same cask) may be unacceptable for permanent disposal in the geologic repository. In such a case, the spent fuel and GTCC waste would need to be removed from the storage container before the spent fuel is placed in the geologic repository.

The NRC desires to formulate regulations which both reduce radiological exposure and costs associated with repackaging the spent fuel and GTCC waste into two separate containers. Therefore, information from DOE on disposal policies will be helpful in developing storage criteria for 10 CFR Part 72 (and enable the NRC to preclude a storage option that would be unacceptable for permanent disposal). Allowing commingling may be a technically safe and economical use of spent fuel storage cask space. The NRC staff has already reviewed and concluded, on a case-by-case basis, that certain specific components associated with, and integral to, spent fuel (e.g., burnable poison rod assemblies, control rod assemblies, and thimble plugs) can be safely stored in the same cask with spent fuel. For current and future reviews, the NRC has developed guidance for the storage of these specific components. The position in the proposed rule is to preclude commingling of other reactor-related GTCC waste not integral to the spent fuel assemblies and to preclude storage of liquid GTCC waste.

Therefore, as discussed in the Federal Register notice, NRC is specifically requesting additional input from the public and DOE to develop a more effective rulemaking with respect to commingling of GTCC waste and spent fuel (in an ISFSI) or spent fuel, high-level waste, and GTCC waste (in an MRS).

ALTERNATIVES

There are three alternatives the NRC considered to resolve the petition from the Portland General Electric Company. All three are protective of public health and safety, but differ in implementation and resources. For the reasons discussed, the NRC is proposing to implement alternative three.

ALTERNATIVE 1: Deny the petition. The first option is to clarify that NRC's existing regulations allow storage of GTCC waste co-located at the licensee's ISFSI under a 10 CFR Part 30 or Part 70 license conferred as part of their 10 CFR Part 50 license. However, upon termination of the 10 CFR Part 50 license it would be necessary to apply for a specific 10 CFR Part 30 or Part 70 license (or under equivalent Agreement State 10 CFR Part 30 or Part 70 regulations) if GTCC waste is to remain at the ISFSI. Under this option, the petition would be denied because no changes to NRC's regulations are necessary to meet the specific requirements of the petitioner. The NRC could issue an Information Notice or issue a clarifying rule change to 10 CFR Part 72 that makes it clear that GTCC waste can be stored at an ISFSI under a 10 CFR Part 50 license during reactor operations, or under a 10 CFR Part 30 or Part 70 license either during operations or after the Part 50 license is terminated.

However, the applicable regulations do not provide any explicit criteria for this unique waste type. Therefore, the licensee, in their license application, would need to propose site-specific criteria and the NRC would need to review each license application on a case-by-case basis or the NRC could develop generic criteria.

This alternative is the least resource intensive in the short term (i.e., no rulemaking would be undertaken), but the NRC believes there are several disadvantages. First, since each licensee would propose site-specific criteria, the licensing process could be more complicated for the licensee (need to develop appropriate criteria) and for the NRC to review and approve this criteria on a case-by-case basis. This could also result in numerous regulatory proposals throughout the country. Second, these site-specific criteria could be raised as issues during potential hearings on the 10 CFR Part 72 license. And third, after termination of the 10 CFR Part 50 license, licensees would need multiple licenses to store GTCC waste in the same location as spent fuel.

Although this alternative saves resources in the short term, the NRC believes that denying the petition would impose an unnecessary regulatory burden on reactor licensees and would require more NRC resources in the long-term than developing a rulemaking as discussed in alternatives two and three.

ALTERNATIVE 2: Change the regulations in 10 CFR Parts 72 and 171 to allow interim storage of NRC-licensed reactor-related GTCC waste within an ISFSI or MRS licensed by the NRC, or the appropriate Agreement State, using criteria in 10 CFR Part 72. The alternative deals only with GTCC waste used or generated by a commercial power reactor licensed under 10 CFR Part 50 (i.e., not a research reactor) and does not include any other sources of GTCC waste. Storage and licensing requirements would be fully contained in 10 CFR Part 72. Interim storage of GTCC waste would be permitted under a 10 CFR Part 72 specific license. This alternative would meet the request of the petitioner. Under this alternative, the NRC would change the compatibility level of 10 CFR Part 72 to allow Agreement States to license reactor-related GTCC waste in a manner similar to the NRC. In a non-Agreement State only one license would be needed for storage of spent fuel and GTCC waste under 10 CFR Part 72. Within an Agreement State, after termination of the 10 CFR Part 50 license, the licensee would need a license from the NRC for spent fuel and a license from the Agreement State for GTCC waste. However, having two agencies responsible for licensing and inspecting the same facility is not the most efficient use of resources. This disadvantage is further elaborated on in the discussion of alternative three which reserves all reactor-related GTCC waste licensing to the NRC.

The NRC believes that this alternative does provide a more efficient means (relative to alternative one) of implementing storage of GTCC waste co-located at an ISFSI or an MRS than what is currently permitted by the regulations. That is, revising

the regulations to allow storage of GTCC waste under 10 CFR Part 72 does not preclude storing it under 10 CFR Part 30 or Part 70. 10 CFR Part 72 was developed specifically for an ISFSI and an MRS. The licensing process will be clearer and more straightforward by having all related licensing under one part. Criteria in 10 CFR Part 72 would be used for the GTCC waste. Although the GTCC waste would meet requirements in 10 CFR Part 72, the individual waste types are different than spent fuel. The GTCC waste is in a solid form (i.e., mostly activated metals) such as reactor internals, nozzles, and in-core instrumentation. Specific criteria will be added to 10 CFR Part 72 to preclude storage of liquid GTCC waste within an ISFSI or an MRS. If necessary, liquid GTCC waste could be stored under a 10 CFR Part 30 and/or 70 license with appropriate conditions.

ALTERNATIVE 3: Change the regulations in 10 CFR Parts 72, 150, and 171 to allow interim storage of NRC-licensed reactor-related GTCC waste within an ISFSI or MRS licensed only by the NRC. This alternative is the same as alternative two except that licensing the storage of reactor-related GTCC waste would be reserved to the NRC. Therefore, an additional change is being proposed for 10 CFR Part 150. Licensing would be reserved to the NRC regardless of whether the GTCC waste was licensed under 10 CFR Part 30, 70, or 72.

Because GTCC waste is initially under Federal jurisdiction while the reactor facility is operated and the ultimate disposal of GTCC waste is also under Federal jurisdiction, the NRC believes that the interim period between termination of a reactor license and ultimate disposal should also remain under Federal jurisdiction. GTCC waste will likely end up in a geologic repository with spent fuel. Spent fuel can be stored in an ISFSI or a MRS pending ultimate disposal. Therefore, for efficiency and consistency of licensing, the NRC believes that 10 CFR Part 72 should be modified to also allow storage of GTCC waste within these facilities under NRC's jurisdiction. The existing regulatory scheme, which would allow for Federal-State-Federal jurisdiction over the generation, interim storage, and disposal of GTCC, waste is an inefficient approach. It is inefficient for NRC and an Agreement State to both spend scarce resources to license and inspect an ISFSI that stores both spent fuel and GTCC waste. This alternative will allow the licensee to obtain only one 10 CFR Part 72 license for storage of spent fuel and GTCC waste. 10 CFR Parts 150 and 171 would also require conforming changes.

PROPOSED REGULATORY ACTION

The NRC is proposing to modify 10 CFR Parts 72, 150, and 171 as discussed in alternative three.

This proposed rule would allow storage of reactor-related GTCC waste under a 10 CFR Part 72 specific license. The proposed changes would modify 10 CFR Part 72 to allow storage of GTCC waste under this part using the performance criteria of 10 CFR Part 72 (General Design Criteria in Subpart F). This would provide a more efficient means of implementing what is essentially already permitted by the regulations (storage of GTCC waste co-located at an ISFSI or an MRS). That is, revising the regulations to allow storage of reactor-related GTCC waste under 10 CFR Part 72 does not preclude the option of storing it under a 10 CFR Parts 30 or 70 license.

This proposed rule would permit the co-locating of spent fuel and solid, reactor-related, GTCC waste in different casks and containers within an ISFSI or MRS; but it would not permit the commingling of spent fuel and GTCC waste in the same storage cask. Additionally, this proposed rule would not permit the storage of liquid, reactor-related, GTCC waste. However, a licensee or applicant may submit information to the NRC applying for approval for commingling of spent fuel and solid, reactor-related, GTCC waste in the same storage cask, or storing liquid, reactor-related, GTCC waste. The licensee or applicant must demonstrate that there will be no adverse effects on public health and safety and the environment from this type of storage. The NRC will review and approve these types of requests on a case-by-case basis. When storing spent fuel and GTCC waste in different containers within an ISFSI or MRS, the licensee or applicant must provide a description of how storage of the GTCC waste will not have an adverse effect on the ISFSI or MRS or on public health and safety and the environment.

Without this change, after termination of the 10 CFR Part 50 license, a licensee would need multiple licenses -- 10 CFR Part 72 for spent fuel and 10 CFR Part 30 or 70 (or both) for GTCC waste. Having one license for the ISFSI (or MRS) under 10 CFR Part 72 will be simpler for both licensees and the NRC, relative to approval and management.

The NRC believes that the concept proposed in the petition of storing GTCC waste under the provisions of 10 CFR Part 72 is valid. However, the NRC also believes that the method proposed by the petitioner, that is modifying the definition of spent fuel to include GTCC waste, could lead to confusion. Modifying the definition of spent fuel would only apply to spent fuel as defined under 10 CFR Part 72 and would not be technically accurate.

Therefore, the NRC is proposing to add a definition of GTCC waste within § 72.3 that would be consistent with the intent of 10 CFR 61.55. The NRC has evaluated 10 CFR Part 72 to determine which sections need to be modified to accommodate storage of solid GTCC waste co-located with spent fuel within an ISFSI or an MRS. The majority of the changes to 10 CFR Part 72 would simply add the term "GTCC waste" to the appropriate sections and paragraphs (typically immediately after the terms "spent fuel or high-level waste"). Section 72.120 would be revised to require that GTCC waste be in a solid form. Reviewer guidance will be developed.

10 CFR Parts 150 and 171 would be modified to be consistent with the changes proposed for 10 CFR Part 72. The proposed change to 10 CFR Part 150 (Exemptions and Continued Regulatory Authority in Agreement States and in Offshore Waters Under Section 274) would specify that any GTCC waste that is stored in an ISFSI or an MRS is under NRC jurisdiction. This part would also be modified to state that licensing the storage of any GTCC waste that originates in, or is used by, a facility licensed under 10 CFR Part 50 (a power reactor) is the responsibility of the NRC.

The proposed change to 10 CFR Part 171 (Annual Fees for Reactor Licenses and Fuel Cycle Licenses and Materials Licenses, Including Holders of Certificates of Compliance, Registrations, and Quality Assurance Program Approvals and Government Agencies Licenced by NRC) would include an annual fee for receipt and storage for GTCC waste, within the fee schedule for spent fuel at an ISFSI, under the license fee schedule. There would be no additional charge to the spent fuel annual fee to include GTCC waste.

ENVIRONMENTAL IMPACTS

The Commission has determined, under the National Environmental Policy Act of 1969 (NEPA), as amended, and the Commission's regulations in Subpart A of 10 CFR Part 51, that this rule is not a major Federal action significantly affecting the quality of the human environment and therefore, an environmental impact statement (EIS) is not required.

This draft Environmental Assessment (EA) was prepared in accordance with the Commission's regulations in 10 CFR Part 51 to implement the requirements of NEPA. The NRC evaluation has led to the conclusion that the proposed revisions to 10 CFR Parts 72, 150, and 171, if promulgated, would not result in any activity that significantly affects the quality of the human environment. The proposed revisions would provide reactor licensees an additional option of storing GTCC waste under a specific 10 CFR Part 72 license using criteria within that part. Interim storage of GTCC waste at an ISFSI or an MRS would be in a passive mode with no human intervention needed for safe storage.

The purpose of this draft EA is to provide the rationale that supports the finding that this proposed rulemaking will have no significant environmental effects. This proposed rule deals with the establishment of licensing criteria which would allow for the storage of reactor-related GTCC waste within an ISFSI or MRS. The proposed rule would use criteria within 10 CFR Part 72. The criteria within 10 CFR Part 72 was established for spent nuclear fuel and HLW and the accompanying environmental reviews were performed for spent fuel and HLW. These analyses concluded that storage of spent fuel and HLW using the approved criteria would not result in any activity that significantly affects the quality of the human environment.

As described in NUREG 1092, entitled, "Environmental Assessment for 10 CFR Part 72 Licensing Requirements for the Independent Storage of Spent Fuel and High-Level Radioactive Waste," dated August 1984, the NRC staff concluded that storage of spent fuel and HLW within ISFSIs would not result in any activity that significantly affects the quality of the human environment. From a review of this NUREG and current licensing actions, the staff has concluded that storing NRC-licensed reactor-related GTCC waste (e.g., burnable poison rod assemblies, control rod assemblies, and thimble plugs) using 10 CFR Part 72 criteria has no significant environmental impacts. This review considered functional areas of heat generation, criticality, structural stability, and radiation risk from dry storage within the ISFSI. For other reactor-related GTCC waste specific technical and environmental evaluations will be performed as part of the licensing review for the application or amendment.

GTCC wastes from reactors are, for the most part, generated from two procedures -- operating wastes and decommissioning wastes. During both operating and decommissioning, GTCC wastes include activated metals and process waste. Operating GTCC waste is generated periodically during routine operations. These wastes become available for storage at the end of each refueling cycle. Decommissioning wastes are generated when a reactor closes, a one time event that generates the majority of GTCC waste. In addition, there may be a small amount of GTCC waste generated from other activities associated with the reactor's operation (e.g., reactor start-up sources).

Activated metal consists of irradiated metal components from the reactor vessel. This internal hardware, typically stainless steel, (i.e., core shroud, control rod blades, support plates, and in-core instruments, etc.) absorbs neutrons during reactor operations and becomes highly radioactive. The bulk of the total activity in activated metals is from short-lived radionuclides cobalt 60, a gamma emitter, and iron 55, a beta emitter. The longer-lived radionuclides, primarily nickel 63, nickel 59, and niobium 94, determine classification. The radionuclides that determine classification are measured by indirect means. There are trace amounts of fissile material contained in the activated metal.

Process wastes classification is determined primarily by cesium 137, a gamma emitter, carbon 14 and strontium 90, beta emitters, and alpha-emitting transuranics. Process wastes generally do not contain much, if any, nickel, niobium, or fissile material.

In 1993, there was approximately 16 cubic meters of GTCC waste from nuclear reactors, containing approximately 4 million curies.⁽³⁾ By 2055, it is estimated that there will be approximately 1300 cubic meters of GTCC waste containing approximately 88 million curies. By comparison, it is estimated that there will be approximately 63,000 cubic meters of commercial spent fuel containing over 3.5 billion curies.⁽⁴⁾ Over 90 percent of the 88 million GTCC waste curies are projected to come from activities associated with decommissioning nuclear reactors. Also, pressurized water reactors (PWRs) will produce about 10 times the number of curies of GTCC waste that boiling water reactors (BWRs) will produce.

Therefore, over an estimated 40 year life of a either a PWR or a BWR, GTCC waste will comprise less than three percent of the volume and curie content versus the volume and curie content of the spent fuel generated.

The radioactive isotope contents of GTCC waste in activated metals is a subset of the isotopes contained within spent fuel and HLW that can be currently stored in an ISFSI. Because of the limited amount of material that will undergo radioactive decay, the amount of decay heat generated is less than similar aged spent fuel. As described above, the total curie content and volume of GTCC waste is significantly less than the spent fuel and HLW already scheduled to be stored within ISFSIs licensed under 10 CFR Part 72.

Similar to activated metals, the process GTCC waste is a subset of the isotopes contained within spent fuel and HLW. The NRC is requiring that process waste be solidified as a requirement for storage within the ISFSI or MRS. The process material is significantly less than the amount of GTCC waste from reactor components.

The NRC finds for the following reasons that storing NRC-licensed reactor-related GTCC waste using 10 CFR Part 72 criteria has no significant environmental impacts.

- (1) The smaller source term available for release from normal operations, or as a result of an accident, involving GTCC waste as compared to spent fuel or HLW;
- (2) The smaller total volume and curie content of GTCC waste as compared to spent fuel and HLW;
- (3) The previous findings related to the environmental impacts in NUREG-0575, "Final Generic Environmental Impact Statement on Handling and Storage of Spent Light Water Power Reactor Fuel," dated August 1979, and NUREG-1092, "Environmental Assessment for 10 CFR Part 72 "Licensing Requirements for the Independent Storage of Spent Fuel and High-Level Radioactive Waste"; and
- (4) GTCC waste is already being safely stored by 10 CFR Part 50 licensees. Re-licensing of this material under a 10 CFR Part 72 specific license requires an approved SAR. The approval process requires that each application or amendment be individually reviewed and approved before storage would be allowed under a specific 10 CFR Part 72 license.

Therefore, the NRC finds that there is no significant effect on the quality of the environment associated with the proposed rulemaking.

The documents reference may be examined at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC.

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1. In 10 CFR Part 61.55, "Waste Classification," the NRC defines disposal requirements for three classes of low-level waste which are considered generally suitable for near-surface disposal. These are Class A, B, and C. Class C waste is required to meet the most rigorous disposal requirements.
 2. In 10 CFR Part 61.55, "Waste Classification," the NRC defines disposal requirements for three classes of low-level waste which are considered generally suitable for near-surface disposal. These are Class A, B, and C. Class C waste is required to meet the most rigorous disposal requirements.
 3. Greater-Than-Class C Low-Level Radioactive Waste Characterization: Estimated Volumes, Radionuclide Activities, and Other Characteristics. DOE/LLW-114, Revision 1, September 1994.
 4. Draft Environmental Impact Statement for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County Nevada. Volume II, Appendix A, July 1999.