

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150-AG70

List of Approved Spent Fuel Storage Casks: VSC-24 Revision

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations revising the Pacific Sierra Nuclear Associates (PSNA) VSC-24 listing within the “List of approved spent fuel storage casks” to include Amendment No. 3 to the Certificate of Compliance (CoC). This amendment changes the Technical Specifications 1.2.1 and 1.2.6 to modify the fuel specifications for Combustion Engineering 16x16 spent fuel stored in the VSC-24 cask system, modifies the text in TS 1.2.7 for accuracy, modifies the text in Certificate Section 2.b. to remove ambiguity, modifies Certificate Section 3 to be consistent with TS 1.1.4, modifies Certificate Section 4 for consistency with TS 1.1.3, and modifies Certificate Section 5 to remove ambiguity.

DATES: The final rule is effective **[insert date 75 days after publication in the Federal Register]**, unless significant adverse comments are received by **[insert date 30 days after publication in the Federal Register]**. If either the rule is withdrawn or the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Submit comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attn: Rulemakings and Adjudications Staff. Deliver comments to

11555 Rockville Pike, Rockville, MD, between 7:30 am and 4:15 pm on Federal workdays.

All publicly available documents related to this rulemaking, as well as all public comments received on this rulemaking, may be viewed and downloaded electronically via the NRC's rulemaking website at <http://ruleforum.llnl.gov>. You may also provide comments via this website by uploading comments as files (any format) if your web browser supports that function. For information about the interactive rulemaking site, contact Ms. Carol Gallagher (301) 415-5905; e-mail [CAG@nrc.gov](mailto:CAG@nrc.gov).

Certain documents related to this rule, including comments received by the NRC, may also be examined at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. For more information, contact the NRC's Public Document Room Reference staff at 1-800-397-4209, (301) 415-4737 or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

Documents created or received at the NRC after November 1, 1999 are also available electronically at the NRC Public Electronic Reading Room on the Internet at <http://www.nrc.gov/NRC/ADAMS/index.html>. From this site, the public can gain entry into the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. An electronic copy of the proposed CoC and preliminary safety evaluation report (SER) can be found under ADAMS Accession No. ML003733556. For more information, contact the NRC's Public Document Room Reference Staff at 1-800-397-4209, 301-415-4737 or by e-mail at [pdr@nrc.gov](mailto:pdr@nrc.gov).

FOR FURTHER INFORMATION CONTACT: Stan Turel, telephone (301) 415-6234, e-mail, [spt@nrc.gov](mailto:spt@nrc.gov), of the Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

## SUPPLEMENTARY INFORMATION:

### Background

Section 218(a) of the Nuclear Waste Policy Act of 1982, as amended (NWPA), requires that “[t]he Secretary [of the Department of Energy (DOE)] shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the [Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission.” Section 133 of the NWPA states, in part, that “[t]he Commission shall, by rule, establish procedures for the licensing of any technology approved by the Commission under Section 218(a) for use at the site of any civilian nuclear power reactor.”

To implement this mandate, the NRC approved dry storage of spent nuclear fuel in NRC-approved casks under a general license by publishing a final rule in 10 CFR Part 72 entitled, “General License for Storage of Spent Fuel at Power Reactor Sites” (55 FR 29181; July 18, 1990). This rule also established a new Subpart L within 10 CFR Part 72, entitled “Approval of Spent Fuel Storage Casks” containing procedures and criteria for obtaining NRC approval of spent fuel storage cask designs. The NRC subsequently issued a final rule on April 7, 1993 (58 FR 17948), that approved the VSC-24 cask design, added it to the list of NRC-approved cask designs in § 72.214, and issued Certificate of Compliance Number (CoC No.) 1007.

## Discussion

On March 29, 2000, PSNA (the certificate holder) submitted an application to the NRC to amend CoC No. 1007 to change Technical Specifications (TS) 1.2.1 and 1.2.6. This change modifies the fuel specifications for Combustion Engineering 16x16 spent fuel stored in the VSC-24 cask system. Amendment 3 also modifies the text in TS 1.2.7 for accuracy, modifies the text in Certificate Section 2.b. to remove ambiguity, modifies Certificate Section 3 to be consistent with TS 1.1.4, modifies Certificate Section 4 for consistency with TS 1.1.3, and modifies Certificate Section 5 to remove ambiguity and removes the “Basis” section from all TSs in accordance with revised NRC TS format. The NRC staff performed a detailed safety evaluation of the proposed CoC amendment request. The NRC staff found that the changes stated above do not reduce the safety margin. In addition, the NRC staff has determined that changes do not pose any increased risk to public health and safety. A full discussion of the NRC staff’s evaluation is presented in its SER that can be found under ADAMS Accession No. ML003733556.

This direct final rule revises the PSNA VSC-24 cask system listing within the list of NRC-approved casks for spent fuel storage in § 72.214 by adding Amendment No. 3 to CoC No. 1007. Amendment No. 3 applies to any VSC-24 cask loaded after **[insert effective date of the final rule]**.

Amendment No. 3 to CoC No. 1007 and the underlying SER, and the Environmental Assessment and Finding of No Significant Impact are available for inspection and comment at the NRC Public Document Room (PDR), 11555 Rockville Pike, Rockville, Maryland 20852. Single copies of the CoC and SER may be obtained from Stan Turel, Office of Nuclear Material

Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555,  
telephone (301) 415-6195, email spt@nrc.gov

### Discussion of Amendments by Section

§ 72.214 List of approved spent fuel storage casks.

Certificate No. 1007 will be revised indicating the addition of Amendment No. 3 and its effective date.

### Procedural Background

This rule is limited to the changes contained in Amendment No. 3 to CoC 1007 and does not include other aspects of the VSC-24 cask system design. The NRC is using the “direct final rule procedure” to promulgate this amendment because it represents a limited and routine change to an existing CoC that is expected to be noncontroversial; adequate protection of public health and safety continues to be ensured. This amendment is not considered to be a significant amendment by the NRC staff. The amendment to the rules will become effective on **[insert date 75 days after publication in the Federal Register]**. However, if the NRC receives significant adverse comments by **[insert date 30 days after publication in the Federal Register]**, then the NRC will publish a document that withdraws this action and will address the comments received in response to the proposed amendments published elsewhere in this issue of the *Federal Register*. These comments will be addressed in a subsequent final rule. The NRC will not initiate a second comment period on this action.

## Agreement State Compatibility

Under the “Policy Statement on Adequacy and Compatibility of Agreement State Programs” approved by the Commission on June 30, 1997, and published in the Federal Register on September 3, 1997 (62 FR 46517), this rule is classified as compatibility Category “NRC.” Compatibility is not required for Category “NRC” regulations. The NRC program elements in this category are those that relate directly to areas of regulation reserved to the NRC by the Atomic Energy Act of 1954, as amended (AEA), or the provisions of Title 10 of the Code of Federal Regulations. Although an Agreement State may not adopt program elements reserved to NRC, it may wish to inform its licensees of certain requirements by a mechanism that is consistent with the particular State’s administrative procedure laws, but does not confer regulatory authority on the State.

## Plain Language

The Presidential Memorandum dated June 1, 1998, entitled “Plain Language in Government Writing,” directed that the Federal Government’s writing be in plain language. The NRC requests comments on this direct final rule specifically with respect to the clarity and effectiveness of the language used. Comments should be sent to the address listed under the heading “ADDRESSES” above.

## Finding of No Significant Environmental Impact: Availability

Under the National Environmental Policy Act of 1969, as amended, and the NRC

regulations in Subpart A of 10 CFR Part 51, the NRC has determined that this rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required. The rule will amend the CoC for the VSC-24 cask system within the list of approved spent fuel storage casks that power reactor licensees can use to store spent fuel at reactor sites under a general license. This amendment revises Technical Specifications 1.2.1 and 1.2.6 to modify the fuel specifications for Combustion Engineering 16x16 spent fuel stored in the VSC-24 cask system and makes other minor clarifying changes to the CoC and TS. The environmental assessment and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. Electronic copies of the environmental assessment and finding of no significant impact can be found in the NRC's Public Electronic Reading Room on the Internet at <http://www.nrc.gov/NRC/ADAMS/index.html>. Single copies are available from Stan Turel, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415-6234, email [spt@nrc.gov](mailto:spt@nrc.gov).

#### Paperwork Reduction Act Statement

This direct final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget, Approval Number 3150-0132.

## Public Protection Notification

If a means used to impose an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

## Voluntary Consensus Standards

The National Technology Transfer Act of 1995 (Pub. L. 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. In this direct final rule, the NRC will revise the VSC-24 cask system design list in § 72.214 (List of NRC-approved spent fuel storage cask designs). This action does not constitute the establishment of a standard that establishes generally-applicable requirements.

## Regulatory Analysis

On July 18, 1990 (55 FR 29181), the NRC issued an amendment to 10 CFR Part 72 to provide for the storage of spent nuclear fuel under a general license in cask system designs approved by the NRC. Any nuclear power reactor licensee can use NRC-approved cask designs to store spent nuclear fuel if it notifies the NRC in advance, spent fuel is stored under the conditions specified in the cask's CoC, and the conditions of the general license are met. A list of NRC-approved cask designs is contained in § 72.214. On April 7, 1993 (58 FR 17948), the NRC issued an amendment to Part 72 that approved the VSC-24 cask design, added it to

the list of NRC-approved cask designs in § 72.214, and issued CoC No. 1007. On March 29, 2000, the certificate holder submitted an application to the NRC to amend CoC No. 1007 to change Technical Specifications 1.2.1 and 1.2.6 to modify the fuel specifications for Combustion Engineering 16x16 spent fuel stored in the VSC-24 cask system. The amendment also makes other minor clarifying changes to the CoC and TSs.

The alternative to this action is to withhold approval of this amended cask system design and issue an exemption to each general license. This alternative would cost both the NRC and the utilities more time and money because each utility would have to pursue an exemption.

Approval of the direct final rule will eliminate the problems described above and is consistent with previous Commission actions. Further, the direct final rule will have no adverse effect on public health and safety. This direct final rule has no significant identifiable impact or benefit on other Government agencies.

Based on this discussion of the benefits and impacts of the alternatives, the NRC concludes that the requirements of the direct final rule are commensurate with the NRC's responsibilities for public health and safety and the common defense and security. No other available alternative is believed to be as satisfactory, and thus, this action is recommended.

#### Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the NRC certifies that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This direct final rule affects only the operation of nuclear power plants, independent spent fuel storage facilities, and NAC. The companies that own these plants do not fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act or

the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR Part 121.

#### Backfit Analysis

The NRC has determined that the backfit rule (10 CFR 50.109 or 10 CFR 72.62) does not apply to this direct final rule because this amendment does not involve any provisions that would impose backfits as defined. Therefore, a backfit analysis is not required.

#### Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs, Office of Management and Budget.

#### List of Subjects In 10 CFR Part 72

Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Reporting and recordkeeping requirements, Security measures, Spent fuel.

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. 553; the NRC is adopting the following amendments to 10 CFR Part 72.

PART 72--LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF  
SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

1. The authority citation for Part 72 continues to read as follows:

AUTHORITY: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86-373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95-601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 10d - 48b, sec. 7902, 10b Stat. 31b3 (42 U.S.C. 5851); sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97-425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100-203, 101 Stat. 1330-235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100-203, 101 Stat. 1330-232, 1330-236 (42 U.S.C. 10162(b), 10168(c),(d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97-425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100-203, 101 Stat. 1330-235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97-425, 96 Stat. 2202, 2203, 2204, 2222, 2244, (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

2. In § 72.214, Certificate of Compliance 1007 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

\* \* \* \* \*

Certificate Number: 1007

Initial Certificate Effective Date: May 7, 1993

Amendment Number 1 Effective Date: May 30, 2000

Amendment Number 2 Effective Date: September 5, 2000

Amendment Number 3 Effective Date: **[insert effective date of the final rule]**

SAR Submitted by: Pacific Sierra Nuclear Associates

SAR Title: Final Safety Analysis Report for the Ventilated Storage Cask System

Docket Number: 72-1007

Certificate Expiration Date: May 7, 2013

Model Number: VSC-24

\* \* \* \* \*

Dated at Rockville, Maryland, this 8th day of Feb., 2001.

For the Nuclear Regulatory Commission.

**/RA/**

---

William D. Travers,  
Executive Director for Operations.

2. In § 72.214, Certificate of Compliance 1007 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

\* \* \* \* \*

Certificate Number: 1007  
 Initial Certificate Effective Date: May 7, 1993  
 Amendment Number 1 Effective Date: May 30, 2000  
 Amendment Number 2 Effective Date: September 5, 2000  
 Amendment Number 3 Effective Date: **[insert effective date of the final rule]**  
 SAR Submitted by: Pacific Sierra Nuclear Associates  
 SAR Title: Final Safety Analysis Report for the Ventilated Storage Cask System  
 Docket Number: 72-1007  
 Certificate Expiration Date: May 7, 2013  
 Model Number: VSC-24

\* \* \* \* \*

Dated at Rockville, Maryland, this 8th day of Feb., 2001.

For the Nuclear Regulatory Commission.

*/RA/*

William D. Travers,  
 Executive Director for Operations.

Distribution:

RGordon  
 AHowe

DOC NAME: (FRN-Direct Final Rule.WPD)

"C" = copy without attachment/enclosure, "B" = copy with attachment/enclosure, "N" = No copy

ADAMS PACKAGE ACCESSION NO. ML003776417

To receive a copy of this document, indicate in the box "C" = copy without attachment/enclosure, "B" = copy with attachment/enclosure, "N" = No copy

OFFICE:	RGB/IMNS	RGB/IMNS	D/IMNS	D/SFPO
NAME:	Sturel	Pholahan	DCool	WBrach
DATE:	11/ 30/2000	11/ 30/2000	1/ 22/2001	1/17/2001
OFFICE:	D/CFO	CIO	OGC (NLO by S.H.L.)	OE
NAME:	JFfunches by email	BShelton by memo	STreby	WBorchardt e-mail
DATE:	12 / 18 /2000	12 / 18 /2000	12 / 27/ 2000	1/ 17/2001
OFFICE:	ADM	D/NMSS	DEDMRS	EDO
NAME:	DMeyer by memo	WKane	CPaperiello	WTravers
DATE:	12/ 18/2000	1/ 25/2001	2/7/01	2/8/01

OFFICIAL RECORD COPY