

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN: 3150-

**List of Approved Spent Fuel Storage Casks: Standardized Advanced NUHOMS®-24PT1
Addition**

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations by adding the Standardized Advanced NUHOMS®-24PT1 cask system to the “List of Approved Spent Fuel Storage Casks.” The Standardized Advanced NUHOMS® -24PT1 design has improved shielding and the ability to withstand a higher seismic response spectra than the Standardized NUHOMS® Storage System; otherwise, the cask designs are the same. This amendment will allow the holders of power reactor operating licenses to store spent fuel in the Standardized Advanced NUHOMS®-24PT1 cask system under a general license.

DATES: The comment period expires (**insert 75 days from date of publication**). Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

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 a.m. and 4:15 p.m. on Federal workdays.

You may also provide comments via the NRC's interactive rulemaking website (<http://ruleforum.llnl.gov>). This site provides the capability to upload comments as files (any format) if your web browser supports that function. For information about the interactive rulemaking website, contact Ms. Carol Gallagher (301) 415-5905; e-mail CAG@nrc.gov.

Certain documents related to this rulemaking, including comments received, may be examined at the NRC Public Document Room, Room O-1F23, 11555 Rockville Pike, Rockville, MD. These same documents may also be viewed and downloaded electronically via the rulemaking website.

The NRC maintains an Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. These documents may be accessed through the NRC's Public Electronic Reading Room on the Internet at <http://www.nrc.gov/NRC/ADAMS/index.html>. An electronic copy of the proposed Certificate of Compliance (CoC) and preliminary safety evaluation report (SER) can be found under ADAMS Accession No. ML012250290. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1-800-397-4209, 301-415-4737, or by email to pdr@nrc.gov.

FOR FURTHER INFORMATION CONTACT: Jayne McCausland, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-6219, e-mail, jmm2@nrc.gov.

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.

Discussion

On September 29, 2000, Transnuclear West, Inc. (TN-West), submitted an application and associated Safety Analysis Report (SAR) to add the Standardized Advanced NUHOMS® -

24PT1 Storage System to the list of approved cask designs. The Standardized Advanced NUHOMS® -24PT1 design has improved shielding and the ability to withstand a higher seismic response spectrum than the Standardized NUHOMS® Storage System. In addition, the 24PT1 dry shielded canister, which will be stored in the Standardized Advanced NUHOMS® Storage System, is designed to be transportable; otherwise the designs are the same. The NRC staff performed a detailed safety evaluation of the proposed CoC amendment request and found that adding the Standardized Advanced NUHOMS® -24PT1 Storage System to the list of approved storage systems continues to provide reasonable assurance that public health and safety and the environment will be adequately protected. Additionally, on October 4, 2001, Transnuclear, Inc. (TN), the parent company of TN-West, requested that the name on the certificate be changed from TN-West to TN.

This proposed rule would add the Standardized Advanced NUHOMS® -24PT1 Storage System cask design to the listing in § 72.214 by adding CoC No. 1023.

The Standardized Advanced NUHOMS® -24PT1 Storage System, when used in accordance with the conditions specified in the CoC, the Technical Specifications, and NRC regulations will meet the requirements of Part 72; thus, adequate protection of public health and safety will continue to be ensured.

Draft CoC No. 1023, the draft Technical Specifications, and the preliminary SER are available for inspection at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. Single copies of these documents may be obtained from Jayne M. McCausland, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-6219, email jmm2@nrc.gov.

Discussion of Proposed Amendments by Section

§ 72.214 List of approved spent fuel storage casks.

CoC No. 1023 would be added to the list of approved spent fuel storage casks.

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 proposed rule, the NRC would add Standardized Advanced NUHOMS® -24PT1 Storage System CoC No. 1023 to the list of approved storage systems in § 72.214. This action does not constitute the establishment of a standard that establishes generally applicable requirements.

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 via 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 Government's writing be in plain language. The NRC requests comments on this proposed 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 is mainly administrative in nature. It would not have significant environmental impacts. The proposed rule would add the Standardized Advanced NUHOMS® -24PT1 Horizontal Modular Storage System for Irradiated Nuclear Fuel to 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.

The determination of this environmental assessment is that there will be no significant impact to the public from this action. However, the general public should note that the NRC welcomes public participation. The NRC has also committed to complying with Executive Order (EO) 12898 - Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, dated February 11, 1994, in all its actions. Therefore, the NRC has also determined that there are no disproportionate, high, and adverse impacts on minority and low-income populations. In the letter and spirit of EO 12898, the NRC is requesting public comment on any environmental justice considerations or questions that the public thinks may be related to this proposed rule but somehow were not addressed. The NRC uses the following working definition of "environmental justice": the fair treatment and meaningful involvement of all people, regardless of race, ethnicity, culture, income, or educational level with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. Comments on any aspect of the Environmental Assessment, including environmental justice, may be submitted to the NRC as indicated under the ADDRESSES heading.

The environmental assessment and finding of no significant impact may be examined at the NRC Public Document Room, O-1F23, 11555 Rockville Pike, Rockville, MD. Single copies of the environmental assessment and finding of no significant impact are available from Jayne M. McCausland, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415-6219, e-mail jmm2@nrc.gov.

Paperwork Reduction Act Statement

This proposed 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.

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 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 September 29, 2000, Transnuclear West, Inc. (TN-West), submitted an application to the NRC to add the Standardized Advanced NUHOMS® -24PT1 Horizontal Modular Storage System for Irradiated Nuclear Fuel to the list of approved spent fuel storage casks. The Standardized Advanced NUHOMS® -24PT1 design has improved shielding and the ability to withstand a higher seismic response spectra than the Standardized NUHOMS® Storage System. In addition, the 24PT1 dry shielded canister, which will be stored in the Standardized Advanced NUHOMS® Storage System, is designed to be transportable; otherwise the designs are the same. Additionally, on October 4, 2001,

Transnuclear, Inc. (TN), the parent company of TN-West, requested that the name on the certificate be changed from TN-West to TN.

This rule would permit general licensees to use the Standardized Advanced NUHOMS®-24PT1 cask design. 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 proposed rule will eliminate the above described problem and is consistent with previous NRC actions. Further, the proposed rule will have no adverse effect on public health and safety. This proposed rule has no significant identifiable impact or benefit on other Government agencies. Based on the above discussion of the benefits and impacts of the alternatives, the NRC concludes that the requirements of the proposed 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 would not, if promulgated, have a significant economic impact on a substantial number of small entities. This proposed rule would affect only the licensing and operation of nuclear power plants, independent spent fuel storage facilities, and Transnuclear,

Inc. 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 (§ 50.109 or § 72.62) does not apply to this proposed rule because this amendment would not involve any provisions that would impose backfits as defined in the backfit rule. Therefore, a backfit analysis is not required.

List of Subjects In 10 CFR Part 72

Administrative practice and procedure, Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

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 proposing to adopt 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 (CoC) 1023 is added to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1023

Initial Certificate Effective Date: **(insert effective date of final rule)**

SAR Submitted by: Transnuclear, Inc.

SAR Title: Final Safety Analysis Report for the Standardized Advanced NUHOMS® Horizontal
Modular Storage System for Irradiated Nuclear Fuel

Docket Number: 72-1023

Certificate Expiration Date: **(insert 20 years from the effective date of the final rule)**

Model Number: Standardized Advanced NUHOMS® -24PT1

* * * * *

Dated at Rockville, Maryland, this _____ day of _____, 2001.

For the Nuclear Regulatory Commission.

William D. Travers,
Executive Director for Operations.

Initial Certificate Effective Date: (insert effective date of final rule)

SAR Submitted by: Transnuclear, Inc.

SAR Title: Final Safety Analysis Report for the Standardized Advanced NUHOMS® Horizontal Modular Storage System for Irradiated Nuclear Fuel

Docket Number: 72-1023

Certificate Expiration Date: (insert 20 years from the effective date of the final rule)

Model Number: Standardized Advanced NUHOMS® -24PT1

* * * * *

Dated at Rockville, Maryland, this _____ day of _____, 2001.

For the Nuclear Regulatory Commission.

William D. Travers,
Executive Director for Operations.

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*See previous concurrences.

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