

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150 - AH28

List of Approved Spent Fuel Storage Casks: Standardized NUHOMS®-24P, -52B, -61BT, -32PT, and -24PHB Revision

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations revising the Transnuclear, Inc., Standardized NUHOMS® Horizontal Modular Storage System (Standardized NUHOMS® System) listing within the “List of approved spent fuel storage casks” to include Amendment No. 7 in Certificate of Compliance Number 1004. Amendment No. 7 would incorporate changes in support of the Amergen Corporation plans to load damaged fuel and additional fuel types at its Oyster Creek Nuclear Station. Specifically, the amendment would add damaged Boiling Water Reactor spent fuel assemblies and additional fuel types to the authorized contents of the NUHOMS®-61BT Dry Shielded Canister under a general license. In addition, the amendment would include three minor changes to the Technical Specifications to correct inconsistencies and remove irrelevant references.

DATES: Comments on the proposed rule must be received on or before **(insert date 30 days after publication in the Federal Register)**.

ADDRESSES: You may submit comments by any one of the following methods. Please include the following number (RIN 3150-AH28) in the subject line of your comments.

Comments on rulemakings submitted in writing or in electronic form will be made available to the public in their entirety on the NRC rulemaking website. Personal information will not be removed from your comments.

Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.

E-mail comments to: SECY@nrc.gov. If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at (301) 415-1966. You may also submit comments via the NRC's rulemaking web site at <http://ruleforum.llnl.gov>. Address questions about our rulemaking website to Carol Gallagher (301) 415-5905; email cag@nrc.gov.

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 am and 4:15 pm Federal workdays [telephone (301) 415-1966].

Fax comments to: Secretary, U.S. Nuclear Regulatory Commission at (301) 415-1101.

Publicly available documents related to this rulemaking may be viewed electronically on public computers located at the NRC's Public Document Room (PDR), Public File Area O-1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. The PDR reproduction contractor will copy documents for a fee. Selected documents, including comments, can be viewed and downloaded electronically via the NRC rulemaking website at <http://ruleforum.llnl.gov>.

Publicly available documents created or received at the NRC after November 1, 1999, are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/NRC/ADAMS/index.html>. From this site, the public can gain entry into the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC PDR Reference staff

at 1-800-397-4209, 301-415-4737, or by email to pdr@nrc.gov. An electronic copy of the proposed Certificate of Compliance (CoC), Technical Specifications (TS), and preliminary safety evaluation report can be found under ADAMS Accession Nos. ML032100773, ML032100775, and ML032100776, respectively.

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

SUPPLEMENTARY INFORMATION:

For additional information see the direct final rule published in the final rules section of this Federal Register.

Procedural Background

This rule is limited to the changes contained in Amendment 7 to CoC No. 1004 and does not include other aspects of the Standardized NUHOMS® System. The NRC is using the “direct final rule procedure” to issue 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.

Because NRC considers this action noncontroversial and routine, the proposed rule is being published concurrently as a direct final rule. The direct final rule will become effective on **(insert date 75 days after publication in the Federal Register)**. However, if the NRC receives significant adverse comments by **(insert 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. A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when -

(A) The comment causes the NRC staff to reevaluate (or reconsider) its position or conduct additional analysis;

(B) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(C) The comment raises a relevant issue that was not previously addressed or considered by the NRC staff.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the NRC staff to make a change (other than editorial) to the CoC or TS.

These comments will be addressed in a subsequent final rule. The NRC will not initiate a second comment period on this action.

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, HIGH-LEVEL RADIOACTIVE WASTE, AND
REACTOR-RELATED WASTE GREATER THAN CLASS C 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. 102-486, sec. 7902, 106 Stat. 3123 (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 1004 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1004

Initial Certificate Effective Date: January 23, 1995.

Amendment Number 1 Effective Date: April 27, 2000.

Amendment Number 2 Effective Date: September 5, 2000.

Amendment Number 3 Effective Date: September 12, 2001.

Amendment Number 4 Effective Date: February 12, 2002.

Amendment Number 5 Effective Date: Withdrawn October 30, 2003.

Amendment Number 6 Effective Date: December 22, 2003.

Amendment Number 7 Effective Date: **(insert date 75 days after publication in the Federal Register).**

SAR Submitted by: Transnuclear, Inc.

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

Docket Number: 72-1004.

Certificate Expiration Date: January 23, 2015.

Model Number: Standardized NUHOMS[®]-24P, NUHOMS[®]-52B, NUHOMS[®]-61BT,
NUHOMS[®]-32PT, and NUHOMS[®]-24PHB.

* * * * *

Dated at Rockville, Maryland, this 20th day of November, 2003.

For the Nuclear Regulatory Commission.

/RA William F. Kane Acting For/

William F. Kane,
Acting Executive Director for Operations.

Model Number: Standardized NUHOMS® -24P, NUHOMS® -52B, NUHOMS® -61BT,
 NUHOMS® -32PT, and NUHOMS® -24PHB.

* * * * *

Dated at Rockville, Maryland, this 20th day of November, 2003.

For the Nuclear Regulatory Commission.

/RA William F. Kane Acting For/

 William D. Travers,
 Executive Director for Operations.

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