

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

RIN 3150-AH95

Criticality Control of Fuel Within  
Dry Storage Casks or Transportation Packages  
in a Spent Fuel Pool

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations that govern domestic licensing of production and utilization facilities so that the requirements governing criticality control for spent fuel pool storage racks would not apply to the fuel within a spent fuel transportation package or storage cask when a package or cask is in a spent fuel pool. These packages and casks are subject to separate criticality control requirements. This action is necessary to avoid applying two different sets of criticality control requirements to fuel within a package or cask in a spent fuel pool.

DATES: The comment period for this proposed rule ends on [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure only that comments received on or before this date will be considered.

ADDRESSES: You may submit comments by any one of the following methods. Please include the following number RIN 3150-AH95 in the subject line of your comments. Comments on rulemakings submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including personal information such as social security numbers and birth dates in your submission.

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](mailto: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 website at <http://ruleforum.llnl.gov>. Address questions about our rulemaking website to Carol Gallagher at (301) 415-5905; e-mail [cag@nrc.gov](mailto:cag@nrc.gov). Comments can also be submitted via the Federal eRulemaking Portal <http://www.regulations.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 the public computers located at the NRC's Public Document Room (PDR), O-1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. 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/reading-rm/adams.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 PDR Reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

FOR FURTHER INFORMATION CONTACT: George M. Tartal, Project Manager, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-0016, e-mail [gmt1@nrc.gov](mailto:gmt1@nrc.gov).

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule of the same title, which is found in the Rules and Regulations section of this *Federal Register*.

Because the NRC considers this action non-controversial, we are publishing this proposed rule 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 on the direct final rule by [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER], then the NRC will publish a document that withdraws the direct final rule. If the direct final rule is withdrawn, the NRC will address the comments received in response to the proposed revisions in a subsequent final rule. Absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period for this action in the event the direct final rule is withdrawn.

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

For the reasons set forth 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 50.

#### PART 50 -- DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for Part 50 continues to read as follows:

AUTHORITY: Secs. 102, 103, 104, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note). Section 50.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5841). Section 50.10 also issued under secs. 101, 185, 68 Stat. 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and Appendix Q also issued under sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97-415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C.

2152). Sections 50.80 - 50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

2. Section 50.68 is revised by adding a new paragraph (c) to read as follows:

§ 50.68 Criticality accident requirements.

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(c) While a spent fuel transportation package approved under Part 71 of this chapter or spent fuel storage cask approved under Part 72 of this chapter is in the spent fuel pool:

(1) The requirements in § 50.68(b) do not apply to the fuel located within that package or cask; and

(2) The requirements in Part 71 or 72 of this chapter, as applicable, and the requirements of the Certificate of Compliance for that package or cask, apply to the fuel within that package or cask.

Dated at Rockville, Maryland, this 31st day of October, 2006.

For the Nuclear Regulatory Commission.

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William F. Kane  
Deputy Executive Director for  
Reactor and Preparedness Programs  
Office of the Executive Director for Operations