

MEMORANDUM TO: Luis A. Reyes
Executive Director for Operations

FROM: Thomas H. Essig, Deputy Director
Division of Intergovernmental Liaison
and Rulemaking, FSME

SUBJECT: FINAL RULE TO AMEND 10 CFR PART 72 LIST OF APPROVED
SPENT FUEL STORAGE CASKS (NUHOMS® HD)

On May 2, 2006, a direct final rule, along with its companion proposed rule, was published in the *Federal Register*. These rules were intended to amend 10 CFR Part 72 to add the NUHOMS® HD cask system listing to the "List of approved spent fuel storage casks," to add Certificate of Compliance (CoC) Number 1030. In response to the request for public comments, significant adverse comments were received; as a result, the direct final rule was withdrawn.

Enclosed, for your signature, is a final rule (Attachment 1) amending Nuclear Regulatory Commission (NRC) regulations, by adding a cask system to the "List of approved spent fuel storage casks." This amendment will allow the holders of power reactor operating licenses to store spent fuel in the NUHOMS® HD cask system under a general license.

Background: On May 2, 2006, NRC published a direct final rule (71 FR 25740), and a companion proposed rule (71 FR 25782), to amend 10 CFR 72.214, "List of approved spent fuel storage casks." The rules were intended to add the NUHOMS® HD cask system to the list of approved spent fuel storage casks to add CoC Number 1030. The comment period ended on July 17, 2006. Six comment letters were received on the proposed rule.

Based on review and analysis of the public comments, the Office of Nuclear Material Safety and Safeguards and the Office of the General Counsel (OGC) staffs identified significant adverse comments that required a response from NRC. The comments addressed technical issues in the Technical Specifications (TS); the Safety Evaluation Report (SER); and the Final Safety Analysis Report (FSAR). The staff has responded to the comments in the final rule and has modified the TS and the preliminary SER. In addition, Transnuclear, Inc., revised the Safety Analysis Report to specify a weathering steel for ISFSIs located near a coastal marine environment, in response to questions by the staff.

CONTACTS: Jayne M. McCausland, FSME/DILR
(301) 415-6219

Daniel Huang, NMSS/SFST
(301) 415-3381

The NRC staff finds that the cask system, as designed and when fabricated and used in accordance with the conditions specified in its CoC, meets the requirements of 10 CFR Part 72; thus, adequate protection of public health and safety is ensured.

Notices: Enclosure 2 (“EDO Daily Note”) documents that the Executive Director for Operations (EDO) intends to sign the Federal Register Notice. Enclosure 3 (“Notice of Final Rule Signed by the EDO”) documents that the EDO has signed the Federal Register Notice. The “Approved for Publication,” the Environmental Assessment, and the Congressional Review Act (CRA) forms can be found in, respectively, Enclosures 4 through 6 of this paper. The appropriate Congressional committees will be notified.

Resources: No additional resources will be needed to implement this rule.

Coordination: The Office of Administration concurs with this amendment. OGC has no legal objection.

Enclosures:

1. FRN of Final Rulemaking
2. “EDO Daily Note”
3. “Notice of Final Rule Signed by the EDO”
4. “Approved for Publication”
5. Environmental Assessment
6. CRA Forms

The NRC staff finds that the cask system, as designed and when fabricated and used in accordance with the conditions specified in its CoC, meets the requirements of 10 CFR Part 72; thus, adequate protection of public health and safety is ensured.

Notices: Enclosure 2 (“EDO Daily Note”) documents that the Executive Director for Operations (EDO) intends to sign the Federal Register Notice. Enclosure 3 (“Notice of Final Rule Signed by the EDO”) documents that the EDO has signed the Federal Register Notice. The “Approved for Publication,” the Environmental Assessment, and the Congressional Review Act (CRA) forms can be found in, respectively, Enclosures 4 through 6 of this paper. The appropriate Congressional committees will be notified.

Resources: No additional resources will be needed to implement this rule.

Coordination: The Office of Administration concurs with this amendment. OGC has no legal objection.

Enclosures:

1. FRN of Final Rulemaking
2. “EDO Daily Note”
3. “Notice of Final Rule Signed by the EDO”
4. “Approved for Publication”
5. Environmental Assessment
6. CRA Forms

Distribution:
 RGordon R/F
 NJensen
 D Huang
 J Sebrosky

“C” = copy without attachment/enclosure, “B” = copy with attachment/enclosure, “N” = No copy
 C:\FileNet\ML062970368.wpd
 *See previous concurrences.

OFFICE:	FSME/DILR	SFST	Tech Editor	DILR/FSME	DILR/FSME
NAME:	JMcCausland	D Huang	EKraus	M Delligatti	T Essig
DATE:	10 / 06 / 06	/ / 06	/ / 06	/ / 06	/ / 06

OFFICIAL RECORD COPY