

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150 - AI13

List of Approved Spent Fuel Storage Casks: NAC-MPC Revision 5

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations revising the NAC International, Inc., NAC-Multi-Purpose Canister (MPC) system listing within the “List of Approved Spent Fuel Storage Casks” to include Amendment No. 5 to Certificate of Compliance (CoC) Number 1025. Amendment No. 5 would modify the CoC by revising the Technical Specifications (TS) to incorporate changes to the reporting and monitoring requirements to allow for visual inspection of the air inlet and outlet vents instead of thermal monitoring, revising the TS to incorporate guidance from NRC Interim Staff Guidance-22 and replace all references to backfilling the cask with air to backfilling with inert gas, revising the CoC description to remove the requirement for tamper-indicating devices on the Vertical Concrete Casks, and including several editorial changes to improve the clarity of the documents associated with the NAC-MPC system, under the general provisions that govern licensing requirements for the independent storage of spent nuclear fuel, high level radioactive waste, and reactor-related greater than Class C waste.

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-A113) 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 comment 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. 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://rulemaking.llnl.gov>. Address questions about our rulemaking website to Carol Gallagher (301) 415-5905; e-mail 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 at the NRC's Public Document Room (PDR), O-1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. 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 e-mail to pdr@nrc.gov. An electronic copy of the proposed CoC No. 1025, the proposed TS, and the preliminary safety evaluation report (SER) for Amendment 5 can be found under ADAMS Accession Nos. ML063520431, ML063520434, and ML063520440.

The proposed CoC No. 1025, the proposed TS, the preliminary SER for Amendment No. 5, and the environmental assessment are available for inspection at the NRC PDR, 11555 Rockville Pike, Rockville MD. Single copies of these documents may be obtained from Jayne M. McCausland, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-6219, e-mail jmm2@nrc.gov.

FOR FURTHER INFORMATION CONTACT: Jayne M. McCausland, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-6219, e-mail jmm2@nrc.gov.

SUPPLEMENTARY INFORMATION:

For additional information see the direct final rule published in the Rules and Regulations section of this *Federal Register*.

Procedural Background

This rule is limited to the changes contained in Amendment 5 to CoC No. 1025 and does not include other aspects of the NAC-MPC design. Because NRC considers this action noncontroversial and routine, the NRC is publishing this proposed rule concurrently as a direct final rule. Adequate protection of public health and safety continues to be ensured. 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 the direct final rule and will subsequently address the comments received in a final rule. The NRC will not initiate a second comment period on this action.

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 rule, CoC, or TS.

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 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); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); sec. 651(e), Pub. L. 109-58, 119 Stat. 806-10 (42 U.S.C. 2014, 2021, 2021b, 2111).

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 1025 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

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Certificate Number: 1025.

Initial Certificate Effective Date: April 10, 2000.

Amendment Number 1 Effective Date: November 13, 2001.

Amendment Number 2 Effective Date: May 29, 2002.

Amendment Number 3 Effective Date: October 1, 2003.

Amendment Number 4 Effective Date: October 27, 2004.

Amendment Number 5 Effective Date: **(insert date 75 days after publication in the Federal Register).**

SAR Submitted by: NAC International, Inc.

SAR Title: Final Safety Analysis Report for the NAC Multi-Purpose Canister System (NAC-MPC System).

Docket Number: 72-1025.

Certificate Expiration Date: April 10, 2020.

Model Number: NAC-MPC.

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Dated at Rockville, Maryland, this 24th day of April, 2007.

For the Nuclear Regulatory Commission.

/RA/
Martin J. Virgilio,
Acting Executive Director for Operations.

Amendment Number 3 Effective Date: October 1, 2003.

Amendment Number 4 Effective Date: October 27, 2004.

Amendment Number 5 Effective Date: (insert date 75 days after publication in the Federal Register).

SAR Submitted by: NAC International, Inc.

SAR Title: Final Safety Analysis Report for the NAC Multi-Purpose Canister System (NAC-MPC System).

Docket Number: 72-1025.

Certificate Expiration Date: April 10, 2020.

Model Number: NAC-MPC.

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Dated at Rockville, Maryland, this 24th day of April, 2007.

For the Nuclear Regulatory Commission.

/RA/
Martin J. Virgilio,
Acting Executive Director for Operations.

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| OFFICE: | RBB/DILR | | SFST/NMSS | | RBB/DILR | | OGC | |
| NAME: | J McCausland | | D Huang | | M Delligatti | | F Cameron (NLO/email) | |
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| DATE: | 02/21/07 | | 04/16/07 | | 04/23/07 | | 04/24/07 | |