

PART 72 LICENSE AND CERTIFICATE OF COMPLIANCE TERMS
PRELIMINARY DRAFT LANGUAGE
(July 2008)

The following is preliminary draft rule language for proposed changes to 10 CFR 72.3, 72.24, 72.42, 72.212, 72.230, 72.236, 72.238, and 72.240 related to the independent storage of spent nuclear waste. This proposed rulemaking includes changes that clarify the license term limits for dry storage cask Certificates of Compliance (CoCs) and independent spent fuel storage installation (ISFSI) licenses, provide consistency between the general license requirements and the site-specific ISFSI license requirements, and allow Part 72 general licensees to implement changes authorized by an amended CoC to a cask loaded under the initial CoC or an earlier amended CoC (a “previously loaded cask”). More specifically, the proposed amendments would allow for longer initial and renewal terms for Part 72 CoCs and licenses, clarify the general license storage term, clarify the difference between CoC “approval” and “renewal,” allow a licensee to apply the changes associated with a CoC amendment to a previously loaded cask without express NRC approval, provided the cask then fully conforms to the terms, conditions, and specifications of the amended CoC, and make certain administrative and clarification changes.

This rulemaking is directed by the Commission through its Staff Requirement Memorandum (SRM-SECY-06-0152), dated August 14, 2006, as supplemented, SRM-COMSECY-07-0032, dated December 12, 2007. The availability of the preliminary draft rule language is intended to inform stakeholders of the current status of the NRC’s activities and solicit public comments on the information at this time. The NRC will review and consider any comments received for information only; the NRC will not respond to any comments received at this pre-rulemaking stage. As appropriate the

Statements of Consideration for the proposed rule will briefly discuss any substantive changes made to the proposed rule language as a result of comments received. Once published as a proposed rule, stakeholders will have an opportunity to comment on the proposed rule language and, the NRC will respond to any such comments in the Statements of Consideration for the final rule.

Point of contact for further information is Keith McDaniel, Office of Federal and State Materials and Environmental Management Programs, telephone (301) 415-5252, e-mail, keith.mcdaniel@nrc.gov.

Proposed Addition to 10 CFR 72.3 [would add a new definition]

§ 72.3 Definitions.

Time-limited aging analyses, for the purposes of this part, means those licensee or certificate holder calculations and analyses that:

- (1) Involve structures, systems, and components important to safety within the scope of the license, as delineated in subpart F of this part, or within the scope of the spent fuel storage cask renewal, as delineated in subpart L of this part, respectively;
- (2) Consider the effects of aging;
- (3) Involve time-limited assumptions defined by the current operating term, for example, 40 years;
- (4) Were determined to be relevant by the licensee or certificate holder in making a safety determination;
- (5) Involve conclusions or provide the basis for conclusions related to the capability of structures, systems, and components to perform its intended safety functions, as delineated in subpart F of this part, or within the scope of the spent fuel storage cask renewal, as delineated in subpart L of this part, respectively; and
- (6) Are contained or incorporated by reference in the design bases.

Proposed Addition to 10 CFR 72.24 [would add new paragraph (r)]

§ 72.24 Contents of application; Technical information.

(r) A description of the program for management of issues associated with aging that could adversely affect structures, systems, and components important to safety.

Proposed Change to 10 CFR 72.42 [would revise paragraphs (a) and (b)]

§ 72.42 Duration of license; renewal.

(a) Each license issued under this part must be for a fixed period of time to be specified in the license. The license term for an ISFSI must not exceed 40 years from the date of issuance. A license for an ISFSI may be renewed by the Commission at the expiration of the license term upon application by the licensee for a period up to 40 years. Application for renewals must include the following:

(1) Time-limited aging analyses that demonstrate that structures, systems, and components important to safety will continue to perform their intended function for the requested period of extended operation; and

(2) A description of the program for management of issues associated with aging that could adversely affect structures, systems, and components important to safety.

(b) Applications for renewal of a license must be filed in accordance with the applicable provisions of subpart B at least two years prior to the expiration of the existing license. The application must also include design bases information as documented in the most recently updated FSAR as required by § 72.70. Information contained in previous applications, statements, or reports filed with the Commission under the license may be incorporated by reference: Provided that such references are clear and specific.

Proposed Change to 10 CFR 72.212 [would revise paragraphs (a)(3) and (b), and add new paragraphs (c), (d), and (e) that are derived from current paragraph (b). Paragraphs containing “...” indicate no change to the text of the paragraph, but are included for the purpose of clarity because of the significant rearrangement of paragraphs in this section]

§ 72.212 Conditions of general license issued under § 72.210.

(a)(3) The general license for the storage of spent fuel in each cask fabricated under a CoC terminates when the CoC for that particular cask design expires. The certificate holder of a cask design may apply for a cask model renewal under § 72.240. In the event that a certificate holder does not apply for a cask model renewal under § 72.240, any licensee that uses such cask model under the general license issued under § 72.210 may apply for a cask design renewal. If a CoC expires, casks of that design must be removed from service.

(b) The general licensee shall:

(1) Notify the Nuclear Regulatory Commission using instructions in § 72.4 at least 90 days prior to first storage of spent fuel under this general license. The notice may be in the form of a letter, but must contain the licensee's name, address, reactor license and docket numbers, and the name and means of contacting a person responsible for providing additional information concerning spent fuel under this general license. A copy

of the submittal must be sent to the administrator of the appropriate Nuclear Regulatory Commission regional office listed in appendix D to part 20 of this chapter.

(2) Register use of each cask with the Nuclear Regulatory Commission no later than 30 days after using that cask to store spent fuel. This registration may be accomplished by submitting a letter using instructions in § 72.4 containing the following information: the licensee's name and address, the licensee's reactor license and docket numbers, the name and title of a person responsible for providing additional information concerning spent fuel storage under this general license, the cask certificate number, the amendment number to which the cask will fully conform, if applicable, cask model number, and the cask identification number. A copy of each submittal must be sent to the administrator of the appropriate Nuclear Regulatory Commission regional office listed in appendix D to part 20 of this chapter.

(3) Ensure that each cask used by the general licensee fully conforms to the terms, conditions, and specifications of a CoC or an amended CoC listed in 10 CFR 72.214.

(4) In applying all the changes authorized by an amended CoC to a cask loaded under the initial CoC or an earlier amended CoC, register each such cask with the Nuclear Regulatory Commission no later than 30 days after applying the changes authorized by the amended CoC. This registration may be accomplished by submitting a letter using instructions in § 72.4 containing the following information: the licensee's name and address, the licensee's reactor license and docket numbers, the name and title of a person responsible for providing additional information concerning spent fuel storage under this general license, the cask certificate number, the amendment number to which the cask will fully conform, cask model number, and the cask identification number. A copy of each submittal must be sent to the administrator of the appropriate Nuclear Regulatory Commission regional office listed in appendix D to part 20 of this chapter.

(5) Perform written evaluations, prior to use and prior to applying the changes authorized by an amended CoC to a cask loaded under the initial CoC or an earlier amended CoC, that establish that:

(i) The cask, once loaded with spent fuel or once the changes authorized by an amended CoC have been applied, will fully conform to the terms, conditions, and specifications of a CoC or an amended CoC listed in 10 CFR 72.214;

(ii) Cask storage pads ... motion; and

(iii) The requirements ... the general license issued under § 72.210.

(6) Review the Safety Analysis Report referenced in the CoC or amended CoC and the related NRC Safety Evaluation Report, prior to use of the general license, to determine whether or not the reactor site parameters, including analyses of earthquake intensity and tornado missiles, are enveloped by the cask design bases considered in these reports. The results of this review must be documented in the evaluation made in paragraph (b)(5) of this section.

(7) Evaluate any changes to the written evaluations required by paragraph (b)(5) of this section, and any changes to the site parameters determination and analyses required by paragraph (b)(6) of this section, using the requirements and criteria of § 72.48(c). A copy of this record shall be retained until spent fuel is no longer stored under the general license issued under § 72.210.

(8) Prior to use of the general license, determine whether activities related to storage of spent fuel under this general license involve a change in the facility Technical Specifications or require a license amendment for the facility pursuant to §50.59(c)(2) of this chapter. Results of this determination must be documented in the evaluations made in paragraph (b)(5) of this section.

(9) Protect the ... with the following additional conditions and exceptions:

(i) The physical security organization and program ... with § 73.55 of this chapter;

(ii) Storage of spent fuel must be within a protected area, ... general license;

(iii) For purposes of this general license, searches ... detection equipment;

(iv) The observational capability ... in lieu of closed circuit television; and

(v) For the purpose of this general license ... of this chapter.

(10) Review the reactor emergency plan, ... seek and obtain the necessary approvals.

(11) Maintain a copy of the CoC and, for those casks to which the licensee has applied the changes of an amended CoC, the amended CoC, and the documents referenced in such Certificates, for each cask model used for storage of spent fuel, until use of the cask model is discontinued. The licensee shall fully comply with all of the terms, conditions, and specifications of the CoC and, for those casks to which the licensee has applied the changes of an amended CoC, the terms, conditions, and specifications of the amended CoC.

(12) Accurately maintain the record provided by the cask supplier ... the following:

(i) The name and address of the cask vendor or lessor;

(ii) The listing of spent fuel stored in the cask; and

(iii) Any maintenance performed on the cask.

(13) Conduct activities related to storage of spent fuel ... with written procedures.

(14) Make records and casks available to the Commission for inspection.

(c) The record described in paragraph (b)(12) of this section must include sufficient information to furnish documentary evidence that any testing and maintenance of the cask has been conducted under an NRC-approved quality assurance program.

(d) In the event that a cask is sold, leased, loaned, or otherwise transferred to another registered user, the record described in paragraph (b)(12) of this section must also be transferred to and must be accurately maintained by the new registered user. This record must be maintained by the current cask user during the period that the cask is used for storage of spent fuel and retained by the last user until decommissioning of the cask is complete.

(e) Fees. Fees for inspections related to spent fuel storage under this general license are those shown in § 170.31 of this chapter.

Proposed Change to 10 CFR 72.230 [would revise paragraph (b)]

§ 72.230 Procedures for spent fuel storage cask submittals.

(b) Casks that have been certified for transportation of spent fuel under part 71 of this chapter may be approved for storage of spent fuel under this subpart. An application must be submitted in accordance with the instructions contained in § 72.4, for a proposed term not to exceed 40 years. A copy of the CoC issued for the cask under part 71 of this chapter, and drawings and other documents referenced in the certificate, must be included with the application. A safety analysis report showing that the cask is suitable for storage of spent fuel, for the term proposed in the application, must also be included.

Proposed Change to 10 CFR 72.236 [would add a new paragraph (b), former paragraphs (b) through (m) would be re-designated to accommodate the new paragraph (b), and new paragraph (h), former paragraph (g), is also revised]

§ 72.236 Specific requirements for the spent fuel storage cask approval and fabrication.

(b) A program must be provide for management of issues associated with aging that could adversely affect structures, systems, and components important to safety.

{Items (b) through (m) in § 72.236 will need to be adjusted for the new item (b).}

(h) The spent fuel storage cask must be designed to store the spent fuel safely, for the term proposed in the application, and permit maintenance as required.

Proposed Change to 10 CFR 72.238

§ 72.238 Issuance of an NRC Certificate of Compliance.

A Certificate of Compliance for a cask model will be issued by NRC for a term not to exceed 40 years on a finding that the requirements in § 72.236(a) through (j) are met.

Proposed Change to 10 CFR 72.240 [would revise the section heading and paragraphs (a), (b), and (c)]

§ 72.240 Conditions for spent fuel storage cask renewal.

(a) The certificate holder of a spent fuel storage cask may apply for renewal of the design of a spent fuel storage cask for a term not to exceed 40 years. In the event that a certificate holder does not apply for a cask model renewal under § 72.240, any licensee that uses such cask model under the general license issued under § 72.210 may apply for a renewal of the design of a spent fuel storage cask for a term not to exceed 40 years.

(b) The application for renewal of the design of a spent fuel storage cask must be submitted not less than 30 days prior to the expiration date of the CoC. When the applicant has submitted a timely application for renewal, the existing CoC will not expire until the application for renewal has been determined by the NRC. The application must be accompanied by a safety analysis report (SAR). The SAR must include design bases information as documented in the most recently updated FSAR as required by § 72.248. Further, the SAR must include time-limited aging analyses that demonstrate that structures, systems, and components important to safety will continue to perform their intended function for the period of extended operation requested.

(c) The design of a spent fuel storage cask will be renewed if the conditions in § 72.238 are met, and the application includes a demonstration that the storage of spent fuel has not, in a significant manner, adversely affected structures, systems, and components important to safety.