

ADMINISTRATION OF STORAGE CERTIFICATES OF COMPLIANCE (COCs) AND AMENDMENTS TO COCs

The purpose of this summary is to present information on the background and current U.S. Nuclear Regulatory Commission (NRC) staff considerations on this topic. This summary does not represent an official agency position or present an interpretation of the NRC requirements.

The NRC staff is conducting a review of the regulatory framework for spent fuel storage and transportation to identify potential enhancements to the efficiency and effectiveness of its licensing and inspection programs. This review is being conducted as part of the project plan more fully described in COMSECY-10-0007, "Project Plan for the Regulatory Program Review to Support Extended Storage and Transportation of Spent Nuclear Fuel" (Agencywide Documents Access and Management System (ADAMS) Accession No. ML101390216). The staff will solicit stakeholder input in identifying enhancements to the current licensing and inspection programs at the August 16-17, 2012, public meeting, "Meeting to Obtain Stakeholder Feedback on Improvements in the Licensing and Inspection Programs for Spent Fuel Storage and Transportation Under 10 CFR Parts 71 and 72" (<http://www.nrc.gov/waste/spent-fuel-storage/public-involvement.html>). NRC staff will use the information obtained from this meeting, and future opportunities for stakeholder input, to inform the staff in its regulatory review.

BACKGROUND:

In July 1990 (55 FR 29181; July 18, 1990), the U.S. Nuclear Regulatory Commission (NRC) amended Title 10 of the *Code of Federal Regulations* (10 CFR) Part 72 to add requirements and establish a process for certifying spent nuclear fuel storage cask systems. This rule change also added the general license provisions to 10 CFR Part 72, Subpart K, "General License for Storage of Spent Fuel at Power Reactor Sites," to meet the requirements of the Nuclear Waste Policy Act (NWPA) of 1982. The NRC evaluates new cask systems and subsequent cask system changes under the requirements in 10 CFR Part 72, Subpart L. The NRC uses the direct final rulemaking process to certify storage cask systems, publishing a companion proposed rule (giving advance notice and seeking comments) simultaneously with the direct final rule. If there are no significant adverse public comments on the proposed rule, the agency publishes a notice confirming the effective date of the direct final rule. A direct final rule usually becomes effective 75 days after its publication in the *Federal Register*, and the new Certificate of Compliance (CoC) or amended CoC is added to the 10 CFR 72.214 list of approved spent fuel storage casks and amendments.

ISSUE DESCRIPTION:

The NRC staff is conducting a review of the regulatory framework for spent fuel storage under 10 CFR Part 72, Subparts K and L, to identify potential enhancements to the efficiency and effectiveness of this licensing program. The goal is to continue to promote public health and safety and common defense and security while allowing regulatory flexibility regarding the means of processing NRC approvals of changes to cask systems.

Over the past two decades, the NRC has approved several dozen new cask systems and amendments to existing cask systems. The regulations do not delineate the types of changes that require a new CoC from those that can be implemented through an amendment. Amendments to CoCs have sometimes involved significant changes, such as new cask designs, significant design or contents changes to the approved cask designs, and changes to

operational controls. Because CoC amendments do not necessarily supersede or encompass previously approved CoC amendments, each CoC amendment is treated as a “standalone” CoC.

A recent 10 CFR Part 72 rulemaking (76 FR 8872; February 16, 2011) addressed some CoC implementation and operational issues by allowing general licensees to implement changes authorized by a CoC amendment to a cask previously loaded under an earlier amendment or the initial CoC.

The NRC staff, CoC holders, and general licensees have identified errors in existing CoCs and CoC amendments, including nonsubstantive and minor errors in technical specification documents. The current rulemaking process for approving all changes to an approved CoC may not be an efficient and effective method for revising minor errors in technical specification documents. The staff is considering whether such errors to approved CoCs and amendments listed in 10 CFR 72.214 could be corrected via a more streamlined process than direct final rulemaking. The staff intends to review CoC processing to identify potential regulatory changes and improvements.

CONSIDERATIONS:

The NRC staff review of 10 CFR Part 72, Subparts K and L implementation processes, practices and procedures will:

- Review the 1982 NWPAs provisions related to technologies and consider alternate approaches for approving cask systems.
 - Consider whether the NRC staff has the flexibility under the NWPAs to conduct the current cask certification process in a more efficient or expedited manner. This will involve examining the use of the term “technology” in the NWPAs, which identified two major technology types – dry spent fuel storage and wet spent fuel storage. Current cask certifications approve a “comprehensive system design” (or technology) encompassing all design aspects of the cask system.
 - Consider developing a technical basis to define what constitutes the technical or regulatory basis of a “comprehensive system design” (or technology) to identify which applications propose a new technology and should be a separate CoC.
 - Consider a “single certificate” approach where subsequent CoC amendments would supersede previous amendments similar to the current practice in 10 CFR Part 71. Consider whether this approach would allow efficiencies in approval of minor typographical corrections, and substantive technical changes, to approved CoCs/amendments. Consider developing guidelines regarding incorporation of amended CoC provisions into previously issued CoCs or amendments. Consider how to address any technical or regulatory issues associated with a single certificate approach, including any backfit implications and the impact on loaded casks.