

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150 - AG36

List of Approved Spent Fuel Storage Casks: (VSC-24) Revision

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations revising the Pacific Sierra Nuclear Associates (PSNA) VSC-24 cask system listing within the "List of Approved Spent Fuel Storage Casks" to include Amendment No. 1 to the Certificate of Compliance. Amendment No. 1 will modify the present cask system design to permit a licensee to store burnable poison rod assemblies in the VSC-24 cask system design along with the spent fuel under a general license.

DATES: Comments on the proposed rule must be received on or before (30 days after publication in the Federal Register).

ADDRESSES: Comments may be sent to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attn: Rulemakings and Adjudications Staff. Hand deliver comments to 11555 Rockville Pike, Rockville, MD, between 7:30 am and 4:15 p.m. on Federal workdays.

You may also provide comments via the NRC's interactive rulemaking website through

the NRC's home page (<http://www.nrc.gov>). This site provides the availability to upload comments as files (any format) if your web browser supports that function. For information about the interactive rulemaking site, contact Ms. Carol Gallagher, (301) 415-5905; e-mail CAG@nrc.gov.

Certain documents related to this rule, including comments received by the NRC, may be examined at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. These documents also may be viewed and downloaded electronically via the interactive rulemaking website established by NRC for this rule.

FOR FURTHER INFORMATION CONTACT: Stan Turel, telephone (301) 415-6234, e-mail, spt@nrc.gov of the Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

SUPPLEMENTARY INFORMATION:

For additional information see the Direct Final Rule published in the final rules section of this Federal Register.

Procedural Background

Because NRC considers this action noncontroversial and routine, we are publishing this proposed rule concurrently as a direct final rule. The direct final rule will become effective on (75 days after publication in the Federal Register). However, if the NRC receives significant adverse comments on the direct final rule by (30 days after publication in the Federal Register), then the NRC will publish a notice to withdraw 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 if the direct final rule is withdrawn.

List of Subjects In 10 CFR Part 72

Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Reporting and recordkeeping requirements, Security measures, Spent fuel.

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 AND HIGH-LEVEL RADIOACTIVE 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. 10d - 48b,

sec. 7902, 10b Stat. 31b3 (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).

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. Section 72.214, Certificate of Compliance (CoC) 1007 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1007

Initial Certificate Effective Date: May 7, 1993

Amendment Number 1 Effective Date: (75 days after publication in the Federal Register)

SAR Submitted by: Pacific Sierra Nuclear Associates

SAR Title: Final Safety Analysis Report for the Ventilated Storage Cask System

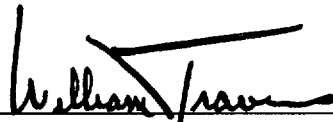
Docket Number: 72-1007

Certificate Expiration Date: May 7, 2013

Model Number: VSC-24

Dated at Rockville, Maryland, this 3rd day of Sept., 1999.

For the Nuclear Regulatory Commission.

A handwritten signature in black ink, appearing to read "William D. Travers", written over a horizontal line.

William D. Travers,
Executive Director for Operations.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150-AG36

List of Approved Spent Fuel Storage Casks: (VSC-24) Revision

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations revising the Pacific Sierra Nuclear Associates (PSNA) VSC-24 cask system listing within the "List of Approved Spent Fuel Storage Casks" to include Amendment No. 1 to the Certificate of Compliance. Amendment No. 1 will modify the present cask system design to permit a licensee to store burnable poison rod assemblies in the VSC-24 cask system design along with the spent fuel under a general license.

DATES: The final rule is effective (75 days after publication in the Federal Register), unless significant adverse comments are received by (30 days after publication in the Federal Register). If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Comments may be sent to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attn: Rulemakings and Adjudications Staff. Hand deliver

comments to 11555 Rockville Pike, Rockville, MD, between 7:30 am and 4:15 p.m. on Federal workdays.

You may also provide comments via the NRC's interactive rulemaking website through the NRC's home page (<http://ruleforum.inl.gov>). This site provides the availability to upload comments as files (any format) if your web browser supports that function. For information about the interactive rulemaking site, contact Ms. Carol Gallagher, (301) 415-5905; e-mail CAG@nrc.gov.

Certain documents related to this rule, including comments received by the NRC, may be examined at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. These documents also may be viewed and downloaded electronically via the interactive rulemaking website established by NRC for this rule.

FOR FURTHER INFORMATION CONTACT: Stan Turel, telephone (301) 415-6234, e-mail spt@nrc.gov, of the Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

SUPPLEMENTARY INFORMATION:

Background

Section 218(a) of the Nuclear Waste Policy Act of 1982, as amended (NWPA), requires that "[t]he Secretary [of the Department of Energy (DOE)] shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies

that the [Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission." Section 133 of the NWPA states, in part, that "[t]he Commission shall, by rule, establish procedures for the licensing of any technology approved by the Commission under Section 218(a) for use at the site of any civilian nuclear power reactor."

To implement this mandate, the NRC approved dry storage of spent nuclear fuel in NRC-approved casks under a general license by publishing a final rule in 10 CFR Part 72 entitled "General License for Storage of Spent Fuel at Power Reactor Sites" (55 FR 29181, July 18, 1990). This rule also established a new Subpart L within 10 CFR Part 72, entitled "Approval of Spent Fuel Storage Casks," containing procedures and criteria for obtaining NRC approval of spent fuel storage cask designs. The NRC subsequently issued a final rule on April 7, 1993 (58 FR 17948) that approved the VSC-24 cask design and added it to the list of NRC-approved cask designs in § 72.214 as Certificate of Compliance Number (CoC No.) 1007.

Discussion

On December 30, 1998, the certificate holder (Pacific Sierra Nuclear Associates (PSNA)) submitted an application to the NRC to amend CoC No. 1007 to permit a Part 72 licensee to store burnable poison rod assemblies (BPRAs) with Babcock & Wilcox (B&W) 15 x15 spent fuel assemblies in the VSC-24 cask design. A BPRA is a reactor core component that is inserted inside a fuel assembly during core refueling. BPRAs provide a means of controlling reactor power distribution and do not contain fissile material. No other changes to the VSC-24 cask system design were requested in this application. The staff performed a detailed safety evaluation of the proposed CoC amendment request and found that the addition

of the BPRAs to the B&W 15 x15 fuel does not reduce the VSC-24 safety margin. In addition, the staff has determined that the storage of BPRAs in the VSC-24 does not pose any increased risk to public health and safety.

This direct final rule revises the VSC-24 cask design listing in § 72.214 by adding Amendment No. 1 to CoC No. 1007. The amendment consists of changes to the Technical Specifications for the VSC-24 cask design which will permit a Part 72 licensee to store burnable poison rod assemblies (BPRAs) with B&W 15 x15 spent fuel assemblies in a VSC-24 cask system design. The particular Technical Specifications which are changed are identified in the NRC Staff's Safety Evaluation Report for Amendment No. 1.

The title of the safety analysis report (SAR) will be changed from "Safety Analysis Report for the Ventilated Storage Cask System" to "Final Safety Analysis Report for the Ventilated Storage Cask System." This action is being taken to ensure the SAR title is consistent with the approach taken in new § 72.248, recently approved by the Commission. Additionally, other minor, nontechnical, changes have been made to CoC No. 1007 to ensure consistency with the NRC's new standard format and content for CoCs.

The amended VSC-24 cask system, when used in accordance with the conditions specified in the CoC, the Technical Specifications, and NRC regulations, will meet the requirements of Part 72; thus, adequate protection of public health and safety will continue to be ensured.

CoC No. 1007, the revised Technical Specifications, and the underlying Safety Evaluation Report for Amendment No. 1, dated September 3, 1999, and the Environmental Assessment, are available for inspection at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC. Single copies of the CoC may be obtained from

Stan Turel, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415-6234, email spt@nrc.gov.

Discussion of Amendments by Section

§ 72.214 List of approved spent fuel storage casks.

Certificate No. 1007 is revised by adding the effective date of the initial certificate, the effective date of Amendment Number 1, and revising the title of the SAR submitted by Pacific Sierra Nuclear Associates to "Final Safety Analysis Report for the Ventilated Storage Cask System."

Procedural Background

This rule is limited to the changes contained in Amendment 1 to CoC No. 1007 and does not include other aspects of the VSC-24 cask system design. Because NRC considers this amendment to its rules to be noncontroversial and routine, the NRC is using the direct final rule procedure for this rule. The amendment to the rule will become effective on (insert 75 days after publication in the Federal Register). However, if the NRC receives significant adverse comments on the associated proposed rule notice published concurrently in the Federal Register by (insert 30 days after publication in the Federal Register), then the NRC will publish a document that withdraws this action and will address the comments received in response to the amendment. These comments will be addressed in a subsequent final rule. The NRC will not initiate a second comment period on this action.

Finding of No Significant Environmental Impact: Availability

Under the National Environmental Policy Act of 1969, as amended, and the NRC regulations in Subpart A of 10 CFR Part 51, the NRC has determined that this rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required. The rule would amend the CoC for the VSC-24 cask system within the list of approved spent fuel storage casks that power reactor licensees can use to store spent fuel at reactor sites under a general license. The amendment will modify the present cask system design to permit a Part 72 licensee to store burnable poison rod assemblies in the VSC-24 cask system design along with the spent fuel. The environmental assessment and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. Single copies of the environmental assessment and finding of no significant impact are available from Stan Turel, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415-6234, email spt@nrc.gov.

Paperwork Reduction Act Statement

This direct final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget, Approval Number 3150-0132.

Public Protection Notification

If a means used to impose an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

Voluntary Consensus Standards

The National Technology Transfer Act of 1995 (Pub. L. 104-113) requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this direct final rule, the NRC would revise the PSNA VSC-24 cask system design listed in § 72.214 (List of NRC-approved spent fuel storage cask designs). This action does not constitute the establishment of a standard that establishes generally-applicable requirements.

Plain Language

The Presidential Memorandum dated June 1, 1998, entitled "Plain Language in Government Writing," directed that the Government's writing be in plain language. The NRC requests comments on this direct final rule specifically with respect to the clarity and effectiveness of the language used. Comments should be sent to the address listed under the heading "ADDRESSES" above.

Regulatory Analysis

On July 18, 1990 (55 FR 29181), the NRC issued an amendment to 10 CFR Part 72 to provide for the storage of spent nuclear fuel under a general license in cask designs approved by the NRC. Any nuclear power reactor licensee can use NRC-approved cask designs to store spent nuclear fuel if it notifies the NRC in advance, spent fuel is stored under the conditions specified in the cask's CoC, and the conditions of the general license are met. A list of NRC-approved cask designs is contained in § 72.214. On April 7, 1993 (58 FR 17948), the NRC issued an amendment to Part 72 that approved the VSC-24 cask design, added it to the list of NRC-approved cask designs in § 72.214, and issued CoC No. 1007. On December 30, 1998, the certificate holder (Pacific Sierra Nuclear Associates (PSNA)), submitted an application to the NRC to amend CoC No. 1007 to permit a Part 72 licensee to store burnable poison rod assemblies (BPRAs) with Babcock & Wilcox (B&W) 15 x15 spent fuel assemblies in the VSC-24 cask design.

This rule will permit storage of reactor core components, which are BPRAs that do not contain fissile material, in the VSC-24 cask system. The alternative to this action is to withhold approval of this amended cask system design and issue an exemption to each general license that proposes to use the casks to store BPRAs. This alternative would cost both the NRC and the utilities more time and money because each utility would have to pursue an exemption.

Approval of the direct final rule will eliminate the above described problem and is consistent with previous Commission actions. Further, the direct final rule will have no adverse effect on public health and safety. This direct final rule has no significant identifiable impact or benefit on other Government agencies. Based on the above discussion of the benefits and impacts of the alternatives, the NRC concludes that the requirements of the direct final rule are

commensurate with the NRC's responsibilities for public health and safety and the common defense and security. No other available alternative is believed to be as satisfactory, and thus, this action is recommended.

Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs, Office of Management and Budget.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the NRC certifies that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This direct final rule affects only the licensing and operation of nuclear power plants, independent spent fuel storage facilities, and Pacific Sierra Nuclear Associates. The companies that own these plants do not fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR Part 121.

Backfit Analysis

The NRC has determined that the backfit rule (10 CFR 50.109 or 10 CFR 72.62) does not apply to this direct final rule because this amendment does not involve any provisions that would impose backfits as defined. Therefore, a backfit analysis is not required.

List of Subjects In 10 CFR Part 72

Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Reporting and recordkeeping requirements, Security measures, Spent fuel.

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 adopting the following amendments to 10 CFR Part 72.

PART 72--LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE 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. 10d - 48b, sec. 7902, 10b Stat. 31b3 (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).

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. Section 72.214, Certificate of Compliance (CoC) 1007 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1007

Initial Certificate Effective Date: May 7, 1993

Amendment Number 1 Effective Date: (75 days after publication in the Federal Register)

SAR Submitted by: Pacific Sierra Nuclear Associates

SAR Title: Final Safety Analysis Report for the Ventilated Storage Cask System

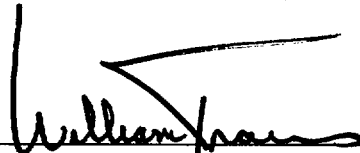
Docket Number: 72-1007

Certificate Expiration Date: May 7, 2013

Model Number: VSC-24

Dated at Rockville, Maryland, this 3rd day of Sept., 1999.

For the Nuclear Regulatory Commission.

A handwritten signature in black ink, appearing to read "William D. Travets", written over a horizontal line.

William D. Travets,
Executive Director for Operations.