

**NUCLEAR REGULATORY COMMISSION**

**10 CFR Part 72**

**[NRC-2013-0271]**

**RIN 3150-AJ31**

**List of Approved Spent Fuel Storage Casks:**

**Transnuclear, Inc. Standardized Advanced NUHOMS® Horizontal Modular Storage System; Amendment No. 3**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Proposed Rule.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend its spent fuel storage regulations by revising the Transnuclear, Inc. Standardized Advanced NUHOMS® Horizontal Modular Storage System (NUHOMS® Storage System) within the “List of Approved Spent Fuel Storage Casks” to include Amendment No. 3 to Certificate of Compliance (CoC) No. 1029. Amendment No. 3 adds a new transportable dry shielded canister (DSC), 32PTH2, to the NUHOMS® Storage System; and makes editorial corrections.

**DATES:** Submit comments by **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*]**. Comments received after this date will be considered if it is practical to do so, but the NRC staff is able to ensure consideration only for comments received on or before this date.

**ADDRESSES:** You may submit comments by any one of the following methods (unless this

document describes a different method for submitting comments on a specific subject):

- **Federal Rulemaking Web site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2013-0271. Address questions about NRC dockets to Carol Gallagher, telephone: 301-287-3422, e-mail: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov). For technical questions, please contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **E-mail comments to:** [Rulemaking.Comments@nrc.gov](mailto:Rulemaking.Comments@nrc.gov). If you do not receive an automatic e-mail reply confirming receipt, then contact us at 301-415-1677.

- **Fax comments to:** Secretary, U.S. Nuclear Regulatory Commission at 301-415-1101.

- **Mail comments to:** Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.

For additional direction on accessing information and submitting comments, see “Accessing Information and Submitting Comments” in the SUPPLEMENTARY INFORMATION section of this document.

**FOR FURTHER INFORMATION CONTACT:** Naiem S. Tanious, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone: 301-415-6103, e-mail: [Naiem.Tanious@nrc.gov](mailto:Naiem.Tanious@nrc.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Accessing Information and Submitting Comments.**

#### **A. Accessing Information**

Please refer to Docket ID-NRC-2013-0271 when contacting the NRC about the availability of information for this proposed rule. You may access publicly-available information

related to this proposed rulemaking by any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID-NRC-2013-0271.

- **NRC's Agencywide Documents Access and Management System (ADAMS):**

You may access publicly-available documents online in the NRC Library at

<http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "[ADAMS Public Documents](#)" and then select "[Begin Web-based ADAMS Search.](#)" For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The ADAMS accession number for each document referenced in this notice (if that document is available in ADAMS) is provided the first time that a document is referenced. The proposed CoC, proposed technical specifications (TSs), and preliminary Safety Evaluation Report (SER) are available in ADAMS under Accession Nos. ML13290A176, ML13290A182, and ML13290A205, respectively.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

## B. Submitting Comments

Please include Docket ID-NRC-2013-0271 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed. The NRC posts all comment submissions at <http://www.regulations.gov> as well as entering the comment submissions into ADAMS, and the NRC does not routinely edit comment submissions to remove identifying or

contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information in their comment submissions that they do not want to be publicly disclosed. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

## **II. Procedural Background.**

This proposed rule is limited to the changes contained in Amendment No. 3 to CoC No. 1029 and does not include other aspects of the NUHOMS® Storage System design. Because the NRC considers this action noncontroversial and routine, the NRC is publishing this proposed rule concurrently with a direct final rule in the Rules and Regulations section of this issue of the *Federal Register*. 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 on this proposed rule by **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*]**, then the NRC will publish a document that withdraws the direct final rule. If the direct final rule is withdrawn, the NRC will address the comments received in response to these 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 on this action in the event the direct final rule is withdrawn.

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 TSs.

For additional procedural information including the regulatory analysis, and the availability of the environmental assessment and the finding of no significant impact, see the direct final rule published in the Rules and Regulations section of this issue of the *Federal Register*.

### **III. Background.**

Section 218(a) of the Nuclear Waste Policy Act (NWPA) of 1982, as amended, requires that “the Secretary [of the Department of Energy] 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 [the Commission] shall, by rule, establish procedures for the licensing of any technology approved by the Commission under Section 219(a) [sic: 218(a)] for use at the site of any civilian nuclear power reactor.”

To implement this mandate, the Commission approved dry storage of spent nuclear fuel in NRC-approved casks under a general license by publishing a final rule in part 72 of Title 10 of the *Code of Federal Regulations* (10 CFR), “Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater Than Class C Waste,” which added a new subpart K within 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,” which contains procedures and criteria for obtaining NRC approval of spent fuel storage cask designs. The NRC subsequently issued a final rule (68 FR 463; January 6, 2003) that approved the NUHOMS<sup>®</sup> Storage System design and added it to the list of NRC-approved cask designs in 10 CFR 72.214 “List of approved spent fuel storage casks,” as CoC No. 1029.

#### **IV. Plain Writing.**

The Plain Writing Act of 2010 (Pub. L. 111-274) requires Federal agencies to write documents in a clear, concise, well-organized manner that also follows other best practices appropriate to the subject or field and the intended audience. The NRC has written this

document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, “Plain Language in Government Writing,” published June 10, 1998 (63 FR 31883). The NRC requests comment on the proposed rule with respect to clarity and effectiveness of the language used.

## **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; the Nuclear Waste Policy Act of 1982, 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:** Atomic Energy Act secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 223, 234, 274 (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2239, 2273, 2282, 2021); Energy Reorganization Act secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); National Environmental Policy

Act sec. 102 (42 U.S.C. 4332); Nuclear Waste Policy Act secs. 131, 132, 133, 135, 137, 141, 148 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168); Government Paperwork Elimination Act sec. 1704, (44 U.S.C. 3504 note); Energy Policy Act of 2005, Pub. L. No. 109-58, 119 Stat. 788 (2005).

Section 72.44(g) also issued under Nuclear Waste Policy Act secs. 142(b) and 148(c)-(d) (42 U.S.C. 10162(b), 10168(c)-(d)). Section 72.46 also issued under Atomic Energy Act sec. 189 (42 U.S.C. 2239); Nuclear Waste Policy Act sec. 134 (42 U.S.C. 10154). Section 72.96(d) also issued under Nuclear Waste Policy Act sec. 145(g) (42 U.S.C. 10165(g)). Subpart J also issued under Nuclear Waste Policy Act secs. 117(a), 141(h) (42 U.S.C. 10137(a), 10161(h)). Subpart K also issued under Nuclear Waste Policy Act sec. 218(a) (42 U.S.C. 10198).

2. In § 72.214, Certificate of Compliance 1029 is revised to read as follows:

**§ 72.214 List of approved spent fuel storage casks.**

\* \* \* \* \*

Certificate Number: 1029.

Initial Certificate Effective Date: February 5, 2003.

Amendment Number 1 Effective Date: May 16, 2005.

Amendment Number 2 Effective Date: Amendment not issued by the NRC.

Amendment Number 3 Effective Date: **[INSERT DATE 75 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*].**

SAR Submitted by: Transnuclear, Inc.

SAR Title: Final Safety Analysis Report for the Standardized Advanced NUHOMS® Horizontal Modular Storage System for Irradiated Nuclear Fuel.



Docket Number: 72-1029.

Certificate Expiration Date: February 5, 2023.

Model Number: Standardized Advanced NUHOMS® -24PT1, -24PT4, and -32PTH2.

\* \* \* \* \*

Dated at Rockville, Maryland, this \_\_\_\_28th\_\_\_\_day of \_March, 2014\_.

For the Nuclear Regulatory Commission.

***/RA/***

Darren B. Ash, Acting  
Executive Director  
for Operations

Docket Number: 72-1029.

Certificate Expiration Date: February 5, 2023.

Model Number: Standardized Advanced NUHOMS® -24PT1, -24PT4, and -32PTH2.

\* \* \* \* \*

Dated at Rockville, Maryland, this \_\_\_\_28th\_\_\_\_ day of \_March, 2014\_\_\_\_.

For the Nuclear Regulatory Commission.

**/RA/**

Darren B. Ash, Acting  
Executive Director  
for Operations

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<b>OFC</b>	RPMB/DILR	DILR/FSME	SFST/NMSS	OGC
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