

**NUCLEAR REGULATORY COMMISSION**

**10 CFR Part 72**

**[Docket No. PRM-72-8; NRC-2018-0017]**

**Requirements for the Indefinite Storage of Spent Nuclear Fuel**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Petition for rulemaking; notice of docketing, and request for comment.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) has received a petition for rulemaking from Raymond Lutz and Citizens Oversight, Inc. (the Petitioners), dated January 2, 2018, requesting that the NRC amend its regulations regarding spent nuclear fuel storage systems. The petition was docketed by the NRC on January 22, 2018, and has been assigned Docket No. PRM-72-8. The NRC is examining the issues raised in PRM-72-8 to determine whether they should be considered in rulemaking. The NRC is requesting public comment on this petition.

**DATES:** Submit comments by June 5, 2018. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

**ADDRESSES:** You may submit comments by any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2018-0017. Address questions about NRC dockets to Carol Gallagher;

telephone: 301-415-3463; e-mail: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov). For technical questions 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.
- **Hand deliver comments to:** 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301-415-1677.

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

**FOR FURTHER INFORMATION CONTACT:** Gregory Trussell, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001; telephone: 301-415-6244, e-mail: [Gregory.Trussell@nrc.gov](mailto:Gregory.Trussell@nrc.gov).

## **SUPPLEMENTARY INFORMATION:**

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

#### **A. Obtaining Information**

Please refer to Docket ID NRC-2018-0017 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to

this action by any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2018-0017.

- **NRC's Agencywide Documents Access and Management System (ADAMS):**  
You may obtain publicly-available documents online in the ADAMS Public Documents collection 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 (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

- **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-2018-0017 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <http://www.regulations.gov> as well as enter the comment submissions into ADAMS. 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 that they do not want to be publicly disclosed in their comment submission. 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 into ADAMS.

## **II. The Petitioners**

The petition was filed by Raymond Lutz and Citizens Oversight Inc. Raymond Lutz is the founder and president of Citizens Oversight, Inc., a nonprofit organization.

## **III. The Petition**

The petitioners are requesting that the NRC revise part 72 of title 10 of the *Code of Federal Regulations* (10 CFR) regarding spent nuclear fuel (SNF) stored in independent spent fuel storage installations (ISFSIs) at nuclear power stations. The petitioners are concerned that there is a mismatch between the NRC's 10 CFR part 72 regulations that define requirements for ISFSIs and the current situation, which the petitioners assert is that surface storage of spent nuclear fuel will continue indefinitely. The petitioners observe that 10 CFR part 72 was initially developed at a time when a repository was anticipated to be available in 1998 and, therefore, this PRM would address concerns with a much longer time frame for surface storage. The petitioners make 14 contentions that propose specific revisions to 10 CFR part 72 that would address issues concerning the indefinite surface storage of spent nuclear fuel in dry cask storage systems. In particular, the petitioners request that 10 CFR part 72 be revised to require: a 1,000 year design life goal for spent nuclear storage systems; estimates for the operating costs over the design life; determination of the safety margins over the design life; and time limited aging analyses demonstrating that structures, systems, and components important to safety will continue to perform for the design life. The petition may be found in ADAMS at Accession No. ML18022B207.

#### **IV. Discussion of the Petition**

The petitioners request that the NRC amend its regulations in 10 CFR part 72 “regarding spent nuclear fuel.” The petitioners believe that “the actual situation has now changed, while the NRC regulations have not changed sufficiently to respect the current reality” of ongoing storage at nuclear plants and that the NRC should use a “Hardened, Extended-life, Local, Monitored Surface Storage” (HELMS) type of approach as further described in a white paper submitted with the petition (ADAMS Accession No. ML18022B213).

The petitioners contend that there is a timeframe difference between that of the useful life of an operating commercial nuclear plant and the storage of SNF at those nuclear plants indefinitely. The petitioners further contend that the “license term and renewal periods for the facility operating license and CoC are defined to be (up to) 40 years, and the design life is only implied as perhaps several multiples of the licensing period.” The petitioners’ position is “that the design life should be explicitly defined as the initial 1,000 years.”

The HELMS approach would require that SNF containers be designed for a 1,000-year life goal “while still allowing a 40-year license term.” The petitioners provided a specific proposal for the HELMS approach to assist their description; however, the petitioners emphasized “that the HELMS proposal does not rely on the adoption of this specific proposal as long as the extended-life criterion is satisfied.” The petitioners stated that the 1,000-year design life goal “is likely NOT feasible without some monitoring and replacing part of the system on regular intervals.”

#### **V. Request under § 2.206 Seeking Enforcement Action**

The petitioners also request enforcement action under § 2.206 of the NRC's regulations. The petitioners assert a violation of § 72.106, regarding the controlled area of an ISFSI or monitored retrievable storage installation, and ask for enforcement-related action, as appropriate; however, the petitioners have not provided information to support this charge. The NRC considered the request for review to determine whether the claim qualifies for enforcement-related action. The petitioners' claim does not constitute a valid request for action under § 2.206. The petitioners do not specify the action requested but leave it up to the NRC to determine (based on the limited information provided on page 10 of the petition) whether enforcement is warranted of a licensee's ISFSI or monitored retrievable storage installation. Although the petitioners allege that a licensee has violated the requirement, the petition does not provide the facts that constitute the basis for taking enforcement action. Therefore, the petitioners' claim does not meet the requirements for § 2.206 enforcement action.

Dated at Rockville, Maryland, this 16th day of March, 2018.

For the Nuclear Regulatory Commission.

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Annette L. Vietti-Cook,  
Secretary of the Commission.