

California Coastal Commission, State of California, or the NRC. The commenter recommended that the Coastal Commission and the State of California research the legality of SCE's proposed storage site at SONGS.

*Response:* This comment is beyond the scope of this rulemaking. The NRC approval process for a dry cask CoC does not require site-specific actions such as an independent approval or analysis by a State government or entity.

*Comment 4:* One commenter supported the view that the structure and financing of the Nuclear Waste Fund requires a major overhaul.

*Response:* This comment is beyond the scope of this rulemaking. The decision to initiate a major overhaul of the Nuclear Waste Fund is a policy matter for the current Administration to consider in conjunction with Congress. The NRC does not oversee the Nuclear Waste Fund.

*Comment 5:* One commenter stated that the technical analyses, which are required under § 72.212 to demonstrate how proposed casks will be capable of safely storing spent fuel, being monitored, and safely transporting the fuel and how the public health, safety, and welfare will be maintained, must be made public. The commenter stated that withholding these important technical analyses is a serious breach of faith and the rules. Several commenters requested that the public comment period be extended until all of the technical analyses and reports have been made fully and publicly available.

*Response:* The NRC agrees that all documents that support the approval of the cask design must be made public. The documents referenced in the proposed rule which provide the basis for the rule are publicly available. Documents related to SONGS are not part of and do not support this rulemaking and, therefore, a request for those documents is beyond the scope of this rulemaking. The request to extend the public comment period until all of SCE's § 72.212 technical analyses and reports have been made fully and publicly available is beyond the scope of this rulemaking, since it deals with site-specific issues. The availability of the studies is not relevant to the question on which public comment is invited; *i.e.*, whether this generic cask design should be certified by the NRC. A request for extension of the comment period filed by Ms. Patricia Borchmann was denied by letter dated March 27, 2002, from Dr. Donald A. Cool, Director of the NRC's Division of Industrial and Medical Nuclear Safety.

*Comment 6:* One commenter stated that the NRC's risk assessment and its

methodology needs another look and is outdated. The commenter stated that the probability of an extreme hazard (such as tsunami, earthquake, and terrorist attack) is not as low as the outcome of computer modeling and simulations indicate. The commenter stated that during the entire history of the nuclear industry in the United States, the NRC has been in denial about the real risks of operating nuclear generating stations, especially the sites located in highly populated, seismically active areas, as well as the sites that are in areas that make them totally vulnerable to tsunamis.

*Response:* The commenter did not specifically identify what NRC risk assessment was of concern, hence this comment is beyond the scope of this rulemaking which is related to the safety review of a storage cask. Risk assessment and methodology development are an evolving process in the NRC. Thus, the risk insights obtained from this process are based on many quantitative and qualitative factors, such as statutory requirements and public and stakeholder interests, before conclusions and recommendations affecting safety are made. Comments about terrorist attacks and seismic conditions are also beyond the scope of this rulemaking. The consideration of seismic conditions at or near a spent fuel storage facility, where a storage cask would be placed, must be addressed by the licensee who uses the casks. Prior to use, each licensee must evaluate the seismic and other site-specific conditions at the site to determine that the design of the cask is suited to the conditions it would be expected to experience during its operational lifetime. This would include seismic loads. The site-specific parameters are delineated in TS 4.4.3.

*Comment 7:* One commenter strongly believed that dry cask storage raises many troubling public health questions. However, the commenter did not provide any specific examples.

*Response:* The mission of the NRC is to provide reasonable assurance that the health and safety of the general public will be protected from the dangers involved in the commercial use of radioactive materials. The rulemaking process involves a detailed technical review of the storage cask design to ensure the safety of the cask for storage of spent fuel.

*Comment 8:* One commenter asked that NRC reconsider the refusal to require or provide a site-specific consideration of this extensive modification of an existing license and its related nuclear facility. The residents of Southern California have a right to

formal, legal, and fully adjudicated hearings in any such critical and extensive change at San Onofre.

*Response:* This comment is beyond the scope of this rulemaking. This rulemaking is focused solely on whether to add a particular design, the Standardized Advanced NUHOMS® System, to the list of approved casks. The rulemaking will enable licensees to use this cask system under the general license provisions of Part 72. The rulemaking does not address site-specific issues related to potential users. This design could be used by any general licensee. By rulemaking, in § 72.210, NRC granted a general license to all reactor facilities to operate an ISFSI without any further site-specific licensing actions.

*Comment 9:* A commenter raised the question that, while bolting NUHOMS casks to the pad may prevent tipping, what will keep the concrete pad from cracking leading to possible offsite radioactive exposure.

*Response:* The concrete storage pad is a site-specific design component of a storage facility, which is beyond the scope of this cask design rulemaking. In accordance with § 72.212, the cask operators (licensees) are required to perform written evaluations to ensure that storage pads have been designed to adequately support the storage casks. See TS Section 4.4.3, Item #8, which provides the seismic parameter that would need to be evaluated. The earthquake motions are defined for the top surface of the concrete storage pad. A specific ISFSI site utilizing the cask system must demonstrate that the design seismic condition for that facility does not produce seismic effects greater than those specified for the top of the storage pad. Further, the pads provide a flat, stable surface for resting the storage casks, and any cracks in the pads would have no effect on cask integrity.

*Comment 10:* One commenter stated that withholding from the public important technical analyses which would demonstrate how proposed casks will be capable of safely storing spent fuel for the entire lifetime that spent fuel will be stored on site, how it will be monitored, how casks can later be safely transported at some time in the distant future, and how the public health, safety, and welfare will be fully maintained is a serious breach of faith and the rules. Another commenter stated that currently casks are licensed (approved) for 20 years, and was concerned that many utilities, including SCE, have stated in their applications that the casks may remain on site for up to 100 years.