

that this is the safest method of handling damaged fuel assemblies. The commenter asked where the public can view this independent verification.

*Response:* NRC Spent Fuel Project Office Interim Staff Guidance—1 (ISG—1) states that spent nuclear fuel with known or suspected cladding defects greater than a hairline crack or a pinhole leak (damaged fuel) should be canned for storage. TS 2.1.a states that damaged fuel assemblies shall be placed in confinement cans. The purpose of canning is to confine gross fuel particles to a known, subcritical volume during off-normal and accident conditions, and to facilitate handling and retrievability. ISG—1 is publicly available on the NRC Web site.

*Comment 18:* One commenter asked what risk analysis studies the NRC did to assure that high level radioactive waste can be safely transferred to barges, trains, and/or trucks for eventual transportation. The analysis should have included seismic issues regarding an earthquake during transfer of radioactive fuel from pools to casks and from casks to transportation modes. The commenter further stated that if no risk analysis was done, one must be completed before high level radioactive waste is allowed to be transferred from irradiated fuel pools to NUHOMS casks, much less transferred to transportation modes.

*Response:* Transportation comments are beyond the scope of this Part 72 rulemaking. The NRC has performed a number of transportation risk studies, and currently the Package Performance Study is in progress to study what the effects of impact and fire conditions beyond current regulations would be for a recently approved transportation cask design. The effects of the forces from an earthquake during transfer of radioactive fuel from a spent fuel pool to a storage cask would have to be considered in the procedures and the design of handling equipment in accordance with Part 50 requirements that would be in effect by the licensed utility that would be conducting fuel movement. Dealing with the impact of an earthquake during the movement of casks to a truck or train would be addressed by the requirements of Part 71 which specifies that a number of tests and analyses be performed to determine that the cask can withstand the forces expected to be seen during normal and accident conditions. The forces that a transportation cask can withstand exceed those that would be experienced during an earthquake.

*Comment 19:* One commenter stated that the NRC has issued a report admitting that irradiated fuel assemblies

can still spontaneously combust even after cooling 5 years in pools. The commenter questioned what assurances are there that fuel being transferred into dry casks has been cooled for the minimum 5 years.

*Response:* The CoC includes TS that state that the fuel that will be loaded in the casks must be cooled a minimum of 10 years. The loading of casks and the records thereof will be subject to NRC inspection for verification that the TS have been met.

*Comment 20:* One commenter stated that the NRC must demonstrate that the storage casks can be safely opened after loading, if necessary, before allowing the cask to be filled with radioactive waste.

*Response:* There are no regulatory requirements for a licensee to demonstrate that fuel can be safely unloaded from a cask prior to the actual loading of fuel. The CoC does, however, specify that the licensee conduct a dry run of an unloading operation. That exercise would not be performed with spent nuclear fuel but would be conducted using “dummy” assemblies.

*Comment 21:* One commenter stated that the design basis for the proposed casks must be verifiably certified to withstand a 9/11 style terrorist attack (a minimum of one kiloton) and that the cask should not be approved unless it can withstand a 9/11 type terrorist attack.

*Response:* This comment is beyond the scope of this rulemaking. The design basis of the casks must address the Part 72 criteria to withstand a number of hypothetical accidents. Currently, there are no regulatory requirements for a storage cask to withstand a 9/11 style terrorist attack. Since 9/11, the NRC has issued advisories to licensees who operate storage facilities to augment certain aspects of their security plans and capability. Further, the NRC has issued orders to impose certain security requirements beyond current regulations on these licensees. In addition, the NRC is conducting a thorough review of its current security regulations and is conducting a vulnerability study for spent fuel storage cask designs to determine what the effects would be from a terrorist attack of a different nature, including the crash of a jumbo jet filled with fuel. After completion of these efforts, the NRC will determine what changes are needed to its security regulations and will make them as appropriate.

*Comment 22:* One commenter stated that no casks have been tested for their anticipated lifetime on site at nuclear plants.

*Response:* Spent fuel storage casks are designed to withstand normal and hypothetical accident conditions for their license period of 20 years, in accordance with Part 72 requirements. Licensees must also periodically monitor and inspect casks to verify that safety functions are maintained during operational lifetime. Storage of spent nuclear fuel beyond the 20-year license period is beyond the scope of this rulemaking.

*Comment 23:* A commenter stated that, in 1984, the NRC issued its waste confidence decision. A summary of the findings includes the temporary storage of spent fuel after cessation of reactor operations and generic determination of no significant environmental impact. The Commission also announced that although it could reach favorable conclusions, it recognized that significant and unexpected events might affect its decision. The commenter stated that it should be obvious to all Americans that the events of 9/11 meet the criteria of “unexpected events” to revisit the NRC’s Waste Confidence Decision.

*Response:* This request to revisit the Waste Confidence Decision is beyond the scope of this rulemaking. Since 9/11, the NRC has taken a number of actions that have affected its licensees. Specifically in the area of spent fuel interim storage, the NRC has issued advisories to licensees who operate storage facilities to augment certain aspects of their security plans and capability. Further, the NRC has issued orders to impose certain security requirements beyond current regulations on these licensees. In addition, the NRC is conducting a thorough review of its current security regulations and is conducting a vulnerability study for spent fuel storage cask designs to determine what the effects would be from a terrorist attack of a different nature, including the crash of a jumbo jet filled with fuel. After completion of these efforts, the NRC will determine what changes are needed to its security regulations and will make them as appropriate.

*Comment 24:* One commenter asked for information about the number of additional personnel necessary to prepare for an ISFSI.

*Response:* There is no requirement for a particular level of staffing in the CoC. The question raised by the commenter is unclear and lacks specificity as to what is being requested. The NRC believes the comment is beyond the scope of this rulemaking.

*Comment 25:* One commenter recommended that all training of personnel be reviewed and