

ISFSI are monitored by the alarm stations at the reactor site. Response to intrusion alarms is required. Each ISFSI is subject to inspection by NRC. The licensee ensures that the physical protection systems are operating within their design limits. It is the ISFSI licensee who is responsible for protecting spent fuel in the casks from sabotage rather than the certificate holder.

*Comment 32:* One commenter quoting Ray Shadis stated that the public must be informed of all potential radiological consequences, including radioactive dose levels and dose distribution, that would result from massive releases or dispersal of radioactive material.

*Response:* This comment is beyond the scope of this rulemaking. However, Chapter 10 of the SER documents the staff's review of the cask design to ensure that its use will meet the regulatory dose requirements of Parts 20 and 72.

*Comment 33:* One commenter asked about the proposed security at the high level radioactive waste site (both reactor and irradiated fuel pools) during operation and after retirement.

*Response:* This comment is beyond the scope of this rulemaking which is focused solely on whether to place the Standardized Advanced NUHOMS® System on the list of approved casks. See response to Comment 31, above.

*Comment 34:* One commenter asked how SCE and the NRC provide assurance to the public that terrorism cannot occur or cause a radioactive release.

*Response:* This comment is beyond the scope of this rulemaking. See response to Comment 31, above.

*Comment 35:* One commenter stated that the Holtec and NUHOMS casks (both steel liner and concrete) could be penetrated by 757 and 767 aircraft and that the NRC must address this issue before any permits are granted and questioned how this concern has been addressed by SCE and the NRC.

*Response:* The NRC considers the comment to be beyond the scope of this rulemaking which is focused solely on whether to place the Standardized Advanced NUHOMS® cask system on the list of approved casks for storage. See response to Comment 21, above.

*Comment 36:* One commenter stated that because the spent fuel pools contain many reactor cores, the amount of radioactive material available for release to the environment and therefore the anticipated consequences, are much greater than for a reactor meltdown, and that “\* \* \* dispersal of just one portion of one spent fuel assembly by means of high explosives would have radiological

consequences much greater than those of a Hiroshima-sized nuclear weapon and would yield near term lethal doses ranging downwind over 60 miles.” However, emergency response planning, aimed at reactor accidents, has not been adjusted accordingly. The commenter believed that the issues must be addressed in a risk analysis by the NRC.

*Response:* Comments related to spent fuel pools and security issues are beyond the scope of this rulemaking. See response to Comment 31, above.

*Comment 37:* One commenter stated that the design basis threat must encompass not only a 9/11 air assault, but a ground-based assault for more than 10 people, a truck-bomb assault, or weapons launched from a truck or water craft. The commenter stated that nuclear reactors, adjacent spent fuel storage deposits, nuclear fuel reprocessing facilities, transport vehicles, or any high-level waste site are potential targets for the use of high explosives to disperse into the atmosphere the very high levels of radioactivity associated with materials at these facilities. A successful incursion into a nuclear power reactor would require a very heavily armed force, since commercial reactors are very well protected. The core of a commercial reactor is protected by a containment structure sufficient to prevent atmospheric release even if a large airplane were to crash into the facility. Only when the reactor is being refueled and the containment structure is open would atmospheric dispersion of the reactor's nuclear fuel be likely as a result of the use of high explosives. The commenter stated that targeting spent nuclear fuel elements kept in a storage facility would be an easier target than an operating nuclear plant.

*Response:* This comment is beyond the scope of this rulemaking. See response to Comment 31, above.

#### Summary of Final Revisions

Based on public comments, no changes from the proposed rule were made to the final CoC for the Standardized Advanced NUHOMS® cask system, nor its appendices, the Technical Specifications, and the Approved Contents and Design Features. In addition, no changes were made to the PSER.

#### 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 final rule,

the NRC is adding the TN Standardized Advanced NUHOMS® cask system to the list of NRC-approved cask systems for spent fuel storage in § 72.214. This action does not constitute the establishment of a standard that establishes generally-applicable requirements.

#### Agreement State Compatibility

Under the “Policy Statement on Adequacy and Compatibility of Agreement State Programs” approved by the Commission on June 30, 1997, and published in the **Federal Register** on September 3, 1997 (62 FR 46517), this rule is classified as Compatibility Category “NRC.” Compatibility is not required for Category “NRC” regulations. The NRC program elements in this category are those that relate directly to areas of regulation reserved to the NRC by the Atomic Energy Act of 1954, as amended (AEA), or the provisions of Title 10 of the Code of Federal Regulations. Although an Agreement State may not adopt program elements reserved to NRC, it may wish to inform its licensees of certain requirements via a mechanism that is consistent with the particular State's administrative procedure laws but does not confer regulatory authority on the State.

#### Finding of No Significant Environmental Impact: Availability

Under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A of 10 CFR Part 51, the NRC has determined that this rule is not a major Federal action significantly affecting the quality of the human environment and therefore an environmental impact statement is not required. This final rule adds an additional cask to the list of approved spent fuel storage casks that power reactor licensees can use to store spent fuel at reactor sites without additional site-specific approvals from the Commission. 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, O–1F23, 11555 Rockville Pike, Rockville, MD. Single copies of the environmental assessment and finding of no significant impact are available from Jayne M. McCausland, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–6219, e-mail [jmm2@nrc.gov](mailto:jmm2@nrc.gov).

#### Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection