

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, in a substantive response:

(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 CoC or TS.

These comments will be addressed in a subsequent final rule. The NRC will not initiate a second comment period on this action. However, if the NRC receives significant adverse comments by November 6, 2003, then the NRC will publish a document that withdraws this action and will address the comments received in response to the proposed amendments published elsewhere in this issue of the **Federal Register**.

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 direct final rule, the NRC would revise the Standardized NUHOMS® System listed in § 72.214 (List of NRC-approved spent fuel storage cask designs). 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.

Plain Language

The Presidential Memorandum dated June 1, 1998, entitled "Plain Language in Government Writing," directed that the Government's writing be in plain language. The NRC requests comments on this direct final rule specifically with respect to the clarity and effectiveness of the language used. Comments should be sent to the address listed under the heading **ADDRESSES** above.

Finding of No Significant

Environmental Impact: Availability

Under the National Environmental Policy Act of 1969, as amended, and the NRC regulations in subpart A of 10 CFR part 51, the NRC has determined that this rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required. The rule would amend the CoC for the Standardized NUHOMS® System within the list of approved spent fuel storage casks that power reactor licensees can use to store spent fuel at reactor sites under a general license by adding the NUHOMS®-24PHB cask design to the current cask system. The NUHOMS®-24PHB cask design will store high burnup B&W 15x15 spent fuel assemblies with an average burnup of up to 55,000 megawatt-days/metric ton of uranium, enrichment equal to 4.5 weight percent uranium-235, a maximum decay heat load of 1.3 kilowatt (kW) per assembly, and a maximum heat load of 24 kW per cask. The environmental assessment (EA) and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. Single copies of the EA and finding of no significant impact are available from Margaret Stambaugh, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-5449, e-mail mxs8@nrc.gov.

Paperwork Reduction Act Statement

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

collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget, Approval Number 3150-0132.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid OMB control number.

Regulatory Analysis

On July 18, 1990 (55 FR 29181), the NRC issued an amendment to 10 CFR part 72 to provide for the storage of spent nuclear fuel under a general license in cask designs approved by the NRC. Any nuclear power reactor licensee can use NRC-approved cask designs to store spent nuclear fuel if it notifies the NRC in advance, spent fuel is stored under the conditions specified in the cask's CoC, and the conditions of the general license are met. A list of NRC-approved cask designs is contained in § 72.214. On December 22, 1994 (59 FR 65920), the NRC issued an amendment to part 72 that approved the Standardized NUHOMS® System (NUHOMS®-24P and -52B) by adding it to the list of NRC-approved cask designs in § 72.214. Amendments 3 and 5, respectively, added the -61BT and -32PT cask designs to the Standardized NUHOMS® System. On August 31, 2001, and as supplemented June 13, 2002, November 18, 2002, and March 7, 2003, the certificate holder (Transnuclear, Inc.), submitted an application to the NRC to amend CoC No. 1004 to add the NUHOMS®-24PHB cask design to the Standardized NUHOMS® System. The proposed amendment permits a part 72 licensee to use the NUHOMS®-24PHB cask design to store high burnup B&W 15x15 spent fuel assemblies with an average burnup of up to 55,000 megawatt-days/metric ton of uranium, enrichment equal to 4.5 weight percent uranium-235, a maximum decay heat load of 1.3 kilowatt (kW) per assembly, and a maximum heat load of 24 kW per cask, under a general license.

The alternative to this action is to withhold approval of this amended cask system design and issue an exemption to the general license for each utility that decides to use the amended cask system design. This alternative would cost both the NRC and the utilities more time and money because each utility would have to pursue an exemption.