

projects, and individual hobbyists who collect, grow, exhibit, preserve, exchange, and donate special nursery stocks and seeds could also be affected. The exact present size and number of these entities are difficult to determine.

Since Atlanta, GA, and Agana, GU, already serve as ports of entry for other restricted articles and have the capacity and resources to handle the importation of nursery stock and seeds, no effect on Federal Government processing of permits and inspection of imported materials is expected. Also, no effects on other Federal agencies and State and local governments are expected. Since imports of these materials are a small fraction of the total domestic supply of nursery stock and seeds, no substantial change in supply and price is expected.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

#### **Executive Order 12372**

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

#### **Executive Order 12988**

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

#### **Paperwork Reduction Act**

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### **List of Subjects in 7 CFR Part 319**

Bees, Coffee, Cotton, Fruits, Honey, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

■ Accordingly, 7 CFR part 319 is amended as follows:

#### **PART 319—FOREIGN QUARANTINE NOTICES**

■ 1. The authority citation for part 319 continues to read as follows:

**Authority:** 7 U.S.C. 450 and 7701–7772; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

■ 2. In § 319.37–14, paragraph (b), the list of ports of entry is amended by revising the entries for Atlanta, Georgia, and Agana, Guam, to read as follows:

#### **§ 319.37–14 Ports of entry.**

\* \* \* \* \*

(b) \* \*

#### **List of Ports of Entry**

\* \* \* \* \*

#### **Georgia**

#### **Atlanta**

Hartsfield Atlanta International Airport, Atlanta, GA 30320. \* \* \*

#### **Guam**

#### **Agana**

Guam International Airport, Tamuning, GU 96931.

\* \* \* \* \*

Done in Washington, DC, this 11th day of December, 2003.

**Bobby R. Acord,**

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 03–31203 Filed 12–17–03; 8:45 am]

**BILLING CODE 3410–34–P**

Shielded Canister under a general license. In addition, the amendment includes three minor changes to the Technical Specifications to correct inconsistencies and remove irrelevant references.

**DATES:** The final rule is effective March 2, 2004, unless significant adverse comments are received by January 20, 2004. A significant adverse comment is one which explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. If the rule is withdrawn, timely notice will be published in the **Federal Register**.

**ADDRESSES:** You may submit comments by any one of the following methods. Please include the following number (RIN 3150–AH28) in the subject line of your comments. Comments on rulemakings submitted in writing or in electronic form will be made available to the public in their entirety on the NRC rulemaking website. Personal information will not be removed from your comments.

Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.

E-mail comments to: *SECY@nrc.gov*. If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at (301) 415–1966. You may also submit comments via the NRC's rulemaking website at <http://ruleforum.llnl.gov>. Address questions about our rulemaking website to Carol Gallagher (301) 415–5905; e-mail *cag@nrc.gov*.

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 am and 4:15 pm Federal workdays [telephone (301) 415–1966].

Fax comments to: Secretary, U.S. Nuclear Regulatory Commission at (301) 415–1101.

Publicly available documents related to this rulemaking may be viewed electronically on public computers located at the NRC's Public Document Room (PDR), Public File Area O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. The PDR reproduction contractor will copy documents for a fee. Selected documents, including comments, can be viewed and downloaded electronically via the NRC rulemaking website at <http://ruleforum.llnl.gov>.

Publicly available documents created or received at the NRC after November 1, 1999, are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/NRC/ADAMS/>

*index.html*. From this site, the public can gain entry into the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC PDR Reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to *pdr@nrc.gov*. An electronic copy of the proposed CoC, proposed Technical Specifications (TS), and preliminary Safety Evaluation Report (SER) can be found under ADAMS Accession Nos. ML032100773, ML032100775, and ML032100776, respectively.

CoC No. 1004, the revised Conditions for Cask Use and TS, the underlying SER for Amendment No. 7, and the Environmental Assessment (EA) are available for inspection at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. Single copies of these documents may be obtained from Jayne McCausland, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-6219, e-mail *jmm2@nrc.gov*.

**FOR FURTHER INFORMATION CONTACT:**  
Jayne M. McCausland, telephone (301) 415-6219, e-mail *jmm2@nrc.gov*, of the Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 218(a) of the Nuclear Waste Policy Act of 1982, as amended (NWPA), requires that “[t]he Secretary [of the Department of Energy (DOE)] shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the [Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission.” Section 133 of the NWPA states, in part, that “[t]he Commission shall, by rule, establish procedures for the licensing of any technology approved by the Commission under Section 218(a) for use at the site of any civilian nuclear power reactor.”

To implement this mandate, the NRC approved dry storage of spent nuclear fuel in NRC-approved casks under a

general license by publishing a final rule in 10 CFR part 72 entitled, “General License for Storage of Spent Fuel at Power Reactor Sites” (55 FR 29181; July 18, 1990). This rule also established a new Subpart L within 10 CFR part 72, entitled “Approval of Spent Fuel Storage Casks” containing procedures and criteria for obtaining NRC approval of spent fuel storage cask designs. The NRC subsequently issued a final rule on December 22, 1994 (59 FR 65920), that approved the Standardized NUHOMS® System (NUHOMS®-24P and -52B) cask designs and added them to the list of NRC-approved cask designs in § 72.214 as CoC No. 1004. Amendments 3, 5, and 6, respectively, added the -61BT, -32PT, and -24PHB designs to the Standardized NUHOMS® System.

#### Discussion

On March 29, 2002, and as supplemented on February 14, 2003, and July 10, 2003, the certificate holder, Transnuclear, Inc. (TN), submitted an application to the NRC to amend CoC No. 1004 to incorporate changes in support of the Amergen Corporation plans to load damaged fuel and additional fuel types at its Oyster Creek Nuclear Station. Specifically, the amendment will add damaged Boiling Water Reactor (BWR) spent fuel assemblies and additional fuel types to the authorized contents of the NUHOMS®-61BT Dry Shielded Canister under a general license. In addition, three minor changes to the TS were requested to correct inconsistencies and remove irrelevant references. No other changes to the Standardized NUHOMS® System were requested in this application. The NRC staff performed a detailed safety evaluation of the proposed CoC amendment request and found that an acceptable safety margin is maintained. In addition, the NRC staff has determined that there is still reasonable assurance that public health and safety and the environment will be adequately protected.

This direct final rule revises the Standardized NUHOMS® System listing in § 72.214 by adding Amendment 7 to CoC No. 1004. The amended TS are identified in the NRC staff's SER for Amendment 7.

The amended Standardized NUHOMS® System, when used in accordance with the conditions specified in the CoC, the TS, and NRC regulations, will meet the requirements of part 72; thus, adequate protection of public health and safety will continue to be ensured.

#### Discussion of Amendments by Section

##### Section 72.214 List of Approved Spent Fuel Storage Casks

Certificate No. 1004 is revised by adding the effective date of Amendment Number 7.

#### Procedural Background

This rule is limited to the changes contained in Amendment 7 to CoC No. 1004 and does not include other aspects of the Standardized NUHOMS® System. The NRC is using the “direct final rule procedure” to issue this amendment because it represents a limited and routine change to an existing CoC that is expected to be noncontroversial. Adequate protection of public health and safety continues to be ensured. The amendment to the rule will become effective on March 2, 2004. However, if the NRC receives significant adverse comments by January 20, 2004, 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**. A significant adverse comment is a comment which explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be 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, a substantive response is required when:

(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 January 20, 2004, 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 revising the NUHOMS®-61BT to incorporate changes in support of the Amergen Corporation plans to load damaged fuel and additional fuel types at its Oyster Creek Nuclear Station. Specifically, the amendment will add damaged BWR spent fuel assemblies and additional fuel types to the authorized contents of the NUHOMS®-61BT Dry Shielded Canister. In addition, the amendment includes three minor changes to the TS to correct inconsistencies and remove irrelevant references. 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 Jayne M. McCausland, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-6219, email [jmm2@nrc.gov](mailto:jmm2@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, 5, and 6, respectively, added the -61BT, -32PT, and -24PHB cask designs to the Standardized NUHOMS® System. On March 29, 2002, and as supplemented on February 14, 2003, and July 10, 2003, the certificate holder, Transnuclear, Inc. (TN), submitted an application to the NRC to amend CoC No. 1004 to incorporate changes in support of the Amergen Corporation plans to load damaged fuel and additional fuel types at its Oyster Creek Nuclear Station. Specifically, the amendment will add damaged BWR spent fuel assemblies and additional fuel types to the authorized contents of the NUHOMS®-61BT Dry Shielded Canister under a general license. In addition, the amendment includes three minor changes to the TS to correct inconsistencies and remove irrelevant references.

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.

Approval of the direct final rule will eliminate this problem and is consistent with previous NRC actions. Further, the direct final rule will have no adverse effect on public health and safety. This direct final rule has no significant identifiable impact or benefit on other Government agencies. Based on this discussion of the benefits and impacts of the alternatives, the NRC concludes that the requirements of the direct final rule are commensurate with the NRC’s responsibilities for public health and safety and the common defense and security. No other available alternative is believed to be as satisfactory, and thus, this action is recommended.

#### **Regulatory Flexibility Certification**

In accordance with the Regulatory Flexibility Act of 1980 [5 U.S.C. 605(b)], the NRC certifies that this rule will not, if issued, have a significant economic impact on a substantial number of small entities. This direct final rule affects only the licensing and operation of nuclear power plants, independent spent fuel storage facilities, and Transnuclear, Inc. The companies that own these plants do not fall within the scope of the definition of “small entities” set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in regulations

issued by the Small Business Administration at 13 CFR part 121.

#### **Backfit Analysis**

The NRC has determined that the backfit rule (10 CFR 50.109 or 10 CFR 72.62) does not apply to this direct final rule because this amendment does not involve any provisions that would impose backfits as defined. Therefore, a backfit analysis is not required.

#### **Small Business Regulatory Enforcement Fairness Act**

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs, Office of Management and Budget.

#### **List of Subjects in 10 CFR Part 72**

Administrative practice and procedure, Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

■ For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553; the NRC is adopting the following amendments to 10 CFR part 72.

#### **PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH-LEVEL RADIOACTIVE WASTE, AND REACTOR-RELATED WASTE GREATER THAN CLASS C WASTE**

■ 1. The authority citation for part 72 continues to read as follows:

**Authority:** Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 7902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100–203, 101

Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2244 (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

- 2. In § 72.214, Certificate of Compliance 1004 is revised to read as follows:

#### **§ 72.214 List of approved spent fuel storage casks.**

\* \* \* \* \*

Certificate Number: 1004.  
Initial Certificate Effective Date: January 23, 1995.  
Amendment Number 1 Effective Date: April 27, 2000.  
Amendment Number 2 Effective Date: September 5, 2000.  
Amendment Number 3 Effective Date: September 12, 2001.  
Amendment Number 4 Effective Date: February 12, 2002.  
Amendment Number 5 Effective Date: [Reserved].  
Amendment Number 6 Effective Date: December 22, 2003.  
Amendment Number 7 Effective Date: March 2, 2004.

SAR Submitted by: Transnuclear, Inc.

SAR Title: Final Safety Analysis Report for the Standardized NUHOMS® Horizontal Modular Storage System for Irradiated Nuclear Fuel.

Docket Number: 72–1004.  
Certificate Expiration Date: January 23, 2015.  
Model Number: Standardized NUHOMS®–24P, NUHOMS®–52B, NUHOMS®–61BT, NUHOMS®–32PT, and NUHOMS®–24PHB.

\* \* \* \* \*

Dated at Rockville, Maryland, this 19th day of November, 2003.

For the Nuclear Regulatory Commission.

**William F. Kane,**

*Acting Executive Director for Operations.*

[FR Doc. 03–31207 Filed 12–17–03; 8:45 am]

BILLING CODE 7590–01–P

#### **FEDERAL ELECTION COMMISSION**

#### **11 CFR Parts 4 and 111**

#### **[Notice 2003–25]**

#### **Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files**

**AGENCY:** Federal Election Commission.

**ACTION:** Statement of policy.

**SUMMARY:** The Commission is adopting an interim policy with respect to placing closed files on the public record in enforcement, administrative fines, and alternative dispute resolution cases. The categories of records that will be included in the public record are described below. This is an interim policy only; the Commission will conduct a rulemaking in this respect, with full opportunity for public comment, in 2004.

**EFFECTIVE DATE:** January 1, 2004.

#### **FOR FURTHER INFORMATION CONTACT:**

Vincent J. Convery, Jr., Assistant General Counsel, 999 E Street, NW., Washington, DC 20463, 202–694–1650 or 1–800–424–9530.

**SUPPLEMENTARY INFORMATION:** The “confidentiality provision” of the Federal Election Campaign Act, 2 U.S.C. 431 *et seq.*, (FECA), provides that: “Any notification or investigation under [Section 437g] shall not be made public by the Commission \* \* \* without the written consent of the person receiving such notification or the person with respect to whom such investigation is made.” 2 U.S.C. 437g(a)(12)(A). For approximately the first twenty-five years of its existence, the Commission viewed the confidentiality requirement as ending with the termination of a case. The Commission placed on its public record the documents that had been considered by the Commissioners in their determination of a case, minus those materials exempt from disclosure under the FECA or under the Freedom of Information Act, 5 U.S.C. 552, (FOIA). See 11 CFR 5.4(a)(4). In *AFL-CIO v. FEC*, 177 F.Supp.2d 48 (D.D.C. 2001), the district court disagreed with the Commission’s interpretation of the confidentiality provision and found that the protection of section 437g(a)(12)(A) does not lapse at the time the Commission terminates an investigation. 177 F.Supp.2d at 56.

Following that district court decision, the Commission placed on the public record only those documents that reflected the agency’s “final determination” with respect to enforcement matters. Such disclosure is required under section 437g(a)(4)(B)(ii) of the FECA and section (a)(2)(A) of the FOIA. In all cases, the final determination is evidenced by a certification of Commission vote. The Commission also continued to disclose documents that explained the basis for the final determination. Depending upon the nature of the case, those documents consisted of General Counsel’s Reports (frequently in redacted form); Probable Cause to Believe Briefs; conciliation agreements;