

including EPA's 40 CFR Part 190 and the recently revised 10 CFR Part 20. Additional information was also received from the petitioner. The petition and the comments received in response to the notice of filing are available for inspection in the NRC Public Document Room identified above.

### Reasons for Denial

The NRC has considered the petitioner's requested amendments, the public comments received, and other related information. The following discussion addresses each of the seven parts of the petitioner's requested amendments quoted above and the NRC's response.

Part 1: The petitioner requests that § 72.22(e)(2) be revised by adding "Specify the planned life of the ISFSI."

In the existing § 72.22(e), there is already the requirement for the applicant to specify the period of time for which the license is requested. The petitioner's request is therefore unnecessary and redundant because the applicant is already required to specify the planned life of the ISFSI, that is, the period of time for which the license is requested.

Part 2: The petitioner requests that wording of § 72.22(e)(3) be changed from "after the removal of spent fuel and/or high-level radioactive waste" to "if the spent fuel and/or the high-level radioactive waste is removed."

DOE is required by the Nuclear Waste Policy Act of 1982 to accept spent fuel for ultimate disposal. Moreover, the Commission made a generic determination in its Waste Confidence Decisions (September 18, 1990; 55 FR 38474 and August 31, 1984; 49 FR 34694) that there is reasonable assurance that safe disposal is technically feasible and will be available within the first quarter of the 21st century. The NRC therefore does not believe it is either necessary or appropriate to revise the existing wording of the regulation as requested by the petitioner.

Part 3 and Part 5: The petitioner requests a new paragraph (d) be added to § 72.42 to read "No license will be issued before 90 days after the final safety evaluation report (SER) is published." The petitioner believes that significant new issues will be contained in the final SER. The petitioner also requests that the following be added to § 72.46(d): "The time prescribed for a notice of opportunity for a hearing or petition for leave to intervene will extend from the notice of proposed action through 90 days after the final SER is published." The petitioner states

that if a notice of opportunity for a hearing or intervention is limited to a short period after the license application, interested parties may be prevented from obtaining a hearing based on the second or final SER. Information in the latter safety reports may impact on the advisability of issuing a license. The public should have the right and opportunity to comment on the final Safety Analysis Report (SAR) and SER before a license is issued.

An applicant for a site-specific dry cask storage license is required by § 72.24 to submit a detailed safety analysis report (SAR) with the application for license to the NRC. The applicant's SAR contains the detailed basis for requesting a license and, more particularly, for demonstrating compliance with NRC licensing standards. Following receipt of an application, the NRC publishes a notice of docketing an application for an ISFSI in the **Federal Register** as required by § 72.16(e). This notice, which may be combined with a notice of opportunity for a hearing, will typically indicate where a copy of the detailed SAR may be examined. An individual is allowed 30 days from the notice of proposed action to request that NRC grant a hearing in accordance with § 2.105 and § 2.1107. The 30-day period is provided so that the individual can review the license application and SAR and determine whether to request a hearing or intervention. The SAR will provide ample information for the individual to make the determination. At the same time, the NRC technical staff will commence its review of the SAR and other relevant documents and preparation of an SER. These documents and the license are placed in the NRC Public Document Room and the Local Public Document Room near the licensee site where they are also available for review. Should the SER contain a new issue (as opposed to new evidence on an issue apparent from the SAR) pertinent to the requested license, an interested party could seek late intervention or submit a late-filed contention as allowed by § 2.714. Finally, a party can petition the NRC to modify a license if new information comes to light after the license is issued. Thus, an individual has ample opportunity to participate in the ISFSI licensing process and to review and raise issues concerning the SER. Adding another 90-day delay in issuing the license would not significantly improve the process for licensing the safe operation of an ISFSI.

Part 4: The petitioner requests a new paragraph (v) be added to § 72.44(c)(3)

to read "dry storage casks must be monitored continuously for radioactivity at the exit cooling vents." The petitioner states that the exit vents are the most likely location of radioactive venting, and it is therefore logical that monitors would be required at these locations.

NRC regulations already require that the license (or Certificate of Compliance in the case of an NRC approved cask) include surveillance and monitoring requirements to determine when corrective actions need be taken to maintain safe storage conditions. See, e.g., 10 CFR 72.122(h)(4). In addition, radiation monitoring and environmental monitoring programs are also already required (e.g., 10 CFR 72.126), and these programs can be expected to detect any radiation leak in excess of NRC limits from an NRC-approved cask. Furthermore, the NRC-approved cask designs which use cooling vents and air flow between the fuel canister and the concrete biological shield for cooling also are designed to require double seal closure welds on the canister. These welds are inspected and the canister leak tested after being loaded. There is no known long-term degradation mechanisms which would cause the weld to fail within the design life of the canister. Therefore, the regulation proposed by the petitioner is not needed.

Part 5: The response to this part has been combined with the response to Part 3 and is addressed above.

Part 6: The petitioner requests that the following be added after the first sentence in § 72.72(a): "The records must include the history and condition of all spent fuel assemblies including a description of any defective fuel, such as fuel that is cracked, swollen, blistered, pinholed, or offgassing." The petitioner states that defective fuel can cause problems for safe storage; therefore, the history and condition of all spent fuel should be documented.

NRC regulations already require that the license (or Certificate of Compliance in the case of an NRC-approved cask) must include specifications for the conditions of fuel assemblies to be loaded into storage casks. See, e.g., 10 CFR 72.44(c). These regulations also require that licensees must demonstrate in procedures and records that the fuel load meets the cask design criteria. In addition, licensees must conduct loading operations in accordance with written procedures which must be specific enough to demonstrate that only fuel assemblies that meet the cask design criteria can be loaded. Licensees are required to maintain records, including the condition of the fuel, of