

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 72

RIN 3150—AG66

#### List of Approved Spent Fuel Storage Casks: TN-32 Revision

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations revising the Transnuclear, Inc. TN-32 cask system listing within the "List of Approved Spent Fuel Storage Casks" to include Amendment No. 1 to the Certificate of Compliance (CoC). This amendment will allow holders of power reactor operating licenses to store spent fuel in the cask under the revised conditions. The changes proposed for Amendment No. 1 to the TN-32 CoC include the addition of the B&W/FCF 17 x 17 Mark BW assembly to the Technical Specification for "Fuel to be stored in the TN-32 Cask," with revised bounding characteristics, and (2) a revised TS for "Site Specific Parameters and Analysis," to allow analysis of verification of allowable seismic loads.

**DATES:** Comments on the proposed rule must be received on or before January 4, 2001.

**ADDRESSES:** Submit comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attn: Rulemaking and Adjudications Staff.

Deliver comments to 11555 Rockville Pike, Rockville, MD, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

You may also provide comments via the NRC's interactive rulemaking website (<http://ruleforum.llnl.gov>). This site provides the capability to upload comments as files (any format) if your web browser supports that function. For information about the interactive rulemaking site, contact Ms. Carol

Gallagher (301) 415-5905; e-mail [CAG@nrc.gov](mailto:CAG@nrc.gov).

Certain documents related to this rule, including comments received, may be examined at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. These documents also may be viewed and downloaded electronically via the rulemaking website.

Documents created or received at the NRC after November 1, 1999, are also available electronically at the NRC's Public Electronic Reading Room on the Internet 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. For more information, contact the NRC Public Document Room (PDR) Reference staff at 1-800-397-4209, 301-415-4737, or by email to [pdrr@nrc.gov](mailto:pdrr@nrc.gov).

**FOR FURTHER INFORMATION CONTACT:** Roger W. Broseus, telephone (301) 415-7608, e-mail [rwb@nrc.gov](mailto:rwb@nrc.gov) of the Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

**SUPPLEMENTARY INFORMATION:** For additional information, see the Direct Final Rule published in the final rules section of this **Federal Register**.

#### Procedural Background

The NRC is also publishing this amendment as a direct final rule 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. This amendment is not considered to be a significant amendment by the NRC staff. The direct final rule will become effective on February 20, 2001. However, if the NRC receives significant adverse comments on the direct final rule by January 4, 2001, then the NRC will publish a notice to withdraw the direct final rule. If the direct final rule is withdrawn, the NRC will address the comments received in response to the proposed revisions in a subsequent final rule. Absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period for this action if the direct final rule is withdrawn.

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

Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Reporting and recordkeeping requirements, Security measures, Spent fuel.

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. 553; the NRC is proposing to adopt the following amendments to 10 CFR Part 72.

#### PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE 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. 104-48b, sec. 7902, 10b Stat. 31b3 (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 1021 is revised to read as follows:

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

\* \* \* \* \*

Certificate Number: 1021

Initial Certificate Effective Date: April 19, 2000  
 Amendment Number 1 Effective Date: February 20, 2001  
 SAR Submitted by: Transnuclear, Inc.  
 SAR Title: Final Safety Analysis Report for the TN-32 Dry Storage Cask  
 Docket Number: 72-1021  
 Certificate Expiration Date: April 19, 2020  
 Model Number: TN-32, TN-32A, TN-32B

\* \* \* \* \*

Dated at Rockville, Maryland, this 16th day of November, 2000.

For the Nuclear Regulatory Commission.

**William D. Travers,**

*Executive Director for Operations.*

[FR Doc. 00-30907 Filed 12-4-00; 8:45 am]

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## DEPARTMENT OF THE TREASURY

### Office of the Comptroller of the Currency

#### 12 CFR Part 5

[Docket No. 00-32]

RIN 1557-AB92

#### Operating Subsidiaries of Federal Branches and Agencies

**AGENCY:** Office of the Comptroller of the Currency, Treasury.

**ACTION:** Proposed rule.

**SUMMARY:** Consistent with the principle of national treatment for foreign banks operating in the United States established by the International Banking Act of 1978, the Office of the Comptroller of the Currency (OCC) proposes to enable a Federal branch or agency to establish or maintain an operating subsidiary in generally the same manner that a national bank may establish or control an operating subsidiary.

**DATES:** Comments must be received by February 5, 2001.

**ADDRESSES:** Please direct comments to: Office of the Comptroller of the Currency, Public Information Room, 250 E Street, SW, Mail Stop 1-5, Washington, DC, 20219, Attention: Docket No. 00-32. In addition, comments may be sent by facsimile transmission to fax number 202-874-5274, or by electronic mail to [regs.comments@occ.treas.gov](mailto:regs.comments@occ.treas.gov). Comments may be inspected and photocopied at the OCC's Public Reference Room, 250 E. Street, SW, Washington, DC, between 9 a.m. and 4:30 p.m. on business days. You can make an appointment to

inspect the comments by calling 202-874-5043.

#### FOR FURTHER INFORMATION CONTACT:

Martha Clarke, Senior Attorney, International Activities Division, 202-874-0680; Stuart Feldstein, Assistant Director, Legislative and Regulatory Activities Division, 202-874-5090; Heidi M. Thomas, Senior Attorney, Legislative and Regulatory Activities Division, 202-874-5090, or Carlos Hernandez, Senior International Advisor, International Banking and Finance Division, 202-874-4730.

#### SUPPLEMENTARY INFORMATION:

##### Background

The International Banking Act of 1978 (12 U.S.C. 3101 et seq.) (the IBA) applies the national treatment principle to the regulation of foreign bank activities in the United States. Specifically, under the national treatment principle established by the IBA, the operations of a foreign bank conducted through a Federal branch or agency shall be conducted with the same rights, privileges, conditions, and limitations that apply to a national bank operating at the same location, subject to the OCC's regulations.<sup>1</sup> 12 U.S.C. 3102(b). For example, the powers of national banks that are set forth in the National Bank Act, such as lending money and engaging in certain securities and insurance sales activities, are not expressly repeated in the IBA but are provided to Federal branches and agencies by operation of section 3102(b).

Congress has subsequently enacted other legislation that confirms that the IBA need not be amended each time there is a change to the banking laws that affects national banks, unless the IBA prohibits or limits that specific activity. For example, when Congress authorized broader leasing authority for national banks in 1987, Federal branches and agencies could avail themselves of this authority by operation of section 3102(b) of the IBA. Thus, it is not necessary to amend the IBA to authorize Federal branches and agencies to take advantage of powers authorized for national banks. Consistent with these principles, this proposal provides that a Federal branch or agency may establish an operating subsidiary to the same extent as a similarly situated national bank.

##### Description of the Proposal

12 CFR 5.34 sets forth application or notice procedures for national banks

engaging in activities through an operating subsidiary and lists the activities that qualify for the notice procedures. The proposal provides that § 5.34 applies to a Federal branch or agency that seeks to establish or maintain any subsidiary that a national bank would be authorized to establish or control under § 5.34. The procedures of § 5.34 apply to the Federal branch or agency with certain modifications that reflect the differences in the nature of Federal branches and agencies compared to national banks.

Section 5.34(e)(5)(iv) provides that a national bank that is well capitalized and well managed may acquire or establish an operating subsidiary, or perform a new activity in an existing operating subsidiary, by filing a notice with the OCC within 10 days after acquiring or establishing the subsidiary, or commencing the activity, if the activities are listed in § 5.34(e)(5)(v). National banks that do not meet the well capitalized and well managed criteria also may acquire or establish an operating subsidiary by filing an application with, and receiving approval from, the OCC. 12 CFR 5.34(e)(5)(i). Finally, § 5.34(e)(5)(vi) provides that a national bank may acquire or establish an operating subsidiary without filing an application or providing notice to the OCC, if the bank is adequately capitalized or well capitalized and the activities of the new subsidiary meet certain conditions.

Under the proposal, a Federal branch or agency is considered well capitalized for purposes of § 5.34 if it meets the definition of "well capitalized" that the OCC uses when authorizing an extended examination cycle for certain Federal branches and agencies. *See* 12 CFR 4.7(b)(1)(iii).<sup>2</sup> Section 4.7(b)(1)(iii) requires that: a foreign bank's most recently reported capital adequacy position consists of, or is equivalent to, Tier 1 and total risk-based capital ratios of at least 6 percent and 10 percent, respectively, on a consolidated basis; or the Federal branch or agency has maintained on a daily basis, over the past three quarters, eligible assets in an amount not less than 108 percent of the preceding quarter's average third party liabilities (determined consistent with applicable Federal and state law), and

<sup>2</sup> 12 CFR 4.7 generally provides that the OCC may conduct a full-scope, on-site examination of certain well capitalized and well managed Federal branches and agencies at least once during each 18-month period, rather than each 12-month period. The FRB applies the same capital and management requirements when determining whether a State branch or agency will be subject to the 18-month examination schedule. 12 CFR 211.26(c)(2).

<sup>1</sup> *See Conference of State Bank Supervisors v. Conover*, 715 F.2d 604, 615 (D.C. Cir. 1983) (confirming the OCC's interpretation of how the national treatment principle applies).