

# 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

[NRC–2019–0195]

RIN 3150–AK38

#### List of Approved Spent Fuel Storage Casks: NAC International MAGNASTOR® System, Certificate of Compliance No. 1031, Amendment No. 8

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend its spent fuel storage regulations by revising the NAC International, Inc. (NAC) MAGNASTOR® System listing within the “List of approved spent fuel storage casks” to include Amendment No. 8 to Certificate of Compliance No. 1031. Amendment No. 8 revises the technical specifications to delete Technical Specification A5.6 and revise the maximum pellet diameter in the technical specifications, Appendix B, Table B2–3, from 0.325 inches to 0.3255 inches for the CE16H1 hybrid fuel assembly, which includes Combustion Engineering 16×16 fuel assemblies.

**DATES:** Submit comments by February 10, 2020. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date.

**ADDRESSES:** You may submit comments by any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC–2019–0195. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov). For technical questions contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *Email comments to:* [Rulemaking.Comments@nrc.gov](mailto:Rulemaking.Comments@nrc.gov). If you

do not receive an automatic email reply confirming receipt, then contact us at 301–415–1677.

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

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

- *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301–415–1677.

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the **SUPPLEMENTARY INFORMATION** section of this document.

#### FOR FURTHER INFORMATION CONTACT:

Bernard White, Office of Nuclear Material Safety and Safeguards; telephone: 301–415–6577; email: [Bernard.White@nrc.gov](mailto:Bernard.White@nrc.gov) or Edward M. Lohr, Office of Nuclear Material Safety and Safeguards; telephone: 301–415–0253; email: [Edward.Lohr@nrc.gov](mailto:Edward.Lohr@nrc.gov). Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

#### SUPPLEMENTARY INFORMATION:

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#### I. Obtaining Information and Submitting Comments

##### A. Obtaining Information

Please refer to Docket ID NRC–2019–0195 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC–2019–0195.

- *NRC’s Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “Begin Web-based ADAMS Search.” For

problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the “Availability of Documents” section.

- *NRC’s PDR:* You may examine and purchase copies of public documents at the NRC’s PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

##### B. Submitting Comments

Please include Docket ID NRC–2019–0195 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <https://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

#### II. Rulemaking Procedure

Because the NRC considers this action to be non-controversial, the NRC is publishing this proposed rule concurrently with a direct final rule in the Rules and Regulations section of this issue of the **Federal Register**. The direct final rule will become effective on March 24, 2020. However, if the NRC receives significant adverse comments on this proposed rule by February 10, 2020, then the NRC will publish a document that withdraws the direct final rule. If the direct final rule is withdrawn, the NRC will address the comments received in response to these 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 on this action in the event the direct final rule is withdrawn.

A significant adverse comment is a comment where the commenter 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 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.

(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 to make a change (other than editorial) to the rule, certificate of compliance, or technical specifications.

For procedural information and the regulatory analysis, see the direct final rule published in the Rules and Regulations section of this issue of the **Federal Register**.

**III. Background**

Section 218(a) of the Nuclear Waste Policy Act of 1982, as amended, requires that “[t]he Secretary [of the Department of Energy] 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 Nuclear Waste Policy Act states, in part, that “[the Commission] shall, by rule, establish procedures for the licensing of any technology approved by the Commission under section 219(a) [sic: 218(a)] for use at the site of any civilian nuclear power reactor.”

To implement this mandate, the Commission approved dry storage of spent nuclear fuel in NRC-approved casks under a general license by publishing a final rule which added a new subpart K in part 72 of title 10 of

the *Code of Federal Regulations* (10 CFR) 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 in 10 CFR part 72 entitled “Approval of Spent Fuel Storage Casks,” which contains procedures and criteria for obtaining NRC approval of spent fuel storage cask designs. The NRC subsequently issued a final rule on November 21, 2008, that approved the NAC MAGNASTOR® System design and added it to the list of NRC-approved cask designs in § 72.214 as Certificate of Compliance No. 1031 (73 FR 70587).

**IV. Plain Writing**

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, “Plain Language in Government Writing,” published June 10, 1998 (63 FR 31885). The NRC requests comment on the proposed rule with respect to the clarity and effectiveness of the language used.

**V. Availability of Documents**

The documents identified in the following table are available to interested persons through the following method.

Document	ADAMS Accession No.
Submission of NAC International MAGNASTOR® System Thermal Performance Test Data Satisfying the Requirements of Certificate of Compliance, Appendix A, Section 5.6, September 12, 2018 .....	ML18257A079
NRC Letter, Receipt of Test Data for Thermal Performance Test for MAGNASTOR® System for Certificate of Compliance No. 1031—Acknowledgment Letter, October 25, 2018 .....	ML18299A008
Letter from NAC International Transmitting Amendment No. 8 Request and Supplement Information, November 2, 2018 .....	ML18331A180
NRC Letter, Application for Amendment No. 8 Request for Additional Information, February 22, 2019 .....	ML19056A057
Letter from NAC International Transmitting Supplement to Amendment No. 8 Request, June 14, 2019 .....	ML19171A269
Letter from NAC International Transmitting Supplement to Amendment No. 8 Request, July 16, 2019 .....	ML19199A151
Memorandum to J. Cai re: User Need for Rulemaking for Amendment No. 8, September 26, 2019 .....	ML19228A239
Proposed Certificate of Compliance No. 1031 Amendment No. 8, Technical Specifications, Appendix A .....	ML19228A235
Proposed Certificate of Compliance No. 1031 Amendment No. 8, Technical Specifications, Appendix B .....	ML19228A236
Draft Certificate of Compliance 1031, Amendment No. 8 .....	ML19228A237
Certificate of Compliance No. 1031 Amendment No. 8, Preliminary Safety Evaluation Report .....	ML19228A238

The NRC may post materials related to this document, including public comments, on the Federal Rulemaking website at <https://www.regulations.gov> under Docket ID NRC–2019–0195. The Federal Rulemaking website allows you to receive alerts when changes or additions occur in a docket folder. To subscribe: (1) Navigate to the docket folder (NRC–2019–0195); (2) click the “Sign up for Email Alerts” link; and (3) enter your email address and select how frequently you would like to receive emails (daily, weekly, or monthly).

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

Administrative practice and procedure, Hazardous waste, Indians, Intergovernmental relations, Nuclear energy, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

Dated at Rockville, Maryland, this 13th day of December 2019.

For the Nuclear Regulatory Commission.

**Margaret M. Doane,**

*Executive Director for Operations.*

[FR Doc. 2019–28374 Filed 1–8–20; 8:45 am]

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