



## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 72 and 73

[Docket No. PRM-72-6; NRC-2009-0558; NRC-2008-0649]

RIN 3150-AI78

### Independent Spent Fuel Storage Installation Security Requirements

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Discontinuation of rulemaking activity; denial of petition for rulemaking.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is discontinuing the rulemaking activity, “Independent Spent Fuel Storage Installation Security Requirements for Radiological Sabotage,” and denying Request 11 in the associated petition for rulemaking (PRM), PRM-72-6. The purpose of this action is to inform members of the public that this rulemaking activity is being discontinued and to provide a brief discussion of the NRC’s decision to discontinue the rulemaking and deny the petition. The rulemaking activity will no longer be reported in the NRC’s portion of the Unified Agenda of Regulatory and Deregulatory Actions (the Unified Agenda).

**DATES:** As of [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*], the rulemaking activity discussed in this document is discontinued and Request 11 in the petition for rulemaking is denied.

**ADDRESSES:** Please refer to Docket IDs NRC-2009-0558 or NRC-2008-0649 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-2009-0558 or NRC-2008-0649. Address questions about NRC dockets to Angella Love Blair; email: [angella.loveblair@nrc.gov](mailto:angella.loveblair@nrc.gov). For technical questions, contact the individuals listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **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, at 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:** The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov) or call 1-800-397-4209 or 301-415-4737, between 8 a.m. and 4 p.m. eastern time, Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Gregory Trussell, Office of Nuclear Material Safety and Safeguards; telephone: 301-415-6244; email: [Gregory.Trussell@nrc.gov](mailto:Gregory.Trussell@nrc.gov); or Johari Moore, Office of Nuclear Security and Incident Response; telephone: 301-287-3787; email: [Johari.Moore@nrc.gov](mailto:Johari.Moore@nrc.gov). Both are staff of the U.S. Nuclear Regulatory Commission, Washington DC 20555-0001.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

## A. Independent Spent Fuel Storage Installation (ISFSI) Security Requirements

### Rulemaking

In SECY-07-0148, “Independent Spent Fuel Storage Installation Requirements for Radiological Sabotage,” dated August 28, 2007, the NRC staff proposed to develop new security requirements to update the security regulations for ISFSIs. Following subsequent analysis, as directed by the Commission in staff requirements memorandum (SRM) SRM-COMKLS-18-003, “Fiscal Year 2020 Budget to the Commission,” dated August 22, 2018, and SRM-SECY-19-0100, “Discontinuation of Rulemaking-Independent Spent Fuel Storage Installation Security Requirements,” dated August 4, 2021, the staff provided SECY-22-0098, “Rulemaking Options for Revising Security Requirements for Facilities Storing Spent Nuclear Fuel and High-Level Radioactive Waste.”

In SECY-22-0098, the staff outlined its determination that the current regulatory framework, including the additional requirements in the post-9/11 security orders, provides reasonable assurance of adequate protection of public health and safety for facilities storing spent nuclear fuel and high-level radioactive waste and recommended that the Commission approve discontinuing the rulemaking directed by the Commission in SRM-SECY-07-0148, “Staff Requirements – SECY-07-0148 – Independent Spent Fuel Storage Installation Security Requirements for Radiological Sabotage.” In SRM-SECY-22-0098, dated October 4, 2023, the Commission approved discontinuing the rulemaking.

## B. Petition for Rulemaking

Section 2.802 of title 10 of the *Code of Federal Regulations* (10 CFR), “Petition for rulemaking,” provides an opportunity for any interested person to petition the Commission to issue, amend, or rescind any regulation. On November 24, 2008, the NRC received a PRM filed by Sandra Gavutis (the petitioner), Executive Director of C-10 Research and Education Foundation, Inc. The petitioner requested that the NRC amend

its regulations concerning dry cask safety, security, transferability, and longevity. The petitioner made 12 specific requests in the petition. The NRC docketed the petition as PRM-72-6 and documented it in the *Federal Register* for public comment on March 3, 2009 (74 FR 9178). The staff discussed its review of the petition and the comments received in SECY-12-0079, “Partial Closure of Petition for Rulemaking (PRM-72-6) C-10 Research and Education Foundation, Inc.,” dated June 1, 2012. The Commission approved the staff’s recommendation for partial closure of the PRM in SRM-SECY-12-0079, dated September 7, 2012. In a *Federal Register* document dated October 16, 2012 (77 FR 63254), the NRC denied 9 of the petitioner’s 12 specific requests (Requests 1–3, 5–8, 10, and 12), reserved 2 requests for future rulemaking determination (Requests 4 and 9), and accepted 1 request (Request 11) for consideration as part of the ISFSI security requirements rulemaking effort. Subsequently, the NRC announced its final decision to deny Requests 4 and 9 in the *Federal Register* on June 24, 2016 (81 FR 41258). As stated in the petition, Request 11 in PRM-72-6 requested that the NRC amend its regulations to do the following:

[R]equire Hardened On-Site Storage (HOSS) at all nuclear power plants as well as away-from-reactor dry cask storage sites: that all nuclear industry interim on-site or off-site dry cask storage installations or ISFSIs be fortified against attack. In addition all sites should be safeguarded against accident and age-related leakage.

In SECY-19-0100, the staff recommended that the Commission deny Request 11 in PRM-72-6. Following the receipt of SRM-SECY-22-0098, the NRC staff submitted SECY-24-0006, “Denial of Request 11 in PRM-72-6 as Part of Notice Discontinuing Independent Spent Fuel Storage Installation Security Requirements Rulemaking,” dated January 22, 2024. In SRM-SECY-24-0006, dated January 31, 2024, the Commission approved the staff’s recommendation.

## **II. Discussion**

#### A. Discontinuation of Rulemaking Activity

In SRM-SECY-22-0098, dated October 4, 2023, the Commission approved discontinuing the rulemaking. The NRC finds that the current regulatory framework provides reasonable assurance of adequate protection of public health and safety for facilities storing spent nuclear fuel and high-level radioactive waste, regardless of the ISFSI license type or location. The NRC's experience shows that the staff, licensees, applicants, and other stakeholders have been able to understand and apply the existing ISFSI security requirements, and the NRC has successfully addressed the appropriate security considerations for new license applicants on a case-by-case basis.

#### B. Denial of Petition for Rulemaking

Following the receipt of SRM-SECY-22-0098, the NRC staff submitted SECY-24-0006, "Denial of Request 11 In PRM-72-6 as Part of Notice Discontinuing Independent Spent Fuel Storage Installation Security Requirements Rulemaking," dated January 22, 2024. The staff recommended that the Commission deny Request 11 in PRM-72-6. The staff also noted that, in the 2012 *Federal Register* document that accepted Request 11 for consideration within the context of the ISFSI security rulemaking effort (77 FR 63254, 63256), the NRC stated that it has not mandated hardened on-site storage because the NRC "has, consistently, found that the robust nature of dry cask storage systems approved by the NRC under 10 CFR part 72 assures the protection of public health, safety, and security." This statement was made in 2012 in response to public comments on Request 11. In SRM-SECY-24-0006, dated January 31, 2024, the Commission approved the staff's recommendation. The NRC is denying Request 11 in PRM-72-6 because the NRC has found that the existing security requirements for ISFSIs, together with the additional requirements in the post-9/11 security orders, provide reasonable assurance of adequate protection of public health and safety.

### III. Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

DOCUMENT	ADAMS ACCESSION NO. OR FEDERAL REGISTER CITATION
Petition for Rulemaking, "The C-10 Research and Education Foundation Inc. Petition for NRC Rulemaking to Upgrade Interim Dry Cask Storage Code Requirements" (November 24, 2008)	ML083470148
10 CFR Part 72, "C-10 Research and Education Foundation, Inc.; Receipt of Petition for Rulemaking" (March 3, 2009)	74 FR 9178
SECY-12-0079, "Partial Closure of Petition for Rulemaking (PRM-72-6) C-10 Research and Education Foundation, Inc." (September 7, 2012)	ML12251A238
10 CFR Part 72, "Petition for Rulemaking Submitted by C-10 Research and Education Foundation, Inc.: Petition for rulemaking; partial consideration in the rulemaking process" (October 16, 2012)	77 FR 63254
10 CFR Part 72, "Petition for Rulemaking Submitted by C-10 Research and Education Foundation, Inc.: Petition for rulemaking; denial" (June 24, 2016)	81 FR 41258
SRM-SECY-07-0148, "Staff Requirements – SECY-07-0148 – Independent Spent Fuel Storage Installation Security Requirements for Radiological Sabotage" (December 18, 2017)	ML073530119
SRM-COMKLS-18-003, "Fiscal Year 2020 Budget to the Commission" (August 22, 2018)	ML18234A238 (nonpublic, budget information)
SECY-19-0100, "Discontinuation of Rulemaking-Independent Spent Fuel Storage Installation Security Requirements" (October 9, 2019)	ML19172A301 (package)
SRM-SECY-19-0100, "Staff Requirements - SECY-19-0100 - Discontinuation of Rulemaking Independent Spent Fuel Storage Installation Security Requirements" (August 4, 2021)	ML21217A045
SECY-22-0098, "Rulemaking Options for Revising Security Requirements for Facilities Storing Spent Nuclear Fuel and High-Level Radioactive Waste" (November 30, 2022)	ML22243A143 (package)
SRM-SECY-22-0098, "Staff Requirements – SECY-22-0098 – Rulemaking Options for Revising Security Requirements for Facilities Storing Spent Nuclear Fuel and High-Level Radioactive Waste" (October 4, 2023)	ML23277A281
SECY-07-0148, "Independent Spent Fuel Storage Installation Requirements for Radiological Sabotage" (August 28, 2007)	ML080250294

SRM-SECY-24-0006, "Denial of Request 11 in Petition for Rulemaking (PRM)-72-6 as Part of Notice Discontinuing Independent Spent Fuel Storage Installation Security Requirements Rulemaking" (January 31, 2024)	ML24031A573
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#### **IV. Conclusion**

The NRC is discontinuing the ISFSI security requirements rulemaking and is denying Request 11 in PRM-72-6 for the reasons discussed in this document. In the next edition of the Unified Agenda, the NRC will update the entry for this rulemaking activity and reference this document to indicate that the rulemaking activity is no longer being pursued. This rulemaking activity will appear in the Completed Actions section of that edition of the Unified Agenda but will not appear in future editions. If the NRC decides to pursue similar or related rulemaking activities in the future, it will inform the public through new rulemaking entries in the Unified Agenda.

Dated: May 2, 2024.

For the Nuclear Regulatory Commission.

Raymond Furstenau,  
Acting Executive Director for Operations.

[FR Doc. 2024-10480 Filed: 5/13/2024 8:45 am; Publication Date: 5/14/2024]