

the affected establishments will therefore not be significant.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. States and local jurisdictions are preempted by the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA) from imposing any marking or packaging requirements on federally inspected meat and meat products or poultry products that are in addition to, or different than, those imposed under the FMIA and PPIA. States and local jurisdictions may, however, exercise concurrent jurisdiction over meat and poultry products that are outside official establishments for the purpose of preventing the distribution of meat or poultry products that are misbranded or adulterated under the FMIA or PPIA. States and local jurisdictions also may exercise concurrent jurisdiction, for the same purpose, over imported meat and poultry products that are not at an official establishment after the entry of such imported articles into the United States.

This final rule is not intended to have retroactive effect.

There are no applicable administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this final rule. However, the administrative procedures specified in 9 CFR 306.5 and 381.35 must be exhausted prior to any judicial challenge of the application of the provisions of this final rule, if the challenge involves any decision of an FSIS employee relating to inspection services provided under the FMIA or PPIA.

Additional Public Notification

Public awareness of all stages of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this final rule, FSIS will announce it and provide copies of this **Federal Register** publication in the weekly FSIS Constituent Update. FSIS communicates the Constituent Update by fax to over 300 organizations and individuals and makes it available on line through the FSIS web page located at <http://www.fsis.usda.gov>. The update provides information on FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and other information that could affect or would be of interest to the Agency's constituents/stakeholders. The constituent fax list consists of industry, trade, and farm groups, consumer

interest groups, allied health professionals, scientific professionals, and other individuals who have requested to be included. Through these various channels, FSIS is able to provide information to a much broader, more diverse audience. For more information and to be added to the constituent fax list, readers of this document may fax their requests to the Congressional and Public Affairs Office, at (202) 720-5704.

List of Subjects

9 CFR Part 317

Meat inspection, Reporting and recordkeeping requirements.

9 CFR Part 381

Poultry and poultry products, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, FSIS is amending 9 CFR, chapter III, the Federal meat and poultry inspection regulations, as follows:

PART 317—LABELING, MARKING DEVICES, AND CONTAINERS

1. The authority citation for part 317 continues to read as follows:

Authority: 21 U.S.C. 601-695; 7 CFR 2.18, 2.53.

2. Paragraph (b) of § 317.21 is revised as follows:

§ 317.21 Scales; testing of.

(a) * * *

(b) The operator of each official establishment shall display on or near each scale a valid certification of the scale's accuracy from a State or local government's weights and measures authority or from a State registered or licensed scale repair firm or person, or shall have alternative documented procedures showing that the scale has been tested for accuracy in accordance with the requirements of NIST Handbook 44.

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

3. The authority citation for part 381 continues to read as follows:

Authority: 7 U.S.C. 138f, 450; 21 U.S.C. 451-470; 7 CFR 2.18, 2.53.

4. Paragraph (b) of § 381.121d is revised as follows:

§ 381.121d Scales; testing of.

(a) * * *

(b) The operator of each official establishment shall display on or near each scale a valid certification of the scale's accuracy from a State or local

government's weights and measures authority or from a State registered or licensed scale repair firm or person, or shall have alternative documented procedures showing that the scale has been tested for accuracy in accordance with the requirements of NIST Handbook 44.

Done at Washington, DC, on October 10, 2001.

Thomas J. Billy,
Administrator.

[FR Doc. 01-25922 Filed 10-15-01; 8:45 am]

BILLING CODE 3410-DM-P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150-AG77

List of Approved Spent Fuel Storage Casks: NAC-UMS Revision

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations revising the NAC-UMS Universal Storage System listing within the "List of Approved Spent Fuel Storage Casks" to include Amendment No. 2 to Certificate of Compliance Number 1015. Amendment No. 2 will add miscellaneous spent fuel related components to the approved contents list for the NAC-UMS Universal Storage System and change the required actions in response to a failure of the cask heat removal system. Several other minor administrative changes will be made, which are discussed in Section 12 of the Safety Evaluation Report. Specific changes will be made to Technical Specifications (TS) to permit the storage of these components and the other requested changes. Changes will also be made to Conditions 1b and 6 of the Certificate of Compliance.

DATES: The final rule is effective December 31, 2001, unless significant adverse comments are received by November 15, 2001. 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. If the rule is withdrawn, timely notice will be published in the **Federal Register**.

ADDRESSES: Submit comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-

0001, Attn: Rulemakings and Adjudications Staff. Deliver comments to 11555 Rockville Pike, Rockville, MD, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

Certain documents related to this rulemaking, as well as all public comments received on this rulemaking, may be viewed and downloaded electronically via the NRC's rulemaking website at <http://ruleforum.llnl.gov>. You may also provide comments via this website by uploading 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; email CAG@nrc.gov.

Certain documents related to this rule, including comments received by the NRC, may be examined at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. For more information, contact the NRC Public Document Room (PDR) Reference staff at 1-800-397-4209, 301-415-4737 or by email to pdr@nrc.gov.

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 Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. An electronic copy of the proposed Certificate of Compliance (CoC) and preliminary safety evaluation report (SER) can be found under ADAMS Accession No. ML011990392. 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 email to pdr@nrc.gov.

CoC No. 1015, the revised TS, the underlying SER for Amendment No. 2, and the Environmental Assessment 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 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.

FOR FURTHER INFORMATION CONTACT: Jayne M. McCausland, telephone (301) 415-6219, email 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 October 19, 2000 (65 FR 62581) that approved the NAC-UMS cask design by adding it to the list of NRC-approved cask designs in § 72.214 as Certificate of Compliance Number (CoC No.) 1015.

Discussion

On October 17, 2000, and as supplemented on December 7, 2000, April 27, 2001, July 5, 2001, July 18, 2001, July 19, 2001, July 26, 2001, and August 1, 2001, the applicant (NAC International, Inc.) submitted an application and associated Safety Analysis Report to the NRC to amend CoC No. 1015 to add miscellaneous spent fuel related components to the approved contents list for the NAC-UMS Universal Storage System and to change the required actions in response to a failure of the cask heat removal system. The applicant requested changes to the authorized contents to include components associated with the spent fuel assemblies, as follows:

(1) A segment of an In-Core Instrumentation (ICI) string located within a fuel assembly.

(2) Three plutonium-beryllium (Pu-Be) startup sources located within the fuel assemblies.

(3) Two antimony-beryllium (Sb-Be) sources located within the fuel assemblies.

(4) Control Element Assembly (CEA) Finger Tip located within a fuel assembly.

The applicant also requested deletion of the technical specification requirement to place the canister in the transfer cask if the vertical concrete cask's vents cannot be unblocked within the required completion time because the risk associated with the concrete cask not performing its thermal function is minimal. Other minor administrative changes were also requested. These minor changes are discussed in Section 12 of the SER.

CoC Condition 1b will be changed to allow storage of pressurized water reactor (PWR) fuel assemblies that may include components associated with the assemblies. Also, CoC Condition 6 will be changed to more clearly allow storage of the fuel related components.

The NRC staff performed a detailed safety evaluation of the proposed CoC amendment request and found that the requested changes do not reduce the safety margin. In addition, the NRC staff has determined that the changes do not pose any increased risk to public health and safety.

This direct final rule revises the NAC-UMS cask design listing in § 72.214 by adding Amendment No. 2 to CoC No. 1015. The amendment consists of adding miscellaneous spent fuel related components to the approved contents list for the NAC-UMS Universal Storage System and changing the required actions in response to a failure of the cask heat removal system. Also, other administrative changes will be made. Specific changes will be made to TS SR 3.1.2.1, SR 3.1.3.1, LCO 3.1.6, SR 3.2.1.1, A 5.3, A 5.7, B2.1, B 2.1.3, and Tables B2-2, B2-6, and B2-7 to permit the storage of these components and the other requested changes. Other Technical Specification sections will be changed for correction of typographical, spelling, and other minor editorial errors.

The amended NAC-UMS cask system, when used under 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

§ 72.214 List of approved spent fuel storage casks.

Certificate No. 1015 is revised by adding the effective date of Amendment Number 2.

Procedural Background

This rule is limited to the changes contained in Amendment 2 to CoC No. 1015 and does not include other aspects of the NAC-UMS cask system design. 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 December 31, 2001. However, if the NRC receives significant adverse comments by November 15, 2001, 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 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, in a substantive response:

(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 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 to the CoC or TS.

Any comments that are received by the NRC will be addressed in a subsequent final rule. The NRC will not initiate a second comment period on this action.

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 NAC-UMS cask system design listed in § 72.214 (List of 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, is not a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required. The rule amends the CoC for the NAC-UMS cask 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. The amendment modifies the present cask system design

to add miscellaneous spent fuel related components to the approved contents list for the NAC-UMS Universal Storage System and changes the required actions in response to a failure of the cask heat removal system. Other minor administrative changes are also made. The environmental assessment 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 environmental assessment 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.

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

If a means used to impose an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

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 October 19, 2000 (65 FR 62581), the NRC issued an amendment to Part 72 that approved the NAC-UMS cask design by adding it to the list of NRC-approved cask designs in § 72.214. On October 17, 2000, and as supplemented on April 27, 2001, July 5, 2001, July 18, 2001, July 19, 2001, July 26, 2001, and August 1, 2001, NAC International, Inc., submitted an application to the NRC to amend CoC No. 1015 to add miscellaneous spent fuel related components to the approved contents list for the NAC-UMS Universal Storage System and to change

the required actions in response to a failure of the cask heat removal system. Other minor administrative changes were also requested.

This direct final rule revises the NAC-UMS cask design listing in § 72.214 by adding Amendment No. 2 to CoC No. 1015. The amendment consists of adding miscellaneous spent fuel related components to the approved contents list for the NAC-UMS Universal Storage System and changing the required actions in response to a failure of the cask heat removal system. Also, other administrative changes will be made. Specific changes will be made to TS SR 3.1.2.1, SR 3.1.3.1, LCO 3.1.6, SR 3.2.1.1, A 5.3, A 5.7, B2.1, B 2.1.3, and Tables B2-2, B2-6, and B2-7 to permit the storage of these components and the other requested changes. Other Technical Specification sections will be changed for correction of typographical, spelling, and other minor editorial errors. Changes will also be made to Conditions 1b and 6 of the CoC. The alternative to this action is to withhold approval of this amended cask system design and issue an exemption to each general license. This alternative would cost both the NRC and the utilities more time and money because each utility would have to pursue an exemption.

The direct final rule eliminates the described problem and is consistent with previous NRC actions. Further, the direct final rule has 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 the above 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 does not 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 NAC International, 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 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. 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 1015 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1015.

Initial Certificate Effective Date: November 20, 2000.

Amendment Number 1 Effective Date: February 20, 2001.

Amendment Number 2 Effective Date: December 31, 2001.

SAR Submitted by: NAC International, Inc.

SAR Title: Final Safety Analysis Report for the NAC-UMS Universal Storage System.

Docket Number: 72-1015.

Certificate Expiration Date: November 20, 2020.

Model Number: NAC-UMS.

* * * * *

Dated at Rockville, Maryland, this 1st day of October, 2001.

For the Nuclear Regulatory Commission.

William D. Travers,

Executive Director for Operations.

[FR Doc. 01-25890 Filed 10-15-01; 8:45 am]

BILLING CODE 7590-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000-NM-146-AD; Amendment 39-12458; AD 2001-20-10]

RIN 2120-AA64

Airworthiness Directives; Boeing Model 737 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 737 series airplanes, that requires inspection of wire bundles in certain junction boxes in the main wheel well to detect chafing or damage, and follow-on actions. The actions specified by this AD are intended to prevent wire damage, which could result in arcing