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NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC–2017–0138]

RIN 3150–AK05

List of Approved Spent Fuel Storage Casks: TN Americas LLC, Standardized NUHOMS® Horizontal Modular Storage System, Certificate of Compliance No. 1004, Renewal of Initial Certificate and Amendment Nos. 1 Through 11 and 13, Revision 1, and 14

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is confirming the effective date of December 11, 2017, for the direct final rule that was published in the **Federal Register** on September 27, 2017. This direct final rule amended the NRC's spent fuel storage regulations by revising the Standardized NUHOMS® Horizontal Modular Storage System (NUHOMS® System) listing within the ''List of approved spent fuel storage casks'' to renew, for an additional 40-year period, the initial certificate and Amendment Nos. 1 through 11 and 13, Revision 1, and Amendment No. 14 of Certificate of Compliance (CoC) No. 1004. These changes require, among other things, that all future amendments and revisions to this CoC include evaluations of the impacts to aging management activities (*i.e.,* time-limited aging analyses (TLAAs) and aging management programs (AMPs)) to ensure that they remain adequate to timely identify any changes to spent fuel storage cask systems, structures, and components (SSCs) within the scope of the renewal.

DATES: *Effective date:* The effective date of December 11, 2017, for the direct final rule published September 27, 2017 (82 FR 44879), is confirmed.

ADDRESSES: Please refer to Docket ID NRC–2017–0138 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 Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0138. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@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 *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then 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.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time it is mentioned in the **SUPPLEMENTARY INFORMATION** 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.

FOR FURTHER INFORMATION CONTACT: Christian Jacobs, Office of Nuclear Material Safety and Safeguards; telephone: 301–415–6825; email: *Christian.Jacobs@nrc.gov,* or Robert D. MacDougall, Office of Nuclear Material Safety and Safeguards; telephone: 301–415–5175; email: *Robert.MacDougall@nrc.gov.* Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Discussion

On September 27, 2017 (82 FR 44879), the NRC published a direct final rule amending its spent fuel storage regulations in part 72 of title 10 of the *Code of Federal Regulations* (10 CFR) by revising the NUHOMS® System listing within the ''List of approved spent fuel storage casks'' to renew, for an additional 40-year period, the initial certificate and Amendment Nos. 1 through 11 and 13, Revision 1, and Amendment No. 14 of CoC No. 1004. These changes require, among other things, that all future amendments and revisions to this CoC include evaluations of impacts on TLAAs and AMPs to ensure that they remain adequate to timely identify any changes to spent fuel storage cask SSCs within the scope of the renewal.

II. Public Comments on the Companion Proposed Rule

In the direct final rule, the NRC stated that if no significant adverse comments were received, the direct final rule would become effective on December 11, 2017. The NRC received one comment submission on the companion proposed rule (82 FR 44971). An electronic copy of this submission can be obtained from the Federal Rulemaking Web site, *http://www.regulations.gov,* by searching for Docket ID NRC–2017–0138. The comment submission also is available in ADAMS under Accession No. ML17303A026. For the reasons discussed in more detail in Section III, ''Public Comment Analysis,'' of this document, none of the comments contained in the submission are considered significant adverse comments.

III. Public Comment Analysis

The NRC received one comment submission on the proposed rule from FirstEnergy Nuclear Operating Company (FENOC). The submission contained three comments styled as ''comment/questions.'' As explained in the September 27, 2017, direct final rule, the NRC would withdraw the direct final rule only if it received a ''significant adverse comment.'' This is a comment where the commenter explains why the rule would be inappropriate, challenges its underlying premise or approach, or shows why it 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 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 NRC 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; or

(3) The comment causes the NRC staff to make a change (other than editorial) to the rule, CoC, or technical specifications (TSs).

In this instance, the NRC determined that none of the comments submitted on the proposed rule are significant adverse comments. The comments either were already addressed by the NRC staff's safety evaluation report (SER) (ADAMS Accession No. ML17131A121), or did not oppose the rule. The NRC has not made any changes to the direct final rule as a result of the public comments. However, the NRC is taking this opportunity to respond to the comments in an effort to clarify information about the direct final rule. The comments and the NRC's responses follow.

Comment 1

The commenter questioned why the proposed renewal of CoC No. 1004 includes a timeframe of 180 days for each general licensee (GL) to establish and implement its AMP procedures, which is shorter than the timeframe of 300 days that was granted for the renewal of CoC No. 1007. The commenter stated that the 180-day implementation period poses a hardship upon GLs with older spent fuel storage systems.

NRC Response

This comment did not raise an issue that was previously unaddressed by the NRC staff. During its review of the renewal application for CoC No. 1004, the NRC staff considered the appropriate timeframe for implementation of the AMP procedures. As stated in the SER, ''[t]he timeframe [of 180 days] in the condition is to ensure operating procedures are developed in a timely manner and is consistent with conditions placed in specific licenses that have been renewed.'' Specifically, the 180-day timeframe was successfully used for the renewals of the specific licenses under 10 CFR part 72 for the Prairie Island and Calvert Cliffs Independent Spent Fuel Storage Installations (ISFSIs).

The 180-day timeframe is also consistent with the guidance in NUREG–1927, Rev. 1, ''Standard Review Plan for Renewal of Spent Fuel Dry Cask Storage System Licenses and Certificates of Compliance.'' The commenter points to a statement in the NUREG that ''the development of the infrastructure for AMP implementation generally should be no later than one year,'' from the date of renewal; however, this does not preclude a shorter timeframe. The cask vendor, TN Americas LLC (TN), is preparing the AMP procedures for the GLs as an update to TN's Final Safety Analysis Report, and plans to provide these procedures within 90 days after the effective date of the renewal. This will allow at least an additional 90 days for the affected GLs to implement the procedures. Accordingly, the comment has not caused the NRC to reevaluate its position that a timeframe of 180 days is sufficient for AMP implementation.

The comment questions why the AMP implementation timeframe for the renewed NUHOMS® CoC is shorter than that for the renewal of CoC No. 1007 for the EnergySolutions™ Corporation's VSC–24 Ventilated Storage Cask System (82 FR 31433). During the NRC's review of the CoC No. 1007 renewal application, the cask vendor requested that the NRC consider an implementation timeframe of 300 days instead of 180 days after the effective date of the renewal. In that case, the NRC determined that the additional time for implementation was reasonable because CoC No. 1007 was the first CoC to go through the CoC renewal process for GLs. During its review of the renewal application for CoC No. 1004, the NRC staff was aware that the renewed CoC No. 1007, as the first-of-its-kind GL CoC renewal, included more time for AMP implementation. The staff determined that the special circumstances considered for CoC No. 1007 were not present for CoC No. 1004. Accordingly, this comment does not raise a relevant issue that was not previously addressed or considered by the NRC staff.

This comment does not meet the criteria for consideration as a significant adverse comment. The comment did not cause the NRC staff to reevaluate or reconsider its position or conduct additional analysis. Nor did the comment cause the NRC staff to make any change to the rule, CoC, or TSs. To the extent that the comment can be interpreted as requesting a change to the rule, *i.e.,* a longer timeframe for implementation of the AMP procedures, the comment does not show that the rule would be ineffective or unacceptable without incorporation of the change.

Comment 2

The commenter questioned whether the words ''implement these written procedures within 180 days'' mean that all required AMP inspections must be performed and the results reported within 180 days.

NRC Response

The answer to the commenter's question is no. Implementing the written procedures does not mean that an affected GL must perform all the SSC inspections required by its AMP and report the results of its inspections within the 180-day implementation period.

This comment does not meet the criteria for consideration as a significant adverse comment. The comment does not oppose the rule, and it did not cause the NRC staff to reevaluate or reconsider its position or conduct additional analysis. Nor did the comment cause the NRC staff to make any change to the rule, CoC, or TSs.

Comment 3

The commenter asked if the language in the revised TSs that ''[e]ach general licensee shall have a program to establish, implement, and maintain written procedures . . .'' applies to all GLs, including those that have only recently begun loading casks under CoC No. 1004. The commenter further asked if a site that began loading casks in 2014 would be required to have the ISFSI AMP procedure in place after 180 days.

NRC Response

Under the renewed CoC, each GL using NUHOMS® systems will be required to have a program with approved written AMP procedures in place within 180 days after the effective date of the renewal, or 180 days after the 20th anniversary of the loading of the first dry storage system at its site, whichever is later. Thus, if a particular ISFSI has casks that were loaded in 2014, these casks would not be required to have AMP procedures in place until 2034 at the earliest.

This comment does not meet the criteria for consideration as a significant adverse comment. The comment did not oppose the rule, and it did not cause the NRC staff to reevaluate or reconsider its position or conduct additional analysis. Nor did the comment cause the NRC staff to make any change to the rule, CoC, or TSs.

Therefore, because no significant adverse comments were received, this direct final rule will become effective as

scheduled on December 11, 2017. The final CoC, TS, and SER can be viewed in ADAMS under Accession No. ML17338A091.

Dated at Rockville, Maryland, this 5th day of December 2017.

For the Nuclear Regulatory Commission.

Cindy K. Bladey,

Chief, Regulatory Analysis and Rulemaking Support Branch, Division of Rulemaking, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2017–26508 Filed 12–7–17; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

19 CFR Part 4

[CBP Dec. 17–20]

RIN 1651–AB15

Civil Monetary Penalty Adjustments for Inflation

AGENCY: U.S. Customs and Border Protection, DHS.

ACTION: Final rule.

SUMMARY: This rule amends U.S. Customs and Border Protection (CBP) regulations to adjust for inflation the amounts that CBP can assess as civil monetary penalties for the following three violations—transporting passengers between coastwise points in the United States by a non-coastwise qualified vessel; towing a vessel between coastwise points in the United States by a non-coastwise qualified vessel; and dealing in or using an empty stamped imported liquor container after it has already been used once. These adjustments are being made in in accordance with the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (2015 Act) which was enacted on November 2, 2015. Other CBP civil penalty amounts were adjusted pursuant to this 2015 Act in previously published rule documents published in the **Federal Register** on July 1, 2016, and January 27, 2017, but the adjustments for these three civil penalties were inadvertently left out of those documents.

DATES: This rule is effective on December 8, 2017. The adjusted penalty amounts will be applicable for penalties assessed after December 8, 2017 if the associated violations occurred after November 2, 2015.

FOR FURTHER INFORMATION CONTACT: Millie Gleason, Office of Field Operations, U.S. Customs and Border Protection. Phone: (202) 325–4291.

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Background

On November 2, 2015, the President signed into law the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Pub. L. 114–74 section 701 (Nov. 2, 2015)) (2015 Act).[1] The 2015 Act amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note) (1990 Inflation Adjustment Act) to improve the effectiveness of civil monetary penalties and to maintain their deterrent effect. The 2015 Act required agencies to: (1) Adjust the level of civil monetary penalties with an initial ''catch-up'' adjustment through issuance of an interim final rule (IFR) and (2) make subsequent annual adjustments for inflation. Through the ''catch-up'' adjustment, agencies were required to adjust the maximum amounts of civil monetary penalties to more accurately reflect inflation rates. The 2015 Act directed the Office of Management and Budget (OMB) to issue guidance to agencies on implementing the initial ''catch-up'' adjustment. The 2015 Act required that agencies publish their IFRs in the **Federal Register** no later than July 1, 2016 and that the adjusted amounts were to take effect no later than August 1, 2016.

For the subsequent annual adjustments, the 2015 Act requires agencies to increase the penalty amounts by a cost-of-living adjustment. The 2015 Act directs OMB to provide guidance to agencies each year to assist agencies in making the annual adjustments. The 2015 Act requires agencies to make the annual adjustments no later than January 15 of each year and to publish the adjustments in the **Federal Register**.

The Department of Homeland Security (DHS) undertook a review of the civil penalties that DHS and its components administer to determine which penalties would need adjustments. On July 1, 2016, DHS published an IFR adjusting the civil monetary penalties with an initial ''catch-up'' adjustment, as required by the 2015 Act. *See* 81 FR 42987. DHS calculated the adjusted penalties based upon nondiscretionary provisions in the 2015 Act and upon guidance issued by OMB on February 24, 2016.[2] The adjusted penalties were effective for civil penalties assessed after August 1, 2016 (the effective date of the IFR) whose associated violations occurred after November 2, 2015 (the date of enactment of the 2015 Act).[3] On January 27, 2017, DHS published a final rule adopting as final the civil monetary penalty adjustment methodology from the IFR and making the 2017 annual inflation adjustment pursuant to the 2015 Act and upon guidance OMB issued to agencies on December 16, 2016.[4] *See* 82 FR 8571.

As discussed in Section II below, three civil monetary penalties assessed by CBP and subject to the 2015 Act were inadvertently omitted from these DHS rulemakings.

II. CBP Penalties

CBP assesses or enforces penalties under various titles of the Unites States Code (U.S.C.) and the Code of Federal Regulations (CFR). These penalties include civil monetary penalties for certain violations of title 8 of the CFR pursuant to the Immigration and Nationality Act of 1952,[5] as well as certain civil monetary penalties for customs violations for laws codified in title 19 of the U.S.C. and the CFR. CBP assesses many of the title 19 penalties under the Tariff Act of 1930, as amended, and as discussed in the IFR preamble at 81 FR 42987, the 2015 Act specifically exempts Tariff Act penalties from the inflation adjustment requirements in the 2015 Act. For that reason, DHS did not list those penalties in the tables of CBP penalty adjustments in the DHS rulemakings. There are also various other monetary penalties found throughout the U.S.C. and CFR which CBP may seek to issue or enforce but which were not included in the tables because they fall within the purview of

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[1] The 2015 Act was enacted as part of the Bipartisan Budget Act of 2015, Public Law 114–74 (Nov. 2, 2015).

[2] OMB, Implementation of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, February 24, 2016. *https://obamawhitehouse.archives.gov/sites/default/files/omb/memoranda/2016/m-16-06.pdf*.

[3] DHS published a correction to the IFR on August 23, 2016 to correct one amendatory instruction. *See* 81 FR 57442.

[4] OMB, Implementation of the 2017 annual adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, December 16, 2016. *https://obamawhitehouse.archives.gov/sites/default/files/omb/memoranda/2017/m-17-11_0.pdf*.

[5] Public Law 82–414, as amended (INA). The INA contains provisions that impose penalties on persons, including carriers and aliens, who violate specified provisions of the INA. While CBP is responsible for enforcing various provisions of the INA and assessing penalties for violations of those provisions, all the penalty amounts CBP can assess for violations of the INA are set forth in one section of title 8 of the CFR—8 CFR 280.53. For a complete list of the INA sections for which penalties are assessed, in addition to a brief description of each violation, see the IFR preamble at 81 FR 42989–42990.