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SUPPLEMENTARY INFORMATION:

Background

Section 218(a) of the Nuclear Waste Policy Act of 1982, as amended (NWSA), 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 NWSA 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 March 9, 2000 (65 FR 12444), that approved the NAC-Multipurpose Canister (NAC-MPC) cask design and added it to the list of NRC-approved cask designs in § 72.214 as Certificate of Compliance Number (CoC No.) 1025.

Discussion

On April 18, 2002, and as supplemented May 15, 2002, July 17, 2002, October 3, 2002, and January 17, 2003, NAC International, Inc. (NAC) submitted an application to the NRC to

amend CoC No. 1025 to incorporate changes in support of the Yankee Nuclear Power Station (Yankee Rowe) fuel loading campaign and make corrections to the Connecticut Yankee TS. The amendment specifically incorporates fuel enrichment tolerances, 432-kg (950-lb) fuel assemblies, damaged fuel, damaged fuel cans, and recaged fuel for Yankee Rowe. For Connecticut Yankee, the amendment corrects the tables for fuel assembly limits and intact fuel assembly characteristics. The amendment also incorporates editorial and administrative changes in the CoC.

No other changes to the NAC-MPC cask system design were requested in this application. The NRC staff performed a detailed safety evaluation of the proposed CoC amendment request and found that an acceptable safety margin is maintained. In addition, the NRC staff has determined that there is still reasonable assurance that public health and safety and the environment will be adequately protected.

This direct final rule revises the NAC-MPC cask design listing in § 72.214 by adding Amendment No. 3 to CoC No. 1025. The amended TS are identified in the NRC staff's SER for Amendment No. 3.

The amended NAC-MPC cask system, when used in accordance with 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

Section 72.214 List of Approved Spent Fuel Storage Casks

Certificate No. 1025 is revised by adding the effective date of Amendment No. 3.

Procedural Background

This rule is limited to the changes contained in Amendment No. 3 to CoC No. 1025 and does not include other aspects of the NAC-MPC 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 October 1, 2003. However, if the NRC receives significant adverse comments by August 18, 2003, 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 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.

(3) The comment causes the NRC staff to make a change (other than editorial) to the CoC or TS.

These comments will be addressed in a subsequent final rule. The NRC will not initiate a second comment period on this action. However, if the NRC receives significant adverse comments by August 18, 2003, 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**.

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-MPC cask system design listed in § 72.214 (List of NRC-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