

  
**TALISMAN**  
INTERNATIONAL, LLC

March 25, 2008

1/14/08  
73 FR 2281

Mr. Michael Lesar  
Chief, Rulemaking, Directives and Editing Branch  
Division of Administrative Services  
Office of Administration  
(Mail Stop T6 – T59)  
U. S. Nuclear Regulatory Commission  
Washington, DC 20555 – 0001

(2)

RECEIVED

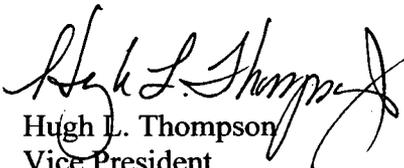
2008 MAR 31 PM 3:00

RULES AND DIRECTIVES  
BRANCH  
USNRC

**Subject: Comments on Regulatory Issue Summary (RIS) 2007 – 26, Implementation of Requirements That Are Contained in Amendments to Dry Storage Cask Certificates of Compliance (CoCs) to Casks That Have Been Previously Loaded**

On January 14, 2008, the Office of the Federal Register published a Notice of Opportunity for Public Comment on the subject RIS (FR 73 2281). Talisman International, LLC is pleased to submit the enclosed comments on the subject RIS 2007 – 26. We understand this to be a preliminary step before a planned Nuclear Regulatory Commission (NRC) rulemaking on the same subject. Talisman is a consulting firm whose personnel possess a broad level of experience in the regulation of commercial nuclear facilities.

If you have any questions concerning these comments, please contact Charley Haughney at 202-471-4244 or [chaughney@talisman-intl.com](mailto:chaughney@talisman-intl.com).

  
Hugh L. Thompson  
Vice President  
Talisman International, LLC

**Enclosure:**  
Talisman International, LLC Comments on NRC RIS 2007 – 26

cc:  
William Brach, Director, Division of Spent Fuel Storage and Transportation, NRC  
Robert A. Nelson, Chief, Licensing Branch,  
Dr. E. Redmond, Nuclear Energy Institute

SUNSI Review Complete  
Template = ADM-013

E-REDS = ADM-03  
Cdd = R.A. Nelson (ran)

*Talisman International is a Limited Liability Company*

**Talisman International, LLC's Comments on NRC's Contemplated  
Rulemaking on Implementation of Spent Fuel Cask Certificate of  
Compliance (CoC) Amendments**

On February 29, 2008, the NRC staff held a transcribed public meeting to discuss the practices used to apply the provisions of CoC amendments to spent fuel storage casks that had already been loaded using a previous version of the CoC. The staff indicated that they were beginning to prepare a proposed change to 10CFR 72 to address this subject. The staff stated they would use comments from the meeting transcript and any supplemental written comments submitted until about March 15<sup>th</sup> as inputs for use in preparing the draft rule change. Further comments could be submitted later, following NRC's publication of the proposed rule change, which is planned for this Summer.<sup>1</sup>

Talisman International, LLC offers the following suggested recommendations for consideration by the NRC staff as they prepare their proposed rule change.

**Recommendations and Comments:**

1. **Specify in the rule language the explicit meanings of the "terms, conditions, and specifications."** When contemplating a possible change to either the site procedures or to the FSAR associated with a certified spent fuel storage cask, the licensee must determine whether or not the contemplated change would require a change to the "terms, conditions, and specifications" of the CoC. (See 10 CFR 72.48). These three terms are not defined in the text of 10 CFR 72 and are used in more than one meaning. To reduce ambiguity, consider adopting the following definitions in 10 CFR 72:

a. "License term or certificate term" means the duration in time of either a license or a certificate issued under this Part. The beginning of the license term or certificate term starts upon the date of issuance of either the license or the certificate and terminates on the expiration date shown on the license or certificate. License and certificate terms may be extended beyond the initial expiration dates by NRC staff approval of an application to renew a license or a certificate in accordance with Section 72.42 of this Part.

b. The text of 10 CFR 72 should be modified to define and to use the phrases "license condition" and "certificate condition" in an explicit sense when referring to the particular provisions that appear in the text of the license or certificate. As a further option in promulgating these definitions, the word "condition" without the modifying adjectives, "license" or "certificate," could be specified to be used in a more colloquial sense elsewhere in the rule.

---

<sup>1</sup> The NRC staff published Regulatory Issue Summary 2007-26 on this subject in the Federal Register, FR 73 2281, January 14, 2008. This notice permits comments on the RIS until March 31, 2008.

c. The text of 10 CFR 72 should be modified to define and to use the phrase "technical specifications" in the manner in which they are developed, issued, and used in 10 CFR 72 licenses and certificates. The present language in 10 CFR 72.26, Contents of Applications: Technical Specifications and 10 CFR 72.44, License Conditions, seems to imply there is little distinction between license conditions and technical specifications. Regulatory Guides and Standard Review Plans associated with spent fuel storage do not provide a consistent, clear distinction between the uses of the phrases license conditions and technical specifications either.

The texts of spent fuel storage licenses and CoCs seem to indicate that the distinction is that license conditions are more general, for instance stating that a cask may contain a particular manufacture's type of fuel. The corresponding technical specifications might specify physical limits such as fuel assembly dimensions, initial enrichment, burnup, and heat generation rate. If a distinction is needed between the terms "license conditions" and technical specifications," we recommend that the staff propose definitions that make the necessary distinction.

A related issue is that some CoCs, particularly those issued for transportation packages and dual purpose casks (DPCs) under 10 CFR 71, use the phrase "conditions of use" for requirements that seem to be equivalent to technical specifications. Since DPCs have both 10 CFR 71 and 72 CoCs, we recommend that the staff consider an improved level of consistency in the use of the term "conditions of use" and technical specifications.

2. Consider developing a requirement that an application to amend either a 10 CFR 72 license or a CoC should specify the proposed amendments applicability either to previously loaded casks, or to casks that have not yet been loaded, or to casks that are undergoing fabrication or to some combination of these situations. The application should include a basis for the requested applicability of the proposed amendment. The staff's acceptance of the proposed applicability and its basis should be documented in both the license or CoC amendment and in the accompanying safety evaluation report. Specifically describing the applicability of an amendment should alleviate much of the confusion and the perceptions of non-compliance that seems to have arisen.

3. As an alternative to amending 10 CFR 72, the proposed practice of clearly specifying the extent of an amendment's applicability could be described in NRC staff guidance, such as Regulatory Guide (RG) 3.72, Guidance for Implementation of 10 CFR 72.48 Changes, Tests, and Experiments or in an Interim Staff Guidance (ISG) document. Talisman recommends that the staff revise RG 3.72 rather than issue a new ISG, which is intended to provide temporary guidance.