[7590-01-P]

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150-AI75

[NRC-2009-0538]

List of Approved Spent Fuel Storage Casks: NUHOMS® HD Revision 1; Withdrawal of Direct Final Rule

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule; withdrawal.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is withdrawing a direct final rule that would have revised the NUHOMS® HD cask system listing within the list of approved spent fuel storage casks to include Amendment No. 1 to Certificate of Compliance (CoC) Number 1030. The NRC is taking this action because the applicant identified that a certain Technical Specification (TS) for Boral characterization was not written precisely and in a manner that could be readily and demonstrably implemented. Specifically, the requirements for meeting TS 4.3.1, "Neutron Absorber Tests," which references Section 9.1.7.3 of the Safety Analysis Report (SAR), are not precisely quantified in that it requires that "the average size of the boron carbide particles in the finished product is approximately 50 microns after rolling." Use of language such as "average" and "approximately" is imprecise, and no ranges or statistical variations are

specified. The NRC will publish a revised direct final rule along with its companion proposed rule after the necessary revisions to the TS are made.

FOR FURTHER INFORMATION CONTACT: Jayne M. McCausland, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-6219, e-mail Jayne.McCausland@nrc.gov.

SUPPLEMENTARY INFORMATION:

On May 6, 2010 (75 FR 24786), the NRC published in the *Federal Register* a direct final rule that would have amended its regulations in 10 CFR 72.214 to revise the NUHOMS® HD System listing within the "List of Approved Spent Fuel Storage Casks" to include Amendment No. 1 to the CoC. Amendment No. 1 would have modified the present cask system by adding Combustion Engineering 16x16 class fuel assemblies as authorized contents, reducing the minimum off-normal ambient temperature from -20°F to -21°F, expanding the authorized contents of the NUHOMS® HD System to include pressurized water reactor fuel assemblies with control components, reducing the minimum initial enrichment of fuel assemblies from 1.5 weight percent uranium-235 to 0.2 weight percent uranium-235, clarifying the requirements of reconstituted fuel assemblies, adding requirements to qualify metal matrix composite neutron absorbers with integral aluminum cladding, deleting use of nitrogen for draining the water from the dry shielded canister (DSC) and allowing only helium as a cover gas during DSC cavity water removal operations, and making corresponding changes to the technical specifications.

The NRC also published a companion proposed rule on May 7, 2010 (75 FR 25120). A correction notice was published on May 17, 2010 (75 FR 27401), to correctly specify an effective date of July 21, 2010. The direct final rulemaking and the companion proposed rulemaking were published in the *Federal Register* on different dates instead of being published concurrently on the same date.

The rulemaking is being withdrawn because the applicant identified that a certain TS for Boral characterization was not written precisely and in a manner that could be readily and demonstrably implemented. Specifically, the requirements for meeting TS 4.3.1, "Neutron Absorber Tests," which references Section 9.1.7.3 of the SAR, are not precisely quantified in that it requires that "the average size of the boron carbide particles in the finished product is approximately 50 microns after rolling." Use of language such as "average" and "approximately" is imprecise, and no ranges or statistical variations are specified.

The NRC will publish a revised direct final rule along with its companion proposed rule after the necessary revisions to the TS are made.

Dated at Rockville, Maryland, this 8th day of July, 2010.

For the Nuclear Regulatory Commission.

/RA/

R. W. Borchardt,
Executive Director for Operations

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The NRC will publish a revised direct final rule along with its companion proposed rule after the necessary revisions to the TS are made.

Dated at Rockville, Maryland, this 8th day of July, 2010.

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R. W. Borchardt,
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