

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 78

[Docket No. 01-016-2]

#### Brucellosis in Cattle; State and Area Classifications; Oklahoma

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Affirmation of interim rule as final rule.

**SUMMARY:** We are adopting as a final rule, without change, an interim rule that amended the brucellosis regulations concerning the interstate movement of cattle by changing the classification of Oklahoma from Class A to Class Free. The interim rule was based on our determination that Oklahoma meets the standards for Class Free status. This interim rule relieved certain restrictions on the interstate movement of cattle from Oklahoma.

**EFFECTIVE DATE:** The interim rule became effective on April 20, 2001.

**FOR FURTHER INFORMATION CONTACT:** Dr. Valerie Ragan, Senior Staff Veterinarian, National Animal Health Programs, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737-1231; (301) 734-7708.

#### SUPPLEMENTARY INFORMATION:

##### Background

In an interim rule effective April 20, 2001, and published in the **Federal Register** on April 26, 2001 (66 FR 20899-20900, Docket No. 01-016-1), we amended the brucellosis regulations in 9 CFR part 78 by removing Oklahoma from the list of Class A States in paragraph (b) of § 78.41 and adding it to the list of Class Free States in paragraph (a) of that section.

Comments on the interim rule were required to be received on or before June

25, 2001. We did not receive any comments. Therefore, for reasons given in the interim rule, we are adopting the interim rule as a final rule.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Orders 12372 and 12988, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived the review process required by Executive Order 12866.

#### List of Subjects in 9 CFR Part 78

Animal diseases, Bison, Cattle, Hogs, Quarantine, Reporting and recordkeeping requirements, Transportation.

#### PART 78—BRUCELLOSIS

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 9 CFR part 78 and that was published at 66 FR 20899-20900 on April 26, 2000.

**Authority:** 21 U.S.C. 111-114a-1, 114g, 115, 117, 120, 121, 123-126, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.4.

Done in Washington, DC, this 24th day of August 2001.

**Craig A. Reed,**

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 01-21929 Filed 8-29-01; 8:45 am]

**BILLING CODE 3410-34-P**

## NUCLEAR REGULATORY COMMISSION

#### 10 CFR Part 72

RIN 3150-AG83

#### List of Approved Spent Fuel Storage Casks: NAC-MPC Revision

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Direct final rule.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is amending its regulations revising the NAC-MPC cask system listing within the "List of Approved Spent Fuel Storage Casks" to include Amendment No. 1 to Certificate of Compliance Number 1025. Amendment No. 1 will modify the present cask system design to permit a

licensee to use an alternate fuel basket design with enlarged fuel tubes in corner locations; increase the operational time limits provided in the Technical Specifications (TS) for canister loading, closure, and transfer when canister heat loads are lower than design basis heat loads; revise the canister surface contamination limits in TS to maintain worker dose as low as is reasonably achievable (ALARA); and revise some drawings to reflect changes identified during cask and component fabrication under a general license.

**DATES:** The final rule is effective November 13, 2001, unless significant adverse comments are received by October 1, 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](mailto: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](mailto: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. ML 011380038. 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](mailto:pdr@nrc.gov).

CoC No. 1025, the revised TS, and the underlying SER for Amendment No. 1, 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](mailto:jmm2@nrc.gov).

**FOR FURTHER INFORMATION CONTACT:** Jayne M. McCausland, telephone (301) 415-6219, email [jmm2@nrc.gov](mailto: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 (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-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 September 29, 2000, and as supplemented on October 5, 2000, March 16, 2001, April 6, 2001, and July 27, 2001, NAC International, Inc., submitted an application and associated Safety Analysis Report to the NRC to amend CoC No. 1025 to permit a Part 72 general licensee to: (1) Use an alternate fuel basket design with enlarged fuel tubes in corner locations; (2) increase the operational time limits provided in TS for canister loading, closure, and transfer when canister heat loads are lower than design basis heat loads; (3) revise the canister surface contamination limits in TS to maintain worker dose ALARA; and (4) revise some drawings to reflect changes identified during cask and component fabrication. 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 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-MPC cask design listing in § 72.214 by adding Amendment No. 1 to CoC No. 1025. The amendment consists of changes to TS 3.1.2, 3.1.3, 3.1.5, 3.1.6, 3.1.10, and 3.2.2, as identified in the NRC staff's SER for Amendment No. 1.

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**

###### **72.214 List of Approved Spent Fuel Storage Casks**

Certificate No. 1025 is revised by adding the effective date of the initial certificate, and the effective date of Amendment Number 1. The CoC and the TS have been modified.

##### **Procedural Background**

This rule is limited to the changes contained in Amendment 1 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 November 13, 2001. However, if the NRC receives significant adverse comments by October 1, 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 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 staff to make a change 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.

##### **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 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, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required. The rule would amend the CoC for the NAC-MPC 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 will modify the present cask system design to permit a Part 72 licensee to: (1) Use an alternate fuel basket design with enlarged fuel tubes in corner locations; (2) increase the operational time limits provided in TS for canister loading, closure, and transfer when canister heat loads are lower than design basis heat loads; (3)

revise the canister surface contamination limits in TS to maintain worker dose ALARA; and (4) revise some drawings to reflect changes identified during cask and component fabrication. 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 March 9, 2000 (65 FR 12444), the NRC subsequently issued an amendment to Part 72 that approved the NAC-MPC cask design by adding it to the list of NRC-approved cask designs in § 72.214. On September 29, 2000, and as supplemented on October 5, 2000, March 16, 2001, April 6, 2001, and July 27, 2001, NAC International, Inc., submitted an application and associated Safety Analysis Report to the NRC to amend CoC No. 1025 to permit a Part 72 general licensee to: (1) Use an alternate fuel basket design with enlarged fuel tubes in corner locations; (2) increase the operational time limits provided in TS for canister loading, closure, and

transfer when canister heat loads are lower than design basis heat loads; (3) revise the canister surface contamination limits in TS to maintain worker dose ALARA; and (4) revise some drawings to reflect changes identified during cask and component fabrication.

This direct final rule will revise the NAC-MPC cask design listing in § 72.214 by adding Amendment No. 1 to CoC No. 1025. The amendment consists of changes to TS 3.1.2, 3.1.3, 3.1.5, 3.1.6, 3.1.10, and 3.2.2, as identified in the NRC staff's SER for Amendment No. 1. 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.

Approval of the direct final rule will eliminate the above described problem and is consistent with previous NRC actions. Further, the direct final rule will have 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 will not, if issued, 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 1025 is revised to read as follows:

### § 72.214 List of approved spent fuel storage casks.

\* \* \* \* \*

Certificate Number: 1025.

Initial Certificate Effective Date: April 10, 2000.

Amendment Number 1 Effective Date: November 13, 2001.

SAR Submitted by: NAC International, Inc.

SAR Title: Final Safety Analysis Report for the NAC Multi-Purpose Canister System (NAC–MPC System).

Docket Number: 72–1025.

Certificate Expiration Date: April 10, 2020.

Model Number: NAC–MPC.

\* \* \* \* \*

Dated at Rockville, Maryland, this 20th day of August, 2001.

For the Nuclear Regulatory Commission.

**William D. Travers,**

*Executive Director for Operations.*

[FR Doc. 01–21934 Filed 8–29–01; 8:45 am]

BILLING CODE 7590–01–P

## FEDERAL RESERVE SYSTEM

### 12 CFR Part 201

#### [Regulation A]

### Extensions of Credit by Federal Reserve Banks; Change in Discount Rate

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Final rule.

**SUMMARY:** The Board of Governors has amended its Regulation A, Extensions of Credit by Federal Reserve Banks to reflect its approval of a decrease in the basic discount rate at each Federal Reserve Bank. The Board acted on requests submitted by the Boards of Directors of the twelve Federal Reserve Banks.

**DATES:** The amendments to part 201 (Regulation A) were effective August 21, 2001. The rate changes for adjustment credit were effective on the dates specified in 12 CFR 201.51.

**FOR FURTHER INFORMATION CONTACT:** Jennifer J. Johnson, Secretary of the Board, at (202)452–3259, Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551.

**SUPPLEMENTARY INFORMATION:** Pursuant to the authority of sections 10(b), 13, 14,

19, et al., of the Federal Reserve Act, the Board has amended its Regulation A (12 CFR part 201) to incorporate changes in discount rates on Federal Reserve Bank extensions of credit. The discount rates are the interest rates charged to depository institutions when they borrow from their district Reserve Banks.

The “basic discount rate” is a fixed rate charged by Reserve Banks for adjustment credit and, at the Reserve Banks’ discretion, for extended credit for up to 30 days. In decreasing the basic discount rate from 3.25 percent to 3.0 percent, the Board acted on requests submitted by the Boards of Directors of the twelve Federal Reserve Banks. The new rates were effective on the dates specified below. The 25-basis-point decrease in the discount rate was associated with a similar decrease in the federal funds rate approved by the Federal Open Market Committee (FOMC) and announced at the same time.

In a joint press release announcing these actions, the FOMC and the Board of Governors noted that household demand has been sustained, but business profits and capital spending continue to weaken and growth abroad is slowing, weighing on the U.S. economy. The associated easing of pressures on labor and product markets is expected to keep inflation contained.

Although long-term prospects for productivity growth and the economy remain favorable, the FOMC continues to believe that against the background of its long-run goals of price stability and sustainable economic growth and of the information currently available, the risks are weighted mainly toward conditions that may generate economic weakness in the foreseeable future.

### Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Board certifies that the change in the basic discount rate will not have a significant adverse economic impact on a substantial number of small entities. The rule does not impose any additional requirements on entities affected by the regulation.

### Administrative Procedure Act

The provisions of 5 U.S.C. 553(b) relating to notice and public participation were not followed in connection with the adoption of the amendment because the Board for good cause finds that delaying the change in the basic discount rate in order to allow notice and public comment on the change is impracticable, unnecessary, and contrary to the public interest in