

regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this final rule.

AMS is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

A proposed rule concerning this action was published in the **Federal Register** on October 1, 2018 (83 FR 49312). Copies of the proposed rule were provided to all kiwifruit handlers. The proposal was also made available through the internet by USDA and the Office of Federal Register. A 30-day comment period ending October 31, 2018, was provided for interested persons to respond to the proposal.

One comment was received regarding the proposed rate change. The commenter questioned the Committee's authority to recommend a reduction in the rate and the potential impact of the rate change on the quality of kiwifruit.

As stated in the Act (7 U.S.C. 610(b)(2)(ii)), assessments collected by the Committee are used to cover the costs of administering the program. When the collection of assessments surpasses budget needs and reserve funds are at their maximum, the Committee and USDA are obligated by the Order (§ 920.41 Assessments and § 920.42 Accounting) to adjust the amount of assessment funds collected. This adjustment can be made either by refunding assessments or by reducing the assessment rate. Reducing the assessment rate is less costly and more efficient for both the Committee and handlers. Therefore, to prevent the collection of surplus revenue if the assessment rate were not changed, the authority to reduce the assessment rate is both implied in, and necessary under the Order.

Regarding the commenters question about the quality of kiwifruit, the amount of assessments collected are tied to volume of kiwifruit handled, not the quality of the kiwifruit. Therefore, the assessment rate and kiwifruit quality are not directly correlated.

The remainder of the comment was related to general information about the kiwifruit marketing order and was outside the scope of this action. Accordingly, no changes will be made to the rule as proposed, based on the comment received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <http://www.ams.usda.gov/rules-regulations/moa/small-businesses>.

Any questions about the compliance guide should be sent to Richard Lower at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule will tend to effectuate the declared policy of the Act.

#### List of Subjects in 7 CFR Part 920

Kiwifruit, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 920 is amended as follows:

#### PART 920—KIWIFRUIT GROWN IN CALIFORNIA

■ 1. The authority citation for part 920 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

■ 2. Section 920.213 is revised to read as follows:

##### § 925.213 Assessment rate.

On and after August 1, 2018, an assessment rate of \$0.025 per 9-kilo volume-fill container or equivalent of kiwifruit is established for kiwifruit grown in California.

Dated: December 19, 2018.

**Bruce Summers,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 2018–27888 Filed 12–21–18; 8:45 am]

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#### NUCLEAR REGULATORY COMMISSION

##### 10 CFR Part 72

[NRC–2018–0212]

RIN 3150–AK16

#### List of Approved Spent Fuel Storage Casks: TN Americas LLC, Standardized NUHOMS® System, Certificate of Compliance No. 1004, Renewed Amendment No. 15

**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 January 22, 2019, for the direct final rule that was published in the **Federal Register** on November 7,

2018. This direct final rule amended the NRC's spent fuel storage regulations by revising the "List of approved spent fuel storage casks" to include Renewed Amendment No. 15 to Certificate of Compliance No. 1004 for the TN Americas LLC Standardized NUHOMS® Horizontal Modular Storage System (NUHOMS® System). Because this amendment is subsequent to the renewal of the TN Americas LLC Standardized NUHOMS® Certificate of Compliance No. 1004 system and, therefore, subject to the Aging Management Program requirements of the renewed certificate, it is referred to as "Renewed Amendment No. 15."

**DATES:** *Effective Date:* The effective date of January 22, 2019, for the direct final rule published November 7, 2018 (83 FR 55601), is confirmed.

**ADDRESSES:** Please refer to Docket ID NRC–2018–0212 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 Website:* Go to <http://www.regulations.gov> and search for Docket ID NRC–2018–0212. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: [Carol.Gallagher@nrc.gov](mailto: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 "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](mailto:pdr.resource@nrc.gov). The proposed amendment to the certificate, the proposed changes to the technical specifications, and preliminary safety evaluation report are available in ADAMS under Accession No. ML18228A529. The final amendment to the certificate, final changes to the technical specifications, and final safety evaluation report can also be viewed in ADAMS under Accession No. ML18347B333.

- *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](mailto:Christian.Jacobs@nrc.gov) or Edward M. Lohr, Office of Nuclear Material Safety and Safeguards; telephone: 301-415-0253; email: [Edward.Lohr@nrc.gov](mailto:Edward.Lohr@nrc.gov). Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

**SUPPLEMENTARY INFORMATION:** On November 7, 2018 (83 FR 55601), the NRC published a direct final rule amending its regulations in part 72 of title 10 of the *Code of Federal Regulations* by revising the “List of approved spent fuel storage casks” to include Renewed Amendment No. 15 to Certificate of Compliance No. 1004 for the TN Americas LLC Standardized NUHOMS® Horizontal Modular Storage System. Renewed Amendment No. 15 revised the technical specifications of the certificate of compliance to: Unify and standardize fuel qualification tables; revise existing and add new heat load zoning configurations; increase the allowable maximum assembly average burnup; allow loading of damaged fuel assemblies under certain conditions; expand the definition of the poison rod assemblies to include rod cluster control assembly materials; allow other zirconium alloy cladding materials; add model OS197 as an authorized transfer cask; add the description for the solar shield in the updated final safety analysis report; and add flexibility to general licensees in verifying compliance regarding the storage pad location and the soil-structure interaction. Additionally, the rulemaking made clarifications to rule text related to the certificate of compliance by removing redundant language.

In the direct final rule, the NRC stated that if no significant adverse comments were received, the direct final rule would become effective on January 22, 2019. As described more fully in the direct final rule, 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.

The NRC received two comments and has determined that they are not significant adverse comments. One comment agreed with the proposed changes to the regulations. The second comment concerned transportation of nuclear waste fuel to another country. As this rulemaking only addressed the changes to the technical specifications for dry shielded canisters used to store

nuclear waste on-site, the NRC determined this comment to be out of scope. Because no significant adverse comments were received, the direct final rule will become effective as scheduled.

Dated at Rockville, Maryland, this 18th day of December, 2018.

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.*

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## DEPARTMENT OF ENERGY

### 10 CFR Parts 207, 218, 429, 431, 490, 501, 601, 820, 824, 851, 1013, 1017, and 1050

#### Inflation Adjustment of Civil Monetary Penalties

**AGENCY:** Office of the General Counsel, U.S. Department of Energy.

**ACTION:** Final rule.

**SUMMARY:** The Department of Energy (“DOE”) publishes this final rule to adjust DOE’s civil monetary penalties (“CMPs”) for inflation as mandated by the Federal Civil Penalties Inflation Adjustment Act of 1990, as further amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (collectively referred to herein as “the Act”). This rule adjusts CMPs within the jurisdiction of DOE to the maximum amount required by the Act.

**DATES:** This rule is effective on December 26, 2018.

**FOR FURTHER INFORMATION CONTACT:** Preeti Chaudhari, U.S. Department of Energy, Office of the General Counsel, GC-33, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586-8078.

#### **SUPPLEMENTARY INFORMATION:**

- I. Background
- II. Method of Calculation
- III. Summary of the Final Rule
- IV. Final Rulemaking
- V. Regulatory Review

#### **I. Background**

In order to improve the effectiveness of CMPs and to maintain their deterrent effect, the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. 2461 note (“the Inflation Adjustment Act”), as further amended by the Federal Civil Penalties Inflation

Adjustment Act Improvements Act of 2015 (Pub. L. 114-74) (“the 2015 Act”), requires Federal agencies to adjust each CMP provided by law within the jurisdiction of the agency. The 2015 Act requires agencies to adjust the level of CMPs with an initial “catch-up” adjustment through an interim final rulemaking and to make subsequent annual adjustments for inflation, notwithstanding 5 U.S.C. 553. DOE’s initial catch-up adjustment interim final rule was published June 28, 2016 (81 FR 41790) and adopted as final without amendment on December 30, 2016 (81 FR 96349). The 2015 Act also provides that any increase in a CMP shall apply only to CMPs, including those whose associated violation predated such increase, which are assessed after the date the increase takes effect.

In accordance with the 2015 Act, the Office of Management and Budget (OMB) must issue annually guidance on adjustments to civil monetary penalties. This final rule to adjust civil monetary penalties for 2019 is issued in accordance with applicable law and OMB’s guidance memorandum on implementation of the 2019 annual adjustment.<sup>1</sup>

#### **II. Method of Calculation**

The method of calculating CMP adjustments applied in this final rule is required by the 2015 Act. Under the 2015 Act, annual inflation adjustments subsequent to the initial catch-up adjustment are to be based on the percent change between the October Consumer Price Index for all Urban Consumers (CPI-U) preceding the date of the adjustment, and the prior year’s October CPI-U. Pursuant to the aforementioned OMB guidance memorandum, the adjustment multiplier for 2019 is 1.02522. In order to complete the 2019 annual adjustment, each CMP is multiplied by the 2019 adjustment multiplier. Under the 2015 Act, any increase in CMP must be rounded to the nearest multiple of \$1.

#### **III. Summary of the Final Rule**

The following list summarizes DOE authorities containing CMPs, and the penalties before and after adjustment.

<sup>1</sup> OMB’s annual guidance memorandum was issued on December 14, 2018, providing the 2019 adjustment multiplier and addressing how to apply it.