

industry. The assessment rate of \$0.03 per 50-pound equivalent of assessable onions was then determined by dividing the total recommended budget by the quantity of assessable onions, estimated at 4 million 50-pound equivalents for the 2003–04 fiscal period.

A review of historical information and preliminary information pertaining to the upcoming fiscal period indicates that the grower price for the 2003–04 fiscal period could range between \$9.05 and \$19.05 per 50-pound equivalent of onions. Therefore, the estimated assessment revenue for the 2003–04 fiscal period as a percentage of total grower revenue could range between .16 and .33 percent.

This action decreases the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers, and may reduce the burden on producers. In addition, the Committee's meeting was widely publicized throughout the South Texas onion industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the June 5, 2003, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

This rule imposes no additional reporting or recordkeeping requirements on either small or large South Texas onion handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

A proposed rule concerning this action was published in the **Federal Register** on November 21, 2003 (68 FR 65643). Copies of the proposed rule were also mailed to all onion handlers on November 24, 2003. Finally, the proposal was made available through the Internet by the Office of the Federal Register and USDA. A 30-day comment period ending December 22, 2003, was provided for interested persons to respond to the proposal. One comment in support of the proposal was received. The commenter expressed support for the decreased assessment rate due to the current economic condition surrounding the agricultural industry.

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/>

*fv/moab.html*. Any questions about the compliance guide should be sent to Jay Guerber 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, the comment received, and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because the 2003–04 fiscal period began August 1, 2003, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable onions handled during such fiscal period. This action decreases the assessment rate for assessable onions beginning with the 2003–04 fiscal period. Further, handlers are aware of this rule which was recommended at a public meeting. Also, a 30-day comment period was provided for in the proposed rule and one comment in support of the assessment decrease was received.

#### List of Subjects in 7 CFR Part 959

Marketing agreements, Onions, Reporting and recordkeeping requirements.

- For the reasons set forth in the preamble, 7 CFR part 959 is amended as follows:

#### PART 959—ONIONS GROWN IN SOUTH TEXAS

- 1. The authority citation for 7 CFR part 959 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

- 2. Section 959.237 is revised to read as follows:

#### § 959.237 Assessment rate.

On and after August 1, 2003, an assessment rate of \$0.03 per 50-pound equivalent is established for South Texas onions.

Dated: January 12, 2004.

**A.J. Yates,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 04–1005 Filed 1–15–04; 8:45 am]

**BILLING CODE 3410–02–P**

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 982

[Docket No. FV04–982–1 IFR]

### Hazelnuts Grown in Oregon and Washington; Establishment of Interim Final and Final Free and Restricted Percentages for the 2003–2004 Marketing Year

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** This rule establishes interim final and final free and restricted percentages for domestic inshell hazelnuts for the 2003–2004 marketing year under the Federal marketing order for hazelnuts grown in Oregon and Washington. The interim final free and restricted percentages are 6.8393 percent and 93.1607 percent, respectively, and the final free and restricted percentages are 8.2303 percent and 91.7697 percent, respectively. The percentages allocate the quantity of domestically produced hazelnuts that may be marketed in the domestic inshell market. The percentages are intended to stabilize the supply of domestic inshell hazelnuts to meet the limited domestic demand for such hazelnuts and provide reasonable returns to producers. This rule was unanimously recommended by the Hazelnut Marketing Board (Board), which is the agency responsible for local administration of the marketing order.

**DATES:** *Effective Date:* This interim final rule is effective January 20, 2004. This interim final rule applies to all 2003–2004 marketing year restricted hazelnuts until they are properly disposed of in accordance with marketing order requirements. *Comments:* Comments received by March 16, 2004 will be considered prior to issuance of a final rule.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938, or E-mail: [moab.docketclerk@usda.gov](mailto:moab.docketclerk@usda.gov). All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in

the Office of the Docket Clerk during regular business hours, or can be viewed at: <http://www.ams.usda.gov/fv/moab.html>.

**FOR FURTHER INFORMATION CONTACT:**

Teresa L. Hutchinson, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, Suite 385, Portland, OR 97204; telephone: (503) 326-2724, Fax: (503) 326-7440; or George J. Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250-0237; telephone: (202) 720-2491, Fax: (202) 720-8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence SW., STOP 0237, Washington, DC 20250-0237; telephone: (202) 720-2491, Fax: (202) 720-8938, or E-mail: [Jay.Guerber@usda.gov](mailto:Jay.Guerber@usda.gov).

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement No. 115 and Marketing Order No. 982, both as amended (7 CFR Part 982), regulating the handling of hazelnuts grown in Oregon and Washington, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is intended that this action apply to all merchantable hazelnuts handled during the 2003-2004 marketing year (July 1, 2003, through June 30, 2004). This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act

provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule establishes marketing percentages that allocate the quantity of inshell hazelnuts that may be marketed in domestic markets. The Board is required to meet prior to September 20 of each marketing year to compute its marketing policy for that year, and compute and announce an inshell trade demand if it determines that volume regulations would tend to effectuate the declared policy of the Act. The Board also computes and announces preliminary free and restricted percentages for that year.

The inshell trade demand is the amount of inshell hazelnuts that handlers may ship to the domestic market throughout the marketing season. The order specifies that the inshell trade demand be computed by averaging the preceding three "normal" years' trade acquisitions of inshell hazelnuts, rounded to the nearest whole number. The Board may increase the three-year average by up to 25 percent, if market conditions warrant an increase. The Board's authority to recommend volume regulations and the computations used to determine the percentages are specified in § 982.40 of the order.

The quantity to be marketed is broken down into free and restricted percentages to make available hazelnuts which may be marketed in domestic inshell markets (free) and hazelnuts which must be exported, shelled, or otherwise disposed of by handlers (restricted). Prior to September 20 of each marketing year, the Board must compute and announce preliminary free and restricted percentages. The preliminary free percentage releases 80 percent of the adjusted inshell trade demand to the domestic market. The purpose of releasing only 80 percent of the inshell trade demand under the preliminary percentage is to guard against an underestimate of crop size. The preliminary free percentage is expressed as a percentage of the total supply subject to regulation (supply) and is based on the preliminary crop estimate.

The National Agricultural Statistics Service (NASS) has estimated hazelnut production at 35,000 tons for the Oregon and Washington area. The majority of domestic inshell hazelnuts are marketed in October, November, and December.

By November, the marketing season is well under way.

At its August 28, 2003, meeting, the Board adjusted the NASS crop estimate down to 33,717 tons by deducting the average crop disappearance over the preceding three years (4.64 percent or 1,624 tons) and adding the undeclared carryin (341 tons) to the 35,000 ton production estimate. Disappearance is the difference between orchard-run production (crop estimate) and the available supply of merchantable product available for sale by handlers. Disappearance consists of (1) unharvested hazelnuts, (2) culled product (nuts that are delivered to handlers but later discarded), or (3) product used on the farm, sold locally, or otherwise disposed of by producers. The Board computed the adjusted inshell trade demand of 2,306 tons by taking the difference between the average of the past three years' sales (3,127 tons) and the declared carryin from last year's crop (821 tons).

The Board computed and announced preliminary free and restricted percentages of 5.4720 percent and 94.5280 percent, respectively, at its August 28, 2003, meeting. The preliminary free percentage was computed by multiplying the adjusted trade demand by 80 percent and dividing the result by the adjusted crop estimate ( $2,306 \text{ tons} \times 80 \text{ percent} / 33,717 \text{ tons} = 5.4720 \text{ percent}$ .) The preliminary free percentage thus initially released 1,845 tons of hazelnuts from the 2003 supply for domestic inshell use, and the preliminary restricted percentage withheld 31,872 tons for the export and shelled (kernel) markets.

Under the order, the Board must meet again on or before November 15 to recommend interim final and final percentages. The Board uses current crop estimates to calculate interim final and final percentages. The interim final percentages are calculated in the same way as the preliminary percentages and release the remaining 20 percent (to total 100 percent of the inshell trade demand) previously computed by the Board. Final free and restricted percentages may release up to an additional 15 percent of the average of the preceding three years' trade acquisitions to provide an adequate carryover into the following season (*i.e.*, desirable carryout). The order requires that the final free and restricted percentages shall be effective 30 days prior to the end of the marketing year, or earlier, if recommended by the Board and approved by USDA. Revisions in the marketing policy can be made until February 15 of each marketing year, but the inshell trade demand can only be

revised upward, consistent with § 982.40(e).

The Board met on November 13, 2003 and reviewed and approved an amended marketing policy and recommended the establishment of interim final and final free and restricted percentages. The interim final free and restricted percentages were

recommended at 6.8393 percent free and 93.1607 percent restricted. Final percentages, which included an additional 15 percent of the average of the preceding three-years' trade acquisitions for desirable carryout, were recommended at 8.2303 free and 91.7697 percent restricted effective May 31, 2004. The final free percentage

releases 2,775 tons of inshell hazelnuts from the 2003 supply for domestic inshell use.

The interim and final marketing percentages are based on the Board's final production estimate and the following supply and demand information for the 2003–2004 marketing year:

Inshell supply	Tons
(1) Total production (crop estimate) .....	35,000
(2) Less substandard, farm use (disappearance; 4.64 percent of Item 1) .....	1,624
(3) Merchantable production (Board's adjusted crop estimate; Item 1 minus Item 2) .....	33,376
(4) Plus undeclared carryin as of July 1, 2003, (subject to regulation) .....	341
(5) Supply subject to regulation (Item 3 plus Item 4) .....	33,717

Inshell Trade Demand		
(6) Average trade acquisitions of inshell hazelnuts for three prior years .....	3,127	
(7) Less declared carryin as of July 1, 2003 (not subject to regulation) .....	821	
(8) Adjusted Inshell Trade Demand (Item 6 minus Item 7) .....	2,306	
(9) Desirable carryout on August 31, 2004 (15 percent of Item 6) .....	469	
(10) Adjusted Inshell Trade Demand plus desirable carryout (Item 8 plus Item 9) .....	2,775	

Percentages	Free	Restricted
(11) Interim final percentages (Item 8 divided by Item 5) × 100 .....	6.8393	93.1607
(12) Final percentages (Item 10 divided by Item 5) × 100 .....	8.2303	91.7697
(13) Final free in tons (Item 10) .....	2,775	
(14) Final restricted in tons (Item 5 minus Item 10) .....		30,942

In addition to complying with the provisions of the order, the Board also considered USDA's 1982 "Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders" (Guidelines) when making its computations in the marketing policy. This volume control regulation provides a method to collectively limit the supply of inshell hazelnuts available for sale in domestic markets. The Guidelines provide that the domestic inshell market has available a quantity equal to 110 percent of prior years' shipments before allocating supplies for the export inshell, export kernel, and domestic kernel markets. This provides for plentiful supplies for consumers and for market expansion, while retaining the mechanism for dealing with oversupply situations. The established final percentages will make available an additional 469 tons for desirable carryout effective May 31, 2004. The total free supply for the 2003–2004 marketing year is 3,596 tons of hazelnuts, which is the sum of the final trade demand of 3,127 tons and the 469 ton desirable carryout. This amount is 115 percent of prior years' sales and exceeds the goal of the Guidelines.

#### Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of

this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than \$750,000, and small agricultural service firms are defined as those having annual receipts of less than \$5,000,000. There are approximately 750 producers of hazelnuts in the production area and approximately 17 handlers subject to regulation under the order. Average annual hazelnut revenue per producer is approximately \$36,133. This is computed by dividing NASS figures for the average value of production for 2001 and 2002 (\$27,100,000) by the number of producers. The level of sales of other crops by hazelnut producers is not known. In addition, based on Board records, about 95 percent of the handlers ship under \$5,000,000 worth of hazelnuts on an annual basis. In view

of the foregoing, it can be concluded that the majority of hazelnut producers and handlers may be classified as small entities.

Board meetings are widely publicized in advance of the meetings and are held in a location central to the production area. The meetings are open to all industry members and other interested persons who are encouraged to participate in the deliberations and voice their opinions on topics under discussion. Thus, Board recommendations can be considered to represent the interests of small business entities in the industry.

Currently, U.S. hazelnut production is allocated among three market outlets: domestic inshell, export inshell, and kernel markets. Handlers and growers receive the highest return on domestic inshell, less for export inshell, and the least for kernels. Based on Board records of average shipments for 1993–2002, the percentage going to each of these markets was 13 percent (domestic inshell), 43 percent (export inshell), and 44 percent (kernels).

The inshell market can be characterized as having limited demand and being prone to oversupply and low grower prices in the absence of supply restrictions. This volume control regulation provides a method for the U.S. hazelnut industry to limit the supply of domestic inshell hazelnuts available for sale in the continental U.S.

On average, 77 percent of domestic inshell hazelnuts are shipped during the period October 1 through November 30, primarily to supply the holiday nut market.

Many years of marketing experience led to the development of the current volume control procedures. These procedures have helped the industry to improve its marketing situation by keeping inshell supplies in balance with domestic needs. Volume controls fully supply the domestic inshell market while preventing an oversupply of that market.

The estimated inshell trade demand (2,306 tons) and the larger 2003 crop were key market factors leading to the Board's recommendation for the 8.2303 percent final free percentage. The 35,000 ton hazelnut production for 2003 is 15,500 tons more than in 2002, and 14,500 tons less than the production level in 2001, the largest crop in the last ten years.

Although the domestic inshell market is a relatively small proportion of total sales (13 percent of average shipments over the last ten years, and 11 percent of average shipments for the last two years), it remains a profitable market segment. The volume control provisions of the marketing order are designed to avoid oversupplying this particular market segment, because that would likely lead to substantially lower grower prices. The domestic kernel market and inshell exports are both expected to continue to be good outlets for U.S. hazelnut production.

Recent production and price data reflect the stabilizing effect of the volume control regulations. Industry statistics show that total hazelnut production has varied widely over the 10-year period between 1993 and 2002, from a low of 15,400 tons in 1998 to a high of 49,500 tons in 2001. Production in the shortest crop year and the biggest crop year was 49 percent and 159 percent, respectively, of the 10-year average tonnage of 31,220. Since low production years typically follow high production years (a consistent pattern for hazelnuts), lower production is expected in 2004.

The coefficient of variation (a standard statistical measure of variability; "CV") for hazelnut production over the 10-year period is 0.39. In contrast, the coefficient of variation for hazelnut grower prices is 0.12, less than one third of the CV for production. The considerably lower variability of prices versus production provides an illustration of the order's price-stabilizing impacts.

Comparing grower cost of production to grower revenue in recent years

highlights the financial impacts on growers at varying production levels. A recent hazelnut cost of production study from Oregon State University estimated cost of production per acre to be approximately \$1,340 for a typical 100-acre hazelnut enterprise. Average grower revenue per bearing acre (based on NASS acreage and value of production data) equaled or exceeded that typical cost level twice between 1995 and 2002. Average grower revenue was below typical costs in the other years. Since 1995, the highest level of revenue per bearing acre was \$1,552 (1997) and the lowest was \$561 in 1996. Without the stabilizing impact of the order, growers may have lost more money. While crop size fluctuates, the volume regulations contribute to orderly marketing and market stability, and help to moderate the variation in returns for all producers and handlers, both large and small.

While the level of benefits of this rulemaking is difficult to quantify, the stabilizing effects of the volume regulations impact both small and large handlers positively by helping them maintain and expand markets even though hazelnut supplies fluctuate widely from season to season. This regulation provides equitable allotment of the most profitable market, the domestic inshell market. That market is available to all handlers, regardless of size.

As an alternative to this regulation, the Board discussed not regulating the 2003–2004 hazelnut crop. However, without any regulations in effect, the Board believes that the industry would oversupply the inshell domestic market.

Section 982.40 of the order establishes a procedure and computations for the Board to follow in recommending to USDA the preliminary, interim final, and final quantities of hazelnuts to be released to the free and restricted markets each marketing year. The program results in plentiful supplies for consumers and for market expansion while retaining the mechanism for dealing with oversupply situations.

Hazelnuts produced under the order comprise virtually all of the hazelnuts produced in the U.S. This production represents, on average, less than 4 percent of total U.S. production for other tree nuts, and less than 4 percent of the world's hazelnut production.

During the 2002–2003 season, 87 percent of the kernels were marketed in the domestic market and 13 percent were exported. Domestically produced kernels generally command a higher price in the domestic market than imported kernels. The industry is continuing its efforts to develop new

markets and expand demand, with emphasis on the domestic kernel market. Small business entities, both producers and handlers, benefit from the expansion efforts resulting from this program.

Inshell hazelnuts produced under the order compete well in export markets because of quality. Based on Board statistics, Europe has historically been the primary export market for U.S.-produced inshell hazelnuts, with a 10-year average of 5,249 tons, 40 percent of total average exports of 12,478 tons. The largest share went to Germany. In 1995, 70 percent of export shipments went to Europe. Recent years have seen a significant shift in export destinations, however, with Europe's share declining to 30 percent of inshell shipments (3,321 tons) in the 2002–2003 season. Inshell shipments to Asia have increased dramatically in the past few years, growing to 55 percent of total exports of 10,979 tons in the 2002–2003 season. Hong Kong is the largest export destination, followed by China. The industry continues to pursue export opportunities.

There are some reporting, recordkeeping, and other compliance requirements under the order. The reporting and recordkeeping burdens are necessary for compliance purposes and for developing statistical data for maintenance of the program. The information collection requirements have been previously approved by the Office of Management and Budget under OMB No. 0581–0178. The forms require information which is readily available from handler records and which can be provided without data processing equipment or trained statistical staff. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. This rule does not change those requirements. In addition, USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

Further, the Board's meetings were widely publicized throughout the hazelnut industry and all interested persons were invited to attend the meetings and participate in Board deliberations. Like all Board meetings, those held on August 28 and November 13, 2003, were public meetings and all entities, both large and small, were able to express their views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

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/fv/moab.html>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

This rule invites comments on the establishment of interim final and final free and restricted percentages for the 2003–2004 marketing year under the hazelnut marketing order. Any comments received will be considered prior to finalization of this rule.

After consideration of all relevant material presented, including the Board's recommendation, and other information, it is found that this interim final rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) The 2003–2004 marketing year began July 1, 2003, and the percentages established herein apply to all merchantable hazelnuts handled from the beginning of the crop year; (2) handlers are aware of this rule, which was recommended at an open Board meeting, and need no additional time to comply with this rule; and (3) interested persons are provided a 60-day comment period in which to respond, and all comments timely received will be considered prior to finalization of this action.

#### List of Subjects in 7 CFR Part 982

Filberts, Hazelnuts, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR Part 982 is amended as follows:

#### PART 982—HAZELNUTS GROWN IN OREGON AND WASHINGTON

■ 1. The authority citation for 7 CFR Part 982 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

■ 2. A new section 982.251 is added to read as follows:

**[Note:** This section will not be published in the annual Code of Federal Regulations.]

#### § 982.251 Free and restricted percentages—2003–2004 marketing year.

(a) The interim final free and restricted percentages for merchantable hazelnuts for the 2003–2004 marketing year shall be 6.8393 percent and 93.1607 percent, respectively.

(b) On May 31, 2004, the final free and restricted percentages for merchantable hazelnuts for the 2003–2004 marketing year shall be 8.2303 percent and 91.7697 percent, respectively.

Dated: January 12, 2004.

**A.J. Yates,**  
*Administrator, Agricultural Marketing Service.*

[FR Doc. 04–1004 Filed 1–15–04; 8:45 am]

**BILLING CODE 3410–02–P**

#### NUCLEAR REGULATORY COMMISSION

#### 10 CFR Part 72

#### RIN 3150–AH25

#### List of Approved Spent Fuel Storage Casks: NAC–UMS Revision

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Direct final rule.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is amending its regulations revising the NAC International, Inc., NAC–UMS cask system listing within the “List of Approved Spent Fuel Storage Casks” to include Amendment No. 3 to Certificate of Compliance (CoC) Number 1015. Amendment No. 3 modifies the present cask system design to add an alternate poison material, revise the structural analysis, revise the thermal analyses, revise fuel assembly weight and dimensions, and revise allowable fuel cladding temperature. The amendment also revises the criticality analyses and reorganizes the Safety Analysis Report (SAR) Criticality Section, revises Technical Specification A.5.5 to remove the effluent reporting requirements, and makes several editorial and administrative changes.

**DATES:** The final rule is effective March 31, 2004, unless significant adverse comments are received by February 17, 2004. 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:** You may submit comments by any one of the following methods. Please include the following number—RIN 3150–AH25—in the subject line of your comments. Comments on rulemakings submitted in writing or in electronic form will be made available to the public in their entirety on the NRC rulemaking Web site. Personal information will not be removed from your comments.

Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.

E-mail comments to [SECY@nrc.gov](mailto:SECY@nrc.gov). If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at (301) 415–1966. You may also submit comments via the NRC's rulemaking Web site at <http://ruleform.llnl.gov>. Address questions about our rulemaking Web site to Carol Gallagher (301) 415–5905; e-mail [cag@nrc.gov](mailto:cag@nrc.gov). Comments can also be submitted via the Federal eRulemaking Portal <http://www.regulations.gov>.

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. on Federal workdays (telephone (301) 415–1101).

Fax comments to: Secretary, U.S. Nuclear Regulatory Commission at (301) 415–1101.

Publicly available documents related to this rulemaking may be viewed electronically on the public computers located at the NRC's Public Document Room (PDR), 0–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. The PDR reproduction contractor will copy documents for a fee. Selected documents, including comments, may be viewed and downloaded electronically via the NRC rulemaking Web site at <http://ruleform.llnl.gov>.

Publicly available documents created or received at the NRC after November 1, 1999, are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.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 CoC, proposed TS, and preliminary SER can be found under ADAMS Accession Nos. ML032890297 (CoC), ML032890300 and ML032890305 (TS), and ML032890312 (SER). 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–