

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150-AG97

List of Approved Spent Fuel Storage Casks: HI-STORM 100 Revision

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations revising the Holtec International HI-STORM 100 cask system listing within the list of approved spent fuel storage casks to include Amendment 1 to the Certificate of Compliance (CoC). This amendment would modify the present cask system design to permit a licensee, under a general license, to: add four new multipurpose canisters; add new containers for damaged fuel; add the HI-STORM 100S overpack and the 100A and 100SA high-seismic anchored overpacks; allow the storage of high-burnup fuel; delete the Technical Specifications for special requirements for the first systems in place and for training requirements and relocate these requirements to the main body of CoC 1014; and allow the storage of selected nonfuel hardware. The amendment would also use revised thermal analysis tools to include natural convection heat transfer, revise the helium backfill requirements to allow a helium density measurement to be used, allow a helium drying system rather than the existing vacuum drying system, and require soluble boron during canister loading for certain higher enriched fuels. In addition, modifications would be made applicable to CoC conditions and sections of Appendix A and Appendix B to the CoC to reflect the changes.

DATES: Comments on the proposed rule must be received on or before April 26, 2002.

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.

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.

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/reading-rm.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 and preliminary safety evaluation report (SER) can be found under ADAMS Accession No. ML013330457. If you do not have access to ADAMS or if their 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.

FOR FURTHER INFORMATION CONTACT: Jayne M. McCausland, telephone (301) 415-6219, email jmm2@nrc.gov, of the Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the final rules section of this **Federal Register**.

Procedural Background

This rule is limited to the changes contained in Amendment 1 to CoC No. 1014 and does not include other aspects of the Holtec HI-STORM 100 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.

Because NRC considers this action noncontroversial and routine, the proposed rule is being published concurrently as a direct final rule. The direct final rule will become effective on June 10, 2002. However, if the NRC receives significant adverse comments by April 26, 2002, 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 NRC 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 NRC 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 NRC staff to make a change (other than editorial) 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.

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. 553, the NRC is proposing to adopt 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 1014 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1014.

Initial Certificate Effective Date: June 1, 2000.

Amendment Number 1 Effective Date: June 10, 2002.

SAR Submitted by: Holtec International.

SAR Title: Final Safety Analysis Report for the HI–STORM 100 Cask System.

Docket Number: 72–1014.

Certificate Expiration Date: June 1, 2020.

Model Number: HI–STORM 100.

* * * * *

Dated at Rockville, Maryland, this 13th day of March, 2002.

For the Nuclear Regulatory Commission.

William D. Travers,

Executive Director for Operations.

[FR Doc. 02–7321 Filed 3–26–02; 8:45 am]

BILLING CODE 7590–01–P

**PENSION BENEFIT GUARANTY
CORPORATION**

29 CFR Part 4003

RIN 1212–AA97

**Rules for Administrative Review of
Agency Decisions**

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Proposed rule.

SUMMARY: The Pension Benefit Guaranty Corporation (“PBGC”) is proposing to amend its regulation on Administrative Review of Agency Decisions to expedite the appeals process by authorizing a single member of the PBGC’s Appeals Board to decide routine appeals.

DATES: Comments must be received on or before May 28, 2002.

ADDRESSES: Comments may be mailed to the Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, or delivered to Suite 340 at the above address. Comments also may be sent by Internet e-mail to reg.comments@pbgc.gov. Copies of comments may be obtained by writing the PBGC’s Communications and Public Affairs Department (CPAD) at Suite 240 at the above address or by visiting or calling CPAD during normal business hours (202–326–4040).

FOR FURTHER INFORMATION CONTACT:

Harold J. Ashner, Assistant General Counsel, or Thomas H. Gabriel, Attorney, Office of the General Counsel, PBGC, 1200 K Street, NW, Washington, DC 20005–4026; 202–326–4024. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION: Under the PBGC’s regulation on Administrative Review of Agency Decisions (29 CFR

part 4003), persons aggrieved by certain PBGC determinations may appeal to the PBGC Appeals Board, defined as “a board consisting of three PBGC officials.”

The PBGC has been studying its administrative appeals process to see how it can accelerate appeals processing while continuing to protect the rights of appellants. Experience has shown that many appeals involve simple factual issues or call for application of well-settled legal principles. The PBGC believes that cases that do not raise a significant issue of law or a precedent-setting issue can be properly decided by a single Appeals Board member, thereby expediting the appeals process. Accordingly, this proposed rule would authorize any one member of the Appeals Board to act for the Board in routine cases as described in the rule. The PBGC would continue to use 3-member panels for cases that involve a significant issue of law or a precedent-setting issue. This would include, for example, a benefit determination appeal in which the decision is expected to affect the benefits of other persons.

The PBGC invites public comment on this proposal.

**Compliance With Rulemaking
Requirements**

As a rule of agency organization, procedure, or practice, this rule is exempt from the notice and public comment and delayed effective date requirements of section 553 of the Administrative Procedure Act. However, because the PBGC wishes to provide an opportunity for public comment, this rule is being published as a proposed rule.

Because no general notice of proposed rulemaking is required, the Regulatory Flexibility Act does not apply to this rule. See 5 U.S.C. 601(2), 603, 604.

This rule is not a “significant regulatory action” under the criteria set forth in Executive Order 12866.

List of Subjects in 29 CFR Part 4003

Administrative practice and procedure, Organization and functions (Government agencies), Pension insurance, Pensions.

For the reasons set forth above, the PBGC proposes to amend 29 CFR Part 4003 as follows.

**PART 4003—RULES FOR
ADMINISTRATIVE REVIEW OF
AGENCY DECISIONS**

1. The authority citation for part 4003 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3).