

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Federal Crop Insurance Corporation

#### 7 CFR Part 457

RIN 0563-AB99

#### Common Crop Insurance Regulations, Cabbage Crop Insurance Provisions; Correction

**AGENCY:** Federal Crop Insurance Corporation, USDA.

**ACTION:** Final rule; correction.

**SUMMARY:** This document contains corrections to the final regulation which was published February 26, 2009. The regulation pertains to the insurance of cabbage.

**DATES:** *Effective Date:* June 2, 2009.

**FOR FURTHER INFORMATION CONTACT:** Erin Albright, Risk Management Specialist, Product Management, Product Administration and Standards Division, Risk Management Agency, United States Department of Agriculture, Beacon Facility, Stop 0812, Room 421, P.O. Box 419205, Kansas City, MO 64141-6205, telephone (816) 926-7730.

#### SUPPLEMENTARY INFORMATION:

##### Background

The final regulation that is the subject of this correction converted the cabbage pilot crop insurance program to a permanent crop insurance regulation to be used in conjunction with the Common Crop Insurance Policy Basic Provisions for ease of use and consistency of terms. It was published February, 26, 2009 (74 FR 8705-8713).

##### Need for Correction

As published, the final regulation contained an error which may prove to be misleading and needs to be clarified. Section 12(c) of the Cabbage Crop Insurance Provisions mistakenly included a reference to section 14(a)(3)

(Your Duties) of the Basic Provisions. This specific reference to section 14(a)(3) (Your Duties) of the Basic Provisions should have been referenced in section 12(e) of the Cabbage Crop Insurance Provisions. The correct reference in section 12(c) of the Cabbage Crop Insurance Provisions should be to the provisions contained in section 14 of the Basic Provisions.

#### List of Subjects in 7 CFR Part 457

Crop insurance, Cabbage, Reporting and recordkeeping requirements.

#### Correction of Publication

■ Accordingly, 7 CFR part 457 is corrected as follows:

#### PART 457—COMMON CROP INSURANCE REGULATIONS

■ 1. The authority citation for 7 CFR part 457 continues to read as follows:

**Authority:** 7 U.S.C. 1506(l) and 1506(p).

#### § 457.171 [Amended]

■ 2. Amend § 457.171 as follows:

- a. In section 12(c) by removing the phrase “(a)(3) (Your Duties)”;
- b. In section 12(e) by removing the phrase “section 14” and adding the phrase “section 14(a)(3)(Your Duties)” in its place.

Signed in Washington, DC, on May 21, 2009.

**William J. Murphy,**

*Acting Manager, Federal Crop Insurance Corporation.*

[FR Doc. E9-12708 Filed 6-1-09; 8:45 am]

**BILLING CODE 3410-08-P**

## DEPARTMENT OF AGRICULTURE

### Commodity Credit Corporation

#### 7 CFR Part 1467

RIN 0578-AA47

#### Wetlands Reserve Program

**AGENCY:** Natural Resources Conservation Service and Commodity Credit Corporation, United States Department of Agriculture.

**ACTION:** Interim final rule; amendment with reopening of public comment.

**SUMMARY:** The Natural Resources Conservation Service (NRCS) published in the **Federal Register** of January 15,

2009, an interim final rule with request for comment amending the program regulations for the Wetlands Reserve Program (WRP) to incorporate programmatic changes authorized by the Food, Conservation, and Energy Act of 2008 (2008 Act). The January 15, 2009 interim final rule changed the nature and scope of the agreement NRCS enters into with the landowner under a WRP easement in a manner which could interfere with the restoration efforts of some lands enrolled in the program. Since the change to the program was not necessitated by the 2008 Act, this amendment to the January 15, 2009 interim final rule revises these provisions to further the practical administration of the program consistent with the WRP statute. This amendment re-opens the public comment period for the interim final rule, as amended, for an additional 30 days.

**DATES:** *Effective Date:* The rule is effective June 2, 2009.

*Comment Date:* Submit comments on or before July 2, 2009. In addition, the comment period for the WRP Interim Final Rule published on January 15, 2009 (74 FR 2317) is hereby re-opened and comments must be received on or before July 2, 2009.

**ADDRESSES:** You may send comments (identified by Docket Number NRCS-IFR-08013) using any of the following methods:

- *Government-wide rulemaking Web site:* Go to <http://www.regulations.gov> and follow the instructions for sending comments electronically.

- *Mail:* Easements Programs Division, Department of Agriculture, Natural Resources Conservation Service, Wetlands Reserve Program Comments, Room 6819 South Building, Washington, DC 20013.

- *Fax:* (202) 720-9689
- *Hand Delivery:* USDA South Building, 1400 Independence Avenue, SW., Room 6819, Washington, DC 20250 between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Please ask the guard at the entrance to the South Building to call (202) 720-4527 in order to be escorted into the building.

- This interim final rule may be accessed via Internet. Users can access the NRCS homepage at <http://www.nrcs.usda.gov/>; select the *Farm Bill* link from the menu; select the

*Interim final* link from beneath the *Final and Interim Final Rules Index* title. Persons with disabilities who require alternative means for communication (Braille, large print, audio tape, etc.) should contact the USDA TARGET Center at: (202) 720-2600 (voice and TDD).

**FOR FURTHER INFORMATION CONTACT:**

Director, Easement Programs Division, Department of Agriculture, Natural Resources Conservation Service, Room 6819, P.O. Box 2890, Washington, DC 20013-2890; *Phone:* (202) 720-1854; *Fax:* (202) 720-9689; or *e-mail:* [wrp2008@wdc.usda.gov](mailto:wrp2008@wdc.usda.gov).

**SUPPLEMENTARY INFORMATION:**

**Regulatory Certifications**

*Executive Order 12866*

The Office of Management and Budget reviewed the January 15, 2009 interim final rule and determined that it was an economically significant regulatory action since it results in an annual effect on the economy of \$100 million or more. Pursuant to Executive Order 12866, NRCS conducted a cost-benefit analysis of the potential impacts associated with the interim final rule for WRP published in the **Federal Register** on January 15, 2009. The provisions of this interim final rule do not alter the analysis that was originally prepared. The administrative record is available for public inspection in Room 5831 USDA South Office Building, 1400 Independence Avenue, SW., Washington, DC. A copy of the analysis is available upon request from the Director, Easement Programs Division, Natural Resources Conservation Service, Room 6819 South Building, Washington, DC 20250-2890 or electronically at: <http://www.nrcs.usda.gov/programs/wrp/> under the *Program Information* title.

*Regulatory Flexibility Act.*

The Regulatory Flexibility Act is not applicable to this interim final rule because the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553, or by any other provision of law, to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

*Environmental Analysis*

A programmatic environmental assessment has been prepared in association with the interim final rulemaking published on January 15, 2009. The provisions of this interim final rule do not alter the assessment and the findings that were originally prepared. The analysis has determined that there will not be a significant

impact to the human environment and as a result, an Environmental Impact Statement is not required to be prepared (40 CFR part 1508.13). NRCS has extended the public comment period for the Environmental Analysis (EA) and Finding of No Significant Impact (FONSI) until July 2, 2009. A copy of the EA and FONSI may be obtained from the following Web site: [http://www.nrcs.usda.gov/programs/Env\\_Assess/](http://www.nrcs.usda.gov/programs/Env_Assess/). A hard copy may also be requested from the following contact and address: National Environmental Coordinator, Natural Resources Conservation Service, Ecological Sciences Division, 1400 Independence Ave., SW., Washington, DC 20250. Comments from the public should be specific and reference that comments provided are on the EA and FONSI. Public comment may be submitted by any of the following means: (1) E-mail comments to [NEPA2008@wdc.usda.gov](mailto:NEPA2008@wdc.usda.gov), (2) e-mail to e-gov Web site <http://www.regulations.gov>, or (3) written comments to: National Environmental Coordinator, Natural Resources Conservation Service, Ecological Sciences Division, 1400 Independence Ave., SW., Washington, DC 20250.

*Civil Rights Impact Analysis*

NRCS has determined through a Civil Rights Impact Analysis that the issuance of the interim final rule published on January 15, 2009, disclosed no disproportionately adverse impacts for minorities, women, or persons with disabilities. The provisions of this interim final rule do not alter the analysis that was originally prepared. Copies of the Civil Rights Impact Analysis are available, and may be obtained from the Director, Easement Programs Division, Natural Resources Conservation Service, P.O. Box 2890, Washington, DC 20013-2890, or electronically at <http://www.nrcs.usda.gov/programs/WRP>.

*Paperwork Reduction Act*

Section 2904 of the 2008 Act requires that the implementation of this provision be carried out without regard to the Paperwork Reduction Act, chapter 35 of title 44, United States Code. Therefore, NRCS is not reporting recordkeeping or estimated paperwork burden associated with this amendment or the January 15, 2009 interim final rule.

*Government Paperwork Elimination Act*

NRCS is committed to compliance with the Government Paperwork Elimination Act and the Freedom to E-File Act, which require government agencies in general and NRCS in

particular, to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

*Executive Order 12988*

This interim final rule has been reviewed in accordance with Executive Order 12988, Civil Justice Reform. The provisions of this interim final rule are not retroactive and preempt State and local laws to the extent that such laws are inconsistent with this interim final rule. Before an action may be brought in a Federal court of competent jurisdiction, the administrative appeal rights afforded persons at 7 CFR parts 11, 614, and 780 must be exhausted.

*Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994*

Pursuant to section 304 of the Federal Crop Insurance Reform Act of 1994 (Pub. L. 103-354), NRCS classified this rule as non-major. Therefore, a risk analysis was not conducted.

*Unfunded Mandates Reform Act of 1995*

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538), USDA assessed the effects of this interim final rule on State, local, Tribal Governments, and the public. This rule does not compel the expenditure of \$100 million or more by any State, local, Tribal Governments, or anyone in the private sector; therefore, a statement under section 202 of the Unfunded Mandates Reform Act of 1995 is not required.

*Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)*

The January 15, 2009, interim final rule was a major rule as defined by Section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This interim final rule will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based companies to compete in domestic and export markets. The provisions of this interim final rule do not alter the original determination under SBREFA. However, section 2904(c) of the 2008 Act requires that the Secretary use the authority in section 808(2) of title 5, United States Code, which allows an agency to forego SBREFA's usual 60-day Congressional Review delay of the effective date of a major regulation if the agency finds that there is a good cause to do so. NRCS hereby determines that it has good cause

to do so in order to meet the Congressional intent to have the conservation programs authorized or amended by Title II in effect as soon as possible. Accordingly, this rule is effective upon filing for public inspection by the Office of the **Federal Register**.

#### *Executive Order 13132*

E.O. 13132 requires NRCS to develop an accountable process to ensure “meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.” E.O. 13132 defines the term “Policies that have federalism implications” to include regulations that have “substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.” Under E.O. 13132, NRCS may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or NRCS consults with State and local officials early in the process of developing the proposed regulation. NRCS shows sensitivity to federalism concerns by requiring the State Conservationist to meet with and provide opportunities for involvement of State and local governments through the State Technical Committee. The interim final rule published on January 15, 2009, will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government as specified in E.O. 13132. The provisions of this interim final rule do not alter this determination. Thus, the Executive Order does not apply to this rule.

#### *Executive Order 13175*

This interim final rule has been reviewed in accordance with Executive Order 13175, Consultation and Coordination with Tribal Governments. NRCS has assessed the impact of this interim final rule on Tribal Governments and has concluded that this rule will not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

## **Discussion of Program**

### *Background*

This Amendment is effective on the date published in the **Federal Register**. The WRP is a voluntary program that provides assistance to eligible landowners to restore and protect wetlands. The 2008 Act made several program changes to WRP implementation which NRCS incorporated into the January 15, 2009, interim final rule. However, NRCS made other changes to the program in the interim final rule that were not necessitated by the 2008 Act amendments. In particular, the January 15, 2009, interim final rule revised the nature of the relationship that NRCS and a landowner have in regards to the restoration and management of lands enrolled in the program.

The interim final rule introduced several new provisions that place a landowner in violation of the easement if a landowner either fails to complete the restoration activities on the easement or if the landowner transfers the property to a person or entity that is ineligible to receive payment or unwilling to complete the restoration activities. The preamble discussion explained that this policy will create situations where NRCS expends funds for the enrollment and acquisition of an easement, but is not able to restore such enrolled lands because of subsequent actions or inactions taken by the landowner. Furthermore, the interim final rule specified that, as a violation of the easement, NRCS has the right to have the easement remain in force and to seek a refund of any payments made in furtherance of the enrollment. However, the easement lands will remain unrestored, and therefore not meet the basic purpose of the program.

After further review, NRCS has determined that the authority provided under the WRP statute is broad enough to avoid this result by allowing the parties at the time of enrollment to agree to the method of restoration completion. Specifically, the purpose of WRP is for NRCS to assist landowners with the restoration, enhancement, and protection of the wetlands on their property through the purchase of an easement; the cost-sharing of practices and activities; and the management, monitoring, and enforcement of the easement area in accordance with the WRP statute provides discretion for: (1) NRCS to include terms and conditions in the WRP deed with the landowner which further the practical administration of the program; and (2) NRCS to enter into an agreement with

the landowner for the implementation of the Wetland Reserves Plan of Operation (WRPO). The types of violation situations described above can be avoided if NRCS and the landowner agree, at the time of enrollment, that under the terms of the deed, NRCS may restore, protect, enhance, maintain, and manage activities on the easement area by providing cost-share assistance directly to the landowner, or as determined necessary by NRCS, through another person or entity.

NRCS interprets the authority and discretion provided under 16 USC 3837d(b) to allow NRCS to make such payments to restore and maintain the easement area. In particular, 16 USC 3838d(b) provides that NRCS may make payments to others without “regard to any other provision of law” and in a manner NRCS “determines is fair and reasonable.” In this way, NRCS is able to ensure that all properties enrolled in WRP are able to be restored as contemplated by the WRP statute despite events subsequent to enrollment.

NRCS remains subject to the statutory limitations regarding the level of cost-share assistance payments that can be made, whether such assistance is made directly to the landowner or through another person or entity. Therefore, for 30-year easements, NRCS may not provide more than 75 percent of the cost of establishing or installing conservation practices or activities specified in the WRPO.

Accordingly, NRCS is amending the January 15, 2009, interim final rule to maintain the efficient working relationship between NRCS and landowners enrolled in the program and ensure that the Federal conservation investment is protected. NRCS is adding language to § 1467.4 and § 1467.7 to clarify the scope of the agreement between NRCS and the landowner entered into at the time of enrollment. NRCS is also removing language in § 1467.7(c)(1) and § 1467.10(e) that established the basis for determining a landowner in violation and recoupment of costs if the land subject to an easement was sold to an ineligible landowner prior to completion of the restoration practices.

Additionally, NRCS is making a correction to the eligibility criteria related to closed basin lakes and potholes at § 1467.4(e)(5). The IFR established that the depth of 6.5 feet would be determined at the time of enrollment. Water depths vary throughout the year and from year to year due to the dynamic aspects related to flooding in these systems. Since the time of enrollment is when NRCS is

taking the administrative action regarding the signing of documents rather than assessing site conditions, NRCS determined that the time of enrollment is not the appropriate stage in the process for determining water depth eligibility. Therefore, NRCS is removing the clause related to "at the time of enrollment" from § 1467.4(e)(5). NRCS will base its determination concerning eligibility as soon as practicable after receiving the landowner application and prior to enrollment.

NRCS is taking this opportunity to notify the public of its continued dedication to proactive restoration of lands enrolled in WRP. In the January 15, 2009, interim final rule, NRCS added language to § 1467.12, "the WRPO Development," to affirm its dedication to the adoption of more proactive restoration and enhancement practices: "Specifically, the WRPO will consider and address, to the extent practicable, the on-site alternations and the off-site watershed conditions that adversely impact the hydrology and associated wildlife and wetland functions and values."

NRCS believes that the long-term cost-effectiveness of its wetland restoration and management efforts requires that greater investment be made in the initial implementation of practices that create the appropriate conditions for wetland flora and fauna to thrive. For example, NRCS incorporates micro-topography into restoration practices to mimic the oxbows of flooding and to disrupt the establishment of noxious weeds. NRCS designs longer slope lengths on its berms to increase the amount of shallow water available to shorebirds and to minimize damage to the berm from flood overflow. These practices may cost more than plugging a ditch or breaking known locations of drainage tile, but are necessary to reduce long-term management headaches and to realize the WRP purposes of maximizing wildlife and wetland functions and values. NRCS believes that quality restoration efforts result in more fully meeting WRP statutory intent, increasing landowner satisfaction, and benefitting local communities from increased sources of recreational income.

**List of Subjects in 7 CFR Part 1467**

Administrative practice and procedure, Agriculture, Soil conservation, Wetlands, and Wetland protection.

■ For the reasons stated in the preamble, the CCC amends part 1467 of Title 7 of

the Code of Federal Regulations as set forth below:

■ 1. The authority citation for part 1467 continues to read as follows:

**Authority:** 16 U.S.C. 3837 *et seq.*

■ 2. Section 1467.4 is amended by revising paragraph (a)(2) and (e)(5) to read as follows:

**§ 1467.4 Program requirements.**

(a) \* \* \*

(2) To participate in WRP, a landowner must agree to the implementation of a WRPO, the effect of which is to restore, protect, enhance, maintain, and manage the hydrologic conditions of inundation or saturation of the soil, native vegetation, and natural topography of eligible lands. NRCS may provide cost-share assistance through a restoration cost-share agreement or an easement restoration agreement for the conservation practices and activities that promote the restoration, protection, enhancement, maintenance, and management of wetland functions and values. For easement transactions, NRCS may implement such conservation practices and activities through an agreement with the landowner, a contract with a vendor, or a cooperative agreement with a cooperating entity. Specific restoration, protection, enhancement, maintenance, and management actions may be undertaken by the landowner, NRCS, or other designee.

\* \* \* \* \*

(e) \* \* \*

(5) Land under paragraph (e)(3)(ii)(B) of this section may be considered for enrollment into 30-year easements if it meets the criteria under paragraph (e)(3) of this section, it is located in the Prairie Pothole Region as defined under § 1467.3 of this part, and the size of the parcel offered for enrollment is a minimum of 20 contiguous acres. Such land meets the requirement of likelihood of successful restoration only if the soils are hydric and the depth of water is 6.5 feet or less.

\* \* \* \* \*

■ 3. Section 1467.7 is amended by revising paragraph (c)(1), redesignating paragraph (d) as paragraph (e), adding a new paragraph (d) to read as follows:

**§ 1467.7 Enrollment process.**

\* \* \* \* \*

(c) *Acceptance and effect of offer of enrollment.* (1) *Easement.* For applications requesting enrollment through an easement, an option agreement to purchase will be presented by NRCS to the landowner, which will describe the easement area; the easement compensation amount; the

easement terms and conditions; and other terms and conditions for participation that may be required by NRCS as appropriate. The landowner accepts enrollment in the WRP by signing the option agreement to purchase. NRCS will continue with easement acquisition activities after the property has been enrolled.

\* \* \* \* \*

(d) *Restoration responsibility and the scope of enrollment.* (1) The enrollment document establishes the terms of enrollment consistent with the terms and conditions of this part, and identifies the:

(i) Scope of the agreement between NRCS and the landowner;

(ii) Basis for NRCS to obligate funds; and

(iii) Nature and method through which NRCS will provide WRP technical and financial assistance to the landowner.

(2) The option agreement to purchase between NRCS and the landowner under the easement option constitutes the agreement for:

(i) Granting an easement on the enrolled land as set forth under § 1467.11;

(ii) Implementing a WRPO which provides for the restoration and protection of the functions and values of wetlands;

(iii) Recording the easement in accordance with applicable State law; and

(iv) Ensuring the title to the easement is superior to the rights of all others, except for exceptions to the title that are deemed acceptable by NRCS.

(3) The terms of the easement identified in paragraph (d)(2)(i) of this section includes the landowner's agreement to the implementation of a WRPO identified in paragraph (d)(2)(ii) of this section. In particular, the easement deed identifies that NRCS has the right to enter the easement area to undertake, on a cost-share basis with the landowner or other entity, any activities to restore, protect, manage, maintain, enhance, and monitor the wetland and other natural values of the easement area.

(4) At the time NRCS enters into an agreement to purchase, NRCS agrees, subject to paragraph (e) of this section, to acquire and provide for restoration of the land enrolled into the program.

\* \* \* \* \*

**§ 1467.10 [Amended]**

■ 4. Section 1467.10 is amended by removing paragraph (e).

■ 5. Section 1467.11 is amended by removing paragraphs (a)(5) and (b)(4).

and by revising paragraphs (a)(2)(iv) and (b)(2)(iii) to read as follows:

**§ 1467.11 Easement and 30-year contract participation requirements.**

(a) \* \* \*

(2) \* \* \*

(iv) The right to restore, protect, enhance, maintain, and manage activities on the easement area.

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(iii) The right to restore, protect, enhance, maintain, and manage activities on the enrolled area.

\* \* \* \* \*

■ 6. Section 1467.12 is amended by adding a new sentence at the end of paragraph (b) to read as follows:

**§ 1467.12 The WRPO development.**

\* \* \* \* \*

(b) \* \* \* NRCS will review, revise, and supplement the WRPO as needed throughout the duration of the enrollment to ensure that program goals are fully and effectively achieved.

\* \* \* \* \*

Signed this 26th day of May 2009, in Washington, DC.

**Virginia (Ginger) L. Murphy,**

*Acting Vice President, Commodity Credit Corporation and Acting Chief, Natural Resources Conservation Service.*

[FR Doc. E9-12680 Filed 6-1-09; 8:45 am]

BILLING CODE 3410-16-P

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 72

RIN 3150-A160

[NRC-2009-0132]

#### List of Approved Spent Fuel Storage Casks: HI-STORM 100 Revision 6

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Direct final rule.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is amending its spent fuel storage regulations by revising the Holtec International HI-STORM 100 dry cask storage system listing within the "List of Approved Spent Fuel Storage Casks" to include Amendment No. 6 to Certificate of Compliance (CoC) Number 1014. Amendment No. 6 will modify the CoC to add instrument tube tie rods used for pressurized water reactor 15x15 and 17x17 fuel lattices, for both intact and damaged fuel assemblies, to the

approved contents of the MPC-24, MPC-24E, MPC-24EF, MPC-32, and MPC-32F models; and to correct legacy editorial issues in Appendices A and B Technical Specifications.

**DATES:** The final rule is effective August 17, 2009, unless significant adverse comments are received by July 2, 2009. 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 can access publicly available documents related to this document using the following methods:

*Federal e-Rulemaking Portal:* Go to <http://www.regulations.gov> and search for documents filed under Docket ID [NRC-2009-0132]. Address questions about NRC dockets to Carol Gallagher 301-492-3668; e-mail

*Carol.Gallagher@nrc.gov.*

*NRC's Public Document Room (PDR):*

The public may examine and have copied for a fee publicly available documents at the NRC's PDR, Public File Area O-1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

*NRC's Agencywide Documents Access and Management System (ADAMS):* Publicly available documents created or received at the NRC are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this page, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR Reference staff at 1-800-397-4209, 301-415-4737 or by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). An electronic copy of the proposed Certificate of Compliance (CoC), technical specifications (TS), and preliminary safety evaluation report (SER) can be found under ADAMS Package Number ML090290140.

CoC No. 1014, the TS, the preliminary SER, and the environmental assessment are available for inspection at the NRC PDR, Public File Area O-1F21, One White Flint North, 11555 Rockville Pike, Rockville, MD. Single copies of these documents may be obtained from 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.*

**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:**

#### Background

Section 218(a) of the Nuclear Waste Policy Act of 1982, as amended (NWPA), 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 NWPA 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, which added a new Subpart K within 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," which contains procedures and criteria for obtaining NRC approval of spent fuel storage cask designs. The NRC subsequently issued a final rule on May 1, 2000 (65 FR 25241), that approved the HI-STORM 100 cask system design and added it to the list of NRC-approved cask designs in 10 CFR 72.214 as CoC No. 1014.

#### Discussion

On April 15, 2008, and as supplemented August 1, November 17, and November 26, 2008, the certificate holder, Holtec International (Holtec), submitted an application to the NRC that requested an amendment to CoC No. 1014. The amendment included changes to add instrument tube tie rods used for pressurized water reactor 15x15