

# 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.

## DEPARTMENT OF AGRICULTURE

### Rural Utilities Service

#### 7 CFR Part 1792

RIN 0572-AC01

#### Seismic Safety

**AGENCY:** Rural Utilities Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** The Rural Utilities Service, an agency which administers the U.S. Department of Agriculture's Rural Development Utilities Programs (hereinafter "USDA Rural Development" or the "Agency,") is amending its regulations to update the seismic safety requirements of the Agency. These amendments will provide Agency borrowers (including Rural Telephone Bank borrowers), grant recipients, and the public with updated rules for compliance with seismic safety requirements for new building construction using loan, grant, or guaranteed funds of the Agency, or funds provided through lien accommodations or subordinations approved by the Agency.

In the final rule section of this **Federal Register**, USDA Rural Development is publishing this action as a direct final rule without prior proposal because it views this as a non-controversial action and anticipates no adverse comments. If no adverse comments are received in response to the direct final rule, no further action will be taken on this proposed rule and the action will become effective at the time specified in the direct final rule. If USDA Rural Development receives adverse comments, a timely document will be published withdrawing the direct final rule and all public comments received will be addressed in a subsequent final rule based on this action.

**DATES:** Comments on this proposed action must be received by the agency via facsimile transmission or carry a

postmark or equivalent no later than November 15, 2006.

**ADDRESSES:** Submit adverse comments or notice of intent to submit adverse comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and, in the lower "Search Regulations and Federal Actions" box, select "Rural Utilities Service" from the agency drop-down menu, then click on "Submit." In the Docket ID column, select RUS-06-Agency-0049 to submit or view public comments and to view supporting and related materials available electronically. Information on using [Regulations.gov](http://www.regulations.gov), including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's "User Tips" link.

- *Postal Mail/Commercial Delivery:* Please send your comment addressed to Richard Annan, Director, Program Development and Regulatory Analysis, USDA Rural Development, 1400 Independence Avenue, STOP 1522, Room 5159, Washington, DC 20250-1522. Please state that your comment refers to Docket No. RUS-06-Agency-0049.

*Other Information:* Additional information about Rural Development and its programs is available on the Internet at <http://www.rurdev.usda.gov/index.html>.

**FOR FURTHER INFORMATION CONTACT:** Mr. Donald Heald, Structural Engineer, Transmission Branch, Electric Staff Division, USDA Rural Development, 1400 Independence Avenue, SW., STOP 1569, Washington, DC 20250-1569. Telephone: (202) 720-9102. Fax: (202) 720-7491.

**SUPPLEMENTARY INFORMATION:** See the Supplementary Information provided in the direct final rule located in the Rules and Regulations final rule section of this **Federal Register** for the applicable supplementary information on this action.

Dated: September 27, 2006.

**James M. Andrew,**

*Administrator, Rural Utilities Service.*

[FR Doc. E6-17063 Filed 10-13-06; 8:45 am]

**BILLING CODE 3410-15-P**

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 72

RIN 3150-AH98

#### List of Approved Spent Fuel Storage Casks: HI-STORM 100 Revision 3

**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 No. 3 to Certificate of Compliance Number 1014. Amendment No. 3 would revise Technical Specification (TS) 3.1.3, to eliminate cooling of the Multi-Purpose Canister (MPC) cavity prior to reflood with water, as part of cask unloading operations; TS 3.3.1, to allow linear interpolation between minimal soluble boron concentrations, for certain fuel enrichments in the MPC-32/32F; Appendix B, Section 1, to make modifications to the definitions of fuel debris, damaged fuel assembly, and non-fuel hardware; and Appendix B, Section 2, to permit the storage of pressurized water reactor fuel assemblies with annular fuel pellets in the top and bottom 12 inches of the active fuel length. Other changes would be made to incorporate minor editorial corrections.

**DATES:** Comments on the proposed rule must be received on or before November 15, 2006.

**ADDRESSES:** You may submit comments by any one of the following methods. Please include the following number (RIN 3150-AH98) in the subject line of your comments. Comments on rulemakings submitted in writing or in electronic form will be made available for public inspection. Because your comment will not be edited to remove any identifying or contact information, the NRC cautions you against including personal information such as social security numbers and birth dates in your submission.

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://ruleforum.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. Federal workdays [telephone (301) 415-1966].

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 at the NRC's Public Document Room (PDR), O-1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. Selected documents, including comments, can be viewed and downloaded electronically via the NRC rulemaking Web site at <http://ruleforum.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/NRC/ADAMS/index.html>. From this site, the public can gain entry into the NRC's Agencywide Document Access and Management System (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 PDR Reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov). An electronic copy of the proposed Certificate of Compliance (CoC), TS, and preliminary safety evaluation report (SER) can be found under ADAMS Accession Nos. ML062130434, ML061980040, and ML062130467, respectively.

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

**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 No. 3 to CoC

No. 1014 and does not include other aspects of the 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. The direct final rule will become effective on January 2, 2007. However, if the NRC receives significant adverse comments by November 15, 2006, then the NRC will publish a document that withdraws the direct final rule and will subsequently address the comments received in a final rule. The NRC will not initiate a second comment period on this action.

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.

#### 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, HIGH-LEVEL RADIOACTIVE WASTE, AND REACTOR-RELATED GREATER THAN CLASS C 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, Public Law 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); Public Law 95-601, sec. 10, 92 Stat. 2951 as amended by Public Law 102-486, sec. 7902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 102, Public Law 91-190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Public Law 97-425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Public Law 100-203, 101 Stat. 1330-235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); sec. 651(e), Public Law 109-58, 119 Stat. 806-810 (42 U.S.C. 2014, 2021, 2021b, 2111).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Public Law 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, Public Law 97-425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Public Law 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), Public Law 97-425, 96 Stat. 2202, 2203, 2204, 2222, 2224 (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: July 15, 2002.  
Amendment Number 2 Effective Date: June 7, 2005.  
Amendment Number 3 Effective Date: January 2, 2007.  
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 22nd day of September, 2006.

For the Nuclear Regulatory Commission.

**Martin J. Virgilio,**

*Acting Executive Director for Operations.*

[FR Doc. E6-17077 Filed 10-13-06; 8:45 am]

BILLING CODE 7590-01-P

## FEDERAL DEPOSIT INSURANCE CORPORATION

### 12 CFR Part 327

RIN 3064-AD09

#### Assessments: Initial Regulatory Flexibility Act Analysis

**AGENCY:** Federal Deposit Insurance Corporation.

**ACTION:** Notice of proposed rulemaking; supplemental notice.

**SUMMARY:** On July 24, 2006, the Federal Deposit Insurance Corporation (FDIC) issued a notice of proposed rulemaking with request for comments to better price deposit insurance for risk as required by the Federal Deposit Insurance Act, as amended by the Federal Deposit Insurance Reform Act ("Reform Act") (*see* 71 FR 41910 (July 24, 2006)). The FDIC is supplementing that notice of proposed rulemaking with an initial regulatory flexibility analysis to aid the public in commenting upon the small business impact of its proposed rule.

**DATES:** Comments on the initial regulatory flexibility analysis must be received on or before October 26, 2006.

**ADDRESSES:** You may submit comments, identified by "Regulatory Flexibility Act Analysis", by any of the following methods:

- Agency Web site: <http://www.FDIC.gov/regulations/laws/federal/propose.html>.

- Mail: Robert E. Feldman, Executive Secretary, Attention: Comments/Legal ESS, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

- Hand Delivered/Courier: The guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m.

- E-mail: [comments@FDIC.gov](mailto:comments@FDIC.gov).

Include "RFA Analysis" in the subject line of the message.

- Public Inspection: Comments may be inspected and photocopied in the FDIC Public Information Center, Room E-1002, 3502 Fairfax Drive, Arlington, Virginia 22226, between 9 a.m. and 5 p.m. on business days.

*Instructions:* Submissions received must include the agency name and RIN for this rulemaking. Comments received will be posted without change to <http://www.FDIC.gov/regulations/laws/federal/propose.html>, including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:**

Munsell W. St. Clair, Senior Policy Analyst, Division of Insurance and Research, (202) 898-8967; and Christopher Bellotto, Counsel, Legal Division, (202) 898-3801.

**SUPPLEMENTARY INFORMATION:**

#### Initial Regulatory Flexibility Act Analysis

The Reform Act<sup>1</sup> requires that the FDIC prescribe final regulations, after notice and opportunity for comment, to provide for deposit insurance assessments under section 7(b) of the Federal Deposit Insurance Act (the FDIC Act). This notice supplements the FDIC's initial notice of proposed rulemaking, 71 FR 41910 (July 24, 2006), to amend 12 CFR 327 to: (1) Create different risk differentiation frameworks for smaller and larger institutions that are well capitalized and well managed; (2) establish a common risk differentiation framework for all other insured institutions; and (3) establish a base assessment rate schedule. The proposal would improve risk differentiation and deposit insurance pricing by drawing upon established measures of risk and existing best practices of the industry and Federal regulators for evaluating risk. The proposal would make the assessment system more sensitive to risk and fairer, by limiting the subsidization of riskier institutions by safer ones. The 60-day period for public comment on the proposed rule expired on September 22, 2006.

The FDIC's notice of proposed rulemaking did not include an initial regulatory flexibility analysis pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 603) based on an exception for rules of particular applicability relating to rates or practices relating to such rates, which are expressly excluded from the definition of "rule" for purposes of the RFA (5 U.S.C. 601). The FDIC continues to believe that the rate exception applies to this rulemaking. Nonetheless, the FDIC is voluntarily undertaking an initial regulatory flexibility analysis of the proposal and seeking comment on it.

<sup>1</sup> Federal Deposit Insurance Reform Act of 2005, Public Law 109-171, 120 Stat. 9; Federal Deposit Insurance Conforming Amendments Act of 2005, Public Law 109-173, 119 Stat. 3601.

The Reform Act requires that the FDIC prescribe final regulations, after notice and opportunity for comment, to provide for deposit insurance assessments under section 7(b) of the Federal Deposit Insurance Act (the FDIC Act).<sup>2</sup> The Reform Act enacted the bulk of the recommendations made by the FDIC in 2001; it defines a risk-based system generally as one based on an institution's probability of incurring loss to the deposit insurance fund due to the composition and concentration of the institution's assets and liabilities, the likely amount of loss, and the revenue needs of the Deposit Insurance Fund (DIF).<sup>3</sup>

The Reform Act also grants the FDIC's Board of Directors the discretion to price deposit insurance according to risk for all insured institutions regardless of the level of the fund reserve ratio; it leaves in place the existing statutory provision allowing the FDIC to "establish separate risk-based assessment systems for large and small members of the Deposit Insurance Fund."<sup>4</sup> These separate systems are subject to a new requirement that "[n]o insured depository institution shall be barred from the lowest-risk category solely because of size."<sup>5</sup> In short, Congress directed the FDIC to differentiate for risk among all depository institutions and gave it the tools to do so.

The FDIC's proposal would improve risk differentiation and pricing by drawing upon established measures of risk and existing best practices of the industry and Federal regulators for evaluating risk. The FDIC believes that the proposal would make the assessment system more sensitive to risk, and also make the risk-based assessment system fairer, by limiting the subsidization of riskier institutions by safer ones. The proposed system for risk differentiation would consolidate the existing nine categories into four and name them Risk Categories I, II, III and IV. Risk Category I would replace the current 1A risk category (*see* 71 FR 41910).

Within Risk Category I, the FDIC proposed one method of risk differentiation for small institutions

<sup>2</sup> Pursuant to the Reform Act, current assessment regulations remain in effect until the effective date of new regulations. Section 2109 of the Reform Act. The Reform Act requires the FDIC, within 270 days of enactment, to prescribe final regulations, after notice and opportunity for comment, providing for assessments under section 7(b) of the Federal Deposit Insurance Act. Section 2109(a)(5) of the Reform Act.

<sup>3</sup> 12 U.S.C. 1817(b)(1)(A) and (C).

<sup>4</sup> 12 U.S.C. 1817(b)(1)(D).

<sup>5</sup> Section 2104(a)(2) of the Reform Act (to be codified at 12 U.S.C. 1817(b)(2)(D)).