

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150-AH64

List of Approved Spent Fuel Storage Casks: HI-STORM 100 Revision; Withdrawal of
Direct Final Rule

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule; withdrawal.

SUMMARY: The Nuclear Regulatory Commission (NRC) is withdrawing a direct final rule that would have revised the Holtec International HI-STORM 100 cask system listing within the “List of Approved Spent Fuel Storage Casks” to include Amendment No. 2 to the Certificate of Compliance. The NRC is taking this action because it has received significant adverse comments in response to an identical proposed rule which was concurrently published with the direct final rule.

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

SUPPLEMENTARY INFORMATION: On February 28, 2005 (70 FR 9504), the NRC published in the *Federal Register* a direct final rule amending its regulations in 10 CFR 72.214 to revise

the Holtec International HI-STORM 100 cask system listing within the “List of Approved Spent Fuel Storage Casks” to include Amendment No. 2 to the Certificate of Compliance.

Amendment No. 2 modifies the present cask system design to include changes to materials used in construction, changes to the types of fuel that can be loaded, changes to shielding and confinement methodologies and assumptions, revisions to various temperature limits, changes in allowable fuel enrichments, and other changes to reflect current NRC staff guidance and use of industry codes. The direct final rule was to become effective on May 16, 2005. The NRC also concurrently published an identical proposed rule on February 28, 2005 (70 FR 9550).

In the February 28, 2005, direct final rule, NRC stated that if any significant adverse comments were received, a notice of timely withdrawal of the direct final rule would be published in the *Federal Register*. As a result, the direct final rule would not take effect.

The NRC received significant adverse comment on the direct final rule; therefore, the NRC is withdrawing the direct final rule. As stated in the February 28, 2005, direct final rule, NRC will address the comments received on the February 28, 2005, companion proposed rule in a subsequent final rule. The NRC will not initiate a second comment period on this action.

Dated at Rockville, Maryland, this 5th day of May 2005.

For the Nuclear Regulatory Commission.

/RA/

William Borchardt,
Acting Executive Director for Operations.

the Holtec International HI-STORM 100 cask system listing within the "List of Approved Spent Fuel Storage Casks" to include Amendment No. 2 to the Certificate of Compliance.

Amendment No. 2 modifies the present cask system design to include changes to materials used in construction, changes to the types of fuel that can be loaded, changes to shielding and confinement methodologies and assumptions, revisions to various temperature limits, changes in allowable fuel enrichments, and other changes to reflect current NRC staff guidance and use of industry codes. The direct final rule was to become effective on May 16, 2005. The NRC also concurrently published an identical proposed rule on February 28, 2005 (70 FR 9550).

In the February 28, 2005, direct final rule, NRC stated that if any significant adverse comments were received, a notice of timely withdrawal of the direct final rule would be published in the *Federal Register*. As a result, the direct final rule would not take effect.

The NRC received significant adverse comment on the direct final rule; therefore, the NRC is withdrawing the direct final rule. As stated in the February 28, 2005, direct final rule, NRC will address the comments received on the February 28, 2005, companion proposed rule in a subsequent final rule. The NRC will not initiate a second comment period on this action.

Dated at Rockville, Maryland, this 5th day of May, 2005.

For the Nuclear Regulatory Commission.

/RA/

William Borchardt,
Acting Executive Director for Operations.

E:\Filenet\ML051250423.wpd

"C" = copy without attachment/enclosure, "B" = copy with attachment/enclosure, "N" = No copy

*See previous concurrences.

OFFICE:	RGB/IMNS		RGB/IMNS		RGB/IMNS		D/SFPO	
NAME:	J McCausland*		M Delligatti*		S Moore (MD for)*		WBrach*	
DATE:	5 / 03 /04		5 / 3 /05		5 / 3 /05		5 / 4 /05	
OFFICE:	OGC		ADM		D/IMNS		D/NMSS	
NAME:	S Treby (NLO)		MLesar*		P Holahan*		J Strosnider (MF/for)	
DATE:	5 / 4 /05		5 / 5 /05		5 / 5 /05		5 / 5 /05	
OFFICE:	DEDMRS		EDO					
NAME:	MVirgilio (WB/for)		LReyes (WB/for)					
DATE:	5 / 5 /05		5 / 5 /05					