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## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 72

RIN 3150-AG67

#### List of Approved Spent Fuel Storage Casks: HI-STAR 100 Revision; Confirmation of Effective Date

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Direct final rule; confirmation of effective date.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is confirming the effective date of May 29, 2001, for the direct final rule that appeared in the **Federal Register** of March 13, 2001 (66 FR 14483). This direct final rule amended the NRC's regulations by revising the Holtec International HI-STAR 100 cask system listing within the "List of approved spent fuel storage casks" to include Amendment No. 2 to the Certificate of Compliance (CoC).

**DATES:** The effective date of May 29, 2001 is confirmed for this direct final rule.

**ADDRESSES:** Documents related to this rulemaking, including comments received, may be examined at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. These same documents may also be viewed and downloaded electronically via the rulemaking website (<http://ruleforum.llnl.gov>). For information about the interactive rulemaking website, contact Ms. Carol Gallagher (301) 415-5905; e-mail [CAG@nrc.gov](mailto:CAG@nrc.gov).

**FOR FURTHER INFORMATION CONTACT:** Stan Turel, telephone (301) 415-6234, e-mail, [spt@nrc.gov](mailto:spt@nrc.gov), of the Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

**SUPPLEMENTARY INFORMATION:** On March 13, 2001 (66 FR 14483), the NRC

published in the **Federal Register** a direct final rule amending its regulations in 10 CFR 72 to revising the Holtec International HI-STAR 100 cask system listing within the "List of approved spent fuel storage casks" to include Amendment No. 2 to the Certificate of Compliance (CoC). Amendment No. 2 revises the HI-STAR 100 cask system Appendix B of the Technical Specifications (TS), Item 1.4.6, "Specific Parameters and Analysis for the Storage Pad and Foundation" to simplify the language of this specification. The current 60-g limit for cask drop and tipover events in TS Item 1.4.6 would remain unchanged. This document confirms the effective date. In the direct final rule, NRC stated that if no significant adverse comments were received, the direct final rule would become final on the date noted above. The NRC did not receive any comments that warranted withdrawal of the direct final rule. Therefore, this rule will become effective as scheduled.

Dated at Rockville, Maryland, this 18th day of May 2001.

For the Nuclear Regulatory Commission,  
**Michael T. Lesar,**  
*Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration.*

[FR Doc. 01-13145 Filed 5-23-01; 8:45 am]

**BILLING CODE 7590-01-P**

## FARM CREDIT ADMINISTRATION

### 12 CFR Part 613

RIN 3052-AB90

#### Eligibility and Scope of Financing

**AGENCY:** Farm Credit Administration.

**ACTION:** Direct final rule with opportunity to comment.

**SUMMARY:** The Farm Credit Administration (FCA) through the FCA Board (Board) issues a final rule amending two regulations that govern eligibility and scope of financing for farm-related service businesses and non-farm rural homeowners. The amended rule implements the decision that the United States Court of Appeals for the District of Columbia issued on January 19, 1999. As a result of these amendments, Farm Credit System (FCS or System) banks and associations that extend long-term mortgage credit will be

able to finance only necessary capital structures, equipment and initial working capital for eligible farm-related service businesses. Additionally, the revised rule allows System banks and associations to finance only homes that people who live in rural areas own and occupy as their principal residences.

**DATES:** Unless we receive significant adverse comment on or before June 25, 2001, these regulations shall be effective upon the expiration of 30 days after publication in the **Federal Register** during which either or both Houses of Congress are in session. We will publish notice of the effective date in the **Federal Register**. If we receive significant adverse comment on an amendment, paragraph, or section of this rule, and that provision may be addressed separately from the remainder of the rule, we will withdraw that amendment, paragraph, or section and adopt as final those provisions of the rule that are not subject of a significant comment. In such a case, we would then tell you how we expect to continue further rulemaking on the provisions that were the subject of significant adverse comment.

**ADDRESSES:** You may mail or deliver written comments to Thomas G. McKenzie, Director, Regulation and Policy Division, Office of Policy Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090 or send them by facsimile transmission to (703) 734-5784. You may also submit comments by electronic mail to "[reg-comm@fca.gov](mailto:reg-comm@fca.gov)" or through the Pending Regulations section of our Web site at "[www.fca.gov](http://www.fca.gov)." You may review copies of all comments that we receive in the Office of Policy and Analysis, Farm Credit Administration.

**FOR FURTHER INFORMATION CONTACT:** Robert Donnelly, Senior Accountant, Regulation and Policy Division, Office of Policy Analysis, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4450, TDD (703) 883-4444; or Richard A. Katz, Senior Attorney, Regulatory Enforcement Division, Office of General Counsel, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4020, TDD (703) 883-4444.

**SUPPLEMENTARY INFORMATION:****I. Background**

On January 30, 1997, we adopted new regulations that govern eligibility and scope of financing for FCS customers. See 62 FR 4429. These regulations expanded the availability of affordable credit to farmers, ranchers, aquatic producers and harvesters, processing and marketing operators, farm-related businesses, rural homeowners, cooperatives and rural utilities.

Two commercial bank trade associations claimed that five of the six new customer eligibility regulations violated the Farm Credit Act of 1971, as amended (Act), and they filed suit in the United States District Court for the District of Columbia for a declaratory judgment and an injunction against the FCA. The United States District Court ruled that all of the challenged regulations complied with the Act and it granted summary judgment to the FCA. See *Independent Bankers Ass'n of Am. v. Farm Credit Admin.*, 986 F. Supp. 633 (D.D.C. 1997).

The plaintiffs appealed, and the Court of Appeals ruled that the regulations, with two exceptions, are consistent with the Act. See *Independent Bankers Ass'n of Am. v. Farm Credit Admin.*, 164 F.3d 661 (D.C. Cir., 1999). According to the appellate court's ruling, § 613.3020 did not adequately implement section 1.11(c)(1) of the Act because it did not specifically limit FCS banks and associations that extend long-term mortgage credit to financing necessary capital structures, equipment, and initial working capital for eligible farm-related service businesses. The court also ruled that § 613.3030 is inconsistent with the Act because it allowed System banks and associations to finance rural homes that are not owned and occupied by borrowers who live in rural areas. We amend §§ 613.3020 and 613.3030 so they comply with the Court of Appeals' decision.

**II. Farm-Related Service Businesses**

The plaintiffs challenged three aspects of our eligibility regulation for farm-related service businesses. They claimed that § 613.3020 violated the Act because it:

- Repealed provisions in the former regulation that required System banks and associations to finance farm-related business that furnish only "custom-type" services<sup>1</sup> to farmers and ranchers.

<sup>1</sup> "Custom-type services" are defined as tasks that farmers and ranchers can perform for themselves, but instead hire outside contractors to perform. See 62 FR 4429, 4438 (Jan. 30, 1997).

- Failed to sufficiently restrict lending to businesses that furnished goods, rather than services to farmers and ranchers.
- Did not expressly limit loans by FCS long-term mortgage lenders to necessary capital structures, equipment and initial working capital.

Both the district court and appeals court ruled in the FCA's favor on the first two claims. According to both courts, eligible farm-related service businesses are not required by the Act to furnish only custom-type services to farmers and ranchers. Both courts also upheld § 613.3020(b)(1), which allows System banks and associations to finance eligible businesses that sell goods to farmers and ranchers if they derive more than 50 percent of their income from furnishing these customers farm-related services.

The Court of Appeals, however, ruled that section 1.11(c)(1) of the Act authorizes System mortgage lenders to finance only necessary capital structures, equipment and initial working capital for eligible farm-related service businesses, and that § 613.3020 failed to implement this statutory requirement. See 164 F.3d at 667. Accordingly, we add a new paragraph (c) at the end of § 613.3020 so this regulation complies with the appellate court's ruling. As amended, § 613.3020 explicitly states that the authority of System long-term lenders to finance eligible farm-related service businesses is limited to necessary capital structures, equipment, and initial working capital. Consistent with the court's ruling, FCS associations that extend short- and intermediate-term credit to farm-related service businesses under sections 1.10(b) and 2.4(a)(3) of the Act are not subject to the limitation in new § 613.3020(c).

**III. Rural Housing**

The two commercial bank trade associations also challenged our rural housing regulation, § 613.3030, because it did not require eligible borrowers to occupy rural homes that the System finances. The Court of Appeals ruled that § 613.3030 conflicts with the rural housing provisions of the Act. The court found that sections 1.11(b)(1) and 2.4(a)(2) of the Act restrict eligibility for non-farm rural home loans to rural residents. The court's ruling also stated that the legislative history of the Act supports requiring owner-occupancy of rural homes as a condition for receiving credit from System institutions.

We amend § 613.3030 so it conforms to the appellate court's ruling. A revision to the definition of "rural homeowner" in § 613.3030(a)(1)

explicitly requires an eligible rural homeowner to reside in a rural area. Additionally, we modify the definition of "rural home" in § 613.3030(a)(2) so this regulation authorizes System banks and associations to finance only rural homes that each borrower owns and occupies. The revised regulation also retains the requirement that the System will finance only a rural home that is the principal residence of the borrower.

**IV. Direct Final Rule**

We are amending §§ 613.3020 and 613.3030 by a direct final rulemaking. The Administrative Procedure Act, 5 U.S.C. 551-59, *et seq.* (APA), supports direct final rulemaking, which is a streamlined technique for Federal agencies to enact noncontroversial regulations on an expedited basis, without the usual notice and comment period. This process enables us to reduce the time and resources we need to develop, review, clear, and publish a final rule while still affording the public an adequate opportunity to comment or object to the rule.

In a direct final rulemaking, we notify the public that the rule will become final on a specified future date unless we receive significant adverse comment during the comment period. If we receive significant adverse comment on an amendment, paragraph, or section of this rule, and that provision may be addressed separately from the remainder of the rule, we will withdraw that amendment, paragraph, or section and adopt as final those provisions of the rule that are not subject of a significant comment. In such a case, we would then tell you how we expect to continue further rulemaking on the provisions that were the subject of significant adverse comment.

A significant adverse comment is one where the commenter explains why the rule would be inappropriate (including challenges to its underlying premise or approach), ineffective, or unacceptable without a change. In general, a significant adverse comment would raise an issue serious enough to warrant a substantive response from the agency in a notice-and-comment proceeding.

Direct final rulemaking is justified under section 553(b)(B) of the APA. Section 553(b)(B) is the APA's "good cause" exemption that allows an agency to omit notice and comment on a rule when it finds "that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." In direct final rulemaking, the agency finds that the rule is sufficiently straightforward and noncontroversial to make normal notice and comment unnecessary under the APA. However,

rather than eliminating public comment altogether, which is permissible under section 553(b)(B), the agency gives the public an opportunity to respond to the agency's conclusion that public input on the rule is unnecessary.

We believe that a direct final rulemaking is the appropriate method for amending the eligibility regulations to conform to the Court of Appeals' ruling on farm-related service businesses and rural housing. These two regulations should no longer be controversial because we have addressed the policy issues in an extensive rulemaking that included two comment periods and the Court of Appeals resolved the ensuing legal dispute. This direct final rule brings §§ 613.3020 and 613.3030 into full compliance with the appellate court's ruling. Under the circumstances, we believe that an expedited rulemaking to amend §§ 613.3020 and 613.3030 is in the best interest of the FCS, the borrowers who own System institutions, commercial banks, and rural America.

For these reasons, we do not anticipate significant adverse comment on this direct final eligibility rule. If, however, we receive significant adverse comment during the comment period, we will publish a notice of withdrawal of the relevant provisions of this rule that will also indicate how further rulemaking will proceed. If we receive no significant adverse comment, we will publish our customary notice of the effective date of the rule following the required Congressional waiting period under section 5.17(c)(1) of the Act.

#### List of Subjects in 12 CFR Part 613

Agriculture, Banks, Banking, Credit, Rural areas.

For the reasons stated in the preamble, part 613 of chapter VI, title 12 of the Code of Federal Regulations is amended as follows:

#### PART 613—ELIGIBILITY AND SCOPE OF FINANCING

1. The authority citation for part 613 continues to read as follows:

**Authority:** Secs. 1.5, 1.7, 1.9, 1.10, 1.11, 2.2, 2.4, 2.12, 3.1, 3.7, 3.8, 3.22, 4.18A, 4.25, 4.26, 4.27, 5.9, 5.17 of the Farm Credit Act (12 U.S.C. 2013, 2015, 2017, 2018, 2019, 2073, 2075, 2093, 2122, 2128, 2129, 2143, 2206a, 2211, 2212, 2213, 2243, 2252).

#### Subpart A—Financing Under Titles I and II of the Farm Credit Act

2. Amend § 613.3020 by adding a new paragraph (c) to read as follows:

#### § 613.3020 Financing for farm-related service businesses.

\* \* \* \* \*

(c) *Limitation.* The authority of Farm Credit banks and associations operating under section 1.7(a) of the Act to finance eligible farm-related service businesses under paragraphs (b)(1) and (b)(2) of this section is limited to necessary capital structures, equipment, and initial working capital.

#### § 613.3030 [Amended]

3. Amend § 613.3030 as follows:

a. Add the words "resides in a rural area and" after the word "who" and before the word "is" in paragraph (a)(1); and

b. Remove the words "the occupant's" in paragraph (a)(2) and add in its place the words "owned and occupied as the rural homeowner's".

Dated: May 18, 2001.

**Kelly Mikel Williams,**

*Secretary, Farm Credit Administration Board.*

[FR Doc. 01-13132 Filed 5-23-01; 8:45 am]

**BILLING CODE 6705-01-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2001-NM-85-AD; Amendment 39-12236; AD 2001-10-10]

RIN 2120-AA64

#### Airworthiness Directives; McDonnell Douglas Model DC-9-81, -82, -83, and -87 Series Airplanes, and Model MD-88 Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC-9-81, -82, -83, and -87 series airplanes, and Model MD-88 airplanes. This action requires an inspection of the wiring of the primary and alternate static port heaters for chafing, loose connections, and evidence of arcing, and to determine what type of insulation blanket is installed in the area of the static port heaters; and corrective actions, if necessary. This action is necessary to ensure that insulation blankets constructed of metallized Mylar™ are removed or protected from the area of the static port heater. Such insulation blankets could propagate a small fire that is the result of an electrical short of

the static port heater and could lead to a much larger fire and smoke in the cabin. This action is intended to address the identified unsafe condition.

**DATES:** Effective June 8, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 8, 2001.

Comments for inclusion in the Rules Docket must be received on or before July 23, 2001.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2001-NM-85-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227-1232. Comments may also be sent via the Internet using the following address: 9-anm-iarcomment@faa.gov. Comments sent via fax or the Internet must contain "Docket No. 2001-NM-85-AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1-L5A (D800-0024). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Elvin Wheeler, Aerospace Engineer, Systems and Equipment Branch, ANM-130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712-4137; telephone (562) 627-5344; fax (562) 627-5210.

**SUPPLEMENTARY INFORMATION:** As part of its practice of re-examining all aspects of the service experience of a particular aircraft whenever an accident occurs, the FAA has become aware of an incident of smoke in the cabin on a McDonnell Douglas Model MD-88 airplane. An investigation discovered