

such conditions as he or she may deem appropriate. Neither the request nor failure to receive notice of disposition of the request shall delay removal or relieve the alien from strict compliance with any outstanding notice to surrender for deportation or removal.

(b) Denial by the Commissioner, Deputy Commissioner, Executive Associate Commissioner for Field Operations, Deputy Executive Associate Commissioner for Detention and Removal, Director of the Office of Juvenile Affairs, regional director, or district director of a request for a stay is not appealable, but such denial shall not preclude an immigration judge or the Board from granting a stay in connection with a previously filed motion to reopen or a motion to reconsider as provided in 8 CFR part 3.

* * * * *

22. Section 241.7 is revised to read as follows:

§ 241.7 Self-removal.

A district director, the Deputy Executive Associate Commissioner for Detention and Removal, or the Director of the Office of Juvenile Affairs may permit an alien ordered removed (including an alien ordered excluded or deported in proceedings prior to April 1, 1997) to depart at his or her own expense to a destination of his or her own choice. Any alien who has departed from the United States while an order of deportation or removal is outstanding shall be considered to have been deported, excluded and deported, or removed, except that an alien who departed before the expiration of the voluntary departure period granted in connection with an alternate order of deportation or removal shall not be considered to be so deported or removed.

PART 287—FIELD OFFICERS; POWERS AND DUTIES

23. The authority citation for part 287 continues to read as follows:

Authority: 8 U.S.C. 1103, 1182, 1225, 1226, 1251, 1252, 1357; 8 CFR part 2.

24. Section 287.4 is amended by revising paragraphs (a)(1), (a)(2)(i) and (c) to read as follows:

§ 287.4 Subpoena.

(a) * * *

(1) *Criminal or civil investigations.* All District Directors, Deputy District Directors, Chief Patrol Agents, Deputy Chief Patrol Agents, Assistant Chief Patrol Agents, Officers in Charge, Patrol Agents in Charge, Assistant District Directors, Investigations, Supervisory

Criminal Investigators (Anti-Smuggling), Regional Directors, Office of Professional Responsibility, Service Center Directors, Assistant District Directors for Examinations, the Deputy Executive Associate Commissioner for Detention and Removal, and the Director of the Office of Juvenile Affairs, may issue a subpoena requiring the production of records and evidence for use in criminal or civil investigations.

(2) * * *

(i) *Prior to commencement of proceedings.* All District Directors, Deputy District Directors, Chief Patrol Agents, Deputy Chief Patrol Agents, Officers-in-Charge, the Deputy Executive Associate Commissioner for Detention and Removal, and the Director of the Office of Juvenile Affairs, may issue a subpoena requiring the attendance of witnesses or the production of documentary evidence, or both, for use in any proceeding under this chapter, other than under 8 CFR part 355, or any application made ancillary to the proceeding.

* * * * *

(c) *Service.* A subpoena issued under this section may be served by any person, over 18 years of age not a party to the case, designated to make such service by the District Director, Deputy District Director, Chief Patrol Agent, Deputy Chief Patrol Agent, Assistant Chief Patrol Agent, Patrol Agent in Charge, Officer-in-Charge, Assistant District Director, Investigations, Supervisory Criminal Investigator (Anti-Smuggling), Regional Responsibility, having administrative jurisdiction over the office in which the subpoena is issued. The Deputy Executive Associate Commissioner for Detention and Removal and the Director of the Office of Juvenile Affairs shall also have the authority to make such designation. Service of the subpoena shall be made by delivering a copy thereof to the person named therein and by tendering to him/her the fee for one day's attendance and the mileage allowed by law by the United States District Court for the district in which the testimony is to be taken. When the subpoena is issued on behalf of the Service, fee and mileage need not be tendered at the time of service. A record of such service shall be made and attached to the original copy of the subpoena.

* * * * *

25. Section 287.5 is amended by:

- a. Removing the word "or" from the end of paragraph (e)(2)(xix);
- b. Removing the period from the end of paragraph (e)(2)(xx) and adding a ";;" in its place; and by

c. Adding paragraphs (e)(2)(xxi) and (e)(2)(xxii).

The additions read as follows:

§ 287.5 Exercise of power by immigration officers.

* * * * *

(e) * * *

(2) * * *

(xxi) the Director of the Office of Juvenile Affairs; or
(xxii) the Deputy Executive Associate Commissioner for Detention and Removal.

* * * * *

Dated: June 3, 2002.

James W. Ziglar,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 02-14348 Filed 6-4-02; 2:52 pm]

BILLING CODE 4410-10-P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150-AG97

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. 1 to the Certificate of Compliance. The NRC is taking this action because it has received a significant adverse comment 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 March 27, 2002 (67 FR 14627), 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. 1 to the Certificate of Compliance. Amendment No. 1 would have modified the present cask system design 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 have used revised thermal analysis tools to include natural convection heat transfer; revised the helium backfill requirements to allow a helium density measurement to be used; allowed a helium drying system rather than the existing vacuum drying system; and required soluble boron during canister loading for certain higher enriched fuels. In addition, modifications would have been made to applicable CoC conditions and sections of Appendices A and B to the CoC to reflect the changes. The direct final rule was to become effective on June 10, 2002. The NRC also concurrently published a companion proposed rule on March 27, 2002 (67 FR 14662).

In the March 27, 2002, 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**.

The NRC received a significant adverse comment on the direct final rule; therefore, the NRC is withdrawing the direct final rule. The significant adverse comment related to concern with (1) interactions between the non-fuel hardware and the fuel and (2) the absence of documentation of NRC's analysis to accept the storage of the non-fuel hardware. As stated in the March 27, 2002, direct final rule, NRC will address the comments received on the March 27, 2002, 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 31st day of May, 2002.

For the Nuclear Regulatory Commission.

William F. Kane,

Acting Executive Director for Operations.

[FR Doc. 02-14341 Filed 6-6-02; 8:45 am]

BILLING CODE 7590-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. CE173; Special Conditions No. 23-121-SC]

Special Conditions: Eclipse Aviation Corporation, Model 500 Airplane; Electronic Engine Control System

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Eclipse Aviation Corporation, Model 500 airplane. This airplane will have a novel or unusual design feature(s) associated with the use of an electronic engine control system instead of a traditional mechanical control system. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

EFFECTIVE DATE: July 8, 2002.

FOR FURTHER INFORMATION CONTACT:

Ervin Dvorak Federal Aviation Administration, Aircraft Certification Service, Small Airplane Directorate, ACE-111, 901 Locust, Room 301, Kansas City, Missouri 64106; 816-329-4123 fax 816-329-4090.

SUPPLEMENTARY INFORMATION:

Background

On July 12, 2001, Eclipse Aviation Corporation applied for a type certificate for their Model 500 airplane.

The Eclipse Model 500 airplane design includes digital electronic engine control systems, which were not envisaged and are not adequately addressed in 14 CFR part 23. The applicable existing regulations do not address electronic control systems since those were not envisioned at the time. Even though the engine control system will be certificated as part of the engine, the installation of an engine with an electronic control system requires evaluation due to the possible effects on or by other airplane systems (e.g., radio interference with other airplane electronic systems, shared engine and airplane power sources). The regulatory requirements were not applicable to systems certificated as part of the engine (ref. § 23.1309(f)(1)). Also, electronic control systems often require inputs from airplane data and power sources

and outputs to other airplane systems. Although the parts of the system that are not certificated with the engine could be evaluated using the criteria of § 23.1309, the integral nature of systems such as these makes it unfeasible to evaluate the airplane portion of the system without including the engine portion of the system. However, § 23.1309(f)(1) again prevents complete evaluation of the installed airplane system since evaluation of the engine system's effects is not required.

Type Certification Basis

Under the provisions of 14 CFR 21.17, Eclipse Aviation Corporation must show that the Eclipse Model 500 airplane meets the following:

(1) Applicable provisions of 14 CFR part 23, effective December 18, 1964, as amended by Amendments 23-1 through 23-54 (September 14, 2000).

(2) Part 34 of the Federal Aviation Regulations effective September 10, 1990, plus any amendments in effect on the date of type certification.

(3) Part 36 of the Federal Aviation Regulations effective December 1, 1969, as amended by Amendment 36-1 through the amendment in effect on the date of type certification.

(4) Noise Control Act of 1972.

(5) Special conditions that are not relevant to these proposed special conditions, if any;

(6) Exemptions, if any;

(7) Equivalent level of safety findings, if any; and

(8) Special conditions adopted by this rulemaking action.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 23 do not contain adequate or appropriate safety standards for the Model 500 airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Model 500 must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36, and the FAA must issue a finding of regulatory adequacy pursuant to section 611 of Public Law 92-574, the "Noise Control Act of 1972."

Special conditions, as appropriate, as defined in 11.19, are issued in accordance with § 11.38, and become part of the type certification basis in accordance with § 21.17(a)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that