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**BY OVERNIGHT MAIL**

February 11, 2000

Secretary  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

DOCKET NUMBER  
PROPOSED RULE **PR 72**  
**(64FR59677)**

Attention: Rulemakings and Adjudications Staff

Subject: 10 CFR Part 72, Clarifications and Addition of Flexibility  
Comments on Proposed Rulemaking

Reference: Federal Register, Volume 64, No. 212, Page 59677

Dear Sir:

Holtec International has reviewed the subject proposed rulemaking and offers the following comment for consideration by the Nuclear Regulatory Commission.

10 CFR 72.62 provides specific criteria to be met if the Commission is to require the backfitting of changes to structures, systems, and components of an ISFSI or MRS or changes to the procedures or organization required to operate an ISFSI or MRS. The above-referenced proposed rulemaking, at Section 72.13, excludes applicability of 10 CFR 72.62 to certificate holders. As a Part 72 certificate holder, Holtec International believes strongly that Section 72.62 should also apply to certificate holders.

Without backfit protection, certificate holders are subject to new requirements which may provide little safety benefit or are excessively costly to implement. As an example, 10 CFR 72.104 was revised in October, 1998 to change the methodology used to calculate normal and off-normal radiation doses due to effluents from spent fuel storage casks. The intent of this rule change was simply to conform the methodology and dose acceptance criteria in Section 72.104 to be consistent with other parts of the regulations. However, the revised rule contained no language excluding existing certificate holders from having to revise their confinement analyses to incorporate the new methodology. Compliance with this new requirement would require the expenditure of significant man-hours of analytical time and a revision to the Safety Analysis Report with little or no safety benefit.

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As such, proposed Section 72.13(d) should be amended to include Section 72.62 to the list of sections applicable to activities associated with a certificate of compliance.

Please feel free to contact me at (856) 797-0900, extension 668 if you require additional information.

Sincerely,

Brian Gutherman, P.E.  
Licensing Manager

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