

Subpart F—Special Provisions for Ostrich Breeding Flocks and Products

§ 145.61 Definitions.

Except where the context otherwise requires, for the purposes of this subpart the following terms shall be construed, respectively, to mean:

Ostrich. Birds of the species *Struthio camelus*, including all subspecies and subspecies hybrids.

§ 145.62 Participation.

Participating flocks of ostriches, and the eggs and chicks produced from them, shall comply with the applicable general provisions of subpart A of this part and the special provisions of this subpart.

(a) Started poultry shall lose their identity under Plan terminology when not maintained by Plan participants under the conditions prescribed in § 145.5(a).

(b) Hatching eggs produced by primary breeding flocks shall be fumigated or otherwise sanitized (see § 147.22 of this chapter).

§ 145.63 Terminology and classification; flocks and products.

Participating flocks, and the eggs and baby poultry produced from them, that have met the respective requirements specified in this section may be designated by the following terms and their corresponding designs illustrated in § 145.10.

(a) *U.S. Pullorum-Typhoid Clean.* A flock in which freedom from pullorum and typhoid has been demonstrated to the Official State Agency under the criteria in paragraph (a)(1) or (a)(2) of this section. (See § 145.14(a) relating to the official blood test for pullorum-typhoid where applicable.)

(1) It has been officially blood tested within the past 12 months with no reactors.

(2) It is a multiplier or primary breeding flock in which a sample of each bird in flocks of 30 or fewer birds, a minimum of 30 birds from flocks up to 300 birds, or 10 percent of all birds from flocks exceeding 300 birds has been officially tested for pullorum-typhoid within the past 12 months with no reactors: *Provided*, That a bacteriological examination monitoring program for ostriches acceptable to the Official State Agency and approved by the Service may be used in lieu of annual blood testing: *And provided further*, That when a flock is a multiplier breeding flock located in a State which has been deemed to be a U.S. Pullorum-Typhoid Clean State for the past 3 years, and during which time no isolation of pullorum or typhoid has

been made that can be traced to a source in that State, a bacteriological examination monitoring program or a serological examination monitoring program acceptable to the Official State Agency and approved by the Service may be used in lieu of annual blood testing.

(b) [Reserved]

Done in Washington, DC, this 9th day of March 1998.

Craig A. Reed,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98-6374 Filed 3-11-98; 8:45 am]

BILLING CODE 3410-34-P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[Docket No. PRM-72-4]

Prairie Island Coalition; Receipt of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; Notice of receipt.

SUMMARY: The Nuclear Regulatory Commission (NRC) has received and requests public comment on a petition for rulemaking filed by the Prairie Island Coalition. The petition has been docketed by the Commission and has been assigned Docket No. PRM-72-4. The petitioner requests that NRC undertake rulemaking to examine certain issues addressed in the petition relating to the potential for thermal shock and corrosion in dry cask storage. The petitioner requests that the NRC amend its regulations that govern independent storage of spent nuclear fuel in dry storage casks to define the parameters of acceptable degradation of spent fuel in dry cask storage. The petitioner also requests an amendment to the regulations to define the parameters of retrievability of spent nuclear fuel in dry cask storage and to require licensees to demonstrate safe cask unloading ability before a cask may be used at an Independent Spent Fuel Storage Installation (ISFSI).

DATES: Submit comments by May 26, 1998. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Submit comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555,

Attention: Rulemakings and Adjudications staff.

Deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:30 am and 4:15 pm on Federal workdays.

For a copy of the petition, write: David L. Meyer, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

You may also provide comments via the NRC's interactive rulemaking website through the NRC home page (<http://www.nrc.gov>). This site provides the availability to upload comments as files (any format), if your web browser supports that function. For information about the interactive rulemaking website, contact Ms. Carol Gallagher, (301) 415-5905 (e-mail: CAG@nrc.gov).

FOR FURTHER INFORMATION CONTACT:

David L. Meyer, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: 301-415-7163 or Toll Free: 1-800-368-5642 or E-mail: DLM1@NRC.GOV.

SUPPLEMENTARY INFORMATION:

Background

The Nuclear Regulatory Commission received a petition for rulemaking submitted by George Crocker on behalf of the Prairie Island Coalition (PIC) in the form of a letter and an attached document addressed to L. Joseph Callan, Executive Director for Operations, NRC, dated August 26, 1997. Most of the issues presented in Mr. Crocker's letter and the attached document pertain to a petition filed under 10 CFR 2.206 regarding dry storage cask regulations that has been reviewed by the NRC Office of Nuclear Reactor Regulation (NRR). See 62 FR 53031. The resolution of these issues is presented in a decision published by the Director, NRR (DD-98-02; 2/11/98). This notice pertains to paragraphs 13, 14, and 15 on page 3 of the document attached to the August 26, 1997, letter from PIC. These paragraphs contain a request for rulemaking under 5 U.S.C. 553(e) of the Administrative Procedure Act (APA).

The NRC has determined that the issues presented in paragraphs 13, 14, and 15 of the PIC document constitute a petition for rulemaking under 10 CFR 2.802. Paragraph 13 requests NRC to solicit and review information regarding thermal shock and corrosion inherent in dry cask storage and usage and to define the parameters of degradation of spent nuclear fuel in dry cask storage acceptable under 10 CFR 72.122(h). Paragraph 14 requests NRC to define the parameters of retrievability required

under 10 CFR 72.122(l). Paragraph 15 requests NRC to require demonstration of a safe cask unloading ability before a cask may be used at an ISFSI. These requests do meet the sufficiency requirements for a petition for rulemaking under 10 CFR 2.802. The petition, consisting of paragraphs 13, 14, and 15, has been docketed as PRM-72-4.

As set forth in the petition, the petitioner is the Prairie Island Coalition (PIC), a consortium of environmental, business, citizen, and religious groups, and tribal and urban Indian organizations. PIC is involved in locating and disseminating information regarding dry cask storage of spent nuclear fuel, and opposes Northern States Power Company's (NSP) plans to construct and operate an ISFSI at the Prairie Island Nuclear Generating Station (PI). PIC has participated in various Minnesota and NRC proceedings that pertain to operational and waste issues at the Prairie Island facility.

The NRC is soliciting public comment on the petition for rulemaking submitted by the Prairie Island Coalition that requests the changes to the regulations in 10 CFR part 72 discussed below.

Discussion of the Petition

The petitioner notes that the regulations in 10 CFR Part 72 establish requirements and criteria for spent fuel dry cask storage and usage. The petitioner has requested a rulemaking proceeding to examine issues regarding degradation, retrieval, and unloading of spent nuclear fuel in dry storage casks.

Degradation of Spent Nuclear Fuel

The petitioner requests an amendment of the regulations in 10 CFR part 72 to define the parameters of spent fuel degradation that are acceptable to the NRC under 10 CFR 72.122(h). Section 72.122(h) provides that spent fuel cladding must be protected during storage against degradation or that the fuel must be configured such that degradation will not pose an operational safety concern. The petitioner is concerned about the potential effect of spent fuel degradation on the ability to safely unload a dry storage cask. The petitioner believes that factors such as thermal shock will cause spent fuel to degrade in the course of unloading and expose onsite personnel and the environment to radioactive emissions. The petitioner states that no procedures have been developed to protect operational safety and to assess worker or offsite radiation exposure in such a situation. The petitioner cites a

February 25, 1997, letter from Dr. Gail H. Marcus, NRC, to PIC in support of the petition. PIC asserts, based on the letter, that temperature differences between spent fuel and coolant create the potential for thermal shock and spent fuel degradation.

PIC also believes the TN-40 cask is subject to failed welds and to fuel degradation due to cask seal failure as a result of helium gas release. PIC cites as support for the petition a letter dated April 15, 1997, from Dr. Susan Frant Shankman, NRC, to Sierra Nuclear, and contends that cladding degradation during storage is unacceptable because it could lead to future fuel handling and retrievability problems. The petitioner also cites the Safety Analysis Report submitted by NSP for the ISFSI at the PI facility that requires the licensee to replace cask seals to prevent a helium leak and fuel degradation. Copies of the supporting documents referenced above are attached to the petition.

PIC contends that NRC has not adequately addressed the possibility of damage caused by thermal shock when cool water from a storage pool is placed in a cask that contains spent nuclear fuel. The petitioner also contends that NRC had not adequately addressed degradation of spent nuclear fuel due to the loss of helium from failed seals or due to the passage of time.

Retrievability of Spent Nuclear Fuel

The petitioner also requests an amendment to the regulations in 10 CFR Part 72 that govern storage of spent nuclear fuel in dry storage casks to define the parameters of retrievability of spent fuel required by the NRC under 10 CFR 72.122(l). Section 72.122(l) provides that spent fuel storage systems must be designed to allow ready retrievability of the spent fuel for future processing or disposal.

PIC is concerned that the NRC has not taken into account the potential problems that may be encountered in unloading a cask to retrieve spent fuel. In support of its claim, PIC cites an April 16, 1997, memorandum from Jack Roe, NRC, to Cynthia Pederson, NRC Region III, and asserts that this memorandum is evidence that NRC has not taken into account possible problems with retrieval of spent fuel.

The petitioner also cites a study of the TN-24 cask conducted by the Idaho National Engineering Laboratory (INEL) in 1990, which involved opening TN-24 casks that contained canisters of spent fuel assemblies that had been stored for several years. The petitioner contends that the INEL study found the thermal damage so great that some canisters containing spent nuclear fuel could not

be retrieved from the cask. The petitioner believes that the INEL study and the cited NRC memorandum, copies of which are attached to the petition, demonstrate that spent nuclear fuel cannot be reliably retrieved from dry storage casks.

Unloading of Spent Nuclear Fuel

Lastly, the petitioner requests an amendment to the regulations to require licensees to demonstrate the ability to unload spent nuclear fuel safely from a dry storage cask before a cask may be used at an ISFSI. The petitioner contends that if a licensee can demonstrate ability to unload spent nuclear fuel safely from a cask in a pool after long-term storage, then the public will have assurance that a spent fuel storage cask can be unloaded.

PIC contends that a cask may need to be unloaded for various reasons. The petitioner notes that Minnesota law in, *In the Matter of Spent Fuel Storage Installation*, 501 N.W.2d 638 (Minn. Ct. App. 1993), requires a licensee to move casks after eight years of temporary storage. The petitioner believes that the 1990 NRC Waste Confidence Decision also contemplates that casks will need to be unloaded before transport to a Federal interim site or repository.

PIC believes that although NRC regulations do not require a licensee to be able to immediately unload a cask, NRC clearly requires a licensee to be able to unload the spent fuel at some point. The petitioner also believes that because in-pool unloading of spent fuel from a dry storage cask that has contained the fuel for a protracted time period has not been completed, there is sufficient reason to require a licensee to demonstrate the ability to actually unload a dry storage cask underwater. PIC states that it would be satisfied if a licensee can demonstrate the ability to unload spent nuclear fuel from a dry storage cask at some reasonable point in time.

The Petitioner's Conclusions

The petitioner has concluded that NRC regulations in 10 CFR Part 72 that govern independent storage of spent nuclear fuel in dry storage casks must be amended. PIC has concluded that thermal shock and associated degradation of spent nuclear fuel during the unloading of dry storage casks has not been adequately addressed in NRC regulations. The petitioner requests an amendment to the regulations to define the parameters of acceptable degradation of spent nuclear fuel in dry storage under 10 CFR 72.122(h).

The petitioner has also concluded that NRC regulations do not adequately

address issues related to the retrieval of spent nuclear fuel from dry storage casks. The petitioner requests an amendment to the regulations to define the parameters of retrievability of spent fuel from dry storage casks required under 10 CFR 72.122(l).

Lastly, the petitioner has concluded that NRC regulations do not adequately address issues pertaining to unloading of spent nuclear fuel from dry storage casks. The petitioner requests an amendment to the regulations to require licensees to demonstrate the ability to unload spent nuclear fuel safely from a dry storage cask before the cask may be used at an ISFSI.

Dated at Rockville, Maryland, this 6th day of March, 1998.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 98-6390 Filed 3-11-98; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98-NM-54-AD]

RIN 2120-AA64

Airworthiness Directives; Dornier Model 328-100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Dornier Model 328-100 series airplanes. This proposal would require modification of the aft avionic fan. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent failure of the aft avionic fan due to inadequate cooling airflow through the fan housing, which could result in failure of the avionics equipment.

DATES: Comments must be received by April 13, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 98-NM-54-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.

The service information referenced in the proposed rule may be obtained from FAIRCHILD DORNIER, DORNIER Luftfahrt GmbH, P.O. Box 1103, D-82230 Wessling, Germany. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT:

Norman B. Martenson, Manager, International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-2110; fax (425) 227-1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98-NM-54-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 98-NM-54-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, notified the FAA that an unsafe condition may exist on certain Dornier Model 328-100 series airplanes. The LBA advises that it received several reports of failure of the aft avionic fan due to inadequate cooling airflow through the fan housing. This condition, if not corrected, could result in failure of avionics equipment.

Explanation of Relevant Service Information

The manufacturer has issued Dornier Service Bulletin SB-328-21-215, Revision 1, dated June 12, 1997, which describes procedures for modification of the aft avionic fan. Accomplishment of the modification will improve cooling airflow through the fan housing. The LBA classified this service bulletin as mandatory and issued German airworthiness directive 97-158, dated June 19, 1997, in order to assure the airworthiness of these airplanes in Germany.

FAA's Conclusions

This airplane model is manufactured in Germany and is type certificated for operation in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LBA has kept the FAA informed of the situation described above. The FAA has examined the findings of the LBA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of actions specified in the service bulletin described previously.

Cost Impact

The FAA estimates that 50 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 9 work hours per airplane to accomplish the proposed modification, at an average labor rate of \$60 per work hour. Based on these figures, the cost impact of the modification proposed by this AD on