

by the owner exceed the smaller of 15,000 pounds or the difference between the farm marketing quota and one-half the result obtained by multiplying the acres of cropland on the farm by the farm yield.

(e) * * *

(4) *When to file.* Filed on or before July 1 of the current year.

Signed at Washington, D.C., March 8, 1984.
Everett Rank,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 84-6802 Filed 3-14-84; 8:45 am]

BILLING CODE 3410-05-M

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 83-136]

Bird Quarantine Facilities

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the regulations in 9 CFR Part 92 to establish criteria for the selection of applicants for consideration for approval of quarantine facilities for certain birds imported into the United States. The intended effect of this action is to establish a workable and equitable system for determining which applications should be selected for consideration for approval.

EFFECTIVE DATE: April 16, 1984.

FOR FURTHER INFORMATION CONTACT: Dr. Samuel S. Richeson, Import/Export Animals and Products Staff, VS, APHIS, USDA, Room 843, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland, 20782, (301) 436-8172.

SUPPLEMENTARY INFORMATION:

Background

In a document published in the *Federal Register* on October 12, 1983 (48 FR 46355-46358), the Department proposed an amendment to the regulations (found in 9 CFR Part 92 and referred to below as the regulations) concerning the importation of birds into the United States. Section 92.11(e) provides, with certain exceptions, that each lot of pet birds, commercial birds, zoological birds, or research birds imported from any part of the world shall be entered at certain ports and quarantined at a United States Department of Agriculture quarantine

facility or at a privately-operated quarantine facility approved by the Deputy Administrator for Veterinary Services (VS). The regulations in § 92.11(f) set forth requirements for privately-operated bird quarantine facilities.

Comments were solicited in response to the proposal for a 30-day period ending November 14, 1983. Five comments were received. These comments were from importers and other representatives of the commercial bird industry. Based on the reasons set forth in the proposal, the provisions in the proposal have been adopted in the final rule except as explained below. Further, the comments submitted pursuant to the proposal have been carefully considered and are discussed below.

Applications

It was proposed to require applicants to submit an application stating, among other things, the following concerning a prospective bird quarantine facility:

(1) Address where the bird quarantine facility will be located;

(2) A drawing of the floor plan of the facility, showing the location of bird holding areas, equipment storage areas, office areas, clothes storage and change areas, feed storage areas, necropsy room (showing entry and refrigeration), washing areas for equipment, shower areas, ventilation arrangements, and entries and exits;

(3) Whether water source of the facility will be public or private;

(4) Whether disposal of waste from the facility will be by sewer or incinerator, or both.

In support of the proposal to require such information concerning a prospective bird quarantine facility it was stated in the proposal (48 FR 46355) that:

In order to help discourage frivolous applications which could severely hamper the effectiveness of a selection system, it appears that as a condition for considering applications an applicant should be required to have a premises available and identified on the application form.

The proposal also provided that successful applicants would be required to gain approval for their facility within 18 months of notification of selection for consideration for approval.

One commenter objected to the proposed requirement that the application include information concerning a prospective bird quarantine facility and further asserted that the 18-month period would be adequate to secure a facility and gain approval for the facility. The objection was based on the assertion that

requiring such information concerning a prospective bird quarantine facility is contrary to assuring a fair distribution of opportunities because only those owning or leasing a facility or able to afford an option on a facility would have the opportunity to submit an application. The Department acknowledges that requiring the specified information on an application concerning a prospective bird quarantine facility would deter some interested persons from applying who could not afford the cost of assuring the availability of a suitable facility without the assurance of selection for consideration for approval of a facility. Also, the Department agrees that the 18-month period would be adequate to secure a facility and gain approval for the facility. Further, upon re-evaluation it appears that it is more important to establish provisions designed to encourage all interested persons to apply rather than to discourage frivolous applications. Therefore, the information specified above concerning a prospective bird quarantine facility is made optional rather than mandatory.

One commenter suggested that provisions should be added to deter any person from sending in numerous applications in different names. The comment did not make any specific suggestions in this regard. No change is made based on this comment. However, it should be noted that in both the proposal and this document applicants may not submit more applications than the number of announced openings. Applications in excess of the number of announced openings received from a single applicant will not be accepted even if such applicant has used different names on his, her or its applications.

Priority Transfers

It was proposed to allow priority consideration for operators of currently approved facilities who request to transfer operations from a facility at a port of entry where they currently operate to a facility at a port of entry specified in the announcement if the Deputy Administrator, Veterinary Services, determines that there is a change in circumstances beyond the control of the operator which makes it impracticable to continue operations at the currently approved facility, such as termination of services from a Government agency or termination of services from airlines.

Two commenters expressed general support for the concept of providing for priority status.

The proposal also contained a provision that an applicant would not be

given priority status if the granting of approval would result in the applicant having approval to operate more than one facility at a time for which approval had been granted on a priority basis. This limitation was designed to help allow different applicants to have an opportunity to be considered for approval of privately-operated quarantine facilities.

Two commenters requested that this provision limiting priority status be deleted and that applicants be allowed to have priority consideration for transfer of all of their facilities determined by the Deputy Administrator to be affected by a change in circumstances beyond the control of the operator which make it impracticable to continue operations. It was asserted that otherwise there would be "unjust discrimination" against persons who, in reliance on previously adopted regulations, changed their personal situations by constructing and operating privately-owned quarantine facilities but, due to circumstances beyond their control, can no longer operate those facilities.

The rationale for the proposed limitation on priority status must be weighed against the views of the commenters. On balance, it appears more equitable to allow applicants to be considered for priority status for the transfer of any facility regardless of the number of approvals that may have already been granted on a priority basis since such a system would be more likely to restore the operator of multiple privately owned quarantine facilities which have been lost through no fault of the operator to his or her original position.

Accordingly, the final rule sets forth the following procedures for selection of applicants on a priority basis (§ 92.11(f)(5)(iii)):

(iii) If the number of applications for bird quarantine facilities at a specified port of entry exceeds the number of announced openings, priority status for selection shall be given to applications from operators of currently approved facilities who request to transfer operations from a facility at a port of entry where they currently operate to a facility at a port of entry specified in the announcement if the Deputy Administrator, Veterinary Services, determines that there is a change in circumstances beyond the control of the operator which makes it impracticable to continue operations at the currently approved facility, such as termination of services from a Government agency or termination of services from airlines. The following procedures shall apply for selection for consideration of applications eligible for priority status at a specified port of entry:

(A) If the number of applications eligible for priority status does not exceed the

number of announced openings, each application eligible for priority status shall be considered for approval of a facility at that port of entry.

(B) If the number of applicants with one or more applications eligible for priority status at a specified port of entry is fewer than the number of openings but the number of applications eligible for priority status exceeds the number of openings, each applicant with one or more applications eligible for priority status shall first be selected for consideration for approval of one facility at that port of entry. Then, if there is a sufficient number of remaining openings at that port of entry, each applicant who submitted two or more applications eligible for priority status shall be selected for consideration for approval of a second facility. However, if the number of applicants who submitted two or more applications eligible for priority status exceeds the number of remaining openings, the applicants to be selected for consideration for approval for a second opening shall be determined based on a drawing. The proceeding shall continue in this manner until there are no more openings.

(C) If the number of applicants with one or more applications eligible for priority status exceeds the number of announced openings, each of these applicants (regardless of the number of applications submitted) will be eligible to be selected for consideration for approval of no more than one new facility at that port of entry, and the selection of such applicants to be considered for approval shall be determined based on a drawing.

These procedures are consistent with the procedures for selection of applicants on a nonpriority basis, and appear to provide an equitable method for selecting priority status applicants.

The final rule in essence adopts the concept that the priority status procedures basically constitute a mechanism for restoring what was lost through no fault of the operator.

Nonsubstantive editorial changes have been made in the final rule for clarity.

This document revises § 92.11(f)(5)(vi) of the proposed rule by adding a sentence to make clear to applicants selected for consideration for approval of a bird quarantine facility that this document does not affect the contingency set forth in the introductory paragraph of § 92.11(f). Approval of bird quarantine facilities are contingent upon the Deputy Administrator, Veterinary Services, determining that adequate personnel are available to provide services required by the facility. It is possible that the availability of personnel could change between the time this Department publishes a notice in the *Federal Register* pursuant to the regulations contained in this document (indicating that there are sufficient personnel to service additional bird quarantine facilities at a specified port)

and the time that an applicant selected for consideration for approval pursuant to the regulations contained in this document requests approval. Applicants must be aware that it is therefore possible to be selected for consideration for approval and to spend time and money to acquire and/or build a bird quarantine facility which meets the standards set forth in 9 CFR 92.11 and still be denied approval based upon a determination by the Deputy Administrator, Veterinary Services, that adequate personnel are not available to provide services to the facility. Further applicants should be aware that an application for an import permit for the importation of birds to be moved to an approved bird quarantine facility may be denied if there are not adequate personnel available to provide services at the approved quarantine facility for the shipments to which the application for the import permit applies.

This document also revises § 92.11(f)(5)(vi) of the proposed rule by adding a sentence to make clear to applicants selected for consideration for approval of a bird quarantine facility that approval of such a facility may be refused by the Deputy Administrator if any of the intended operators, partners, officers, directors, holders or owners of 10 per centum or more of the voting stock, or an employee in a managerial or executive capacity listed on the application for approval is or has been convicted of certain specified crimes. This amendment to the proposal merely reiterates the regulations set forth at 9 CFR 92.11(f)(6).

Paperwork Reduction Act

In accordance with section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)), the information collection provisions that are included in this rule have been approved by the Office of Management and Budget (OMB) and have been given the OMB control number 0579-0040.

Executive Order 12291 and Regulatory Flexibility Act

This action has been reviewed in accordance with Executive Order 12291 and Secretary's Memorandum 1512-1, and has been determined to be not a major rule. The Department has determined that this action will not have a significant effect on the economy and will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or have significant adverse effects on competition, employment, investment, productivity, innovation, or

on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This document sets forth procedures for the selection of applicants for consideration for approval of privately-operated bird quarantine facilities. It is anticipated that these procedures will be used mostly in the process of replacing facilities that go out of business. No substantial change in either the number of birds imported into the United States or in the number of persons importing birds is anticipated.

It is also anticipated that certain facilities could be relocated. The markets for jobbers, wholesalers, and retailers of birds span multistate areas, and any rearrangement in the location of bird quarantine facilities would only have a minimal impact on such businesses.

Based on the circumstances explained above, Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic effect on a substantial number of small entities.

List of Subjects in 9 CFR Part 92

Animal diseases; Canada; Imports; Mexico; Poultry and poultry products; Quarantine; Transportation; Wildlife.

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Therefore, 9 CFR 92.11(f)(5) is revised to read as follows:

§ 92.11 Quarantine requirements.

(f) * * *

(5) *Selection of applicants for consideration for approval of bird quarantine facilities.* (i) When it is determined by the Deputy Administrator, Veterinary Services, that adequate personnel are available to provide services for one or more bird quarantine facilities in addition to any bird quarantine facilities already being serviced, an announcement will be published in the **Federal Register** specifying the ports of entry at which openings exist and the number of openings at each port of entry. Applications for approval will be accepted only if received by the Import/Export Animals and Products Staff, VS, APHIS, USDA, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782, on or before 60 days after the

announcement is published in the **Federal Register**. If there is more than one announced opening at a port of entry, an applicant may submit more than one application but may not submit more applications than the number of announced openings. An applicant shall submit a completed VS Form 17-11,¹ "Application for Approval of Quarantine Facilities for Birds," or shall submit a document which states that it is an application for approval of a quarantine facility for birds and which includes the following information (the same as that called for by VS Form 17-11):

(A) Applicant's name, address, and telephone number;

(B) Status of applicant, such as individual, partnership, or corporation (if incorporated, include State where incorporated and date of incorporation);

(C) Name, title, and address of intended operators, partners, officers, directors, holders or owners of 10 per centum or more of voting stock, and employees in a managerial or executive capacity;

(D) (Optional) Address where the bird quarantine facility will be located;

(E) (Optional) A drawing of the floor plan for the facility showing the location of bird holding areas, equipment storage areas, office areas, clothes storage and change areas, feed storage areas, necropsy room (showing entry and refrigeration), washing areas for equipment, shower areas, ventilation arrangements, and entries and exits;

(F) (Optional) Whether the water source of the facility will be public or private;

(G) (Optional) Whether disposal of waste from the facility will be by sewer or incinerator, or both;

(H) Whether priority status is requested, and, if so, the extenuating circumstances relied on for such request; and

(I) Date; certification by signature of the intended operator, partner, or officer; and title of such individual after the following language: "Application is hereby made for approval of a USDA Approved Quarantine Facility for bird importations. I certify that the information provided herein is true and correct to the best of my knowledge and belief, and agree to comply with the applicable regulations in 9 CFR Part 92."

(ii) If the number of applications for bird quarantine facilities at a specified port of entry does not exceed the number of announced openings, each

application shall be considered for approval of a facility at that port of entry.

(iii) If the number of applications for bird quarantine facilities at a specified port of entry exceeds the number of announced openings, priority status for selection shall be given to applications from operators of currently approved facilities who request to transfer operations from a facility at a port of entry where they currently operate to a facility at a port of entry specified in the announcement if the Deputy Administrator, Veterinary Services, determines that there is a change in circumstances beyond the control of the operator which makes it impracticable to continue operations at the currently approved facility, such as termination of services from a Government agency or termination of services from airlines. The following procedures shall apply for selection for consideration applications eligible for priority status at a specified port of entry:

(A) If the number of applications eligible for priority status does not exceed the number of announced openings, each application eligible for priority status shall be considered for approval of a facility at that port of entry.

(B) If the number of applicants with one or more applications eligible for priority status at a specified port of entry is fewer than the number of openings but the number of applications eligible for priority status exceeds the number of openings, each applicant with one or more application eligible for priority status shall first be selected for consideration for approval of one facility at that port of entry. Then, if there is a sufficient number of remaining openings at that port of entry, each applicant who submitted two or more applications eligible for priority status shall be selected for consideration for approval of a second facility. However, if the number of applicants who submitted two or more applications eligible for priority status exceeds the number of remaining openings, the applicants to be selected for consideration for approval for a second opening shall be determined based on a drawing. The proceeding shall continue in this manner until there are no more openings.

(C) If the number of applicants with one or more applications eligible for priority status exceeds the number of announced openings, each of these applicants (regardless of the number of applications submitted) will be eligible to be selected for consideration for approval of no more than one new

¹ VS Form 17-11 is available from the Import/Export Animals and Products Staff, VS, APHIS, USDA, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782.

facility at that port of entry, and the selection of such applicants to be considered for approval shall be determined based on a drawing.

(iv) The following procedures shall apply for consideration of applications not included as eligible for priority status if one or more openings remain for bird quarantine facilities at a specified port of entry after all applications eligible for priority status have been selected for consideration (applicants selected for consideration for approval based on priority status are not eligible to be considered under these provisions for remaining openings in the same drawing in which they received priority status):

(A) If the number of applicants is fewer than the number of remaining openings but the number of applications exceeds the number of remaining openings, each applicant shall first be selected for consideration for approval of one facility at that port of entry. Then, if there is a sufficient number of remaining openings, each applicant who submitted two or more applications shall be selected for consideration for approval of a second facility. However, if the number of applicants who submitted two or more applications exceeds the number of remaining openings, the applicants to be selected for consideration for approval for a second opening shall be determined based on a drawing. The proceeding shall continue in this manner until there are no more openings.

(B) If the number of applicants exceeds the remaining number of announced openings, an applicant (regardless of the number of applications submitted by such applicant) will be eligible to be selected for consideration for approval of no more than one new facility at that port of entry, and the selection of such applicants to be considered for approval shall be determined based on a drawing.

(v) If a drawing is to be held, the participants in the drawing shall be notified by registered or certified mail of the date, place, and time of the drawing so that they may attend; however, attendance by participants is not required.

(vi) Applicants selected for consideration for approval of a bird quarantine facility shall be notified of such selection by registered or certified mail. As a condition of approval as a bird quarantine facility, the facility must comply with the requirements set forth in this section within 18 months from the date of notification. The Deputy Administrator, Veterinary Services, may refuse approval of any bird quarantine facility if an intended operator or a

person responsibly connected with the business of the quarantine facility is or has been convicted of any crime set forth in paragraphs (f)(6)(ii)(B) or (f)(6)(ii)(C) of this section. Before a decision is made with respect to the eligibility of any facility for approval, a personal inspection of the facility shall be made by a Veterinary Medical Officer of Veterinary Services, to determine whether it complies with the standards set forth in this section. Approval of any bird quarantine facility shall be contingent on a determination made by the Deputy Administrator, Veterinary Services, that adequate personnel are available to provide services required by the facility if approved.

* * * * *

(Sec. 2, 32 Stat. 792, as amended; Secs. 2, 4, 11, 76 Stat. 129, 130, 132; 21 U.S.C. 111, 134a, 134c, 134f, 7 CFR 2.17, 2.51, 371.2(d))

Done at Washington, D.C., this 12th day of March 1984.

J. K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 84-6927 Filed 3-14-84; 8:45 am]

BILLING CODE 3410-34-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Codes and Standards for Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its regulations which incorporate by reference national codes and standards for the construction of nuclear power plant components. The amendments increase specific references to the ASME Boiler and Pressure Vessel Code to include subsections that provide rules for the construction of certain safety systems and that clarify existing regulations by removing obsolete provisions no longer applicable. This action establishes enforceable requirements to replace previous guidance. In addition, the amendments will ensure appropriate use of the referenced code and clarify NRC application requirements.

EFFECTIVE DATE: May 14, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. A. Taboada, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 443-7903.

SUPPLEMENTARY INFORMATION: On April 13, 1982, the Nuclear Regulatory Commission published in the *Federal Register* (47 FR 15801) proposed amendments to its regulation, 10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities," which would amend § 50.55a, "Codes and Standards." The proposed amendments constituted a general revision of § 50.55a designed to update NRC requirements after 10 years of experience and make them more consistent with pertinent national standards. More specifically, the proposed amendments would have (a) added specific references to parts of Section III of the ASME Boiler and Pressure Vessel Code which apply to the construction of Classes 2 and 3 components, (b) deleted obsolete references and provisions, and (c) simplified the procedure for authorizing alternatives to certain NRC requirements.

Interested persons were invited to submit written comments by June 14, 1982. Twelve letters of comment were received. Of these, seven commentors supported, in general, the main provision of the proposed amendments to add specific references to additional parts of the ASME Code. One commentor disagreed. Another commentor objected to deleting the exemption from the code requirement for applying the Code N Symbol. Most of the adverse comments dealt with the application of specific requirements. A brief summary of the more significant adverse comments and staff responses follows.

Eight of the commentors objected to the proposed provisions that applied to the classification of components used for determining which part of the ASME Code should apply. Three of the eight replies came directly from the American Nuclear Society (ANS) Standards Committee and contained detailed objections to the classification provisions and recommended that the rule apply the classification systems developed by ANS as set out in the draft standards ANS 51.1 and ANS 52.1. Five of the eight commentors endorsed the letters sent by ANS.

To resolve the question of component classification, the staff met on September 15, 1982, with representatives of ANS and other interested organizations and discussed in detail the existing NRC and industry practices for classification of safety-related components and related problems. Those persons attending the meeting agreed that classification is more appropriately a subject for a regulatory

guide than for a regulation since classifications are frequently plant specific and involve so many variables that regulatory controls need to be more flexible. As a result, the NRC has revised the final rule to eliminate detailed classification of components. Instead, general guidance has been added for establishing the classifications. Further, the NRC staff has agreed to evaluate the ANS classification systems for referencing in a Regulatory Guide.

A copy of the comments received on the proposed rule and an abstract of the comments which gives the staff response to each issue raised by the commentors is available for public inspection and copying for a fee at the Commission's Public Document Room at 1717 H Street NW., Washington, DC. Single copies may be obtained by written request to the Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: A. Taboada.

Rulemaking Background

Commission policy, stated in General Design Criterion 1, "Quality Standards and Records" (10 CFR Part 50, Appendix A) and in § 50.55a, prescribes that structures, systems, and components important to safety be designed, fabricated, erected, and tested to quality standards commensurate with the importance of the safety function to be performed. In this regard, on June 12, 1971 (36 FR 11423), the Commission incorporated by reference in § 50.55a several codes published by the American Society of Mechanical Engineers (ASME) to be applied to the construction of components of the reactor coolant pressure boundary of water-cooled nuclear power reactors. Section III of the ASME Boiler and Pressure Vessel Code, applicable at that time only to nuclear vessels, was incorporated by reference to establish standards for vessels. Other ASME codes (described below) of more general application were incorporated by reference to establish standards for piping, pumps, and valves.

Subsequently, the ASME Boiler and Pressure Vessel Code Committee expanded Section III of the Code to apply to other nuclear power plant components (including piping, pumps, and valves) in addition to nuclear vessels. The expansion included many of the appropriate provisions from the more general codes incorporated by reference in § 50.55a on June 12, 1971.

On February 12, 1976 (41 FR 6256), the Commission amended § 50.55a to make the expanded Section III effective code for piping, pumps, and valves of the

reactor coolant pressure boundary for water-cooled nuclear plants for which construction permits were issued on or after July 1, 1974. The amendment limited use of the more general codes to plants for which construction permits were issued before July 1, 1974.

Section III of the Code is regularly updated by ASME in new editions and addenda to include new developments and to reflect experience with the use of the Code. Those parts of the new editions and addenda that pertain to the reactor coolant pressure boundary are reviewed by the Commission staff and, if acceptable, are incorporated by reference in § 50.55a. Although not specifically included in the regulations, the remaining parts of Section III that pertain to other systems are also reviewed by the Commission staff and, if acceptable, are used in the evaluation of specific license applications. Several parts of Section III that apply to Class 2 and 3 components have been used as guidance in this manner for approximately 10 years and are referenced in Regulatory Guide 1.26, "Quality Group Classifications and Standards for Water-, Steam-, and Radioactive-Waste-Containing Components of Nuclear Power Plants."

Presently, other parts of the ASME Nuclear Code (Section III) cover metal containments, component supports, core support structures and concrete vessels. It is the intent of the Commission to incorporate by reference specific parts of the ASME Nuclear Code after appropriate evaluations and as adequate experience with use of each part of the Code confirms its acceptability.

Substance of the Final Rule

Now that experience has shown additional parts of Section III of the ASME Boiler and Pressure Vessel Code to be adequate for use on a general basis, the Commission is adding specific references to these additional parts in § 50.55a. These additions include the requirements for Class 2 Components, which are found in Subsections NC and NCA of the Code, and the requirements of Class 3 Components, which are found in Subsections ND and NCA of the Code.

To clarify the requirements of § 50.55a, the Commission is also deleting obsolete incorporations by reference of general codes which are superseded by Section III of the ASME Code. However, any previous acceptance of general codes by the Commission for nuclear plants for which construction permits were issued prior to these deletions will continue to be in effect, and deletion of these Codes from § 50.55a should not be

construed otherwise. The Codes being deleted include:

(a) For piping of the Reactor Coolant Pressure Boundary—

- American Standard Code for Pressure Piping, ASA B31.1
- USA Standard Code for Pressure Piping, USAS B31.1.0
- USA Standard for Nuclear Power Piping, USAS B31.7
- ASA B31.1 Code Cases N7, N9 and N10

(b) For pumps of the Reactor Coolant Pressure Boundary—

- Draft ASME Code for Pumps and Valves for Nuclear Power
- ASA B31.1 Code Cases N7, N9, and N10

(c) For valves of the Reactor Coolant Pressure Boundary—

- American Standard Code for Pressure Piping ASA B31.1
- USA Standard Code for Pressure Piping USAS B31.1.0
- Draft ASME Code for Pumps and Valves for Nuclear Power
- ASA B31.1 Code Cases N2, N7, N9 and N10

The Commission is also making two procedural changes in the amendment to § 50.55a. One change deals with the need for NRC authorization for a proposed alternative to requirements in the regulation. The amendment clarifies the existing regulation by providing that the Director of the Office of Nuclear Reactor Regulation may authorize alternatives to the requirements in § 50.55a after demonstration by the applicant that (a) the proposed alternative would provide an acceptable level of quality and safety or (b) compliance with specific requirements would result in a hardship or unusual difficulty without a compensating increase in the level of quality or safety.

The other procedural change deletes the obsolete provision of paragraph (a) that exempts nuclear components constructed to ASME Code rules from the Code requirement that the Code N-symbol stamp be applied to these components. This exemption was initiated when there was no provision for foreign suppliers to comply with the administrative enforcement aspect of the Code. Previously, foreign suppliers, fully qualified in other respects, could not be issued a Code N-symbol stamp to apply to components and, hence, would have been excluded from supplying components for domestic nuclear plants. This situation has been changed and foreign suppliers may now be issued Code N-symbol stamps.

Regulatory Analysis

The Commission has prepared a regulatory analysis for this regulation. The analysis examines the costs and benefits of the rule as considered by the Commission. A copy of the regulatory analysis is available for inspection and copying for a fee at the NRC Public Document Room, 1717 H Street, NW., Washington, D.C. Single copies of the analysis may be obtained from A. Taboada, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone (301) 443-7903.

Paperwork Reduction Act Statement

The application, reporting and recordkeeping requirements contained in this proposed regulation have been approved by the Office of Management and Budget; OMB approval No. 3151-0011.

Regulatory Flexibility Statement

This rule (§ 50.55a) requires that certain nuclear power plant components be constructed to the nuclear section of the ASME Boiler and Pressure Vessel Code, the standard used by the nuclear industry to comply with the NRC General Design Criteria and Quality Assurance Criteria. To attest that a component has been found to meet all of the specified Code requirements, the ASME Code requires that the component be stamped with a Code N-Stamp issued to manufacturers qualified through an ASME accreditation survey. The ASME Code also calls for specific inspections and verifications of records by an independent Authorized Inspection Agency (AIA) established by a legal authority (state or municipality). This amendment to § 50.55a expands the applicability of the ASME Code and removes obsolete provisions and the exemption, previously in the rule, that the Code N Symbol Stamp need not be applied.

The direct cost incurred by a small manufacturer as a result of this amendment will vary depending on the circumstances. An estimated 550 manufacturers, approximately 10% of which may be small manufacturers, are already certified as N-Stamp holders by ASME, and it is assumed that they would not incur new costs. An ASME accreditation survey (i.e., audit and evaluation) costs a manufacturer an average of \$9000 and recurs at 3 year intervals. The cost for Authorized Inspection Agency services is approximately \$250 per day per inspector plus expenses. This service for a small manufacturer would typically include two (one-day) audits per year

and three inspection visits per order but would vary depending on the complexity of the components being manufactured.

On this basis, the direct cost for a small manufacturer to maintain code accreditation and provide the required third party (AIA) inspection is estimated to be as high as \$3500 per year assuming that the cost of inspection visits are applied to the price of the component. For multiorders the cost per order for accreditation would be less.

Approximately 30 new firms per year, some of which are expected to be small firms, apply for ASME accreditation to be N stamp holders. For these firms, particularly if new to the nuclear field, additional indirect costs may be incurred in establishing and maintaining an ASME certified shop. Such indirect costs might result from complying with, for example, code requirements for qualifying welders, establishing specific quality control programs, and maintaining appropriate procedures and records. However, since Appendices A and B of 10 CFR Part 50 already require quality standards and a quality assurance program that parallels the ASME Code requirements, and in fact, the ASME Code has become the NRC and industry standard for compliance with these appendices, the costs associated with meeting requirements of Appendices A and B are estimated to be substantially equivalent to the cost of meeting ASME Code requirements. Therefore, the NRC estimates that no major additional cost would be incurred as a result of this rule, by a small manufacturing shop providing nuclear quality products.

The NRC requested comments on the economic impact of this rule on small businesses in the proposed amendment. No comments were received from small businesses. However, two operating utilities commented that this rule would, in effect, preclude the occasional purchase of spare parts or renewal parts from some small shops who probably would not find it economically feasible to establish and maintain an ASME certified shop. NRC estimates that the number of small shops so affected would be few and would not constitute a substantial number of the small businesses involved in nuclear component construction. Further, the rule contains a provision to permit alternatives to specific ASME Code requirements, in case of hardships, that would, in effect, permit the use of such uncertified shops if an equivalent level of quality and safety were provided.

Thus, in accordance with the Regulatory Flexibility Act, 5 U.S.C.

605(b), the NRC hereby certifies that this rule will not have a significant economic impact upon a substantial number of small entities.

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Fire prevention, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of Title 5 of the United States Code, the following amendments to 10 CFR Part 50 are published as a document subject to codification.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for Part 50 continues to read as follows:

Authority: Secs. 103, 104, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2133, 2134, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, 202, 206, 88 Stat. 1242, 1244, 1246, as amended (42 U.S.C. 5841, 5842, 5846), unless otherwise noted.

Section 50.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Sections 50.57(d), 50.58, 50.91, and 50.92 also issued under Pub. L. 97-415, 96 Stat. 2071, 2073 (42 U.S.C. 2133, 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80-50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Sections 50.100-50.102 also issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 50.10 (a), (b), and (c), 50.44, 50.46, 50.48, 50.54, and 50.80(a) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 50.10 (b) and (c) and 50.54 are issued under sec. 161, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 50.55(e), 50.59(b), 50.70, 50.71, 50.72, 50.73 and 50.78 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. In § 50.55a, paragraph (a)(2) is revised, a new paragraph (a)(3) is added; paragraphs (c), (d), and (e) are revised to read as follows; and paragraphs (f) and (j) are deleted and the space is reserved:

§ 50.55a Codes and Standards.

* * *

(a) * * *

(2) System and components of boiling and pressurized water-cooled nuclear power reactors must meet the requirements of the ASME Boiler and Pressure Vessel Code specified in paragraphs (b), (c), (d), (e), and (g) of

this section. Protection systems of nuclear power reactors of all types must meet the requirements specified in paragraph (h) of this section.

(3) Proposed alternatives to the requirements of paragraphs (c), (d), (e), (g), and (h) of this section or portions thereof may be used when authorized by the Director of the Office of Nuclear Reactor Regulation. The applicant must demonstrate that (i) the proposed alternatives would provide an acceptable level of quality and safety, or (ii) compliance with the specified requirements of this section would result in hardship or unusual difficulties without a compensating increase in the level of quality and safety.

(c) *Reactor coolant pressure boundary.* (1) Components which are part of the reactor coolant pressure boundary must meet the requirements for Class 1 components in Section III ⁴, ⁵ of the ASME Boiler and Pressure Vessel Code, except as provided in paragraphs (c)(2), (c)(3), and (c)(4) of this section.

(2) Components which are connected to the reactor coolant system and are part of the reactor coolant pressure boundary as defined in paragraph 50.2(v) of this part need not meet the requirements of paragraph (c)(1) of this section, Provided:

(i) In the event of postulated failure of the component during normal reactor operation, the reactor can be shut down and cooled down in an orderly manner, assuming makeup is provided by the reactor coolant makeup system; or

(ii) The component is or can be isolated from the reactor coolant system by two valves in series (both closed, both open, or one closed and the other open). Each open valve must be capable of automatic actuation and, assuming the other valve is open, its closure time must be such that, in the event of postulated failure of the component during normal reactor operation, each valve remains operable and the reactor can be shut down and cooled down in an orderly manner, assuming makeup is provided by the reactor coolant makeup system only.

(3) The Code Edition, Addenda, and optional Code Cases ⁶ to be applied to components of the reactor coolant pressure boundary must be determined by the provisions of paragraph NCA-1140, Subsection NCA of Section III of the ASME Boiler and Pressure Vessel Code, but (i) the edition and addenda applied to a component must be those which are incorporated by reference in paragraph (b)(1) of this section, (ii) the ASME Code provisions applied to the pressure vessel may be dated no earlier

than the Summer 1972 Addenda of the 1971 edition, (iii) the ASME Code provisions applied to piping, pumps, and valves may be dated no earlier than the Winter 1972 Addenda of the 1971 edition, and (iv) ASME Code Cases ⁶ must have been determined suitable for use by the NRC.

(4) For a nuclear power plant whose construction permit was issued prior to (insert the effective date of the amendment) the applicable Code Edition and Addenda for a component of the reactor coolant pressure boundary continue to be that Code Edition and Addenda that were required by Commission regulations for such component at the time of issuance of the construction permit.

(d) *Quality Group B components.* (1) For a nuclear power plant whose application for a construction permit is docketed after (insert the effective date of the amendment) components classified Quality Group B ⁹ must meet the requirements for Class 2 Components in Section III of the ASME Boiler and Pressure Vessel Code.

(2) The Code Edition, Addenda, and optional Code Cases ⁶ to be applied to the systems and components identified in paragraph (d)(1) of this section must be determined by the rules of paragraph NCA-1140, Subsection NCA of Section III of the ASME Boiler and Pressure Vessel Code, but (i) the edition and addenda must be those which are incorporated by reference in paragraph (b)(1) of this section, (ii) the ASME Code provisions applied to the systems and components may be dated no earlier than the 1980 Edition, and (iii) the ASME Code Cases ⁶ must have been determined suitable for use by the NRC.

(e) *Quality Group C components:* (1) For a nuclear power plant whose application for a construction permit is docketed after May 14, 1984 components classified Quality Group C ⁹ must meet the requirements for Class 3 components in Section III of the ASME Boiler and Pressure Vessel Code.

(2) The Code Edition, Addenda, and optional Code Cases ⁶ to be applied to the systems and components identified in paragraph (e)(1) of this section must be determined by the rules of paragraph NCA-1140, subsection NCA of Section III of the ASME Boiler and Pressure Vessel Code, but (i) the edition and addenda must be those which are incorporated by reference in paragraph (b)(1) of this section, (ii) the ASME Code provisions applied to the systems and components may be dated no earlier than the 1980 Edition, and (iii) the ASME Code Cases ⁶ must have been determined suitable for use by the NRC.

3. In § 50.55a, footnotes 2 and 3 are removed and reserved, footnote 6 is revised and footnote 9 is added to read as follows:

Footnote 6

⁶ ASME Code cases which have been determined suitable for use by the Commission staff are listed in NRC Regulatory Guide 1.84, "Code Case Acceptability—ASME Section III Design and Fabrication" and NRC Regulatory Guide 1.85, "Code Case Acceptability—ASME Section III Materials." The use of other Code cases may be authorized by the Director of the Office of Nuclear Reactor Regulation upon request pursuant to § 50.55a(a)(3).

Footnote 9

⁹ Guidance for quality group classifications of components which are to be included in the safety analysis reports pursuant to § 50.34(a) and § 50.349b) may be found in Regulatory Guide 1.26, "Quality Group Classifications and Standards for Water-, Steam-, and Radiological-Waste-Containing Components of Nuclear Power Plants," and in Section 3.2.2 of NUREG-0800, "Standard Review Plan for Review of Safety Analysis Reports for Nuclear Power Plants."

Dated at Bethesda, MD this 24th day of February 1984.

For the Nuclear Regulatory Commission,
William J. Dircks,

Executive Director for Operations.

[FR Doc. 84-6953 Filed 3-14-84; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-ASW-61; Amdt. 39-4825]

Boeing Vertol Model 234 Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the Federal Register and makes effective as to all persons an amendment to an existing airworthiness directive (AD) which was previously made effective as to all known U.S. owners and operators of Boeing Vertol Model 234 helicopters by individual telegrams. This amendment changes the initial compliance time of AD 82-20-06 from 60 hours to 25 hours for forward main rotor hubs and the total time on the forward main rotor hubs for the initial inspection from 700 hours to 450 hours. This amendment is needed since five forward main rotor hubs were found with hub cracks at between 607 and 698 hours in service on them.