

that everyone wishing to speak has the opportunity.

The purpose of the hearings is to give interested persons an opportunity for oral presentation of data, views, and arguments. Questions about the content of the proposed rule may be part of the commenters' oral presentations. However, neither the presiding officer nor any other representative of APHIS will respond to comments at the hearing, except to clarify or explain provisions of the proposed rule.

**Authority:** 21 U.S.C. 111, 114, 114a, 115–117, 120, 121, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.2(d).

Done in Washington, DC, this 25th day of May 2000.

**Bobby R. Acord,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 00–13589 Filed 5–30–00; 8:45 am]

**BILLING CODE 3410–34–P**

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 112

[Docket No. 96–034–2]

#### Viruses, Serums, Toxins, and Analogous Products; Packaging and Labeling

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Proposed rule; withdrawal.

**SUMMARY:** We are withdrawing a proposed rule to amend the regulations regarding the packaging and labeling of veterinary biological products. The proposed rule would have required the Animal and Plant Health Inspection Service product code number as well as an appropriate consumer contact telephone number to appear on labeling. In addition, the proposed rule would have clarified label requirements with respect to overshadowing the true name of the product and requirements for products shipped to a foreign country. The proposed rule also contained label requirements concerning the minimum age for product administration and the potential for maternal antibody interference. We are withdrawing the proposed rule due to the comments we received following its publication.

**FOR FURTHER INFORMATION CONTACT:** Dr. Albert P. Morgan, Chief Staff Officer, Operational Support Section, Center for Veterinary Biologics, Licensing and Policy Development, APHIS, 4700 River Road Unit 148, Riverdale, MD 20737–1231; (301) 734–8245.

## SUPPLEMENTARY INFORMATION:

### Background

The regulations in 9 CFR part 112 set forth packaging and labeling requirements for veterinary biological products. On March 18, 1999, we published in the **Federal Register** (64 FR 13365–13368, Docket No. 96–034–1) a proposed rule to amend the regulations. First, we proposed to require labels for veterinary biological products to include the Animal and Plant Health Inspection Service (APHIS) product code number and a consumer contact telephone number. Second, we proposed to require labels for veterinary biological products to bear the true name of the product in a prominent fashion and more prominently than the trade name. Third, we proposed to amend the requirements for labels for exported products to state that labels that do not conform to the regulations may be used with an exported product if the labels do not contain false or misleading information and are acceptable to the appropriate regulatory officials of the foreign country to which the products are exported. We proposed that verification of foreign regulatory acceptance of the labels could be supplied to APHIS through the submission of a label mounting prepared as described in § 112.5(d)(2) that bears a stamp or other mark of approval of the appropriate foreign regulatory agency. Finally, we proposed to require labels for veterinary biological products, as described in the proposed rule, to consider the potential for maternal antibody interference with product efficacy and to specify a minimum age for product administration that is consistent with the efficacy and safety data developed for the product.

We solicited comments concerning our proposal for 60 days ending May 17, 1999. We received 11 comments by that date. The comments were from licensed veterinary biologics manufacturers, a national trade association representing U.S. manufacturers of animal health products, an organization representing veterinarians, and a university. Most of the commenters expressed concerns and opposition regarding certain provisions of the proposed rule, including concerns regarding the economic effects of the proposed provisions on veterinary biologics manufacturers and the estimated burden for information collection that was provided in the Paperwork Reduction Act section of the proposed rule.

After considering all of the comments we received, we have concluded that we must reevaluate the provisions of the

proposed rule. Therefore, we are withdrawing the March 18, 1999, proposed rule referenced above. The concerns and recommendations of all of the commenters will be considered if any new proposed regulations regarding the packaging and labeling of veterinary biological products are developed.

**Authority:** 21 U.S.C. 151–159; 7 CFR 2.22, 2.80, and 371.2(d).

Done in Washington, DC, this 24th day of May 2000.

**Bobby R. Acord,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 00–13549 Filed 5–30–00; 8:45am]

**BILLING CODE 3410–34–U**

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 50

[Docket No. PRM–50–71]

#### Nuclear Energy Institute; 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 Nuclear Energy Institute. The petition was docketed on April 12, 2000, and has been assigned Docket No. PRM–50–71. The petitioner requests that the NRC amend its regulations to allow nuclear power plant licensees to use zirconium-based cladding materials other than zircaloy or ZIRLO, provided the cladding materials meet the requirements for fuel cladding performance and have received approval by the NRC staff. The petitioner believes the proposed amendment would improve the efficiency of the regulatory process by eliminating the need for individual licensees to obtain exemptions to use advanced cladding materials which have already been approved by the NRC.

**DATES:** Submit comments by August 14, 2000. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

**ADDRESSES:** Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff.

Deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

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

The petition, this notice of receipt, and any comments received on the petition are available on the NRC's rulemaking website at <http://ruleforum.llnl.gov>. This site also provides the capability 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](mailto:cag@nrc.gov)).

#### FOR FURTHER INFORMATION CONTACT:

David L. Meyer, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Telephone: 301-415-7162 or Toll Free: 1-800-368-5642 or email: [DLM1@nrc.gov](mailto:DLM1@nrc.gov).

#### SUPPLEMENTARY INFORMATION:

##### The Petitioner

The petitioner is the Nuclear Energy Institute (NEI). NEI claims representational responsibility for establishing unified nuclear industry policy on matters affecting the nuclear energy industry, including regulatory aspects of generic operational and technical issues. NEI's members include all utilities licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect/engineering firms, fuel fabrication facilities, materials licensees, and other organizations and individuals involved in the nuclear energy industry.

##### The Petitioner's Request

The petitioner states that the NRC's current regulations require uranium oxide fuel pellets, used in commercial reactors, be contained in cladding material made of zircaloy or ZIRLO. The petitioner indicates that the requirement to use either of these materials is stated in 10 CFR 50.44 and 10 CFR 50.46.

The petitioner notes that subsequent to promulgation of these regulations, commercial fuel vendors have developed and continue to develop materials other than zircaloy or ZIRLO that NRC reviews and approves for use in commercial power reactors. Each of these approvals requires the NRC to grant an exemption to the license of the

utility that requests use of fuel in these cladding materials. The petitioner requests that NRC amend its regulations to allow licensees discretion to use zirconium-based cladding materials other than zircaloy or ZIRLO, provided that the cladding materials meet the fuel cladding performance requirements and have been reviewed and approved by NRC staff.

##### Petitioner's Interest

The petitioner states that safe and reliable operation of nuclear power plants, including fuel performance is very important to its members, the country, and the international community. The petitioner states that the NRC regulates the use of radioactive materials and allows nuclear power plant licensees to use a variety of cladding materials once the material has been determined to have the required characteristics. The petitioner states that for the past nine years, NRC has permitted the use of cladding materials other than zircaloy or ZIRLO after approving a formal exemption request. The petitioner further notes there have been at least eight requests for exemptions during that time frame and each exemption costs in excess of \$50,000. The petitioner states that the requests for exemption have become increasingly more frequent, causing significant administrative confusion and a potentially adverse affect on efficient and effective use of NRC, licensee, and vendor resources.

##### Justification for Petition

Sections A through D below contain the detailed discussion provided by the petitioner to support his request. The text contained in each of these sections reflects the petitioner's point of view word for word.

##### *A. The Current Regulation Given the Diversity of Commercially Available Fuel Cladding Materials is too Narrow and Restrictive*

The beneficial use of zirconium (Zr) has been recognized for many years. It has a very low neutron cross-section when separated from hafnium with which it is typically found in nature. It also has excellent corrosion resistance to oxidizing environments, such as steam and water. Certain impurities were found to decrease this corrosion resistance and early programs were established to develop alloys that produced more consistent corrosion resistance.

Primary additives were tin, as used initially in a variety of zirconium-based alloys commonly referred to as zircaloy,

and niobium (Nb) favored in Canada and Russia.

Beginning in approximately the mid-1980's, nuclear fuel vendors began developing new alloy variations to improve cladding corrosion resistance in support of higher burnup fuel management strategies. The new alloy variants were initially within the ASTM [American Society for Testing and Materials] specifications for existing zirconium-based cladding. As fuel cycle burnups were projected to increase further, additional alloys were developed, some of which involved formulations outside the ASTM specifications for existing cladding material.

The tin (Sn) additive-based alloys were generally favored in the U.S. and were successfully developed in both BWR [boiling water reactor] and PWR [pressurized water reactor] reactors. Early Zr-Sn alloys tended to use relatively high tin concentrations until long term corrosion tests showed that there was an increase in the corrosion rate as a function of time. Subsequent developments of the alloy, currently defined as Zircaloy-2 and Zircaloy-4, limited tin concentration to between 1.2 percent and 1.7 percent. Most of the early zircaloy compositions were at a nominal 1.5 percent Sn. Subsequent testing of the alloy in high rated PWR plants has shown that the lower tin concentrations provide even better performance. Current zircaloy compositions tend to focus on a mean Sn composition of about 1.3 percent. That value has been established by producers to minimize the risk of manufacturing a product below the ASTM specified range. However, there is significant data to show that lower Sn compositions would provide even better corrosion resistance.

Excellent corrosion performance has also been achieved with the niobium additive-based alloys; however, these appear to be more sensitive to the coolant composition. For example, the corrosion resistance is superior to the tin additive-based alloy under PWR environments but tends to suffer from nodular-type oxidation under BWR conditions. The alloy is much less temperature sensitive and the oxide thickness is generally less than that of the corresponding corrosion layer on zircaloy irradiated under identical conditions. The optimum niobium content is probably about one percent, or such as is found in M5 or ZIRLO cladding alloys.

The major variant on the Zr-Sn and Zr-Nb systems is the Zr-Sn-Nb system developed in the US as ZIRLO and in Russia as E635.

As a result of these development programs, cladding materials now available include zircaloy, ZIRLO, Alloy A, M5, and Duplex. All of these alloys are zirconium-based. Since zircaloy and ZIRLO are currently the only cladding materials provided for in the regulations, utilities must obtain an exemption from the applicable regulatory requirements to use these other cladding materials. Exemption requests will become more frequent as use of new cladding materials becomes more prevalent. Once a specific cladding material is approved for use by NRC, the subsequent exemption requests do not increase safety or confidence in the performance of the cladding. They are strictly an administrative process necessitated by the restrictive language of the current regulations.

The rule should be modified to address the currently available alloys as well as those that may be developed in the future.

#### *B. A More General Description of Cladding Material Facilitates Technical Improvements*

Currently, a licensee desiring to use fuel with cladding materials other than zircaloy or ZIRLO must obtain NRC approval through an exemption request. The time delay in obtaining approval as well as expenses incurred in preparing exemption requests might cause some licensees to defer adopting new cladding materials despite performance advantages to be gained. The proposed amendments would permit use of improved cladding materials without expending NRC, licensee, and vendor resources to develop, review, and approve exemption requests for cladding materials that fully meet NRC performance requirements.

Since the current industry interest focuses on cladding materials for which the performance criteria in § 50.46(b) remain applicable, a new § 50.46(e) is proposed that provides a clear tie between the approved cladding material alloy mentioned in §§ 50.44 and 50.46 with the criteria noted in § 50.46(b).

Similarly, to facilitate technical innovation, the NRC staff often encourages licensees and vendors to conduct Lead Test Assembly (LTA) Programs to demonstrate the performance of the new fuel assembly materials. It has been the past practice of the NRC not to require licensees to obtain approval of the LTA Program before placing the LTAs in the reactor. It is not the intent of industry to change that practice by making reference to approved cylindrical zirconium-based alloys in §§ 50.44 and 50.46.

#### *C. The Regulation as Applied to Nuclear Power Plant Fuel Loading Incurs Unwarranted Implementation Costs*

The implication of the current rule language that only the use of zircaloy or ZIRLO clad fuel is appropriate requires utilities to request, and NRC to approve, exemptions to use other cladding materials. Each exemption request is estimated to cost approximately \$50,000, exclusive of NRC's cost. It is also estimated that the proposed change to the regulations could avoid at least thirty exemption requests over the next 8 to 9 years.

#### *D. The Proposed Amendment Allows the Use of Alternative Materials That Meet the Cladding Performance Requirements*

The existing regulations address only zircaloy and ZIRLO cladding materials. The regulation needs to be generalized to avoid unnecessary burdens on the developers of new cladding alloys and utilities who will use those alloys. The language of this proposed amendment will encompass all zirconium-based cladding material for which the ECCS performance criteria of § 50.46(b) are applicable.

The proposed wording does not eliminate current NRC practices regarding review and approval of new cladding materials brought forward by fuel vendors. It does permit the NRC regulation to be more efficiently applied to those cladding materials demonstrated to meet the acceptance criteria of §§ 50.46(b)(1) and (b)(2).

Experience has shown that qualification of an acceptable material can only be achieved by testing. An applicant must perform high-temperature oxidation and quenching tests of the cladding material to demonstrate that the 2200-degrees F peak cladding temperature and 17 percent oxidation limits protect the cladding against embrittlement and prevent the oxidation from becoming autocatalytic. This is demonstrated by heating the cladding to various high temperatures for a variety of time periods and quickly quenching the cladding in a cold water bath.

These tests must demonstrate that failure did not occur until beyond the temperature limits and that no autocatalytic oxidation was observed. As long as the tests confirm that the 2200-degrees F and 17 percent oxidation are conservative for the cladding material, then the material design is acceptable for LOCA [loss-of-coolant accident] licensing analyses up to currently approved burn up limits.

Providing a new more general description of the fuel cladding is

consistent with the NRC movement toward a performance-based, rather than prescriptive, regulatory philosophy.

#### **Conclusion**

The petitioner believes the foregoing reasons support why NRC should amend §§ 50.44 and 50.46, as stated above, to allow the use of other zirconium-based alloys in addition to those specified in the current regulation.

The petitioner recognizes that the stated goal of the existing regulations is to ensure adequate coolability for reactor fuel in case of a design-basis accident. However, the petitioner asserts that the proposed amendment does not degrade the ability to meet that goal. Rather, it removes an unwarranted licensing burden without increasing risk to public health and safety.

#### **Proposed Amendments**

According to the petitioner, the proposed amendments would continue to allow nuclear power plant licensees the discretion to use zircaloy or ZIRLO cladding to encase the uranium dioxide fuel pellets. The proposed amendments also would allow nuclear power plant licensees to use other cladding materials with material properties that meet accepted requirements for fuel cladding performance. The petitioner identifies the proposed amendments as follows:

#### **PART 50—[AMENDED]**

1. Section 50.44, paragraphs (a), (b), and (c)(1) are revised to read as follows:

##### **§ 50.44 Standards for combustible gas control system in light-water-cooled nuclear power reactors.**

(a) Each boiling or pressurized light-water nuclear power reactor fueled with oxide pellets within approved cylindrical zirconium-based alloy cladding, must . . .

(b) Each boiling or pressurized light-water nuclear power reactor fueled with oxide pellets within approved cylindrical zirconium-based alloy cladding must . . .

(c)(1) For each boiling or pressurized light-water nuclear power reactor fueled with oxide pellets within approved cylindrical zirconium-based alloy cladding, it must be shown that . . .

2. Section 50.46(a)(1)(i) is revised to read as follows:

##### **§ 50.46 Acceptance criteria for emergency core cooling systems for light-water nuclear power reactors.**

(a)(1)(i) Each boiling or pressurized light-water nuclear power reactor fueled with uranium oxide pellets within approved cylindrical zirconium-based alloy cladding must be provided with an

emergency core cooling system (ECCS) that must be designed so that its calculated cooling performance following postulated loss-of-coolant accidents conforms to the criteria set forth in paragraph (b) of this section.

3. In Section 50.46, a new paragraph (e) is added to read as follows:

(e) Approved cylindrical zirconium-based alloys are those whose performance has been evaluated and determined by the NRC to conform to the acceptance criteria of paragraphs § 50.46(b)(1) and (b)(2).

Dated at Rockville, Maryland this 24th day of May, 2000.

For the Nuclear Regulatory Commission.

**Annette L. Vietti-Cook,**

*Secretary of the Commission.*

[FR Doc. 00-13515 Filed 5-30-00; 8:45 am]

BILLING CODE 7590-01-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2000-NE-15-AD]

RIN 2120-AA64

#### **Airworthiness Directives; Turbomeca Artouste II and Artouste III Series Turboshaft Engines**

**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 Turbomeca Artouste II and Artouste III series turboshaft engines. This proposal would require installation of modification TU 24, TU 167 or TU 164, depending on the specific engine model. These modifications would prevent uncommanded partial closing or total closing of the electrical fuel cock, which would prevent uncommanded in-flight engine shutdown. From the effective date of this AD, and until the modifications are installed, this proposal would also limit the duration of the engine operating cycle. This proposal is prompted by reports of unexpected power loss during test flights. The actions specified by the proposed AD are intended to prevent unexpected power loss, which could result in an uncommanded in-flight engine shutdown, autorotation, and forced landing.

**DATES:** Comments must be received by July 31, 2000.

**ADDRESSES:** Submit comments to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000-NE-15-AD, 12 New England Executive Park, Burlington, MA 01803-5299. Comments may also be submitted to the Rules Docket by using the following Internet address: "9-ane-adcomment@faa.gov". Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Turbomeca, 40220 Tarnos, France; telephone 33 05 59 64 40 00, fax 33 05 59 64 60 80. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

**FOR FURTHER INFORMATION CONTACT:** Glorianne Niebuhr, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803-5299, telephone (781) 238-7132, fax (781) 238-7199.

#### **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 should identify the Rules Docket number and be submitted 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 2000-NE-15-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, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000-NE-15-AD, 12 New England Executive Park, Burlington, MA 01803-5299.

#### **Discussion**

The Director General de L'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the Federal Aviation Administration (FAA) that an unsafe condition may exist on Turbomeca Artouste II and Artouste III series turboshaft engines. The DGAC advises that it has received reports of unexpected power loss in service. This power loss is due to closing of the electrical fuel cock. This condition, if not corrected, could result in unexpected power loss, which could result in an uncommanded in-flight engine shutdown, autorotation, and forced landing.

#### **Service Information**

Turbomeca has issued Artouste II Service Bulletin (SB) No. 223 72 0070, dated January 21, 1999, that specifies procedures for installing modification TU 24, which provides an equipped relay inside the control unit. Turbomeca has also issued Artouste III SB No. 218 80 0098, dated January 14, 1999 and SB No. 218 80 0093, Revision 2, dated January 14, 1999 which state similar requirements and specify procedures for installation of modifications TU 164 and TU 167 respectively. The DGAC classified these SB's as mandatory and issued Airworthiness Directive (AD) 1999-005(A), dated January 13, 1999, and AD 1999-090(A), dated February 24, 1999, in order to ensure the airworthiness of these engines in France.

#### **Bilateral Airworthiness Agreement**

This engine model is manufactured in France 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 DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, 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.